THE STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM ORANGEBURG COUNTY
Court of Common Pleas

Doyet A. Early, III, Circuit Court Judge

Case No. 2005-CP-38-1131

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S.C. Supreme Court

Laurance H. Davis, Jr., Rhoda G. Rentz, Mortimer M. Weinberg, Jr., Hodge Land Co., Inc., and Anna Trotter, individually and in their capacities as the Limited Partners of Roosevelt Gardens, a South Carolina Limited Partnership. . . . . Appellants,

vs.

Roosevelt Gardens, a South Carolina Limited Partnership; Apartment Investment and Management Company a/k/a AIMCO; Insignia Financial Group, Inc.; AmReal Corporation a/ka and f/k/a USS Corporation a/k/a and f/k/a U.S. Shelter Corporation; ISTC Corporation; N. Barton Tuck, Jr.; and John Doe, a generic designation for a party or parties whose true identity is unknown . . . . . Respondents.

APPELLANTS' RETURN TO RESPONDENTS' MOTION TO STAY TIME LIMITS IMPOSED BY RULES 208(a)(2) AND 209(a), SCACR, UNTIL THE COURT RULES ON PENDING MOTIONS; MOTION TO DISMISS THE ABOVE-CAPTIONED APPEALS; OR, IN THE ALTERNATIVE, MOTION TO STRIKE APPELLANTS' INITIAL BRIEFS AND DESIGNATIONS AND REQUIRE APPELLANTS TO FILE AMENDED BRIEFS AND DESIGNATIONS

Appellants submit this Return to Respondents' latest motion in this and the four (4) related appeals and object to all relief sought by Respondents. As hereinafter shown, the motion is not meritorious and is not supported by the facts or by existing law. Nevertheless, Respondents' motion has successfully accomplished its true objective - to circumvent the directives of this Court concerning the time requirements for

submission of Respondents' briefs. Simply put, Respondents and their counsel utilized this tactic in order to gain an unfair advantage by securing more time for the preparation of their appellate briefs than has been allotted to Appellants. This is, of course, entirely in keeping with their strategy in the lower court whereby they were successful in having Judge Early impose a double standard on the parties as described in Appellants' initial briefs. Having achieved success with these types of maneuvers at the lower level, it is hardly surprising that they would endeavor to do so at the appellate level. Furthermore, it continues the long standing tactic of Respondents and their counsel of utilizing procedural tools and arguments to delay, restrict and avoid any decision of Appellants' claims on the merits.

By Order dated May 5, 2011, this Court determined that "no extensions of time limits set forth in Rules 208 through 211, SCACR, will be granted absent extraordinary circumstances." The Order also permitted a consolidated single record on appeal for all cases, and consolidated the appeals for purposes of oral argument, but otherwise left each appeal to be determined under its own set of facts and circumstances. Recognizing the hardships which researching and preparing initial briefs in five (5) separate appeals within a thirty (30) day period presented, particularly on counsel for Appellants who are both sole practitioners, Appellants agreed to Respondents' request to ask for additional time to prepare initial briefs. On May 16, 2011, counsel for all parties filed a Joint Motion arguing the existence of "extraordinary circumstances" and seeking an extension of the time limits for both parties to file their Initial Briefs. On May 19, 2011, this Court denied the parties' Joint Motion for extension of time.

Following this Court's denial of the Joint Motion, Appellants complied with this

Court's rules and Order by adhering to the applicable time limits and by filing five individual initial briefs. In order to accomplish this, Appellants' counsel had to make significant alterations and sacrifices in their personal and professional lives. After counsel for Appellants had timely filed and served their initial briefs, Respondents' counsel then asked Appellants' counsel to consent to extending the time for Respondents to file their initial brief by thirty (30) days, and permitting Respondents to file a single eighty (80) page brief rather than separate briefs in all five (5) related cases. In light of this Court's prior directives, and the fact that Appellants had prepared their briefs in all cases in accordance with such directives, and in recognition of the fact that these appeals involve five (5) separate limited partnerships with separate claims, counsel for Appellants declined to consent to the request of Respondents' counsel.

On July 5, 2011, Respondents' counsel had filed a motion with this Court, seeking the same relief to which they requested the consent of Appellants' counsel - an extension of time to file their initial briefs, permission to file a single consolidated brief in lieu of separate briefs in each case, and expansion of the page limit for their brief. Having already complied with this Court's rules and directives under very difficult circumstances, and having already labored under a double standard in the lower court, Appellants' counsel opposed the request by Respondents' counsel. No ruling on the motion was made by this Court, and counsel for Respondents certainly recognized that the filing of the motion had not stayed the time for the submission of their initial briefs. Accordingly, Respondents' counsel wrote to this Court on July 10, 2011, requesting an expedited response to their motion by Appellants, and an expedited ruling on their motion by this Court. The following day, this Court advised counsel that the July 10th

letter was being treated as a separate motion, but no ruling on either motion was made by this Court.

With the clock ticking, and confronted with the position of this Court adverse to granting requests for extensions of time, counsel for Respondents found themselves in a dilemma. Having chosen to spend their time preparing motions to delay the briefing process, rather than preparing their initial briefs, Respondents' counsel were hard pressed to submit their initial briefs within the applicable time limits. Accordingly, on July 13, 2011, eight days before their first initial briefs were due, Respondents filed their current motion to stay the time limits, dismiss the appeals or, in the alternative, strike Appellants' initial briefs. By including a motion to dismiss, which stays the time for filing briefs regardless of the merits of the motion, Respondents' counsel was able to achieve their primary goal of circumventing the time requirements of the appellate court rules and the directives of this Court against extensions of such time requirements. In so doing, they have also achieved their secondary goals of gaining an unfair advantage over Appellants, and having one more opportunity to try to derail Appellants' claims from being decided on the merits. Nevertheless, counsel for Appellants are now required to respond to the motion, and to rely upon the wisdom and fairness of this Court for a proper outcome.

ARGUMENT

1. Respondents Seek Preferential Treatment After The Appellants' Followed This Court's Rules and Orders And Timely Filed Their Initial Briefs.

As stated above, on May 5, 2011, this Court entered an Order stating that "no extensions of time limits set forth in Rules 208 through 211, SCACR, will be granted

absent extraordinary circumstances." On May 19, 2011, this Court issued an Order denying the Joint Motion of the parties seeking extensions. Respondents argument that this Court's denial of the Joint Motion for extensions was "apparently on the basis that the issue was, in effect, not ripe" is pure conjecture on the part of Respondents and not supported by the language of the Order, which simply states "[t]he joint motion seeking extensions is denied."

Following these Orders of this Court, Appellants' counsel filed five individual initial briefs within the 30-day time limit. Having already denied a joint motion, it would be unjust and unfair for the Court to grant a unilateral motion in favor of Respondents, particularly after the Appellants' compliance with this Court's rules and orders.

Continuing their pattern of delay and using what they obviously perceive to be a "loophole" in this Court's rules, and just eight (8) days before their initial briefs were due, Respondents filed the present motion, specifically including a motion to dismiss, thereby automatically staying their deadline. After Appellants had complied with this Court's rules and directives by timely filing five (5) separate individual initial briefs, Respondents' counsel delayed for eight (8) days into their briefing schedule before even requesting Appellants' consent for an extension of time, extension of page limits and permission to file one-consolidated brief. Instead of simply filing their initial briefs, Respondents then waited fourteen (14) days into their 30-day time limit to file a motion for extension of time. Utilizing yet another tactic of delay, Respondents waited twenty-one (21) days into their 30-day time limit to file a motion to dismiss, thereby taking advantage of a court rule which automatically stayed the time limits to file their initial briefs. Consistent with their behavior throughout the entire course of these almost

decade-long litigations, Respondents are continuing to use procedural roadblocks, game the system and attempt to gain every advantage available in order to delay or prevent the Appellants from presenting the merits of their claims.

2. <u>A Summation of What the Facts Will Demonstrate Shows Why Respondents Are So Desperate to Avoid the Merits of These Cases.</u>

The central and common liability issues in these five cases concern 1) the Respondent General Partners' secret decision declining to take back the Limited Partnerships' sole asset – the apartment properties – from the companies that had purchased the properties when the promissory notes came due, and 2) the Respondent General Partners' subsequent efforts taken on behalf of the Limited Partnership to recover those same properties Respondent General Partners previously declined to accept after the Appellant Limited Partners began asking questions about those assets.

The Respondent General Partners first convinced the Appellant Limited Partners in 1984 that they were going to be protected and, in fact, profit handsomely from transactions where each of these Limited Partnerships sold its respective sole asset – an apartment complex – in exchange for a 15 year promissory note coming due in 1999 secured only by a security interest in the acquiring entity, but no mortgage. (Affidavit of Laurance Davis, dated April 7, 2010; **Exhibit 1**). The acquiring entities advised the Respondent General Partners around 1999 that they did not intend to pay off the substantial outstanding balances on any of these 15 year notes, but instead would give back the apartment complexes in lieu of foreclosure proceedings. *Id.* The Respondent General Partners declined that offer but did not tell the Appellant Limited Partners of the offer or of their decision declining to take back the properties. *Id.* When the Appellant

Limited Partners began voicing their concerns in 2000, the Respondent General Partners told them they were hiring lawyers to pursue recovery under the promissory notes and security agreements, the statutes of limitations on which would expire in November 2002. *Id.*

It was not until the discovery in these lawsuits that the Appellant Limited Partners learned why the Respondent General Partners had refused to take back the properties and why the Respondent General Partners had kept all of this information secret from them: Respondents could not take back the subject properties because of their involvement in accepting illegal supervisory management fees and fear of criminal prosecution by the United States Department of Housing and Urban Development (HUD) and the United States Department of Justice (DOJ).

In October 1998, only one year before the subject promissory notes matured in favor of the Appellant Limited Partners, HUD demanded Respondent AIMCO pay $4.2 million to settle proposed civil charges arising from one of its subsidiaries' receipt of illegal supervisory management kickback fees from one of the management companies, which had contracts with limited partnerships in which the subsidiary was the general partner. In addition, HUD's proposed settlement required Respondent AIMCO to rebate additional monies held in escrow to reserve accounts for each of the properties, and particularly relevant to these lawsuits, the settlement required Respondent AIMCO to agree not to receive such supervisory management fees in the future. (Page memo to Massullo / Narode, dated October 5, 1998, bates no. 12-22_30(b)(6)_000001-000002; **Exhibit 2**) and (Bonder memo to Multifamily Participation Review Committee with

proposed Settlement Agreement,[1] dated September 16, 1998, bates no. 12-22_30(b)(6)_000003-000010; **Exhibit 3**). Respondent AIMCO's 1998 memorandum to HUD and proposed Settlement Agreement falsely stated that it had "never initiated a fee-splitting arrangement. All practices under review by [HUD] were put in place by [its subsidiaries]." (Bonder memo to Multifamily Participation Review Committee at p.2, 12-22_30(b)(6)_000004; Exhibit 2). In fact, in 1997, Respondent AIMCO and its subsidiary, Respondent Insignia Financial Group, Inc., had been directly involved in "fee-splitting" by taking supervisory management fees on at least four of the five apartment complexes that are the subject of these five lawsuits. (See Summary of Current and Projected Total Management Fees, dated December 5, 1997, bates no. AMREAL_015538; **Exhibit 4**) (showing accumulated uncollected supervisory management fees for the Parkview, Palmetto, Orleans, and Roosevelt I properties).

By December 1998, Respondent AIMCO and HUD entered into a settlement agreement referred to as the "NHP-Supervisory Management Fee Settlement." (Page letter to DOJ, dated July 31, 2000, bates no. 12-22_30(b)(6)_000038-000039; **Exhibit 5**). As a result of HUD's investigations, all of Respondent AIMCO's applications for HUD approval of asset transfers, referred to in HUD parlance as "2530's", were "red flagged" and suspended, preventing it from accepting the offers to transfer of the subject apartment complexes in lieu of foreclosure proceedings because such asset transfers would have had to have been approved by HUD and would have revealed AIMCO's involvement in even more illegal fee-splitting and its false statements to HUD.

[1] HUD rejected the proposed Settlement Agreement.

Respondent AIMCO was represented in those matters by Rodney F. Page and BRYAN CAVE, LLP. The negotiations at the top corporate levels of Respondent AIMCO and DOJ on executing the terms of the settlement agreement continued through December 2000. *Id.*

Respondent AIMCO's operations at the field level, however, reflect that AIMCO's various property managers were not aware of the DOJ / HUD investigations. In fact, by May 1999, AIMCO's field managers, Mike Bickford and Les Boeckel, were involved in negotiating with Ford von Weise, employed with Boston Financial, the parent company of the entities that acquired four of the five properties that are the subjects in these five cases. Those parties referred to the subject five apartment complexes and four other apartment complexes as the "Orphans" or the "BF Carolina 9." Mr. von Weise developed a memorandum outlining the history of his on–again–off–again negotiations with AIMCO on Boston Financial's proposal to transfer the properties back to Respondents, in which he records his discussions with Mr. Bickford about AIMCO "taking back the Orphans which they had agreed to as part of the BF Carolina deal." (von Weise memorandum, dated August 31, 1999, bates no. AMREAL 00563-564; **Exhibit 6**). The negotiations between AIMCO and Boston Financial continued through the summer of 1999. *Id.*

On July 12, 1999, DOJ through the Criminal Division of the U.S. Attorney's office issued a Subpoena to AIMCO's subsidiary, National Housing Management Service, Inc. (NHP) care of Rodney F. Page, directing NHP and its affiliates, including AIMCO, to bring documents and appear before a Federal Grand Jury on August 19, 1999. (Grand

Jury Subpoena, dated July 12, 1999, bates no. 12-22_30(b)(6)_000027; **Exhibit 7**). The investigation and subsequent findings revealed that AIMCO and subsidiaries' "request and receipt of supervisory management fees, and other conduct may give rise civil liability under the False Claims Act, 31 U.S.C. §§ 3729-3733, as amended, common law, Section 421 of the Housing and Community Development Act of 1987, 12 U.S.C. § 1715z-4a, the Anti-Kickback Act of 1986, 41 U.S.C. §§ 51-58, and under administrative regulations." (Agreement and Release, dated July 2, 2001, bates no. 12-22_30(b)(6)_000011-000025; **Exhibit 8**). Respondent AIMCO later agreed, among other things, to pay $4.2 million to resolve the claims by DOJ concerning the illegal fee-splitting and illegal supervisory management fees. *Id.*

On that same day, July 12, 1999, AIMCO's field representative informed Boston Financial "that AIMCO had decided to take the deals back but were concerned about HUD's requirement for a TPA[2]" and that AIMCO was to determine whether "HUD would require a TPA from AIMCO." (von Weise memorandum, dated August 31, 1999, bates no. AMREAL 00563-564; Exhibit 5).

By September 1999, Mr. von Weise noted that AIMCO's representative

> even asked if we (Boston Financial) had considered simply walking way from the deals and giving then back to HUD. I said that would create a 2530 problem and didn't want to do that and that we might have to find someone to take the deals for a $1.00. Les was very understanding and appeared to be looking for something to give his investors. Les even admitted to me that the only thing of value was the management contracts and that they themselves had given

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2 TPA refers to HUD's Transfer of Physical Assets form, which includes the Form 2530.

> that away. **He said the 2530 problem was just to (sic) great for them to worry about value to their investors.**

(*Id.* at p. 2; Exhibit 6) (Emphasis added).

Because Respondent AIMCO refused Boston Financial's offer to convey the properties back to AIMCO, in September 1999, Boston Financial began the process of transferring four of the five subject apartment complexes to entities owned or controlled by Mr. Gary Hediger. *See, e.g.* (Hediger Enterprises Balance Sheet – Parkview, bates no. HEDIGER 006442-443; **Exhibit 9**).

On October 25, 1999, one of the Appellant Limited Partners, Mr. Laurance Davis, sent a letter to Respondents concerning the past due payments to partnerships, stating that he has been to each project and found them in "fair to good condition." He further stated that, in some cases, the land would be "more valuable than the notes." He stated that he preferred that the notes be paid, but would consider accepting the real property and that the limited partners were "prepared to provide management, if necessary, to any of the projects in our area." "We all prefer that the note be paid as issued; however, we will consider accepting the real property if necessary." (Davis letter to Tuck, dated October 25, 1999, bates no. P000993; **Exhibit 10**).

The Respondent General Partners concealed these activities from the Appellant Limited Partners.

A substantial amount of the parties' briefs and the Record on Appeal focuses on the trial court's "find[ings] that the statute of limitations is a major issue in these cases, and, as shown in the Defendants' Memorandum and exhibits thereto, that the Plaintiffs impliedly waived their claims of privilege with respect to documents dated (i.e., created)

more than three years prior to the filing of these lawsuits." (Order Amending Court's Order Dated June 2, 2009, p. 6, ¶ 4, Exhibit 2 to the Notice of Appeal, dated December 3, 2010). Respondents' assertion of this point after January 14, 2009 simply lacks candor. Referring to a meeting in August 2003 and the agreement between the parties to toll the statute of limitations, Mr. Foye, an AIMCO vice-president at the relevant time, responded to questions and testified as follows:

> Q. Was it your understanding that when we left the meeting, that basically we were not going to proceed with any discovery in the Parkview case, and we were going to hold the status quo and filing of anything else until we could get Mr. Denatto or some appraiser hired and the cases mediated?
>
> MR. VICK: Object to the form.
>
> A. I generally remember that. That's my recollection of what happened.

(Excerpt of transcript from deposition of Patrick J. Foye, dated January 14, 2009, pp. 167-68; **Exhibit 11**).

3. Respondents' Complaints Fail to Meet the Standard for a Motion to Dismiss.

Respondents argue that Appellants' failed to use proper citations in their initial briefs. Five individual initial briefs totaling approximately 250 pages are likely to contain scrivener errors such as the one cited in Respondents' Motion; such errors are common in initial briefs and the Rules of this Court permit these types of corrections to be made in the final briefs. In these cases, counsel for both parties are intimately familiar with the information, documents, transcripts, motions, memoranda, orders and other records pertinent to these appeals. Both Respondents' and Appellants' counsel have been

involved with these matters for years and have a thorough knowledge regarding the content of the record. Respondents' argument that Appellants failed on some occasions to cite specific page or paragraph numbers does not meet the standard for a Motion to Dismiss.

a) Appellants have clearly identified materials to be included in the Record.

Respondents argue that Appellants' Initial Briefs should be dismissed based on Respondents' claim that Appellants misidentified materials to be included in the Record on Appeal. As previously noted, Respondents' and Appellant's counsel are intimately familiar with the information, documents, transcripts, motions, memoranda, orders and other records pertinent to these appeals. Respondents grossly over-exaggerate the burden created by minor typographical errors contained in their initial briefs. For instance, the Order of Doyet A, Early, III dated 3-13-07 is properly dated 2-13-07; Appellants' Motion to Compel dated 10-5-07 is properly dated 11-7-07 and is the only motion to compel filed by Appellants in 2007; Appellants' Answers to Interrogatories and Responses to Request for Production with privilege log dated 7-14-05 were served as two separate documents and the privilege log was produced on 7-21-05. Respondent's attempts to nitpick typographical errors regarding documents easily identified in a common court chronology maintained by any competent law firm does not rise to the level of malfeasance required to grant a motion to dismiss.

b) Appellants cited materials presented to the Lower Court.

Respondents argue that Appellants' initial briefs should be dismissed based on Respondents' claims that Appellants cited materials that were not presented to the lower

court. These claims are unfounded. For instance, contrary to the representations of Respondents' counsel, the Transcripts of the Special Meetings of the respective Limited Partnerships held on 9-14-00 and 10-24-00 were clearly before the lower court. When Judge Early declined to conduct an in camera review of the relevant discovery documents claimed to be privileged, he appointed Judge Gary Clary as Special Master to review these documents. As part of this review, which was later adopted and then revised by Judge Early, the special meeting transcripts were presented and considered. The initial report of the Special Master dated 2-9-09, as well as his revised report dated 4-14-09, both specifically identify these transcripts as being among the materials which were reviewed. Furthermore, the transcripts were presented to Judge Early for review by Appellants' counsel at the hearing which was held on July 6, 2009. While counsel necessarily focused on certain portions of the transcripts at the hearing, it is clear from the record that counsel's argument summarized the transcripts and events transpiring at each meeting, and that the entire transcript of each meeting was before the judge. In fact, counsel specifically stated to the judge, "You've got the actual transcript to see what actually was said and what took place."[3] The judge even stated that one of the transcripts being reviewed by him contained at least 60 pages, evidencing that the entire document was before him.[4]

Respondents also claim that Appellants' Answers to Interrogatories and

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[3] See generally, Transcript of Hearing of July 6, 2009, pages 9 - 28, where the meetings, as documented in the transcripts, are discussed in some detail. The quoted portion is found on page 10, at lines 3 - 5.

[4] Ibid, p. 16, ll. 11 - 17.

Responses to Requests for Production dated 7-14-05, with Appellants' initial privilege log, were not before the lower court; again, this is incorrect. As noted in Appellants' initial brief, these discovery responses were prepared and served when only the Parkview case was pending. Once the other cases were filed in 2005, and Respondents finally served their discovery requests in those cases in 2008, Appellants incorporated their initial 2005 Parkview discovery responses into each discovery response applicable to the other cases. Therefore, each of the discovery responses by Appellants which Judge Early reviewed and found to be defective contained specific references to and incorporation of the 2005 Parkview responses. In fact, Judge Early specifically stated in his order of April 6, 2010 that he had reviewed Appellants' discovery responses, which incorporated and referenced the 2005 Parkview discovery responses.

Respondents' claim that only a portion of Appellants' Petition for Writ of Prohibition to this Court was before the lower court. This is not consistent with the express statements of Judge Early as set forth in his order dated April 6, 2010, and is particularly disingenuous when considered in light of the Appellants' involvement in the wording of that order. For example, on page 15 of this order, the lower court states, "... the Court was informed that Plaintiffs had filed that morning a Petition in the Supreme Court of South Carolina, seeking a Writ of Prohibition ..." Footnote 2 on page 8 of the order further acknowledges the lower court's knowledge of the Writ of Prohibition, stating it was one of the reasons why the lower court "took no further action concerning the Motions for Sanctions..." The discussion on pages 15 and 16 of the order reveals that the lower court was well informed as to the Petition and its contents, as well as all other activity occurring at that time in the appellate courts concerning these cases. This is to

be expected, since Judge Early is named as the Respondent in the Petition, and appellate counsel advises that Judge Early was provided with a complete copy of the Petition.

Respondents also claim that there is no evidence that the Memorandum of Mr. Ford von Weise dated August 31, 1999 was ever before the lower court; this is also incorrect. Appellants submitted discovery requests to Respondents dated October 5, 2007; Respondents answered such requests on November 9, 2007. Part of their responses directed Appellants to certain documents which had been bate stamped. The von Weise memo had been previously produced and identified as AmReal Document containing Bate Stamp # 000563, and was again referenced in Respondents' discovery responses. Appellants believed that Respondents' answers were insufficient, and filed a motion to compel on June 12, 2008. Exhibit 2 to this motion contained Respondents' discovery responses, including the reference to the von Weise memo. The motion to compel, including the reference to the von Weise memo, was argued before the lower court on July 1, 2008. Since the von Weise memo was part of the material presented and argued to the lower court, it is evident that it was before the trial court at that time.

c) Appellants included relevant document references and used single-spacing only where appropriate.

Although the general rule, as set forth in Rule 267, SCACR, is that double spacing is to be used in appellate briefs, this does not mean that single spacing is prohibited where appropriate. Examples of where single spacing is appropriate in appellate briefs which, as a general rule are double spaced, include (1) the caption, (2) the signature block, and (3) the text of the certificate of service; furthermore, single

spacing is appropriate for all headings, sub-headings, lengthy quotations and other appropriate "block format" applications.[5] Specifically, a block-format application, which Appellants used in their Initial Brief, *should be single spaced* and is appropriate for "lengthy" narrations and quotations, *i.e.*, those containing 50 or more words, or 4 or more lines. Cf, *Barger on Legal Writing, supra.*

Appellants do not agree with Respondents' position that Appellants have failed to comply with Rule 208(b)(4). That rule provides for reference to specific portions of documents where applicable. There are instances in the present appeals where Appellants believe that certain documents referenced in their briefs must be examined by this Court in their entirety; in those instances, such documents are designated to be included in the Record on Appeal in their entirety, as opposed to including only portions of the documents. Where this Court's review may be limited to only portions of documents, Appellants have designated only such portions.

CONCLUSION

Based upon the foregoing, this Court should deny Respondents' Motion. As noted above, Respondents have already achieved an unfair advantage in these appeals merely by filing the motion. It is evident that Respondents' motion was made in retaliation for Appellants' refusal to consent to Respondents' attempts to gain additional

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[5] These applications are recognized by nearly all legal scholars who have written on the subject. While it is impractical to list all such scholars or their works, a notable example is Professor Coleen M. Barger of the William H. Bowen School of Law at the University of Arkansas Little Rock, renowned lecturer and author in the field of legal writing. Her internet blog, Barger on Legal Writing, may be found at http:ualr.edu, and contains specific references to the single spacing applications of a double spaced brief.

time and advantages, as well as to circumvent this Court's rules and prior orders. Appellants ask that this Court decline to sanction the imposition of yet another double standard against them. Accordingly, Appellants request that this Court take such action as it may deem appropriate in order to remedy this unjust result including, *inter alia*, prohibiting Respondents from submitting briefs in opposition to these appeals, and awarding costs, fees and expenses to Appellants in having to respond to these meritless motions.

Respectfully submitted,

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Attorneys for Appellants

Beaufort, South Carolina

July 25, 2011

STATE OF SOUTH CAROLINA	)	**IN THE COURT OF COMMON PLEAS**
Laurance H. Davis, Jr., *et al*, Plaintiffs,	)	
-vs-	)	**Beaufort County**
Parkview Apartments, a South Carolina Limited Partnership, *et al*, Defendants.	)	**C/A # 2003-CP-07-726**
Laurance H. Davis, Jr., *et al*, Plaintiffs,	)	
-vs-	)	**Orangeburg County**
Roosevelt Gardens, a South Carolina Limited Partnership, *et al*, Defendants.	)	**CA # 2005-CP-38-1131**
Rhoda G. Rentz, *et al*, Plaintiffs,	)	
-vs-	)	**Charleston County**
Orleans Gardens, a South Carolina Limited Partnership, *et al*, Defendants.	)	**CA # 2005-CP-10-4229**
Laurance H. Davis, Jr., *et al*, Plaintiffs,	)	
-vs-	)	**Beaufort County**
Palmetto Apartments, a South Carolina Limited Partnership, *et al*, Defendants.	)	**C/A #2005-CP-07-1989**
Carolina Management Corporation of Beaufort, *et al*, Plaintiffs,	)	
-vs-	)	**Beaufort County**
Pinewood Park Apartments, a South Carolina Limited Partnership, *et al*, Defendants.	)	**CA # 2005-CP-07-1990**

AFFIDAVIT OF LAURANCE H. DAVIS, JR.

PERSONALLY APPEARED BEFORE ME LAURANCE H. DAVIS, JR. who, being first duly sworn, does hereby aver:

GENERAL STATEMENTS AND BACKGROUND INFORMATION

1. I am a citizen and resident of Beaufort County, South Carolina.

EXHIBIT 1

2. This affidavit is submitted in support of the Plaintiffs' Motion for Recusal and Vacation of Orders recently filed in the above-captioned cases, as well as in support of any other motions or submissions to which it may pertain. The statements contained in this affidavit are based upon my personal knowledge and observations, as well as my participation, whether directly or indirectly, in the events described herein.

3. I am presently eighty one (81) years of age, and am retired from Bundy Appraisal and Management Inc. of Beaufort, South Carolina. Since this litigation was commenced, I have experienced some significant health problems which have interfered with my ability to fully participate in the discovery aspects of these cases. I have undergone surgery for removal of my prostate gland which was determined to be malignant. Additionally, I suffer from diminished vision due to macular degeneration in one eye. I also suffer from osteoporosis, inflammation of the buttocks and neuropathy of my feet which make it extremely difficult for me to move about freely. I am under the care of physicians in Beaufort and my medical treatment is on-going. Notwithstanding these physical infirmities, I am of sound mind and I am not under the influence of any medications or mental infirmities which would adversely affect my ability to honestly and accurately make the statements in this document.

4. In the 1960's, I was an owner and manager of a small company that had subsidiaries in the small loan finance business, as well as of a real estate company through which my stockholders and I could trade in real estate and manage acquired rental property. My stockholders at that time were Carson R. Rentz, a local building contractor in Beaufort, and Edwin W. Pike, who was in the mortgage brokerage business in Beaufort, representing Southern Mortgage Company. Both stockholders had a background in real estate development, and the HUD programs emerging at that time presented an opportunity for each of us to participate.

5. Together with Mr. Rentz and Mr. Pike, I became involved in approximately eleven (11) projects developed under the federal FHA and HUD programs in the 1969-1973 time frame. These involved low income housing apartment complexes, located primarily in the South Carolina Low Country. The projects provided a tax shelter to investors and developers for furnishing subsidized housing with breaks to tenants in the form of reduced rents. Other investors ultimately became involved with us as limited partners in some of these HUD housing projects. These included Messrs. William Hodge, Mortimer Weinberg and Dan Trotter of Sumter, South Carolina, as well as Mr. Marvin McCarthy of Beaufort. Some investors in Charleston, South Carolina, became involved as limited partners in the Pinewood Park project in Allendale, South Carolina; these were Messrs. James B. Jackson, Whaley R. Hinnant, Jr., and Alfred E. Rawl, Jr. Each investor/limited partner was apprised of the long-term investment aspects of these projects.

6. While some of these projects began as general partnerships, they eventually were converted to limited partnerships. In some instances, I assumed the position of general partner, and undertook the responsibility of hiring and training local staff for each complex, which ranged in size from 40 units to 300 units, and cost approximately ten thousand dollars ($10,000.00) per unit. This required a long term project to recoup our capital investment.

7. There was a lot of work involved in creating the partnerships, designing the housing complexes, constructing the actual housing units and managing them upon completion. We were working with architects and city and county officials to get through the permitting process before construction started, and then with FHA and HUD: learning the programs, documentation requirements, management duties, capitalization requirements, regulation compliance, etc. There was initially no income to any of us for this work on various projects. We ultimately derived some income to our real estate company in the form of management fees, as we received six (6%) percent

of rents collected.

8. Each of these projects was a long-term investment on our parts. To the best of my recollection, the initial mortgages on the real estate involved in the various projects were for forty (40) year terms, as were the HUD subsidies. We understood at the time we commenced these projects that the complexes could not be paid off and converted into conventional rental property, rather than subsidized low income housing, for at least twenty (20) years. After that time, conversion to conventional housing or other uses were potential options. We expected to manage the units on a long-term basis, and to receive the management revenues, or to eventually turn management over to a larger management company if such a transfer would be advantageous to us. With respect to my involvement in the properties or limited partnerships which are included in this litigation:

(a) I am a limited partner in Palmetto Apartments, a South Carolina Limited Partnership, owning a seven (7%) percent interest therein. I was originally a general partner in this limited partnership, which was established by Certificate of Limited Partnership dated March 18, 1971, and which was executed under seal by the parties. The term of the partnership was not set to expire until September 1, 2011, more than forty (40) years from its inception. The original Certificate of Limited Partnership was subsequently amended on April 1, 1972 in order to substitute Marvin D. McCarthy for Buccaneer Corporation, Inc., as a limited partner. With the exception of this amendment, it was specifically agreed that the original limited partnership agreement would remain in full force and effect. This document was also executed by the parties under seal. The original Certificate of Limited Partnership was subsequently amended again on June 1, 1975, when N. Barton Tuck, Jr., and U.S. Shelter Corporation were substituted as general partners. This amendment was prepared by attorneys for the said N. Barton Tuck, Jr., and/or U.S. Shelter Corporation, and executed under seal. The term of the partnership was extended to December 31, 2012. The original Certificate of Limited Partnership was subsequently amended again on or about January 23, 1981, to reflect the substitution of AmReal Corporation for U.S. Shelter Corporation a/k/a USS Corporation as general partner. This amendment was also prepared by or on behalf of the general partners and was executed under seal.

(b) I am a limited partner in Roosevelt Gardens, a South Carolina Limited Partnership, owning a thirteen (13%) percent interest therein. Roosevelt Gardens Limited Partnership began as a general partnership between Hodge Land Company, Inc. and Coastal Contractors, Inc. The original Partnership Agreement was dated May 15, 1970 and executed under seal by Edwin W. Pike, Jr., as President of Hodge Land Company, Inc. and Carson R. Rentz, as President of Coastal Contractors Inc. The general partnership was converted to a limited partnership by Certificate of Limited Partnership dated February 18, 1971, which was also executed under seal by the parties, and I became a limited partner in this partnership at that time. The term of the partnership was not set to expire until August 2, 2011, more than forty (40) years from its inception. The original Certificate of Limited Partnership was subsequently amended on August 1, 1971 in order to admit Mortimer M. Weinberg, Jr., and Dan Trotter as additional limited partners, and this document was also executed by the parties under seal. The original Certificate of Limited Partnership was subsequently amended again on June 1, 1975, when N. Barton Tuck, Jr., and U.S. Shelter Corporation were substituted as general partners in place of Hodge Land Company, Inc. and Carson R. Rentz who became additional limited partners. This amendment was also prepared by attorneys for the said N. Barton Tuck, Jr., and/or U.S. Shelter Corporation, and was executed by the parties under seal. The original Certificate of Limited Partnership was subsequently amended again on or about January 23, 1981, to reflect the substitution of AmReal Corporation for U.S. Shelter Corporation a/k/a USS Corporation as general partner. This amendment was also prepared by or on behalf of the general partners; but for the stated amendment, the Original Certificate, as amended, remained "unchanged and in full force and effect." This document was also executed under seal.

(c) I am president of Carolina Management Corporation of Beaufort, a South Carolina Corporation, having its principal place of business in Beaufort, South Carolina. Carolina Management was originally chartered as Carolina Realty Company, which was originally designated as both a general partner and a limited partner in Pinewood Park Apartments Limited Partnership. Carolina Management Corporation owns a ten (10%) percent interest in Pinewood Park Apartments Limited Partnership, which was created by a Certificate of Limited Partnership dated March 31, 1971 between Carolina Realty Company, as general and limited partner, and Carson R. Rentz as limited partner. The term of the partnership was not set to expire until July 1, 2012, more than forty (40) years from its inception. This Certificate was executed under seal by myself and Edwin W. Pike, Jr., on behalf of Carolina Realty Company and Carson R. Rentz, as limited partner. On or about September 1, 1971, the Certificate of Limited Partnership was amended to admit Marvin D. McCarthy as an additional limited partner. This amendment was also executed by the parties under seal. On or about January 1, 1972, the Certificate of Limited Partnership was amended again to delete Mr. McCarthy

as a limited partner, redesignate Carolina Realty Company as a general partner only, and add James B. Jackson, Whaley R. Hinnant, Jr., and Alfred E. Rawl, Jr., as limited partners. With the exception of this amendment, it was specifically agreed that the original limited partnership agreement was to be "confirmed and continued." This amendment was also executed by the parties under seal. The original Certificate of Limited Partnership was subsequently amended again on June 1, 1975, when N. Barton Tuck, Jr., and U.S. Shelter Corporation were substituted as general partners in place of Carolina Realty Company who became an additional limited partner. This amendment was also prepared by attorneys for the said N. Barton Tuck, Jr., and/or U.S. Shelter Corporation, and was also executed by the parties under seal. The original Certificate of Limited Partnership was subsequently amended again on or about January 23, 1981, to reflect the substitution of AmReal Corporation for U.S. Shelter Corporation a/k/a USS Corporation as general partner. This amendment was also prepared by or on behalf of the general partners, and was executed under seal.

(d) I am a limited partner in Parkview Apartments Limited Partnership, owning a twenty five (25%) percent interest therein. Other limited partners include: (a) Mary Jane R. Pike, widow of Edwin W. Pike, Jr. Mr. Pike was an original investor in this project, having a twenty five (25%) percent interest; he assigned his interest to his wife on July 26, 1990. (b) Eva Marie Reynolds, who also owns a twenty five (25%) percent interest. She acquired her interest from the Estate of her father, the late W. M. Hodge, who was an original limited partner, on or about the 31st day of July, 1990. (c) Rhoda G. Rentz, who owns a twenty (20%) percent interest; she acquired her interest from the Estate of her late husband, Carson R. Rentz, who was an original limited partner. This limited partnership began as a general partnership under a partnership agreement executed under seal on or about June 2, 1969, and including myself, Carson Rentz, Edwin Pike and W. M. Hodge as general partners. The name of the general partnership was "Parkview Apartments" and the apartment units were constructed on marsh-front property on Duke Street in the City of Beaufort. The apartments were originally conceived to provide adequate housing for low income residents of Beaufort, South Carolina. We secured a loan commitment issued by the United States Department of Housing and Urban Development ("HUD"), which subsequently insured the loan obtained by the said partnership in order to finance the construction of the said project. We also executed a Regulatory Agreement with the Department of Housing and Urban Development regarding the operation of the apartments. This was also a long-term investment arrangement, and the term of the partnership was not set to expire until more than forty (40) years from its inception. The general partnership agreement was subsequently amended on June 1, 1975, when N. Barton Tuck, Jr., and U.S. Shelter Corporation were substituted as general partners, and the original general partners became limited partners. This amendment was

prepared by attorneys for the general partners, and executed by the parties as a sealed instrument; it extended the original term of the partnership to December 31, 2012."

(e) Although I am not directly involved in Orleans Gardens Apartments Limited Partnership, I am familiar with the limited partners of that entity and have personal knowledge concerning its creation in or about 1968 and the housing units which it owned, as I was directly involved in the management of such units following their construction. Based upon my involvement with both the general and limited partners in this entity, I am aware that it was to be a long-term investment arrangement; under the terms of the original partnership agreement, the term of the partnership was not set to expire until December 31, 2008. The original partnership agreement was subsequently amended on June 1, 1975, when N. Barton Tuck, Jr., and U.S. Shelter Corporation became general partners. This amendment was again prepared by attorneys for the said N. Barton Tuck, Jr., and/or U.S. Shelter Corporation. The original partnership was subsequently amended again on or about January 23, 1981, to reflect the substitution of AmReal Corporation for U.S. Shelter Corporation a/k/a USS Corporation as general partner.

9. As stated above, in1975, Mr. Barton Tuck and his property management company, U.S. Shelter, approached us and proposed to take over management of certain of our HUD subsidized projects. They proposed that we convert any existing general partnerships to limited partnerships, and tendered an offer to relieve us of the responsibility of General partners in these entities, as well as some entities which we were already operating as limited partnerships. Although they did not make any capital contributions, they did agree to reimburse advances we had made to cover short-falls in cash for certain projects.

10. Based upon the proposals of Mr. Tuck and U.S. Shelter, we agreed to proceed with the projects under the limited partnership arrangement, whereby Mr. Tuck and U.S. Shelter became the general partners and we assumed the role of limited partners. Our primary intent in doing so was to continue our long-term involvement in the projects, but with a view toward immediate tax savings and eventual retirement benefits. Some of the partnerships actually had long-term expiration dates in the partnership agreements; others were not designated to expire at all. To my recollection,

most, if not all, had provisions for continuation in the event of the death or withdrawal of a partner. We were particularly attracted to the fact that one of the general partners was a corporate entity which would likely be around for the full term of the anticipated useful life of the projects.

11. In or about 1984, the general partners recommended that we sell the real estate assets of the various limited partnerships, based upon their view of anticipated new tax laws. They proceeded to present purchase proposals which included cash payments over a short term period, such as five (5) years or so, with a final large balloon note due 15 years later, in 1999. This presented an attractive incentive for each of us, as the balloon note payment would be a major portion of our respective retirement portfolios and would come at a time when we reached retirement ages.

12. We were initially informed by our general partners that the purchasers of the real estate assets were well funded and financially responsible, so there would be no problem in their meeting their financial obligations resulting from their purchases of the respective real estate/partnership assets. This became very important to us later on, because the general partners subsequently informed us that we had no mortgage security on the properties sold because HUD would not permit a second mortgage on the real property, so the limited partnership's only security was an interest in the purchasing entities themselves. We were repeatedly assured by the general partners that the purchaser(s) had sufficient assets and financial solvency to meet all financial obligations, and were also assured by them that the worst case scenario would be that we would take over the projects in the event of a default on the 1999 balloon payment. This would put us in a position of re-acquiring the real estate and housing complexes with the first mortgage nearly paid off, with each being maintained to HUD requirements and with cash replacement reserves on hand, as required by HUD. I recognized that the location and quality of construction of each of the apartment complexes, coupled with HUD's strict regulations for maintenance and upkeep, would give them a

significant monetary value if we had to re-acquire them in the future. This was certainly true for the apartments involved in the present litigation. Parkview Apartments, for example, were located adjacent to Battery Creek and were within the city limits of Beaufort near the proposed location of the new county government complex. Palmetto Apartments were constructed near the United States Marine Corps Recruit Depot on Parris Island, South Carolina; Orleans Gardens Apartments were constructed in Charleston, South Carolina, adjacent to the property occupied by The Citadel Mall; Pinewood Park Apartments were located in Allendale, South Carolina; Roosevelt Gardens Apartments were situated on U.S. Highway 601 outside Orangeburg, South Carolina, near property now occupied by the Orangeburg Hospital and the Technical College.

13. Following the sale of the real estate in the various limited partnerships by the general partners, they provided us with only limited financial information, or any other information, for that matter, concerning the status of our various limited partnerships. At one time, we received correspondence from the general partners that they anticipated problems collecting the 1999 note payments, but they then repeatedly assured us that they would take all appropriate steps to either collect the sums due on the respective notes or re-acquire the associated real estate and housing complexes. When the notes became due but unpaid in late 1999, the general partners initially gave me assurances as to their intent to recover the note proceeds or associated real estate, but then became practically non-responsive to my inquiries regarding the status of their efforts in that regard. I began to communicate with other limited partners and discovered that they also were not being given information by the general partners relating to any efforts to secure payment of the past-due notes or, alternatively, recovery of the various apartment complexes.

14. In the spring of 2000, having grown concerned over the lack of information being provided by the general partners, I contacted Beaufort attorney Joel D. Bailey of The Bailey

Law Firm, P.A. regarding the past due debts owed to the limited partnerships. My initial contact with Mr. Bailey was on behalf of the limited partners in the Parkview Apartments Limited Partnership, but later included the Orleans, Pinewood Park, Palmetto and Roosevelt I partnerships. Given the complexity of the transactions involving the sales of the properties, their involvement in the HUD program, the fact that the properties had not been in our possession or control for over fifteen years, and the lack of information I was able to provide concerning the intent or recovery efforts of our general partners, Mr. Bailey's initial services were limited to investigating and determining the status of the notes due to the various limited partnerships, as well as the status of efforts being made by the general partners, if any, to collect the monies due to the limited partnerships or retrieve the various apartment complexes.

15. By the time we retained counsel to investigate the status of the past-due notes, the other limited partners and I were very concerned that the defaulting debtors might damage or dispose of the apartment complexes. If this occurred, and they had no funds to pay the debt, the limited partnerships would be left without any recourse against the defaulting debtors. I received information that, in fact, Mr. Gary Hediger, a former officer of US Shelter, was in the process of purchasing the apartment complexes from the defaulting debtors. Mr. Bailey filed a *lis pendens* in the summer of 2000 on behalf of the limited partners in order to delay any sale until the general partners could initiate action for payment of the debt or, alternatively, retrieve the apartment complexes for the respective limited partnerships. The general partners were informed of the lis pendens; we took no further action to renew the lis pendens once we received assurances from the general partners in October of 2000 that they were taking affirmative action to recover the monies due or to retrieve the properties.

16. In August of 2000, Mr. Bailey scheduled a meeting of the respective limited partnerships, to be held in Beaufort on September 14, 2000. Mr. George Buchanan attended on behalf of the corporate general partner, but the individual general partner, Mr. Tuck, did not attend. The main purpose of the meeting was to get information from the general partners as to their strategy and efforts regarding collection of the notes or retrieval of the properties. I understood that Mr. Tuck might want to relinquish his role as general partner, and we were prepared to address replacing him at this meeting as well. Unfortunately, Mr. Buchanan was unable to provide us with most of the information we asked for, so we agreed to have a subsequent meeting in the near future. This meeting ultimately took place on October 24, 2000 at AIMCO's offices in Greenville, South Carolina.

17. Mr. Buchanan was present at the October 24th meeting, along with AIMCO vice president Pat Foye and Mr. Tuck. Mr. Foye and Mr. Tuck provided information into the history and status of the indebtedness to the limited partnerships, as well as various options available to the partnerships. It was apparent that there was a significant value attached to the respective apartment complexes, and numerous options would be available to the limited partnerships if these properties could be retrieved. I had management experience with HUD properties and was prepared to manage these units again, as the management fees and rents were a potential source of income for the limited partnerships. I also felt that some of the units could be converted to conventional housing, which would make them even more valuable. I also felt, based on my experience in the real estate field in Beaufort, that there was a viable local market interested in purchasing these properties. Given the fact that the original mortgages had been paid down, and the properties had to be kept in good condition in order to comply with HUD requirements, I and the other limited partners strongly felt that, if the outstanding notes were not collectible, the respective properties should be retrieved. Both Mr. Tuck and Mr. Foye indicated that they would probably not be interested in remaining as general

partners if the properties were retrieved and managed by the limited partnerships, and that we should make plans to replace them in the event that occurred. Acting on their advice, we contacted another attorney after the meeting for the purpose of setting up a legal entity to act as general partner.

18. The general partners further reassured me and the other limited partners during the October 24th meeting that certain specific steps had been taken, were being taken and would be taken by the general partners after the meeting in order to protect the assets of the various limited partnerships; these included retaining counsel for the purpose of either collecting the outstanding debts or retrieving the underlying properties, retaining appraisers, and marketing the past due notes and/or the shares of the limited partnerships,. One potential purchaser recommended by the general partners was Mr. Hediger.

19. As a result of the commitments made by the general partners in the October 24th meeting, I and the other limited partners felt that we could rely upon the general partners to protect the assets of the limited partnerships. I was surprised, therefore, to learn, in a letter from Mr. Buchanan dated November 10, 2000, that the Parkview, Orleans and Roosevelt I apartment complexes had been sold, effective November 1, 1999. The letter further advised, however, that the sale was conditional upon approval by HUD, that such approval had not been given and that "the sales have not been consummated." Mr. Buchanan also informed us that the general partners had retained attorney Arthur Howson of Greenville to represent the limited partnerships in this matter and that he would be in contact with the respective debtors and/or attempted purchasers "to notify them of our interests in the projects" and to pursue collection of the debts.

20. During December of 2000, Mr. Bailey continued to correspond with both Mr. Buchanan and Mr. Howson concerning our earlier requests for partnership records and documents. In January of 2001, I learned that the general partners had retained another attorney, Mr. Robert W.

Tomilson of the law firm of Bryan Cave LLP in Washington, D.C. I would later learn, as part of the discovery undertaken in these cases, that the involvement of the Bryan Cave law firm was critical to understanding the nature and depth of the breach of fiduciary duties owed by the general partners to me and the other limited partners in these cases.

21. Mr. Tomilson provided our attorney, Mr. Bailey, with a copy of a letter dated February 1, 2001, which had been sent to Mr. Howson by William Leighton Lord III. Mr. Lord was an attorney who represented Lend Lease Real Investments, Inc., the successor to Boston Financial Group, the original debtor in all the subject limited partnerships, with the exception of the Pinewood Park Limited Partnership. Mr. Lord's letter set forth a series of transactions between AIMCO, as our general partner, and Boston Financial concerning the outstanding debts due to the limited partnerships, and Boston Financial's offers to return the subject properties to the limited partnerships. The detailed information in the Lord letter had not been previously disclosed to the limited partners by the general partners.

22. Mr. Tomilson of the Bryan Cave law firm contacted Mr. Bailey and assured him that the information in the Lord letter was being disputed by AIMCO, and he provided us with a copy of his letter of February 5, 2001 to Mr. Lord, in which he stated that Mr. Lord's assertions that AIMCO had rejected Boston Financial's offer to return the subject properties to our limited partnerships were "unsubstantiated" and "irrelevant." Mr. Tomilson also informed Mr. Bailey in a letter dated February 14, 2001 that AIMCO was continuing to explore the issue with Boston Financial Group and that "we must await Boston Financial Group's reply to my inquiries to determine the answers to these questions." Although frustrated over the knowledge that our general partners might not have accepted an offer to return the properties, we were conversely being told by counsel for our general partner AIMCO that these assertions by Mr. Lord were in dispute. Mr. Buchanan

informed us that our general partners were going to send someone to Boston to review the Boston Financial documents. We would not learn until years later, when we actively pursued discovery in this litigation, that the person sent to Boston by our general partners was not qualified to conduct an independent assessment of the situation, nor did she do so. We would also learn in the discovery process that Mr. Buchanan lied to Mr. Foye concerning providing the limited partners an opportunity to participate in the review of the documents; Mr. Buchanan made sure that we did not have a representative present and never informed us of Mr. Foye's belief that we had the right to do so.

23. Since the notes to our limited partnerships were due in 1999, I understood that our general partners had until 2002 to initiate legal action on behalf of the limited partnerships against the defaulting debtors and/or subsequent purchasers. I was frustrated by the fact that, as limited partners, we had no legal authority to act and were totally dependent upon the general partners to initiate such legal actions. When the general partners failed to initiate such actions in 2002, it became evident to me and the other limited partners that they would not be fulfilling their promise or duty to collect the monies due under the balloon payment or to recover the associated real estate. As a result, the limited partners in various limited partnerships authorized Mr. Bailey to initiate legal actions against the general partners.

24. The initial lawsuit was filed on behalf of the Parkview limited partners in 2003. The lawsuit was filed against the general partners for breaching their fiduciary duties to the limited partners by failing to protect, preserve or retrieve the assets of the limited partnership. Similar lawsuits were being prepared for the limited partners in the other limited partnerships when lawyers for the general partners and officers of AIMCO requested a meeting with our attorney. This meeting was attended by AIMCO officers Pat Foye of New York and Miles Cortez of Denver, together with their attorneys. A proposal was made on behalf of the general partners that the other limited

partnerships not file their claims until all the apartment cases could be appraised and the claims submitted to mediation. In an effort to minimize costs and avoid delays, I and the other limited partners agreed to this proposal.

25. An appraiser from Charleston was chosen by mutual consent of the general and limited partners, and a mediation was tentatively scheduled for the summer of 2004. The appraiser did not complete the joint appraisals within the projected time frame, however, managing only to generate appraisals for the Parkview and Palmetto complexes mere weeks before the mediation, which was to have been held in August of 2004. Neither the limited partners nor the general partners felt that the appraisals were properly done; as a result, the general partners then canceled the mediation, but continued to indicate that it would be rescheduled at a later date. When no mediation had been rescheduled by the following year, our attorney filed the remaining lawsuits on behalf of the limited partners in the Orleans Gardens, Palmetto, Roosevelt I and Pinewood Park limited partnerships, stating claims against the general partners on the same basis as the claim filed earlier in the Parkview case.

26. During the interval between the hiring of our counsel to investigate the status of the past-due debt to the limited partnership and the filing of our lawsuits, I was asked to be the contact person between Mr. Bailey and the other limited partners. This proved to be a difficult task, as my ability to communicate with all my limited partners was restricted due to the fact that some lived in other locations, some were ill and some were elderly. Two of the limited partners, Mr. Trotter and Mr. Weinberg, have died since we first contacted Mr. Bailey. Dealing with estate personnel and widows in attempts to get documents and information has been incredibly difficult for me. As the time passed, I have been less able to assist our counsel in litigation matters. My

relationship, as well as that of the other limited partners, with our counsel has been significantly compromised and impaired as a result of the rulings made in this case which undermined the confidentiality of our communications with our counsel. It was my understanding, as well as that of my fellow limited partners, that we needed to communicate freely with our attorneys in order to get advice and counsel on all major decisions. I understood and believed that all these communications with our counsel were confidential and could not be disclosed to anyone else.

27. Once our lawsuit was filed, there were several delays due to numerous motions filed by the general partners. These motions were ruled on by separate judges, so it made sense for the cases involving sales of the apartment complexes to the Boston Financial Group to be consolidated for discovery purposes since they would involve many of the same witnesses, documents, etc. These were all the limited partnerships except for the Pinewood Park limited partnership, which sold its apartment complex to another entity. It also made sense to me to have one judge assigned to these cases.

28. In 2006, I was asked to review a list containing the names of several judges, with the understanding that the Chief Justice of the South Carolina Supreme Court would assign one of them to preside over the various cases. Included in the list was Judge Doyet A. "Jack" Early. I did not know Judge Early, nor did I know any of the other judges on the list; I assumed that they were all people who had no prior knowledge of the issues in the cases and no connections with any of the parties or attorneys involved. I also assumed that any judge on the list would certainly disclose to Chief Justice Toal any connections or affiliations which he or she might have with any of the parties or attorneys involved in these cases, since our goal was to have the cases assigned to a fair, independent and impartial judge. I think that any reasonable person would share my belief that the

Chief Justice would certainly need this information in order to assign the cases to the proper judge.

29. Chief Justice Toal assigned the five cases to Judge Early by an Order dated March 7, 2006. To my knowledge, Judge Early had very little involvement with the cases from that time until 2008. Four of the cases, the exception being the Pinewood Park case, were part of a joint mediation held over a two day period in March of 2008. The mediator was Charleston lawyer Tom Wills and the mediation took place at his office in Charleston; he was not successful in achieving a settlement. After the mediation, Mr. Wills met with all of the limited partners and appeared frustrated over not having been able to get the general partners to make any type of meaningful settlement offer. He asked us why the general partners were so confident that they were going to eventually have the cases dismissed. We were all at a loss to explain why the general partners felt so strongly that Judge Early would dismiss the cases.

30. I later learned that Judge Early and his son had gone on a fishing trip to Florida with the son of one of the attorneys for the general partners, and that the boat they were on belonged to the attorney's brother. I also learned that the judge had informed our attorneys that his son and the attorney's son had become friends and that the judge had also been included in the invitation, but would decline if our attorneys objected. I do not feel it was proper for Judge Early to put our attorneys in that position; in order that his conduct and decisions would remain above question, I believe that the judge should have declined the invitation, and should not have put our counsel in the position of objecting and thereby ruining the judge's vacation plans. If they objected, they risked offending the judge, who was certainly in the position to determine or at least influence the outcome of the cases.

31. Following the mediation, I learned that AIMCO's attorney from Denver, Colorado, who was at the mediation, was upset with the presentation of their attorney, and threatened to replace him. Shortly thereafter, I learned that two Charleston attorneys, Mr. Marvin Infinger and Ms. Anne Ross Rosen, were being added as lawyers for the general partners. I also learned that Judge Early had commented that Mr. Infinger was an old friend of his and that he had performed the marriage ceremony for Ms. Rosen. I believe that these comments, together with a full and complete disclosure of the relationship between Judge Early and these lawyers, should have been made on the record at that time. This is particularly true in light of the additional facts that I have now learned relating to Judge Early's involvement with these attorneys.

32. After the two Charleston lawyers were added as counsel for the general partners, Judge Early began to clearly favor them with his rulings, and to employ a double standard for discovery in the cases. These are discussed in greater detail in the affidavit of my counsel dated March 30, 2010, submitted in support of our motion to recuse Judge Early. The burdens placed on me and my other limited partners by Judge Early were considerable, and we had to spend many hours attempting to locate documents which were over 30 years old, many of which had been generated by the general partners themselves. I still do not understand why he required us to do this, particularly those of us who are widows, sick and elderly, while simultaneously limiting the time and scope of our discovery requests to the general partners.

33. The lawyers for the general partners began to try to get copies of our communications with our attorney. I felt this was particularly wrong, as I had always believed that my communications with my attorneys were confidential. Judge Early at one point gave blanket approval for hundreds of items the defendants claimed were privileged, but ordered us to produce our

communications with our attorneys to the lawyers for the defendants. He did this without even looking at the documents. I and the other limited partners ended up having to pay a lot of money to a special master to look at the documents and he agreed that the majority of our documents were privileged, and that the defendants were not entitled to see them. Judge Early then overruled the special master and ordered us to produce the documents anyway.

34. Judge Early's ruling in this regard has placed me and my fellow limited partners in an impossible situation. On the one hand, if we obey his order, we lose our right to have our communications with our attorney remain confidential. On the other hand, if we do not comply with his order, we face sanctions for contempt. To make matters worse, Judge Early has stated that he will dismiss our claims as a sanction for not complying with his order.

35. Confronted with this dilemma, we sought independent legal advice from other attorneys in 2009. As a result, we attempted to get relief from the appellate courts, but the general partners fought this strenuously and our requests for appellate relief were denied.

36. When the cases were returned to Judge Early, we were forced to ask ourselves what we had done to cause this situation. We, after all, are the ones who pushed the discovery, other than the one issue focused on by Judge Early: disclosure of our communications with our lawyer. We have produced thousands of pages of documents and have amended and supplemented our discovery responses many times. We have incurred additional expenses to our expert witnesses for additional time they had to spend in an attempt to comply with Judge Early's discovery mandates. We have had to spend time and money tracking down witnesses and documents because Judge Early permitted defendants' lawyers to avoid responding to our written discovery requests. The good side of that is that the additional discovery we were forced to take uncovered the true nature of the fraud

perpetuated on us by the general partners and their counsel in 1999, 2000 and 2001: at the same time they were assuring us that they were taking all steps to retrieve our properties, our general partners had actually refused to take the properties back from the defaulting debtors. The reason became known through the additional discovery - our general partner AIMCO was under investigation by HUD in connection with a management fee kick-back scheme and could not take these properties back because they were also the subject of management fee kick-backs. A settlement was ultimately brokered for AIMCO by the Bryan Cave law firm, whereby AIMCO paid a fine of $5,000,000.00. I now understand that the fine would likely have been much higher had our properties been included in the AIMCO portfolio of properties; additionally, HUD had "red flagged" AIMCO's transactions, and would have certainly known once an AIMCO limited partnership reacquired our properties. The bottom line is that AIMCO chose to take care of its own interests at the expense of our limited partnerships, and this fact was actually confirmed in a memo we obtained during discovery.

37. This information fell on deaf ears when our lawyers tried to present it on multiple occasions to Judge Early. The attorneys for the general partners, obviously realizing that they could not prevail in a jury trial, began in earnest to find a way to get the cases dismissed. They focused on their defense of the statute of limitations; although Judge Early denied their motion for summary judgment regarding this defense, he soon adopted their positions in toto. This included ordering us to produce our communications with our counsel in order to assist the defendants' attorneys in gathering evidence to support their arguments. It also included adopting positions that we understand are clearly contrary to both the factual evidence and the existing law. We were then forced to look at other explanations, including his extra judicial affiliations with defendants' counsel.

38. Our lawyers filed a motion for full disclosure of such affiliations by both Judge Early and defendants' counsel on February 22, 2010. On March 29, 2010, Judge Early finally made his first disclosures on the record concerning these affiliations. The extent of these affiliations, as referenced in his disclosures, are astonishing and incredible. Judge Early revealed for the first time a long-time and close affiliation between his son and the son of Mr. Johnston, lead counsel for the defendants; it turns out they had been college classmates, fraternity brothers, had spent a summer together in Europe and that Judge Early's son had attended - and perhaps participated in- the wedding of Mr. Johnston's son. Incredibly, Judge Early also revealed that he has a picture of his son and Mr. Johnston's son in his office! He also revealed for the first time a long-term relationship with the wife of Mr. Johnston. He revealed for the first time the fact that Mr. Johnston's son and his wife have been guests at Judge Early's beach house. As for the fishing trip referenced earlier, he revealed for the first time that he did not pay for expenses associated with Mr. Johnston's brother's fishing boat, and paid for meals on two evenings for Mr. Johnston's brother and his wife while on the trip. He revealed for the first time that his friendship with attorney Infinger goes back over 30 years and that defendant's attorney Marvin Infinger and his date were guests of Judge Early and his wife at their lake house. He revealed for the first time that defendants' attorney Anne Ross Rosen is actually from his hometown of Bamberg, that she grew up and attended school with his son there, and that her father is a doctor who has performed no less than two surgical procedures on Judge Early. After being advised by defendants' counsel that our attorney had issued a subpoena for records from Fripp Island, he revealed for the first time that he not only officiated at the wedding of Ms. Rosen, he and members of his family were guests of her family at the Fripp Island resort during the weekend of the wedding.

39. I am tremendously troubled over the fact that Judge Early did not require defendants' counsel to disclose the extent of their affiliations with him, as requested in our motion for disclosure. If his disclosure was indeed a full and complete one, this would surely be confirmed by the defendants' counsel; but if his disclosures were not full and complete, the discrepancy would likely be revealed by the disclosures of defendants' counsel, particularly if those disclosures occurred under oath, as we requested. I am also troubled by Judge Early's denial of our request for limited discovery, including depositions, on this issue. It is important to get information from third parties and that this information be under oath. Otherwise, we are severely limited in our ability to test the accuracy or completeness of Judge Early's disclosures. The fact that the people who would have to be deposed are either close friends of or relatives of Jude Early lends an additional taint to his ruling.

40. The need to check the veracity or completeness of Judge Early's disclosures is seen by looking at his disclosure concerning his officiating at Ms. Rosen's wedding, and comparing it to the documents received from the Fripp Island Resort in response to our subpoena. Judge Early stated that he, his wife and his son Ross were guests of the Ross family on Fripp for one night. The documents from Fripp Island Resort, however, show that his son Will and his wife were also guests at the wedding and that no charges were assessed to them. The records also show that Judge Early and his wife were given a private villa adjacent to the golf course and ocean for two nights, not one night as indicated by the judge, and the records indicate that the charges were actually paid by the Ross family. Additionally, internet searches reveal that Judge Early's photograph is shown on the Facebook sites of one of the children of defendants' attorney Johnston, and that Ms. Rosen is listed on that website as a friend of Judge Early's son, Ross.

41. It is inconceivable to me that Judge Early failed to disclose these associations on his own, and was content to remain silent about them until forced to deal with the issue once it was raised in a motion by our attorneys. If he had informed Chief Justice Toal about the full extent of his relationships with defendants' counsel, I cannot believe she would ever have appointed him to preside over these cases. If he had disclosed them to me and to my other limited partners, it is a certainty that we would never have permitted his name to be submitted to the Chief Justice in the first place. If he had disclosed them earlier, we would have immediately requested that he recuse himself from participation in this litigation.

42. For Judge Early to remain silent about these extra judicial affiliations with defendants' counsel until forced to reveal them is, in my opinion, a violation of his oath and duties as a judge. These affiliations clearly show to me, or any other reasonable person, a basis for bias on his part in favor of defendants' counsel in this litigation. The fact that Judge Early has issued orders which are not based on the evidence or the law in this state, as noted in the affidavit of my lawyer referenced earlier, together with the double standard he has imposed for discovery procedures, has prejudiced me and deprived me of a fair and impartial legal system in which to present my claims. This is a violation of my rights under the constitutions of the United States and the state of South Carolina. His decision to place me in the position of losing my legal rights in order to comply with a court order, or to have my claims dismissed if I try to protect my legal right to confer with my attorney in confidence, is unconscionable, in my opinion. As a result of Judge Early's biased conduct, I have been required to spend thousands of dollars for a special master and for separate counsel to seek interim appellate relief. Dismissal of my claims as opposed to a contempt citation under these circumstances is additional evidence of Judge Early's bias in this litigation, as my only reason for non-

compliance with his order is that compliance requires me to forfeit my legal right to confidential communication with my attorney. This is such an important issue that Judge Early should be concerned with getting it right, and not with using the sanction as a hammer to force compliance just for the sake of forcing compliance. A lesser sanction would permit the appellate courts to review the issue without depriving me of my legal rights.

43. I believe that Judge Early's conduct as stated above is contrary to the Canons of Judicial Ethics and is also in violation of my constitutional right to a fair and impartial legal system. As a result of his conduct, I have become disillusioned with our judiciary and our system of justice. I understand that our system is not only supposed to be proper and fair, it is also supposed to appear to be proper and fair. I also believe that there is no way that any reasonable person can look at Judge Early's affiliations with defendants' counsel, and then examine his rulings and his conduct and the resulting damage and prejudice to me and my fellow limited partners, without concluding, as I have, that his affiliations are both a real and potential source of bias, and that his rulings and conduct reflect this bias and have resulted in prejudice to myself and my fellow limited partners.

I have read the foregoing forty three (43) paragraphs, and affirm that the matters stated therein are known to me, were personally observed by me, and are true and correct to the best of my knowledge, recollection and belief, with the exception of any matters stated upon information and belief and, as to those matters, I verily believe them to be true.

Laurance H. Davis, Jr.

SWORN to before me this
7 day of April, 2010

Jennifer A. Clark
Notary Public for South Carolina

My Commission Expires
July 8, 2015

MEMO FROM RODNEY F. PAGE
PARTNER

TO: Anne-Christine Massullo, Esq.
Dane Narode, Esq.

DATE: October 5, 1998

RE: Settlement Proposal

The HUD IG has demanded payment of $4.2 million to settle proposed civil charges arising from the receipt by NHP of supervisory management fees from management companies which have contracts with partnerships in which an NHP affiliate is the general partner. In addition, the settlement demand requires that the amounts being held in escrow by AIMCO since it took over the NHP portfolio be rebated to the reserve for replacement accounts; that AIMCO agree not to receive such fees in the future; and that, as the owner, NHP agree to reduce the management fee by the amount of the fee portion paid to NHP. AIMCO countered by offering the payment of $1.75 million, or, if the additional investigation relating to cash management issues and Buyers Access were also resolved, $ 2 million. HUD rejected this offer and repeated its original demand.

On behalf of AIMCO, I submit the following proposal to you for resolving the supervisory management fee issue:

1. AIMCO will pay immediately the sum of $2 million as a refund for NHP having received the supervisory management fees, without admitting that the receipt of the fees was illegal or improper.

2. The other terms demanded by HUD will be accepted as well, except that, with regard to the management fee level, NHP can only agree for itself since it is not the controlling general partner in all of the ownership entities, contrary to HUD's assumption.

3. AIMCO will agree to submit to binding arbitration before a three person panel of neutral arbitrators selected in accordance with the Administrative Dispute Resolution Act, 5 U.S.C. sec. 571, et. seq., and in a proceeding conducted under that law and other applicable Alternative Dispute Resolution provisions and orders of the Federal Government, the question of whether any other payments should be made to resolve the "fee splitting" issue with respect to supervisory management fees, up to a maximum of $4.2 million. The proceeding will determine and resolve the defenses AIMCO has asserted, i.e., that NHP had approvals for the fees it charged, and that NHP lacked the intent or willfulness to support multiple damages in any violations that occurred.

4. A settlement agreement at this time will include the limited release proposed by the IG, i.e., one which covers all civil liability for those matters which are disclosed. The scope of the agreement will exclude the other matters under review by the IG, including the Oxford transaction.

EXHIBIT
2

BRYAN CAVE LLP
700 THIRTEENTH STREET, N. W.
WASHINGTON, D. C. 20005-3960

DIRECT DIAL: (202) 508-6002
FACSIMILE: (202) 508-6200

5. The agreement will include HUD's approval of all 2530 applications now pending and an agreement by HUD that, because AIMCO is cooperating in good faith to resolve all pending inquiries relating to NHP's practices, the pendency of any investigation by HUD into those practices will not in the future be an impediment with regard to Multifamily Participation Review Committee decisions or other programatic decisions regarding AIMCO and its affiliates.

6. The arbitration shall be completed within 120 days, or within such longer time period requested by the IG and HUD.

7. To the extent that the Administrative Dispute Resolution Act does not resolve or define the procedures required to conduct the arbitration, the parties will proceed in good faith to discuss and agree upon those procedures.

8. In addition, AIMCO will agree that the investigation into cash management practices of NHP and dividend procedures of Buyers Access when it was owned by NHP will be subject to negotiation and mediation. If the parties have not reached a resolution within 90 days, these matters shall also be submitted to binding arbitration as outlined above.

9. Except as agreed upon by the parties, the terms of the settlement agreement and the steps taken to implement it shall be confidential.

The advantages of this settlement to both sides are these:

a.) AIMCO commits to comply with HUD policy regarding the "fee splitting" issue by not receiving supervisory management fees; its cooperation will result in the reduction of management fees paid at the approximately 50 properties in the portfolio;

b.) the procedure will result in a speedy resolution of this portion of the OIG's inquiry in a cost-efficient manner;

c.) to the extent AIMCO succeeds in asserting the defenses noted above, the outcome of this proceeding will not be a precedent in HUD/IG cases involving others in the industry; and,

d.) the resolution permits AIMCO to conduct its business without being unfairly burdened by the separate history of one of the companies it acquired, NHP, while remaining responsible for its own conduct.

I would appreciate hearing from you at your earliest convenience.

cc: Laura A. Miller, Esq.

AIMCO
Apartment Investment and Management Company

MEMORANDUM

To: Members of the Multifamily Participation Review Committee

From: Apartment Investment and Management Company
Joel F. Bonder, Exec. Vice President and General Counsel

Re: AIMCO Compliance with HUD Inspector General Subpoena

Date: September 16, 1998

Apartment Investment and Management Company ("AIMCO") is a real estate investment trust headquartered in Denver, Colorado which acquired the ownership of The National Housing Partnership ("NHP") and it general partner, National Corporation for Housing Partnerships ("NCHP"), in June 1997. AIMCO also acquired an interest in NHP Incorporated ("NHPI"), then the parent of NHP Management Company ("NHPMC"), in May 1997. AIMCO purchased the remaining shares of NHPI in December 1997, at which time NHPI was merged into AIMCO. NHP and NHPMC serve, respectively, as the general partner and management agent of over 400 limited partnerships, which own HUD-assisted multifamily properties.

Prior to these transactions, AIMCO's participation in government-assisted housing programs was limited to approximately ten multifamily properties with FHA-insured mortgages only. In October 1997, NHPI and others in the affordable housing industry received a subpoena from the HUD Inspector General ("IG") requesting documents relating to any so-called "fee-splitting" arrangements NHPI or its affiliates had entered into with other owners or managers of HUD-assisted properties.

As the new owners of NHP, NCHP and NHPMC, AIMCO's intent is to conduct business in full compliance with the law and HUD policy. In that spirit, AIMCO has responded candidly and quickly to any inquiries from the IG. Upon learning that certain arrangements entered into by NCHP and NHPMC during the period 1977 to 1984 with local joint venture partners were of concern to the IG and Assistant U.S. Attorney for San Francisco ("AUSA"), AIMCO's President directed that all monies received for supervisory management fees and management consulting fees since receipt of the subpoena be held in escrow and not taken into income.

EXHIBIT
3

1873 South Bellaire Street • 17th Floor • Denver Colorado 80222-4348 • Telephone 303-757-8101 • Facsimile 303-757-8735

We understand that the HUD Office of General Counsel ("OGC") has raised a "flag" in the 2530 system related to the IG subpoena. While AIMCO continues to negotiate in good faith with the IG and AUSA to reach a resolution of all pending issues related to NHP and NHPMC, we do not know whether an agreement will be reached prior to this Committee's consideration of AIMCO's pending 2530 applications. Notwithstanding the OGC flag, AIMCO believes its practices and history as an owner and manager of government-assisted housing is clearly distinguishable from that of other owners and managers, and therefore, it would be appropriate for the Committee to approve AIMCO's 2530 at this time. Distinguishing factors are:

(1) AIMCO's own previous participation record has always been clear.

(2) AIMCO itself has never initiated a fee-splitting arrangement. All practices under review by the IG and AUSA were put in place by NHP and NHP Management Company.

(3) Unlike other situations in the industry, AIMCO has shown the IG and AUSA that significant services were provided by NHP Management Company for the fees at issue.

(4) AIMCO has cooperated fully with the IG and AUSA in the production of documents and is making a good faith effort to resolve all issues with the government. As noted above, AIMCO has escrowed all supervisory management fees received since receipt of the subpoena.

AIMCO intends to be a good partner with the Department and has demonstrated that AIMCO makes a difference. For example the company has instituted a "properties come first policy" with respect to capital needs and vendor payables. In that regard, AIMCO held back for property repairs, capital improvements, working capital and accounts payable $9.1 million out of a total $17.2 million of otherwise distributable 1997 Surplus Cash from 204 HUD-assisted properties. As the largest owner and manager of HUD-assisted properties in the country, we look forward to working closely with HUD to address the needs and future of both NHP and Insignia's affordable portfolios in a comprehensive and creative way.

We respectfully request 2530 approval today.

Royal Towers - Kansas City

In fulfilling its original congressional mandate, NHP developed many properties in America's most difficult neighborhoods. NHP's experiences in Kansas City are representative of the inherent risks associated with developing and owning properties which are challenged by problems such as drug-related crime and the general decline of America's inner cities.

Royal Towers, one of the few active residential buildings in Downtown Kansas City, further represents NHP's effort to provide housing not only for those in need of assistance, but those with the greatest and most pressing needs, the elderly and disabled. Although not formally a Single Room Occupancy community, the property's unit configuration, 233 small one-bedroom units, and location in an area devoid of basic residential services, effectively mandates a resident profile limited to those elderly and disabled who would otherwise be without shelter. To support residents, shopping and social services were brought into the building. The importance of these ancillary support services to the community's success is a focal point of ownership's efforts to meet resident needs. In order to open additional funding doors for resident support programs, NHP plans to transfer ownership of Royal Towers to a non-profit entity acceptable to HUD. This will also position the property to be rehabilitated using low income housing tax credits.

In the meantime, NHP has responded to the Area Office by addressing all known ownership-related issues, including the contribution of $183,000 to the property, and resolving long standing paperwork issues regarding the original Transfer of Physical Assets. When the Area Office expressed dissatisfaction with the management of the property, NHP Management Company stepped aside, appointing a HUD-approved local agent. Since that transfer in December 1996, NHP, as general partner, has continued to oversee improvement of the property's operations.

AIMCO - St. Louis HUD Settlement Agreement

The St. Louis field office issue a Limited Denial of Participation to NHP in June 1997 related to a property known as JVL 19. Although the LDP expired by its terms on June 24, 1998, AIMCO and the St. Louis office, with the approval of Deputy Secretary Wehrwein, have reached agreement on a Settlement Agreement, which addresses JVL 19 and certain other NHP properties in the St. Louis area.

It is expected that the Settlement Agreement will be fully executed prior to the date of the Committee's meeting and that the St. Louis office will report that all flags have been satisfactorily resolved. Attached is a copy of the Settlement Agreement, executed by AIMCO.

UNITED STATES OF AMERICA
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
OFFICE OF ADMINISTRATIVE LAW JUDGES
Washington, D.C.

Before Administrative Law Judge William C. Cregar

In the Matter of: JVL 19 Associates and Affiliates: National Housing Partnership, Ltd., National Corp. For Housing Partnership, NHP Partners, Inc., J. Roderick Heller, Ann Torre Grant, Linda G. Davenport, Mildred C. Banks, Joel F. Bonder and NHP Property Management, Inc. Respondents.	HUDALJ 98-8004-DB(LDP)

SETTLEMENT AGREEMENT

This Settlement Agreement ("Agreement") is entered into by and between JVL 19 Associates and Affiliates, The National Housing Partnership, identified in this matter as National Housing Partnership, Ltd. (collectively, "NHP"), National Corp. For Housing Partnership ("NCHP"), NHP Partners, Inc., J. Roderick Heller, Ann Torre Grant, Linda G. Davenport, Mildred C. Banks, Joel F. Bonder and NHP Property Management, Inc. (a/k/a NHP Management Company) (collectively "Respondents"), and the United States Department of Housing and Urban Development ("HUD").

WHEREAS, Respondents are, respectively, the owner, general partner of the owner, general partner of the general partner, parent of the general partner, officers of the management agent, and management agent of a previously insured HUD property known as JVL 19 Apartments ("JVL 19") which is located in St. Louis, Missouri, and NHP is the general partner and NHP Property Management, Inc. is the management agent of other HUD insured properties in St. Louis ("Related Properties"); and

WHEREAS, Apartment Investment and Management Company ("AIMCO") acquired all of the stock of the parent of NCHP and all of the limited partner interests in NHP on or about June 7, 1997; and

WHEREAS, under the terms of the FHA insured mortgage ("Mortgage") and the HUD Regulatory Agreement ("Regulatory Agreement") applicable to JVL 19, HUD is allowed to inspect JVL 19, conduct management reviews, and audit the books and records of JVL 19; and

WHEREAS, the physical inspection and management reviews of JVL 19 are undertaken by the HUD St. Louis Area Office ("HUD St. Louis"), and HUD St. Louis caused a physical inspection of JVL 19 to take place on or about January 7-9, 1997 ("Inspection"); and

WHEREAS, as a result of the Inspection, HUD St. Louis issued a Limited Denial of Participation ("LDP") to Respondents; and

WHEREAS, Respondents have pursued an appeal of the LDP through the HUD Office of Administrative Law Judges; and

WHEREAS, Respondents and HUD St. Louis desire to settle the LDP as well as other issues which concern Respondents, JVL 19, and the Related Properties; and

NOW, THEREFORE, for and in good consideration of the terms contained herein, and other good and valuable consideration, the receipt and sufficiency of which is acknowledged, Respondents and HUD agree as follows:

1. This Agreement will become effective as of the date the final signature is applied to the Settlement Agreement ("Effective Date").

2. On or within 10 business days of the Effective Date of this Agreement, AIMCO will tender to HUD the sum of $375,000.00 ("Settlement Payment"). HUD may elect, at its sole discretion, to use the Settlement Payment in any manner it deems appropriate.

3. On or within 10 business days of the Effective Date of this Agreement, HUD St. Louis will withdraw the LDP which was issued against Respondents. The parties further agree that they will jointly advise the HUD Office of Administrative Law Judges that the LDP has been withdrawn and that Respondent's Appeal should be dismissed as moot.

4. HUD represents that it will not impose any sanction against Respondents with respect to JVL 19, or against any owner, any affiliate of any owner, or any Principal concerning JVL 15, JVL 18 and/or Murphy Blair Apartments. Notwithstanding this representation, HUD reserves the right to impose any sanction or take any other action based on (i) facts of which it or any employee, representative or agent is not actually and could not be deemed to be aware with respect to a Property as of the Effective Date of this Agreement, (ii) facts and circumstances related to criminal activity involving any Property; and (iii) facts and

circumstances occurring or coming to the attention of HUD subsequent to the Effective Date of this Agreement with respect to the Murphy Blair Apartments, provided HUD or any employee, representative or agent was not actually and could not be deemed to have been aware of such fact or circumstance prior to the Effective Date.

5. In response to any inquiry from the Previous Participation System Committee, or any similar or successor entity, HUD St. Louis will respond that HUD has reached a satisfactory resolution of any issues or defaults which may have occurred at JVL 15, JVL 18, and JVL 19 while those properties were under Respondents' ownership, management, or control, or under the ownership and control of an entity in which one or more of Respondents are the general partner of the owner, management agent, or Principal. As to Murphy Blair, HUD St. Louis' response will be based upon the then current status of that project. In response to any such inquiry, HUD St. Louis may provide to the inquiring entity a copy of this Agreement as evidence of the satisfactory resolution of any issue concerning JVL 15, JVL 18, JVL 19 and Murphy Blair.

6. As part of the consideration for this Agreement, simultaneous to the execution of this Agreement AIMCO will bring current the mortgage loan on Murphy Blair, including all late fees and default interest. Further, AIMCO will provide to HUD St. Louis a workout proposal concerning Murphy Blair within 30 days of the Effective Date, which will address Murphy Blair's long term physical needs.

7. AIMCO has caused an inspection of all properties in St. Louis in which NHP is a general partner and is the beneficiary of FHA Insurance or HUD assistance. These inspections checked the physical condition of the properties as well as management operations. AIMCO provided reports of those inspections to HUD St. Louis on or about April 3, 1998. HUD St. Louis has received and reviewed those inspection reports, and is prepared to enter into this Agreement.

8. This Agreement constitutes the entire agreement between Respondents and HUD. No party has relied on any statement or oral representation made by any other party in entering into this Agreement. Any modification or amendment to this Agreement will only be enforceable if made in writing.

9. This Agreement may be executed in more than one counterpart, each of which shall be deemed an original.

10. This Agreement shall be governed by the laws of the State of Missouri and Federal Law. To the extent there is a conflict between the laws of the State of Missouri and applicable Federal Law, Federal Law shall control.

11. By execution of this Agreement, each party represents that the individual executing this Agreement on behalf of the party is authorized to do so, and has provided the other party with satisfactory evidence of such authorization.

12. Respondents agree to waive, release, and remit any and all claims against HUD that the may have had with respect to this administrative action or the issuance of the LDP dated June 24, 1997.

13. Failure of the Respondents to timely perform in accordance with the terms of this Agreement shall render the Agreement null and void.

On behalf of HUD:

DATE:_____

By: Joy M. Miller, Director
Office of Housing - St Louis Office
United States Department of Housing
and Urban Development
1222 Spruce Street
St. Louis, MO 63103

On behalf of Respondents:

By: _____ DATE: 9/15/98

Joel F. Bonder, Esq.
Executive Vice President and
General Counsel
AIMCO - Suite 200
1225 Eye Street, N.W.
Washington, D.C. 20005

Exhibit 8. Summary of Current and Projected Total Management Fees

Partnership/ Property Name	Total Units	City	State	1996 Actual Fees Paid: Property Management Fees	Investor Services Fees	Supervisory Management Fees	Total BookKeeping Fees	Total Annual Fees	Cumulative Unpaid Supervisory Management Fees	Annual Fee Growth Rate	Estimated 1997 Total Fees	Estimated 1998 Total Fees	Estimated 1999 Total Fees
NOTES TO BE FORECLOSED													
BFTG Carolina I													
1 Orleans 7.5%	100	Charleston	SC	$39,237	$0	$14,708	$500	$54,445	$46,672	3.00%	$56,078	$57,761	$59,494
2 Roosevelt I 8%	100	Orangeburg	SC	$39,806	$0	$12,705	$500	$53,011	$38,572	3.00%	$54,601	$56,239	$57,927
3 Roosevelt II 7.25%	100	Orangeburg	SC	$40,122	$0	$11,326	$500	$51,948	$16,575	3.00%	$53,506	$55,112	$56,765
* 4 Walhalla 9%	32	Walhalla	SC	$0	$0	$0	$0	$0	$0	3.00%	$0	$0	$0
BFTG Carolina II													
1 Madison 9.5%	92	Savannah	GA	$32,132	$1,502	$15,901	$460	$49,995	$85,306	3.00%	$51,495	$53,040	$54,631
2 Swift Creek 10%	48	Darlington	SC	$21,873	$1,051	$4,204	$240	$27,368	$4,115	3.00%	$28,189	$29,035	$29,906
BFTG Carolina III													
1 Palmetto 8.5%	40	Burton	SC	$17,045	$1,283	$4,438	$200	$22,966	$8,449	3.00%	$23,655	$24,365	$25,096
2 Parkview 8%	60	Beaufort	SC	$25,315	$1,003	$8,998	$300	$36,616	$31,617	3.00%	$37,714	$38,846	$40,011
3 Ramblewood 9%	96	Shelby	SC	$25,866	$1,657	$11,662	$480	$39,665	$62,602	3.00%	$40,855	$42,081	$43,343
TOTAL	668			$242,396	$6,496	$83,942	$3,180	$336,014	$293,908		$346,094	$356,477	$367,172

8 properties -

* We currently manage * 490 Walhalla I

AMREAL_015538

EXHIBIT 4

BRYAN CAVE LLP
700 THIRTEENTH STREET, N.W.
WASHINGTON, D.C. 20005-3960
(202) 508-6000
FACSIMILE: (202) 508-6200

ST. LOUIS, MISSOURI
NEW YORK, NEW YORK
KANSAS CITY, MISSOURI
OVERLAND PARK, KANSAS
PHOENIX, ARIZONA
SANTA MONICA, CALIFORNIA
IRVINE, CALIFORNIA

RIYADH, SAUDI ARABIA
KUWAIT CITY, KUWAIT
ABU DHABI, UNITED ARAB EMIRATES
DUBAI, UNITED ARAB EMIRATES
HONG KONG
SHANGHAI, PEOPLE'S REPUBLIC OF CHINA
(IN ASSOCIATION WITH BRYAN CAVE, A MULTINATIONAL PARTNERSHIP, LONDON, ENGLAND)

RODNEY F. PAGE
PARTNER
DIRECT DIAL NUMBER
(202) 508-6002

INTERNET ADDRESS
RFPAGE@BRYANCAVE.COM

July 31, 2000

By Fax (415) 436-6748 and by First Class Mail

Joann M. Swanson, Esquire
Assistant United States Attorney
Northern District of California
10th Floor, Federal Building
450 Golden Gate Avenue, Box 36055
San Francisco, California 94102

Dear Ms. Swanson,

I have your letter of July 21, 2000, relating to the "NHP-Supervisory Management Fee Settlement."

Your letter correctly reflects the fact that the settlement specified under paragraph 2 of the December 17, 1998, agreement between Apartment Investment and Management Company ("AIMCO") and the United States Department of Housing and Urban Development ("HUD") (the "Agreement"). As you state, the period of time contemplated by the Agreement for the implementation of that settlement has been extended at the request of the United States. AIMCO has at all times remained ready, in good faith, to implement the settlement.

AIMCO agrees to memorialize a further extension of time within which to implement the settlement under paragraph 2 of the Agreement, as you have requested. We assume, in so stating, that all other provisions in the Agreement remain in full force and effect, and any other obligations of the parties therein are also extended. In addition, it would seem prudent to extend the implementation period until December 1, 2000, subject to further agreement of the parties, inasmuch as the September 15 date you suggested is already close.

If you agree to extend the provisions of the Agreement in accordance with the foregoing paragraph, i.e. subject to the premise that all obligations of the parties are extended and that the date for expiration of this extension is December 1, 2000, please sign a copy of this letter and return it to me, retaining the original in your files. A copy is provided herewith for that purpose.

DC01DOCS/194917.01

EXHIBIT
5

BRYAN CAVE LLP

At your convenience, I am available to discuss this matter further.

Sincerely yours,

Rodney F. Page
Counsel for AIMCO

cc: Helen Gaebler, Esq. (DOJ)
Joel F. Bonder, Esq. (AIMCO)

Agreed on behalf of the United States of America and the United States Department of Housing and Urban Development:

8-7-00

Joanne M. Swanson
Assistant United States Attorney

DC01DOCS/194987.01

MEMORANDUM

TO: File

FROM: Ford von Weise

DATE: August 31, 1999

RE: AIMCO Chronology

2nd Week, May, 1999: Spoke with Mike Bickford of AIMCO about taking back the Orphans which they had agreed to as part of the BF Carolina deal. Mike said they didn't want to take back all the deals but were interested in taking back the good ones. I said we were not interested in that and that we wanted them to take all of them back as a portfolio. Alternatively, I proposed we sell the portfolio in a third party sale with them getting all the excess proceeds over deal costs and that we hire Berkeley to market the portfolio. Mike tentatively agreed to this strategy but said he had to talk with his people about it. I called later to schedule a meeting in Greenville with him.

May 27, 1999. Greenville, SC. Meeting with Mike Bickford, Doug Plyler and Tom Shuler to discuss Orphans. Stephen Roger and I asked them to live up to their agreement to take the deals back. They refused and said they would agree to market the deals through Berkeley and get the excess proceeds. We agreed and scheduled a trip through South Carolina to visit the properties and the markets with Bickford and Plyler.

June 8, 1999. Called Pender Murphy of Berkeley to discuss marketing the Orphans. He asked for financial information for the deals. Faxed information to him.

June 11, 1999. Sent Letter of Intent to Mike Bickford to market Orphans through Berkeley.

June 22-24, 1999. Tour of South Carolina to visit the deals. Mike Bickford and Doug Plyler informed me that they were being laid off at the end of August and that the Orphans would be handled by Les Boeckel out of Denver. Bickford said LOI was being reviewed in Denver and would be signed shortly.

July 6, 1999. Called Les Boeckel to inquire why the LOI hadn't been signed. Les said he would look into and get back to me.

July 12, 1999. Les Boeckel informed me that AIMCO had decided to take the deals back but were concerned about HUD's requirement for a TPA. They were selling a subsidized portfolio and would include these deals as "sweeteners". He said he would ask Jack Murray of AIMCO to research with HUD weather or not HUD would require a TPA from AIMCO.

EXHIBIT
6

July 19 - August 13, 1999. Called Les on several occasions to inquire about the status of their discussions with HUD regarding the TPA. Les did not return calls, except for Agust 20th were he said he did not know anything but would call the following week.

August 24, 1999. Les called to say that AIMCO did not want to take the deals back due to HUD's requirement for a TPA. He also informed me that they would be resigning as management agent for the Orphans due their concern over a possible 2530 problem associated with their management of them. He said he was still willing to take back the better deals. I informed him that the portfolio had to remain intact in order for us to sell it. He asked me to hire a broker to sell the portfolio and to get three bids. I replied that we had asked Berkley to stop work due to AIMCO's previous desire to take the deals back. I also said that the portfolio in my opinion did not have much value due to the dire capital needs of three deals and the decrease in income due to the mark-to-market program coming us on three deals. He responded by saying that the management contracts had value of $2-$3 million. I said that the capital needs would chew up a bunch of that value and that a buyer would have to have some value in the deal to be incented to buy. He insisted that I involve a third party broker because he had a fiduciary responsibility to his investors to seek the highest value. He stated he needed a third party valuation to give to his investors.

September 2, 1999. Les called to check in to see how I was coming on hiring a third party broker. I replied that we had asked Berkeley to look at the deals again and that the preliminary feedback indicated that there wasn't much value. I also informed him of last night's fire at Roosevelt. Les said he wasn't surprised that there wasn't much value but needed something to give his investors. I said to prepare his investors for the eventuality that they wouldn't be getting any money. I also reminded him that the better BF Carolina second notes were settled for $0.10 on the dollar and that these were the worst deals and, correspondingly, he should get a lot less, maybe nothing. He said he understood and agreed. He even asked if we had considered simply walking way from the deals and giving them back to HUD. I said that would create a 2530 problem and didn't want to do that and that we might have to find someone to take the deals for a $1.00. Les was very understanding and appeared to be looking for something to give his investors. Les even admitted to me that the only thing of value was the management contracts and that they themselves had given that away. He said the 2530 problem was just to great for them to worry about value to their investors.

CO 293 (Rev. 8/91) Subpoena to Testify Before Grand Jury

United States District Court

FOR THE DISTRICT OF COLUMBIA

TO: National Housing Partnerships, Inc.
c/o Rodney Page, Esq.
Bryan Cave LLP
600 Thirteenth Street, N.W.
Washington, DC 20005

SUBPOENA TO TESTIFY BEFORE GRAND JURY

SUBPOENA FOR:
☒ PERSON ☒ DOCUMENT(S) OR OBJECT(S)

YOU ARE HEREBY COMMANDED to appear and testify before the Grand Jury of the United States District Court at the place, date, and time specified below.

PLACE	COURTROOM
United States District Court for the District of Columbia United States Courthouse Third & Constitution Avenues, N.W. Washington, D.C. 20001	Grand Jury Third Floor
	DATE AND TIME August 19, 1999 9:00 a.m.

YOU ARE ALSO COMMANDED to bring with you the following document(s) or object(s):*

Please provide all of the documents listed on the Attachment.

☐ *Please see additional information on reverse.*

This subpoena shall remain in effect until you are granted leave to depart by the court or by an officer acting on behalf of the court.

U.S. MAGISTRATE OR CLERK OF COURT	DATE
Nancy M. Mayer-Whittington, Clerk (BY) DEPUTY CLERK: Margaret A. Napier	July 12, 1999
This subpoena is issued upon application of the United States of America	NAME, ADDRESS AND PHONE NUMBER OF ASSISTANT U.S. ATTORNEY Marie O'Rourke Marie O'Rourke, Giuliana Dunham, John Cunningham (202) 514-0819 U. S. Department of Justice Criminal Division, Fraud Section 1400 New York Avenue, N.W. Washington, D.C. 20005

*If not applicable, enter "none."

EXHIBIT 7

*U.S.GPO:1993-350-792/80398

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ATTACHMENT A

INSTRUCTIONS

1. This subpoena requires a complete search of all documents and records in your possession or subject to your control, as well as documents or records in the possession of your agents, attorneys, auditors, employees, representatives, partnerships, trusts, corporations, officers, directors, subsidiaries or affiliates.

2. Unless otherwise noted, unaltered original documents and records shall be produced to the grand jury on the date shown on the subpoena and supported by the testimony of a qualified custodian of records who can authenticate the documents as business records.

3. The person designated as the custodian of records must be a person who is fully knowledgeable concerning the search for the documents and records that are responsive to this subpoena; the custodian of records also must be able to authenticate the documents. Should the same person not be capable of performing both of the foregoing requirements, you shall designate such additional persons as may be necessary to appear before the grand jury on the same date and time.

4. Except as otherwise noted, the time period covered by the subpoena is January 1, 1992 to the present.

5. Bates stamped numbers may be affixed to the documents or records produced to the grand jury; however, no additional alterations may be made on the face of the documents and records, including identifying markings, such as the company name, date of the subpoena or the identity of location of the grand jury issuing the subpoena.

6. Each and every document or record requested by this subpoena shall be produced in the manner in which it is or has been maintained in the ordinary course of business. If, by way of illustration, documents or records requested by this subpoena are or have been maintained in a folder, the documents or records requested shall be produced in the original folder, with the original label or marking.

7. If any document or record was, but no longer is, in your possession or subject to your control, whether actual or constructive, identify the document or record as completely as possible and provide the following information:

   a. The manner of transfer/removal/disposal, including destruction, loss discarding, or any other means of disposal;

   b. The date of transfer/removal/disposal;

c. The reason for transfer/removal/disposal;

d. The person authorizing the transfer/removal/disposal and the person transferring/removing/disposing of the document or record;

e. The present custodian and location of the document or record;

f. If the document or record was destroyed, the date such document or record was destroyed, the procedure or policy pursuant to which such document or record was destroyed, and the identity of the last known custodian of such document or record prior to its destruction, and

g. All of the memoranda, orders, minutes or other documents relating to such transfer/disposal or destruction.

8. In the event that any document or record responsive to this subpoena is to be withheld on the basis of a claim of privilege, as to each such document or record:

a. Identify the nature of the privilege which is being claimed and all facts upon which any such privilege is based; and

b. Provide the following information:

(i) the type of document or record;

(ii) the subject matter of the document or record;

(iii) the date of the creation;

(iv) the author of the document or record, including the author's address, telephone number and employment capacity;

(v) the signatory of the document or record, if different from the author;

(vi) the addressee of the document or record, including the addressee's address and employment capacity;

(vii) where not apparent, the relationship of the author and the addressee to each other;

(viii) any other recipient of the document or record; and

(ix) the number of pages of the document or record.

9. Please provide an index of the documents and records produced. The index should identify the person, office and department from which the documents and records were obtained, and may include the Bates stamp numbers, if any, of such documents and records. The index should also identify the paragraph(s) and subparagraph(s) of the subpoena to which the documents or records are responsive.

10. No modifications will be made to the terms of this subpoena except in writing.

11. This subpoena is continuing in nature and shall remain in effect until the conclusion of the grand jury's investigation.

DEFINITIONS

1. "NHP" shall refer to National Housing Partnership, Inc., all of its affiliates, present and former subsidiaries, divisions, branches, predecessors or successors in interest, including, but not limited to Apartment Investment and Management Company, National Corporation for Housing Partnerships, NHP Incorporated, NHP Management Company, and NHP Partners, Inc., and all present and former officers, directors, partners, employees, agents and representatives, and each person purporting to act on behalf of any of the foregoing.

2. "HUD/FHA" shall mean the United States Department of Housing and Urban Development, the Federal Housing Administration, and any subdivision, office, entity, agency, agent, representative, employee, or contractor thereof.

3. "Document" refers to each and every writing, of whatever nature, whether an original, a draft, or a copy, however produced, reproduced, or stored, whether manually, mechanically, electronically, electromagnetically or otherwise, and each and every tangible thing from which information can be processed or transcribed, including, but not limited to letters, telegrams, telexes, facsimiles, contracts, agreements, memoranda, receipts, calendars, diaries, appointment books, personal files, telephone messages and message logs, notes, schedules, work sheets, books, pamphlets, summaries, proposals, photographs, ledgers, statements, files, invoices, billing information, notebooks, verifications of assets, adding machine tapes, financial statements and other compilations of financial data, work papers, checks, records of wire transfers or cash payments, charts, graphs, research materials, prospectuses, registration statements, e-mail, computer printouts, word processing files and other computer-generated writings, or any similar item.

4. "Record" includes all tangible, written or non-written forms of expression in your possession, custody or control, including partial, preliminary and completed versions, however created, produced or stored, whether electronically, electromagnetically or

otherwise, including but not limited to, e-mail (the content of those communications, however created or stored), tape recordings, video recordings, magnetic tapes, disks, diskettes, disk packs, and other electronic media, microfilm, microfiche, and storage devices, or any similar item.

5. The terms "document" and "record" include all drafts and versions, whether or not identical with the final document, and also includes all copies which are not identical with the original, whether or not different because of notes made on or attached to such copy or otherwise.

6. The terms "document" and "record" also include any such items that have been deleted or otherwise destroyed but are recoverable by any electronic, mechanical, optical or other means. However, the terms "document" and "record" exclude materials in "electronic storage" for 180 days or fewer. "Electronic storage" is specifically defined in 18 U.S.C. Section 2510(17) to be "any temporary, intermediate storage of a wire or electronic communication incidental to the electronic transmission thereof; and any storage of such communication by an electronic communication service for purposes of backup protection of such communication." The government does not seek access to any such materials.

7. As used herein, "project" shall refer to a multifamily housing development for low-and-moderate-income families, which is insured, held or assisted by HUD/FHA.

8. As used herein, "asset management services" shall refer to those functions and activities associated with overseeing the management agent's performance and managing and protecting the assets of the ownership entity, as set forth in HUD Handbook 4381.5 REV-2, namely: disbursing surplus cash; owner visits to the project to review the management agent's performance; and obtaining or providing tax advice to the ownership entity or its principals. "Asset management fees" shall refer to the reasonable and necessary costs of providing asset management services.

9. The term "Named Properties" shall refer to the following HUD-insured and -assisted housing projects, as designated by project name, FHA project number and NHP project number:

Project Name	FHA Project Number	NHP Project Number
Park Place	085-35204	1002
Townview Terrace I	087-44026	1004
Elmwood Towers	044-44030	1011
RAC Gardens	012-44090	1026
Spring Hill	042-44080	1040
Townview Towers	087-44032	1067

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Two Bridges	012-57018	1215
Debaliviere Place I	085-35259	1245
Clemens Place	017-35131	1247
Lamorada	056-35217	1252
Munekii	053-35053	1267
San Luis	056-35052	1268
Jardines de Joanne	056-35054	1269
Williamsport Manor	PA26-8023-023	1750
Buckingham Hall	012-57190	1767
Baisley Park	012-32201	1772
Duke Manor	034-35149	1790
Hollows	012-32191	1792
Academy Gardens	012-57128	1797
Debaliviere Place II	085-35291	1806
Parkview	054-35484	1848
Crosland Housing	054-35480	1849
Tiffany	085-35297	1856
Vistula Heritage Village	042-35298	1864
Debaliviere Place III	085-35307	1868
Shaker Boulevard	042-35331	1928
Page-Wymore	042-35311	1930
Caroline	085-35310	1933
Queenstown	000-35244	1935
Columbus Square I	085-35313	1940
Lee-Hy Manor	051-35326	1943
Elmwood Apts	062-35330	3004
Elkhorn Towers	045-35130	3005
Laurelwood	087-35091	3006
Kapuna I	140-38005	3017
Oakwood Apts	061-35312	3019
Kaneohe Elderly Apts	140-35091	3024
St. Nicholas Manor	012-57199	3031
Hatillo	056-35092	3036
Montblanc Housing	056-35093	3037
Waipahu Elderly	140-35087	3046
Las Americas	056-35120	3047
Haili Elderly	140-35089	3062
Boardwalk Apts	042-35378	3095
Columbus Square II	085-35337	3096
Debaliviere Place IV	085-35324	3101
Miramar	056-35132	3114
Muneki II	056-35133	3123
South Mountain Terrace	123-35139	3128

Villa de Lomas Verdes	056-35134	3133
Washington Northgate	033-55031	3151
Washington Westgate	033-55024	3152
Harris Gardens	033-44054	3167
Churchview Gardens	033-44090	3168
Hawkworth	033-44092	3169
Willow Creek	000-55066	3170
	000-44113	
Genesee Gardens	012-55079	3172
	012-92504	
Athens Arms	061-55068	3177
Colonial Terrace I	061-55011	3178
Colonial Terrace II	061-55017	3179
Brunswick Village	031-55075	3200
Kimberton	032-44013	3235
Windsor Apts	032-44012	3236
Debaliviere Place V	085-35352	3257
Holly Oak Park	053-44202	3258
Talladega Downs	062-44054	3260
Rodeo Drive	122-44452	3263
Savoy Court	085-35353	3265
Spruce Park	034-44103	3291
Spring Meadow	023-44087	3292
Leyden Woods	023-44091	3293
Eldon Terrace	000-44086	3294
Woodmark	000-44062	3295
Indian Valley I	042-44028	3306
Indian Valley II	042-44079	3307
Indian Valley III	042-44164	3308
Newton Hill	042-44094	3311
Galion East	042-35068	3312
Park Avenue West I	042-55048	3314
	042-92504	
Park Avenue West II	042-44021	3315
Muskeon Townhouses	047-55021	3321
Twin Gables	046-44041	3591
Miami Manor	046-44100	3592
Parkview Arms I	046-35046	3593
Parkview Arms II	046-35388	3594
Howard Robbins Tower	042-44062	(unknown)

DOCUMENTS AND RECORDS TO BE PRODUCED

1. For each of the "Named Properties," any and all documents and records that constitute, refer to or concern any contract, agreement or arrangement between NHP and the property management companies or agents responsible for providing management services. This request includes, but is not limited to:

   a. Project Owner's and Management Agent Certifications, Form HUD-9839-B;

   b. Any and all documents and records that specify contract amounts, list dates of contracts, statements of work, budget by task/activity, standard provisions, and amendments;

   c. Any and all documents and records that constitute, discuss or refer to written or oral communications relating to asset management services and fees;

   d. Any and all documents and records that constitute, discuss or refer to the first or initial management contract, agreement or arrangement entered into between NHP and the property management company for each of the "Named Properties.".

2. For each of the "Named Properties," any and all documents and records that constitute, refer to or concern any contract, agreement or arrangement whereby the property management company provides or provided compensation, payment(s), loan(s) or anything of value (other than asset management services and fees, as defined above) to NHP, or to any affiliates or other entities designated by NHP, in connection with the property management company's management of a project or projects. This request includes, but is not limited to supervisory management agreements, consulting agreements, fee-splitting arrangements, indirect management arrangements, or any arrangements whereby the property management company paid a percentage or portion of its HUD/FHA-approved management fee to NHP, or to any affiliates or other entities designated by NHP. This request also includes any other contract, agreement or arrangement to provide NHP, or any affiliates or other entities designated by NHP, distributions from project income, or payments from any other source. Documents to be produced include, but are not limited to:

   a. All such contracts or agreements and amendments thereto, and any and all corresponding negotiation notes;

   b. Any and all payment and billing records relating to the receipt of funds by NHP for payments made under the arrangement described above, including but not limited to invoices, receipts, checks, check ledgers, cash ledgers, wire transfers, deposit slips, and bank/financial institution account statements;

c. Any and all documents and records relating to and describing work performed or services rendered in support of payments made to NHP under the arrangement described above, including but not limited to work requests, invoices, project inspection and/or trip reports, statements of work, and budget by task/activity;

d. Any and all documents and records that constitute, discuss or refer to the first or initial contract, agreement or arrangement entered into between NHP and the property management company for the "Named Properties."

3. For each of the "Named Properties," all documents or records relating to NHP's "Buyers Access" program. This request includes, but is not limited to:

a. any and all documents and records received or processed by NHP relating to requests from property management agents for work, services, materials, supplies or repairs under the "Buyers Access" program;

b. documents and records relating to any form of compensation, payment, rebates, consideration, loans or anything of value received by or processed by NHP in connection with the "Buyers Access" program; and

c. any and all payment and disbursement records relating to the disbursement of funds, including rebates, by NHP to the property management companies in connection with the "Buyers Access" program.

4. For each of the "Named Properties," any and all documents pertaining to:

a. the Regulatory Agreement and mortgage note;

b. the mortgagor entity, that is, the partnership, corporation or other form of ownership;

c. ownership transfer of physical assets;

d. bankruptcy petitions;

e. the filing of Housing Assistance Payments (HAP) Contract, and HAP Contract Renewal; and

f. the filing of Section 8 rental increases.

5. Complete personnel files, including but not limited to all documents reflecting current or last known addresses and phone numbers, job applications, job descriptions, employment agreements or contracts, consulting agreements or contracts, salaries, evaluations, ratings,

awards, promotions, merit pay increases, bonuses, distribution of stock options and performance shares, retirement packages, post-employment restrictions, confidentiality agreements, as well as any other financial incentives from the initial period of employment through the present for the following individuals:

a. Tom Alm
b. Patrizia A. Bailey
c. Mary Bergstrom
d. Howard Campbell
e. John Ehrhardt
f. Tracey Franklin
g. Virginia Glenn
h. John Robert Heiner
i. Rod Heller
j. David Lowe
k. Jack H. Murray
l. C. Shannon Murray
m. David O'Leary
n. Eric Ross
o. Carla R. Stoner
p. Barbara Stover
q. Roberta A. Ujakovich
r. Charlie Vanover
s. Charles S. Wilkins, Jr.

6. All organizational charts, manning charts, and personnel rosters that identify any and all employees, personnel, secretaries, and clerical staff at NHP who had responsibility, whether direct or indirect, for implementing or overseeing any phase of NHP's supervision or operation of the "Named Properties," including, but not limited to any and all departments handling Asset Management, Buyers Access, Finance and Administration.

7. All documents and records relating to NHP's Code of Ethics, Code of Conduct, compliance manuals, regulations, directives, procedures, guidelines, policies, notes, training materials and other documents and notes relating to compliance with HUD/FHA rules and regulations and with the Anti-Kickback Act, 41 U.S.C. §§ 51-58.

8. All documents and records of any audits, whether internal or external relating to the "Named Properties".

9. For each year from 1992 to the present, NHP's annual audited financial plans.

10. All documents and records relating to NHP's record and document retention and

destruction policies and procedures.

11. For each year from 1992 to the present, NHP's internal telephone directories.

12. All corporate records of NHP, including, but not limited to, articles of incorporation, by-laws, list of officers or directors, ownership records, minutes, resolutions, and related records.

COPY

AGREEMENT AND RELEASE

Parties

This Agreement and Release ("Agreement") is made this 2nd day of July, 2001, (the "Effective Date of this Agreement") between and among the United States of America ("United States"); The United States Department of Housing and Urban Development ("HUD"), acting on its behalf and acting through the Department of Justice and the United States Attorney's Office for the Northern District of California; and Apartment and Investment Management Company and its affiliated entities (collectively "AIMCO"), with its principal place of business at 2000 S. Colorado Boulevard, Denver, Colorado 80222 (hereinafter jointly referred to as "the Parties"), through their undersigned counsel and/or authorized representatives.

Recitals

For purposes of this Agreement, the Parties agree to the following recital of facts:

1. The Housing and Urban Development Act of 1968 established The National Housing Partnership ("NHP") and National Corporation for Housing Partnerships ("NCHP"). These two private, for-profit entities were created to promote private investment in the development of low- and -moderate income multifamily housing properties throughout the country through joint venture partnerships with local businesses. NHP Management Company ("NHPMC"), an affiliate of NCHP and NHP, provides property management services to multifamily housing properties. For purposes of this Agreement, "affiliate" shall mean any entity or person controlling, controlled by, or under common control with AIMCO.

EXHIBIT 8

2. From 1977 through 1984, NHP, NCHP or NHPMC entered into approximately 110 agreements with local property management companies. Pursuant to these agreements, the property managers paid NCHP, NHP, or NHPMC a supervisory management fee.

3. Prior to 1998, NHP Incorporated ("NHPI") (as of 1986, the parent company of NHP, NCHP, and NHPMC), NHP, NCHP or NHPMC participated in several transactions in which they expanded their ownership and management of multifamily housing units.

4. In October and December 1997, the HUD Office of Inspector General began investigating NHPI and NHP for alleged statutory and regulatory violations and violations of the HUD Regulatory Agreement regarding HUD-insured and -assisted housing projects, including but not limited to requiring management companies to pay to NHP a fee as a condition of NHP awarding the management companies management contracts for projects in which NHP held a general partnership interest.

5. Findings from the HUD Office of Inspector General's investigation indicate that NHP received, among other things, payments for supervisory management fees from certain management agents who managed certain of NHP's HUD-insured and -assisted projects. The United States contends that, based on these findings, NHP's request and receipt of supervisory management fees, and other conduct, may give rise to civil liability under the False Claims Act, 31 U.S.C. §§ 3729-3733, as amended, common law, Section 421 of the Housing and Community Development Act of 1987, 12 U.S.C. § 1715z-4a, the Anti-Kickback Act of 1986, 41 U.S.C. §§ 51-58, and under administrative regulations; AIMCO and NHP contend that NHPs conduct was not contrary to law and would not give rise to any such liability.

6. In June 1997, AIMCO acquired the ownership of NHP and NCHP. In May 1997, AIMCO acquired an interest in NHPI, then the parent of NHP Management Company. AIMCO purchased the remaining shares of NHPI in December 1997, and NHPI was merged into an AIMCO affiliate.

7. The Parties have negotiated in good faith and desire a final compromise as set forth more fully herein, without any admission or determination of liability, legal fault or responsibility.

Terms and Conditions

Accordingly, in reliance upon the representations contained herein, and in consideration of the mutual promises, covenants and obligations in this Agreement, and for good and valuable consideration receipt of which is hereby acknowledged, the Parties agree and covenant as follows:

8. Within five (5) business days following the Effective Date of this Agreement, AIMCO and NHP will pay the United States the sum of Four Million Two Hundred Thousand Dollars ($4,200,000.00) (the "Settlement Amount"). AIMCO's payment will be made by Fedwire electronic funds transfer made payable to the "Department of Justice." Arrangements for the payment will be made through the Financial Litigation Unit, Office of the United States Attorney, Northern District of California within one (1) business day after the Effective Date of this Agreement.

9. Within thirty (30) business days following the Effective Date of this Agreement, AIMCO shall take the following measures to reduce the management fees paid on the HUD-insured and -assisted projects where NHP or an affiliate has received supervisory management

fees to an amount commensurate with the amount of the current fee minus the amount paid as a supervisory fee (current management fee - supervisory fee). Within sixty (60) days following the Effective Date of this Agreement, AIMCO will provide documentation to the HUD Enforcement Center (or its successor) demonstrating its compliance with these measures.

(a) For properties that AIMCO or an affiliate owns as of the Effective Date of this Agreement but for which it does not perform management services, AIMCO will propose the reduction in writing first to the management agents currently managing the properties and then to the appropriate HUD Field Offices which have jurisdiction over the projects.

(b) For properties that AIMCO or an affiliate manages (whether owned by AIMCO or an affiliate, or by some third party) as of the Effective Date of this Agreement, AIMCO will unilaterally reduce the fee that it charges for managing these properties.

At the end of one year from the date of reduction pursuant to Paragraph 9(a) or (b), AIMCO or the management company (at properties where AIMCO owns but does not perform management services), may seek an increase in its management fees from the appropriate local HUD Field Offices with jurisdiction over the projects. This Paragraph 9 shall be effective only as long as AIMCO or an affiliate owns or manages a property subject to this Agreement. Any reduction in the management fees under Paragraphs 9(a) or (b) shall not be the basis, in whole or in part for a reduction in the level of Section 8 payments paid to properties subject to this Agreement. A list of the properties that AIMCO or an affiliate owns and/or manages as of the Effective Date of this Agreement is attached hereto as Attachment A.

10. Upon the Effective Date of this Agreement, AIMCO agrees as follows:

(a) Subject to Paragraph 10(b), AIMCO agrees not to, and shall not at anytime hereafter, require management companies who manage HUD-insured, HUD-assisted or HUD-held properties to remit a percentage of their respective management fees to AIMCO or any of its affiliates.

(b) In the event the practice described in Paragraph 10(a) of this Agreement is determined not to be prohibited subsequent to the Effective Date of this Agreement, whether by legislative, regulatory or written governmental action, or by mutual written agreement between the Parties, neither anything contained in this Agreement nor any actions taken by AIMCO or any of its affiliates pursuant to this Agreement will be deemed to preclude AIMCO from thereafter engaging in or resuming such a practice. AIMCO shall provide the HUD Enforcement Center (or its successor) written notice thirty (30) days prior to its engaging in or resuming such a practice.

11. This Agreement does not cover any payments, actions, or conduct not specifically disclosed in writing (with the exception of what is commonly referred to as the NHP-Oxford transaction which closed as of December 10, 1993 [the "NHP-Oxford Transaction"], and claims related to AIMCO's participation in the Buyers Access program), prior to the Effective Date of this Agreement. The United States expressly reserves the right to take appropriate civil, administrative, or other action regarding any matter not disclosed in writing prior to the Effective Date of this Agreement.

12. AIMCO agrees to cooperate in a timely and reasonable manner with reasonable requests for information or assistance that the United States or HUD may make in connection with other investigations concerning allegations of the splitting of fees (or similar arrangements) for goods or services provided to HUD-insured and/or -assisted properties. Such cooperation will include, but not be limited to, making employees available for interviews, depositions and/or testimony at trial, provided that reasonable notice is given regarding same. In this regard, AIMCO agrees to encourage and not interfere with requests for assistance directed by the United States or HUD to AIMCO and its affiliates, divisions, subsidiaries, and their respective predecessors, successors and assigns, and their respective current and former directors, officers, members, partners, employees and agents (collectively "the AIMCO-related Parties"). AIMCO will respond affirmatively to any subpoenas or other official process directed to it. Nothing in this paragraph shall be construed to eliminate the AIMCO-related Parties' ability to exercise their rights under the Fifth Amendment of the United States Constitution.

13. In consideration for and upon full payment of the amount referred to in Paragraph 8, the United States and the Department of Housing and Urban Development, acting through the United States Department of Justice, hereby release the AIMCO-related Parties from any civil or administrative monetary claim that the United States or HUD has or may have under the False Claims Act, 31 U.S.C. §§ 3729-3733; the Program Fraud Civil Remedies Act, 31 U.S.C. §§ 3801-3812; the Housing and Community Development Act of 1987, 12 U.S.C. § 1715z-4a; the Anti-Kickback Act of 1986, 41 U.S.C. §§ 51-58, or any other statute or common law theories creating causes of action for civil damages or civil penalties for the claims of relief alleged in Paragraph 5, including specifically, but not limited to, claims relating to or arising from those

matters disclosed in writing to HUD prior to the Effective Date of this Agreement in response to those certain subpoenas dated October and December, 1997. This release specifically excludes any claims related to the NHP-Oxford Transaction and/or AIMCO's participation in the Buyers Access program, and any claims for actions that were not specifically disclosed in writing to HUD prior to the Effective Date of this Agreement.

14. Should any third party seek contribution or implied indemnity arising out of the claims hereby released, the United States will not oppose any effort by AIMCO to dismiss such third party claims upon the grounds that this Agreement represents a good faith compromise of the claims hereby released.

15. Subject to the exceptions set forth in Paragraph 16 of this Agreement, and in consideration for the full and faithful performance by AIMCO of its material obligations under this Agreement, HUD agrees to refrain from instituting or maintaining any administrative claim or action seeking to debar or suspend AIMCO from, or limit AIMCO's participation in, HUD programs pursuant to 24 C.F.R. Part 24 for the conduct and matters released in Paragraph 13.

16. Notwithstanding any term of this Agreement, specifically reserved and excluded from the scope and terms of this Agreement are any and all:

(a) claims for personal or property injury or for other consequential damages arising from defective or deficient management services to the projects, including the breach of any express or implied warranty of habitability, which claims are held solely by the tenants or other third parties;

(b) claims based on such obligations as are created by this Agreement;

(c) liability to the United States (or any agencies thereof) for any conduct other than that released herein;

(d) claims by HUD relating to mismanagement of a project other than those relating to conduct released herein;

(e) determinations or actions by HUD related to the termination or nonrenewal of Section 8 Housing Assistance Payments contracts which HUD may have with AIMCO as the owner of properties where AIMCO has not complied with Housing Quality Standards; or

(f) claims that the United States may have under the Internal Revenue Code, Title 26 of the United States Code.

17. AIMCO has no claim against the United States or HUD for the actions of the United States or HUD in pursuing its rights and claims leading to the settlement of this matter, except for:

(a) any claims based on such obligations as are created by this Agreement; or

(b) any claims that AIMCO may have under the Internal Revenue Code, Title 26 of the United States Code.

18. Should either party default and fail to perform any of the obligations set forth in this Agreement, the non-defaulting party shall notify the defaulting party in writing of the default as soon as practical after the default is known to the non-defaulting party, and provide the defaulting party ten (10) business days to cure the default. In no event shall a default under this Agreement result in the recision or modification of the releases set forth in this Agreement.

If the defaulting party fails to cure the default, the Parties agree that suit may be filed in the United States District Court for the Northern District of California by the non-defaulting party seeking to cure the default, except as otherwise prohibited by the terms of this Agreement, including by specific performance. The Parties agree that the District Court for the Northern District of California shall have jurisdiction over any such suit and shall be the exclusive forum in which to enforce the terms of this Agreement.

19. AIMCO agrees that all costs incurred by or on behalf of it, its present or former officers, directors, agents and employees in connection with (a) the matters covered by this Agreement; (b) the Government's audit and investigation of the matters covered by this Agreement; (c) AIMCO's investigation, defense and corrective actions with respect to the matters covered by this Agreement; (d) the negotiation of this Agreement; and (e) the payments made to the United States and HUD pursuant to this Agreement, shall not be paid from project funds (as HUD uses that term); provided, however, that this does not limit AIMCO's ability to use funds identifiable as surplus cash (as HUD uses that term) or fees earned by AIMCO.

20. This Agreement is intended to be for the benefit of the United States, HUD, AIMCO and the AIMCO-related Parties, as described above, only, and by this instrument the Parties do not waive, compromise or release any claims or causes of action against any other person or entity not expressly released by this Agreement.

21. The Parties agree that the facts and circumstances underlying the negotiations leading up to this Agreement and the Agreement itself shall not be admissible for any purpose against AIMCO or its affiliates, or the AIMCO-related Parties in any action or proceeding of any

kind, without regard to the forum or its governing rules of evidence, except to prove a default pursuant to Paragraph 18.

22. All notices given pursuant to, or relating to, this Agreement shall be forwarded by facsimile and Federal Express, next morning delivery, as follows:

(a) If to AIMCO to:

Rodney F. Page, Esq.
Bryan Cave LLP
700 Thirteenth Street, NW
Washington, D.C. 20005-3960
Fax: (202) 508-6200

and

Joel F. Bonder, Esq.
General Counsel
AIMCO
2000 S. Colorado Blvd.
Tower Two, Suite 2-1000
Denver, Colorado 80222
Fax: (303) 300-3260

(b) If to the United States or HUD to:

United States Attorney
for the Northern District of California
Civil Division
450 Golden Gate Avenue, 10th Floor
San Francisco, CA 94102
Fax: (415) 436-6748

23. In no event shall any term or provision of this Agreement, or any document executed in connection herewith, or the performance hereunder, be interpreted to effect a waiver by AIMCO and the AIMCO-related Parties of the attorney-client privilege, attorney-work product immunity or any other privilege or immunity, and all such privileges are expressly reserved by AIMCO and the AIMCO-related Parties, except to the extent that AIMCO or the

AIMCO-related Parties subsequently, in their sole discretion, expressly and in writing waive such privileges.

24. This Agreement is executed in quadruplicate originals, and each shall be of the same force and effect at law as an original.

25. Each person who signs this Agreement in a representative capacity warrants that his or her execution of this Agreement is duly authorized, executed, delivered by and for the entity for which he or she signs.

26. This Agreement is effective when all parties have signed. Facsimiles of signatures shall constitute acceptable, binding signatures for purposes of this Agreement.

On Behalf of the UNITED STATES OF AMERICA:

ROBERT S. MUELLER, III
United States Attorney

Dated: 7-2-01

By: _____
JOANN SWANSON
Assistant United States Attorney
United States Attorney
for the Northern District of California
Civil Division
450 Golden Gate Avenue, 10th Floor
San Francisco, CA 94102
Telephone: (415) 436-6855

UNITED STATES DEPARTMENT OF
HOUSING AND URBAN DEVELOPMENT

Dated: _____

By: _____
SEAN G. CASSIDY
General Deputy Assistant Secretary for Housing
U.S. Department of Housing and
Urban Development
451 7th Street, SW
Washington, D.C. 20410-4500
Telephone: (202) 708-2601

On Behalf of the UNITED STATES OF AMERICA:

ROBERT S. MUELLER, III
United States Attorney

Dated: _____ By: _____

JOANN SWANSON
Assistant United States Attorney
United States Attorney
for the Northern District of California
Civil Division
450 Golden Gate Avenue, 10th Floor
San Francisco, CA 94102
Telephone: (415) 436-6855

UNITED STATES DEPARTMENT OF
HOUSING AND URBAN DEVELOPMENT

Dated: _____ By: _____

SEAN G. CASSIDY
General Deputy Assistant Secretary for Housing
U.S. Department of Housing and
Urban Development
451 7th Street, SW
Washington, D.C. 20410-4500
Telephone: (202) 708-2601

On Behalf of APARTMENT INVESTMENT AND MANAGEMENT COMPANY:

APARTMENT INVESTMENT AND
MANAGEMENT COMPANY

Dated: 6/14/01

By: _____

JOEL F. BONDER
General Counsel
AIMCO
2000 S. Colorado Blvd.
Tower Two, Suite 2-1000
Denver, CO 80222
Tel: (303) 691-4379

COUNSEL FOR APARTMENT INVESTMENT
AND MANAGEMENT COMPANY

By: _____

RODNEY F. RAGE
Bryan Cave LLP
700 Thirteenth Street, NW
Washington, D.C. 20005-3960
Telephone: (202) 508-6000

Exhibit A

Paragraph 9(a) Properties

1. Clemens Place A
2. Duke Manor L
3. Genessee Gardens L
4. Howard Robbins Tower L
5. Lee Hy Manor A
6. Miami Manor A
7. Park View Arms I A
8. Park View Arms II A
9. Pittsfield A
10. South Mountain Terrace L
11. Talladega Downs A
12. Tiffany L
13. Townview Towers A
14. Twin Gables A
15. Two Bridges A
16. Vistula Heritage A

Paragraph 9(b) Properties

1. Academy Gardens L
2. Athens Arms L
3. Baisley Park A - 38761 - NO - 5/19/99 - NY Ltr of A
4. Brunswick House A - 58247 - Yes - 1/1/06
5. Buckingham Hall L
6. Carolina L
7. Columbus Square I L
8. Columbus Square II L
9. Elmwood Apartments A 40916 - Yes ('01) - 7/1/01
10. Hatillo A 38763 - Yes - 12/1/04
11. Hollows A 38451 - NO - 4/16/99
12. Las Americas L
13. Laurelwood A 40981 - Yes 10/1/03
14. Miramar A 38768 - Yes ('01) 7/1/01
15. Montblanc Housing L
16. Oakwood Apts. A 38270 - Yes 9/1/05
17. Parkview ~~A 41444 - NO - 11/18/97, one currently~~ IN A, SC - LOST
18. Pershing Waterman I L
19. Pershing Waterman III L
20. Pershing Waterman IV L
21. Pershing Waterman V L
22. Pershing Waterman VI L
23. St. Nicholas Manor L
24. Winter Gardens A 42579 - Yes (Mgt Agmt) 2

[redacted]

PARKVIEW APARTMENTS

Hediger Enterprises, Inc.
SEPTEMBER 30, 1999
BALANCE SHEET

ASSETS

	CURRENT ASSETS	
1110-0000	Petty Cash	$ 300
1120-0000	Cash - Operating	8,493
1121-0000	Cash - Prior Management	10,948
1130-0000	Accounts Recv - Resident	608
1143-0000	Accounts Recv - HUD	7,523
1191-0000	Cash - Security Deposits	5,311
1199-9998	TOTAL CURRENT ASSETS	33,183
	PREPAID ASSETS	
1240-0000	Prepaid Prop & Liab Insur	3,014
1250-0000	Prepaid Mortgage Insuranc	(303)
1299-9998	TOTAL PREPAID ASSETS	2,711
	FUNDED RESERVES	
1310-0000	Mortgage Escrow Deposits	19,585
1311-0000	Insurance Escrow	1,809
1312-0000	Cash - MIP Escrow Deposit	1,889
1320-0000	Cash - Replacement Reserv	24,316
1321-0000	Securities - Replace Resr	44,470
1340-0000	Cash - Residual Receipts	13,554
1341-0000	Residual Receipts-Investd	49,410
1399-9998	TOTAL FUNDED RESERVES	155,033
	FIXED ASSETS	
1410-0000	Land	64,900
1415-0000	Land Improvements	3,150
1420-0000	Buildings	814,273
1421-0000	Building Improvements	161,043
1422-0000	Building Equip-Portable	10,023
1425-0000	Accum Depre - Bldgs	(634,104)
1426-0000	Accum Depre - Bldg,Equip	(28,715)
1427-0000	Accumulated Depre- Misc	(19,133)
1430-0000	Building Equip - Fixed	2,104
1450-0000	Furniture	2,700
1470-0000	Office & Maint Equipment	18,151
1499-9998	TOTAL FIXED ASSETS	394,392
	OTHER ASSETS	
1903-0000	Long Term Note Receivable	2,801
1921-0000	Loan Costs	48,151

EXHIBIT 9

PARKVIEW APARTMENTS

Hediger Enterprises, Inc.
SEPTEMBER 30, 1999
BALANCE SHEET

1998-9998	TOTAL OTHER ASSETS	$ 50,952
1998-9999	TOTAL ASSETS	636,271

LIABILITIES & EQUITY

	CURRENT LIABILITIES	
2130-0000	Accrued Interest	2,137
2130-0002	Accrued Interest-2nd Mort	727,685
2130-0003	Accrued Interest-3rd Mort	80,019
2150-0000	Accrued Real Estate Taxes	22,374
2160-0000	Notes Payable	33,479
2163-0000	Accounts Pay - Prior Mgt	3,648
2168-0000	Accrd Mgmt Fees-Pr. Mgmt	37,896
2170-0000	Other Accrued Liabilities	59
2191-0000	Security Deposit Liabilit	5,413
2192-0000	Accrued Audit Fees	3,194
2195-0000	Advances From Owner	7,902
2199-9998	TOTAL CURRENT LIABILITIES	923,806
	PREPAID & OTHER LIABILITY	
2210-0000	Prepaid Rent	140
2320-0000	Mortgage Payable	309,151
2321-0000	2nd Mortgage	346,800
2400-0000	TOTAL PREPAID & OTHER LIA	656,091
	OWNERS EQUITY & EARNINGS	
3130-0000	Owners Equity	(645,786)
3210-0000	Retained Earnings	(235,121)
3250-0000	Current Income, (Loss)	(62,719)
3300-0000	TOTAL EQUITY & EARNINGS	(943,626)
3500-0000	TOTAL LIABILITIES & EQUIT	636,271

October 25, 1999

Mr. Barton Tuck
C/O Golf South
P O Box 2324
Greenville, SC 29602

RE: Past Due Payments to Partnerships

Dear Barton:

Early this year I realized that we had interest in several partnerships that had notes which should be maturing. In reviewing what records I had as the first managing agent, I found notes suggesting maturity dates as early as March of this year, and I began locating partners in the seven partnerships remaining. As you know three partnerships accepted a token payment for their notes in 1997 or 1998. These were Manchester I and II in Savannah, Georgia and Dogwood Limited Partnership in Myrtle Beach.

The partners or agents that I have spoken with feel that they have been neglected and have not received reports and projections from management or the general partners that represent us.

There has been no pressure on me as the contact person; however, some are starting to plan their year-end taxes and have called me.

I have been to each project and taken pictures of the properties and find them in fair to good condition. In some cases I am satisfied that the land is more valuable than the notes in question.

I have proposed getting a meeting together with the fifteen individuals involved; however, we agree that you, as one of our general partners, should initiate a collection effort on those past due notes and establish a line of communication with the limited partners, before we do anything else. We all prefer that the note be paid as issued; however, we will consider accepting the real property if necessary.

EXHIBIT
10

BUNDY APPRAISAL & MANAGEMENT, INC.
P.O. Box 1225 Beaufort, SC 29901 Phone (843) 524-2207 Fax (843) 521-0743

For your information I have enclosed a list of the fifteen individuals contacted and a list of the remaining seven partnerships.

I have also enclosed pictures and information on Pinewood Park Apartments and Roosevelt Gardens Apartments Phase I for your review. I have this information on the other projects and have spent a good bit of time while working a full schedule in property management here in Beaufort. We are prepared to provide management, if necessary, to any of the projects in our area.

I have no authority to represent any partner other than Mrs. Edwin W. Pike, Jr. (Mary Jane), Carson R. Rentz, Carolina Management Corp. and myself. I do not claim any agency relationship with them but I am willing to assist in getting the group together.

Looking forward to hearing from you, I remain

Sincerely,

Laurance H. Davis, Jr.

Cc: Partners

IN THE COURT OF COMMON PLEAS
FOURTEENTH JUDICIAL CIRCUIT
STATE OF SOUTH CAROLINA
COUNTY OF BEAUFORT

----------X

Laurance H. Davis, Jr.; et al.;

Plaintiffs,

- against- Civil Action No.
2003-CP-07-726

Parkview Apartments, a South Carolina Limited Partnership; Apartment Investment and Management Company a/k/a AIMCO; Insignia Financial Group, Inc.; AmReal Corporation a/k/a and f/k/a U.S. Shelter Corporation; ISTC corporation; N. Barton Tuck, Jr.; and John Doe, a generic designation for a party or parties whose true identity is unknown,

Defendants.

----------X

January 14, 2009
9:50 a.m.

Deposition of PATRICK J. FOYE,

held at the offices of Alston & Bird LLP,

90 Park Avenue, New York, New York,

pursuant to Notice and Agreement, before

NANCY SORENSEN, a Notary Public of the

State of New York.

EXHIBIT
11

being present?

A. Johnny, I don't, but Ellis and Miles, I do. And I recall your office, which quite beautiful.

Q. Thank you.

(Plaintiff's Exhibit 2, a letter from Ellis Johnston dated August 5, 2003, marked for identification, as of this date.)

Q. Did you remain involved in any way with these properties after we met in my office on the 11th day of August of '03?

A. For a short period of time.

Q. I know that you said you left sometime in '03; correct?

A. Yeah, I left at the end of the year, fourth quarter.

Q. Do you recall basically what was accomplished at the meeting was an agreement that we would sort of jointly hire someone to appraise the properties, and then we would see if we couldn't get a mediation set, that we could kind of negotiate on it at that point?

A. I generally remember that, yeah.

MR. VICK: You are referring to 2003?

MR. BAILEY: Yes.

Q. Were you involved at all in the selection of the mediator?

A. Oh, I'm sure wasn't.

Q. Were you involved in the selection of the appraiser that we were jointly going to use?

A. I'm sure I wasn't.

Q. Actually, I think Mr. Linton may have suggested, does the name Chris Denatto ring any bells with you?

A. No.

Q. Was it your understanding that when we left the meeting, that basically we were not going to proceed with any discovery in the Parkview case, and we were going to hold the status quo and filing of anything else until we could get Mr. Denatto or some appraiser hired and the cases mediated?

MR. VICK: Object to the form.

A. I generally remember that. That's my

recollection of what happened.

Q. Do you know who Patricia Banks Morrison was?

A. I don't.

MR. BAILEY: Do you know? Somebody in your firm?

MR. VICK: Very vague. Not in

Greenville, that's for sure.

Q. I'm looking at a letter from Mr. Linton with the -- firm at that time, dated January 14, 2004.

Had you already left by that time?

A. Yes, sir.

Q. Just so I'm clear, once you left, you didn't stay on in a consulting role or become involved in any way with these; correct?

A. No.

Q. Is it accurate that after the date of your departure from AIMCO, you would have had no involvement whatsoever with these units, properties or partnerships?

A. Yes.

Q. Other than testifying at a

THE STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM ORANGEBURG COUNTY
Court of Common Pleas

Doyet A. Early, III, Circuit Court Judge

RECEIVED
JUL 28 2011
S.C. Supreme Court

Case No. 2005-CP-38-1131

Laurance H. Davis, Jr., Rhoda G. Rentz, Mortimer M. Weinberg, Jr., Hodge Land Co., Inc. and Anna Trotter, individually and in their capacities as the Limited Partners of Roosevelt Gardens, a South Carolina Limited Partnership. . . . . Appellants,

vs.

Roosevelt Gardens, a South Carolina Limited Partnership; Apartment Investment and Management Company a/k/a AIMCO; Insignia Financial Group, Inc.; AmReal Corporation a/ka and f/k/a USS Corporation a/k/a and f/k/a U.S. Shelter Corporation; ISTC Corporation; N. Barton Tuck, Jr.; and John Doe, a generic designation for a party or parties whose true identity is unknown . . . . . Respondents.

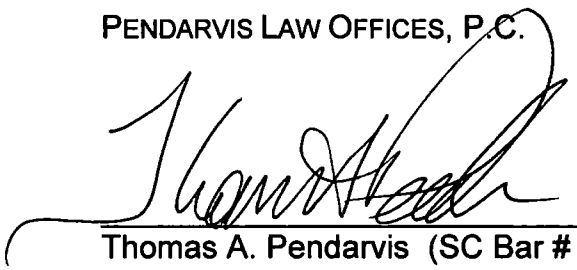
PROOF OF SERVICE

I, Thomas A. Pendarvis, an attorney with PENDARVIS LAW OFFICES, P.C., certify that I have served one (1) copy of APPELLANTS' RETURN TO RESPONDENTS' MOTION TO STAY TIME LIMITS IMPOSED BY RULES 208(a)(2) AND 209(a), SCACR, UNTIL THE COURT RULES ON PENDING MOTIONS; MOTION TO DISMISS THE ABOVE-CAPTIONED APPEALS; OR, IN THE ALTERNATIVE, MOTION TO STRIKE APPELLANTS' INITIAL BRIEFS AND DESIGNATIONS AND REQUIRE APPELLANTS TO FILE AMENDED BRIEFS AND DESIGNATIONS on counsel for Respondents, by depositing a copy of the same in the United States Mail, postage prepaid, on the 25th day

of July, 2011 addressed to:

Ellis M. Johnston, II, J.D.
Calvin T. Vick, Jr., J.D.
HAYNSWORTH SINKLER BOYD, PA
PO Box 2048
Greenville, SC 29602

PENDARVIS LAW OFFICES, P.C.



Thomas A. Pendarvis (SC Bar # 064918)
500 Carteret St., Suite A
Beaufort, SC 29902-5066
(843) 524.9500 tel.
(843) 524.9501 fax.
Thomas@PendarvisLaw.com

July 25, 2011

Beaufort, SC 29902

THE STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM ORANGEBURG COUNTY
Court of Common Pleas

Doyet A. Early, III, Circuit Court Judge

Case No. 2005-CP-38-1131

Laurance H. Davis, Jr., Rhoda G. Rentz, Mortimer M. Weinberg, Jr., Hodge Land Co., Inc. and Anna Trotter, individually and in their capacities as the Limited Partners of Roosevelt Gardens, a South Carolina Limited Partnership. . . . . Appellants,

vs.

Roosevelt Gardens, a South Carolina Limited Partnership; Apartment Investment and Management Company a/k/a AIMCO; Insignia Financial Group, Inc.; AmReal Corporation a/ka and f/k/a USS Corporation a/k/a and f/k/a U.S. Shelter Corporation; ISTC Corporation; N. Barton Tuck, Jr.; and John Doe, a generic designation for a party or parties whose true identity is unknown . . . . . Respondents.

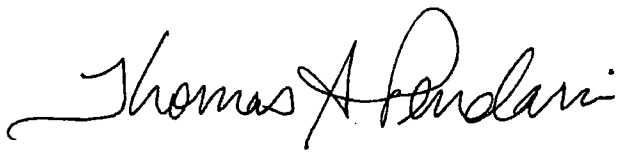
PROOF OF SERVICE

I, Thomas A. Pendarvis, an attorney with PENDARVIS LAW OFFICES, P.C., certify that I have served one (1) copy of APPELLANTS' RETURN TO RESPONDENTS' MOTION TO STAY TIME LIMITS IMPOSED BY RULES 208(a)(2) AND 209(a), SCACR, UNTIL THE COURT RULES ON PENDING MOTIONS; MOTION TO DISMISS THE ABOVE-CAPTIONED APPEALS; OR, IN THE ALTERNATIVE, MOTION TO STRIKE APPELLANTS' INITIAL BRIEFS AND DESIGNATIONS AND REQUIRE APPELLANTS TO FILE AMENDED BRIEFS AND DESIGNATIONS on counsel for Respondents, by depositing a copy of the same in the United States Mail, postage prepaid, on the 25th day

of July, 2011 addressed to:

Ellis M. Johnston, II, J.D.
Calvin T. Vick, Jr., J.D.
HAYNSWORTH SINKLER BOYD, PA
PO Box 2048
Greenville, SC 29602

PENDARVIS LAW OFFICES, P.C.



Thomas A. Pendarvis (SC Bar # 064918)
500 Carteret St., Suite A
Beaufort, SC 29902-5066
(843) 524.9500 tel.
(843) 524.9501 fax.
Thomas@PendarvisLaw.com

July 25, 2011

Beaufort, SC 29902

THE SUPREME COURT OF SOUTH CAROLINA

Laurance H. Davis, Jr., Rhoda G. Rentz, Mortimer M. Weinberg, Jr., Hodge Land Co., Inc., and Anna Trotter, Individually and in their capacities as the Limited Partners of Roosevelt Gardens, a South Carolina Limited Partnership,

vs.

Roosevelt Gardens, a South Carolina Limited Partnership, Apartment Investment and Management Company a/k/a AIMCO; Insignia Financial Group, Inc.; AmReal Corporation a/k/a and f/k/a USS Corporation a/k/a and f/k/a U.S. Shelter Corporation; ISTC Corporation; N. Barton Tuck, Jr.; and John Doe, a generic designation for a party or parties whose true identity is unknown,

Transfer from Court of Appeals
Case No. 2010180086

Appellants,

RECEIVED
JUL 25 2011
S.C. Supreme Court

Respondents.

Carolina Management Corporation of Beaufort, James B. Jackson, Whaley R. Hinnant, Jr., Mary Gasser Rawl, and Rhoda Rentz, Individually and in their capacities as the Limited Partners of Pinewood Park Apartments, a South Carolina Limited Partnership,

vs.

Pinewood Park Apartments, a South Carolina Limited Partnership; Apartment Investment and Management Company a/k/a AIMCO; Insignia Financial Group, Inc.; AmReal Corporation a/k/a and f/k/a USS Corporation a/k/a and f/k/a U.S. Shelter Corporation; ISTC Corporation; N. Barton Tuck, Jr.; and John Doe, a generic designation for a party or parties whose true identity is unknown,

Transfer from Court of Appeals
Case No. 2010180088

Appellants,

Respondents.

Laurance H. Davis, Jr.; Mary Jane R. Pike; Eva Marie Reynolds; and Rhoda G. Rentz, individually and in their capacities as the Limited Partners of Parkview Apartments, a South Carolina Limited Partnership,

vs.

Parkview Apartments, a South Carolina Limited Partnership; Apartment Investment and Management Company a/k/a AIMCO; Insignia Financial Group, Inc.; AmReal Corporation a/k/a and f/k/a USS Corporation a/k/a and f/k/a U.S. Shelter Corporation; ISTC Corporation; N. Barton Tuck, Jr.; and John Doe, a generic designation for a party or parties whose true identity is unknown,

Transfer from Court of Appeals
Case No. 2010180666

Appellants,

Respondents.

Laurance H. Davis, Jr.; Marvin D. McCarthy; James W. Ivey; and Erin E. Ivey, Individually and in their capacities as the Limited Partners of Palmetto Apartments, a South Carolina Limited Partnership,

vs.

Palmetto Apartments, a South Carolina Limited Partnership, Apartment Investment and Management Company a/k/a AIMCO; Insignia Financial Group, Inc.; AmReal Corporation a/k/a and f/k/a USS Corporation a/k/a and f/k/a U.S. Shelter Corporation; ISTC Corporation; N. Barton Tuck, Jr.; and John Doe, a generic designation for a party or parties whose true identity is unknown;

Transfer from Court of Appeals
Case No. 2010180087

Appellants,

Respondents.

Rhoda G. Rentz, Mary Jane Pike, Eva Marie Reynolds, and Joanne O. Mercy, Individually and in their capacities as the Limited Partners of Orleans Gardens, a South Carolina Limited Partnership,

vs.

Orleans Gardens, a South Carolina Limited Partnership; Apartment Investment and Management Company a/k/a AIMCO; Insignia Financial Group, Inc.; AmReal Corporation a/k/a and f/k/a USS Corporation a/k/a and f/k/a U.S. Shelter Corporation; ISTC Corporation; N. Barton Tuck, Jr.; and John Doe, a generic designation for a party or parties whose true identity is unknown,

Transfer from Court of Appeals
Case No. 2010176826

Appellants,

Respondents.

RESPONDENTS' MOTION AND MEMORANDUM TO SEAL CONFIDENTIAL AND PRIVILEGED DOCUMENT, WHICH WAS FILED UNDER SEAL IN THE LOWER COURT

Ellis M. Johnston, II, SC Bar # 3065
Calvin T. Vick, Jr., SC Bar #68187
HAYNSWORTH SINKLER BOYD, PA
Post Office Box 2048
Greenville, South Carolina 29602
(864) 240-3200

ATTORNEYS FOR RESPONDENTS

Respondents respectfully submit this Motion and Memorandum in each of the five (5) above-captioned appeals, pursuant to Rule 240, SCACR, seeking an order from this Court sealing the *In Camera Supplement to Memorandum in Support of Defendants' Motion to Alter Or Amend Order*, dated July 2, 2009, including the eight (8) exhibits attached thereto ("*In Camera* Memo"), and including it in a separate, sealed Appendix to the Record on Appeal. In support of their Motion, Respondents show the Court as follows:

RELEVANT FACTS

These five appeals (collectively, the "Appeals") arise out of five related lawsuits, and each of the Appeals concern the same thirteen (13) Orders. Pursuant to Rule 41.1., SCRCP, Respondents filed a motion with the lower court to seal the *In Camera* Memo on July 6, 2009 (Def. Mot. to Seal, attached hereto as **Exhibit A**). Appellants did not object to or contest the motion, and the lower court granted Respondents' Motion to Seal on August 31, 2009 (Order Granting Def. Mot. to Seal, attached hereto as **Exhibit B**). While the Order Granting Respondents' Motion to Seal is not among the orders appealed by Appellants, the *In Camera* Memo directly pertains to two (2) of the orders appealed (lower court's June 2, 2009 Order and July 28, 2009 Order).

The *In Camera* Memo is a five (5) page memorandum with eight (8) exhibits attached thereto.[1] The eight (8) exhibits are **confidential and privileged documents**,[2]

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[1] A copy of the *In Camera* Memo is being provided to the Clerk of the Supreme Court in a sealed envelope marked "**Confidential/Privileged Document**" and "**Filed Under Seal**." For obvious reasons, a copy of the confidential *In Camera* Memo is not being provided to Appellants or their counsel.

which were identified in Respondents' Privilege Log during the course of discovery in the lower court.[3] Respondents submitted the *In Camera* Memo under seal to the lower court because of the privileged documents' relevance to Respondents' Motion to Alter or Amend the June 2, 2009 Order, which is currently on appeal.[4] The June 2, 2009 Order addressed whether the documents identified on Appellants' and Respondents' respective privilege logs, including the documents attached to Respondents' *In Camera* Memo, should be produced despite the parties' respective claims of privilege. The five (5) page memorandum simply describes the content and context of the eight (8) exhibits and explains how the privileged documents were relevant to the grounds asserted in Respondents' Motion to Alter or Amend the June 2, 2009 Order. See **Ex. A**. The lower court granted in part and denied in part Respondents' Motion to Alter or Amend in its July 28, 2009 Order, which has also been appealed.[5]

ARGUMENT

Pursuant to Rule 210(c), SCACR, the *In Camera* Memo may be included in an Appendix to the Record on Appeal, because it was, in fact, presented to the lower court (See **Ex. A** and **Ex. B**). However, due to the **privileged and confidential nature of its contents**, Respondents seek to seal the *In Camera* Memo and include it in a separate,

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[2] Relevant pages of the lower court's 7/28/09 Order are attached hereto as **Exhibit C**. None of the eight (8) privileged documents addressed in the *In Camera* Memo were among the documents Respondents were compelled to produce (**Ex. C** at 10-11).

[3] The relevant pages of Respondents' 1/26/09 Privilege Log, which identify and describe the eight (8) privileged documents addressed in the *In Camera* Motion, are attached hereto as **Exhibit D**.

[4] The lower court's 6/2/09 Order is attached as Exhibit 5 to Appellants' Amended Notice of Appeal, dated 1/28/11, which was filed in each of the Appeals.

[5] The lower court's 7/28/09 Order is attached as Exhibit 7 to Appellants' Amended Notice of Appeal, dated 1/28/11, which was filed in each of the Appeals.

sealed Appendix to the Record on Appeal for citation thereto and for *in camera* review by this Court. Respondents can not disclose the contents of the confidential and privileged *In Camera* Memo to Appellants or the public without waiving their attorney-client privilege. Yet, Respondents believe the contents of the *In Camera* Memo (particularly pages 1-3 and Exhibits 1-3) are relevant and necessary to the Court's consideration of the lower court's July 28, 2009 Order, which held that Respondents' privileged documents were not subject to production under a fiduciary exception to the attorney-client privilege, because the documents were created after the "requisite mutuality of interest between the parties ceased to exist as of December 9, 1999, which is the date of [a limited partner's/Appellant's] first letter to a general partner threatening litigation." (Order 7/28/09 at 2). The relevant portions of the *In Camera* Memo show how the general partners (Respondents) perceived the threats of litigation made by the limited partner, which is material to the legal analysis that has been applied in other jurisdictions to claims of a fiduciary exception to privilege.

A. Standard for Sealing All, or a Portion, of the Record on Appeal

The standard for sealing documents with the State's appellate courts was set forth in Ex Parte Capital U-Drive-It, Inc., 369 S.C. 1, 630 S.E.2d 464 (2006) and Davis v. Jennings, 304 S.C. 502, 405 S.E.2d 601 (1991). See also In re Interim Guidance, 375 S.C. 56, 58 650 S.E.2d 462, 463 (2007). The Court's opinion in Ex parte Capital U-Drive-It provides:

> In deciding whether to seal or unseal a court record, the court must make specific factual findings, on the record, *which weigh the need for secrecy against the right of access*. The burden is on the party who seeks to overcome the presumption of access to show that the interest in secrecy outweighs the presumption.

Ex Parte Capital U-Drive-It, Inc., 369 S.C. at 12, 630 S.E.2d at 470 (citing Davis, 304 S.C. at 506, 405 S.E.2d at 603) (emphasis added). The Court set forth numerous factors that must be considered in weighing the need for secrecy against the right of access:

> The court must consider the following factors, pursuant to recently enacted Rule 41.1: (1) **ensuring the parties' right to a fair trial or hearing**; (2) the need for witness cooperation; (3) **the reliance of the parties upon expectations of confidentiality of the proceeding**; (4) the public or professional significance of the proceeding; (5) **the perceived harm to the parties from disclosure**; (6) **why alternatives other than sealing the documents are not available to protect legitimate private interests**; and (7) **why the public interest, including, but not limited to, the public health and safety, is best served by sealing the documents**.

Ex Parte Capital U-Drive-It, Inc., 369 S.C. at 12, 630 S.E.2d at 470 (emphasis added); See also Davis, 304 S.C. at 506, 405 S.E.2d at 604 (listing almost identical factors to those listed above as one (1) through five (5)). The Court also set forth additional factors that a court *may* consider:

> In addition, the court *may* consider (8) public interest in the proceeding; (9) the private or public status of the litigants and case generally; (10) whether release would enhance the public's understanding of an important historical event; (11) whether the public already has access to information contained in the records; (12) whether a particular decision will sustain or offend the fundamental interests of public access, and any other relevant factors.

Ex Parte Capital U-Drive-It, Inc., 369 S.C. at 12, 630 S.E.2d at 470 (emphasis added).

B. The *Ex Parte Capital U-Drive-It, Inc.* Factors Support Sealing the *In Camera* Memo

The factors listed in Ex Parte Capital U-Drive-It, Inc. weigh heavily in favor of maintaining the secrecy of the *In Camera* Memo. As to the first factor, sealing the *In Camera* Memo would ensure Respondents' right to a fair hearing and, concomitantly, permit them to fully cite to the materials presented to the lower court. To decide

otherwise would hamper Respondents' ability to effectively address Appellants' contentions (i.e., that the lower court's July 28, 2009 Order was not supported by the facts presented to it). Further, Appellants are not significantly prejudiced because the exhibits to the *In Camera* Memo are identified in **Exhibit A** hereto and described in the Respondents' privilege log (see **Ex. D**).

As to the third factor,[6] Respondents, like every other person or entity engaged in an attorney-client relationship, have an expectation of privacy and a justified reliance that their confidential communications will remain protected unless the privilege is waived. See Floyd v. Floyd, 365 S.C. 56, 88-89, 615 S.E.2d 465, 482 (Ct. App. 2005) ("The attorney-client privilege . . . is based upon a public policy that the best interest of society is served by promoting a relationship between the attorney and the client whereby utmost confidence in the continuing secrecy of all confidential disclosures made by the client within the relationship is maintained." (citing State v. Doster, 276 S.C. 647, 650-651, 284 S.E.2d 218, 219-20 (1981)). Permitting Respondents to file the *In Camera* Memo under seal would simply protect Respondents' reasonable expectation of privacy with respect to their privileged and confidential documents.

These five (5) cases are of significant importance to the parties, but they are not, in their own right, matters of significant importance to the public. While certain issues raised in the Appeals, such as the scope of the attorney-client privilege, are of importance to the public, the *In Camera* Memo and the exhibits thereto, themselves, are of no significance to the public. The public's potential interest in the issues presented in these

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[6] The second factor, "the need for witness cooperation," does not appear to apply to these circumstances.

Appeals will not be impaired by the sealing of the *In Camera* Memo. Hence, the fourth factor weighs in favor of maintaining the confidentiality and privilege attached to the *In Camera* Memo.

Regarding the fifth factor, there is no question that the harm of waiving Respondents' attorney-client privilege, by disclosing the contents of the *In Camera* Memo to Appellants and the public, would be irreversible and substantial.

As to the sixth factor, there is simply no practical alternative to sealing the *In Camera* Memo, other than denying the Court a full opportunity to determine whether the lower court's July 28, 2009 Order was supported by the facts before it. The ability of a party to file matters under seal was created, in part, to relieve this dilemma. Rule 41.1(a), SCRCP, provides that the purpose of the Rule was to "balance the right of public access to court records with the need for parties to protect truly private or proprietary information from public view . . ."

The seventh factor that the Court must consider also weighs in favor of permitting Respondents to file the *In Camera* Memo under seal. Respondents only seek to seal a five (5) page memorandum and the eight (8) exhibits attached thereto, which constitute a small portion of the approximately 10,000-page lower court record related to the thirteen (13) orders on appeal. These Appeals do not concern the public health and safety, and sealing the *In Camera* Memo would have no significant impact on the public interest. In fact, the public's interest is best served by sealing the *In Camera* Memo so as to preserve Respondents' and the public's interest in the continuing secrecy of their confidential attorney-client communications. See Floyd, 365 S.C. at 88-89, 615 S.E.2d at 482.

The remaining factors (8 – 12), which a court *may* consider in determining whether to seal a document, also weigh in favor of maintaining the secrecy of the *In Camera* Memo. As noted above, these Appeals are not a matter of public health or safety, nor are they a matter of significant public interest. Hence, there is no significant public interest in the proceedings. The litigants are private individuals, limited partnerships and companies (Respondent AIMCO is a publicly traded company). No important historical events are at issue in the Appeals. Respondents have maintained the confidentiality of the privileged documents discussed in and attached to the *In Camera* Memo. Finally, the fundamental interest of public access would not be offended as there is currently no public access to the information in the *In Camera* Memo and it does not contain any matters of public interest.

Respondents do not believe it will be necessary for them to submit their initial brief in these Appeals, or any portion of it, under seal. If the Court permits Respondents to file the *In Camera* Memo, which was presented to the lower court under seal, as a separate, sealed Appendix to the Record on Appeal, Respondents will be able to make sufficient reference to the import of the *In Camera* Memo's contents in their initial brief without divulging information that would waive the privilege attached to the *In Camera* Memo.

In light of the foregoing, Respondents respectfully request that this Court grant their Motion to Seal the *In Camera* Memo, and permit it to be filed in a separate, sealed Appendix to the Record on Appeal for citation thereto and *in camera* review by this Court.

Respectfully Submitted,

HAYNSWORTH SINKLER BOYD, PA

Ellis M. Johnston, II, SC Bar # 3065
Calvin T. Vick, Jr., SC Bar #68187
Post Office Box 2048
Greenville, South Carolina 29602
(864) 240-3200

ATTORNEYS FOR RESPONDENTS

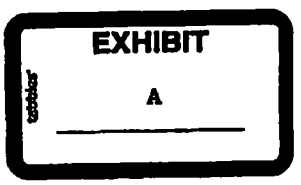
This 22nd day of July, 2011
Greenville, South Carolina

STATE OF SOUTH CAROLINA		IN THE COURT OF COMMON PLEAS
Laurance H. Davis, Jr., *et al.*, Plaintiffs, v. Parkview Apartments, a South Carolina Limited Partnership, *et al.*, Defendants.	))))	Beaufort County C.A. No. 2003-CP-07-726
Laurance H. Davis, Jr., *et al.*, Plaintiffs, v. Roosevelt Gardens, a South Carolina Limited Partnership, *et al.*, Defendants.	))))	Orangeburg County C.A. No. 2005-CP-38-1131
Rhonda G. Rentz, *et al.*, Plaintiffs, v. Orleans Gardens, a South Carolina Limited Partnership, *et al.*, Defendants.	))))	Charleston County C.A. No. 2005-CP-10-4229
Laurance H. Davis, Jr., *et al.*, Plaintiffs, v. Palmetto Apartments, a South Carolina Limited Partnership, *et al.*, Defendants.	))))	Beaufort County C.A. No. 2005-CP-07-1989
Carolina Management Corporation of Beaufort, *et al.*, Plaintiffs, v. Pinewood Park Apartments, a South Carolina Limited Partnership, *et al.*, Defendants.	)))))	Beaufort County C.A. No. 2005-CP-07-1990

DEFENDANTS' MOTION TO SEAL

Pursuant to Rule 41.1(b), SCRCP, Defendants in the above-captioned actions, by and through their counsel, hereby move the Court to seal the *In Camera Supplement to Memorandum in Support of Defendants' Motion to Alter Or Amend Order* ("In Camera Memo"), which accompanies this Motion to Seal.

The In Camera Memo is a five-page memo with eight exhibits attached thereto. The eight exhibits are **confidential and privileged documents**, which are identified in Defendants'



Privilege Log, and these privileged documents are relevant to the Defendants' motion to alter or amend the Order entered in this action on or about June 2, 2009 (the "Order"). The subject Order adopts the findings and conclusions of Special Master Clary concerning whether the documents identified on the parties' respective privilege logs should be produced despite the parties' claims of privilege. The eight exhibits have been reviewed *in camera* by the Special Master and are among the documents that are the subject of the Special Master's reports and the Court's Order. The five-page In Camera Memo simply describes the content and context of the eight exhibits attached thereto, and explains how these privileged documents are relevant to the grounds asserted in Defendants' Motion to Alter or Amend the Order and the arguments set forth in Defendants' separate Memorandum in Support of Defendants' Motion to Alter or Amend Order. **Defendants can not preserve the confidentiality and privilege attached to the eight exhibits without filing such documents and the five-page In Camera Memo under seal.**

The eight confidential and privileged documents, which are the subject of the In Camera Memo, are identified as follows: AMREAL 014881; AMREAL 014887-890; AMREAL 014883; AMREAL 014467-468; AMREAL 014670-671; AMREAL 014672-681; AMREAL 00573-576; and AMREAL 014880-886.

HAYNSWORTH SINKLER BOYD, PA

Ellis M. Johnston, II, SC Bar # 3065
Calvin T. Vick, Jr., SC Bar #68187
Post Office Box 2048
Greenville, South Carolina 29602
(864) 240-3200

Attorneys for Defendants

This 6th day of July, 2009.
Greenville, South Carolina

STATE OF SOUTH CAROLINA		IN THE COURT OF COMMON PLEAS
Laurance H. Davis, Jr., *et al.*, Plaintiffs, v. Parkview Apartments, a South Carolina Limited Partnership, *et al.*, Defendants.	))))	Beaufort County C.A. No. 2003-CP-07-726
Laurance H. Davis, Jr., *et al.*, Plaintiffs, v. Roosevelt Gardens, a South Carolina Limited Partnership, *et al.*, Defendants.	))))	Orangeburg County C.A. No. 2005-CP-38-1131
Rhonda G. Rentz, *et al.*, Plaintiffs, v. Orleans Gardens, a South Carolina Limited Partnership, *et al.*, Defendants.	))))	Charleston County C.A. No. 2005-CP-10-4229
Laurance H. Davis, Jr., *et al.*, Plaintiffs, v. Palmetto Apartments, a South Carolina Limited Partnership, *et al.*, Defendants.	))))	Beaufort County C.A. No. 2005-CP-07-1989
Carolina Management Corporation of Beaufort, *et al.*, Plaintiffs, v. Pinewood Park Apartments, a South Carolina Limited Partnership, *et al.*, Defendants.	)))))	Beaufort County C.A. No. 2005-CP-07-1990

I HEREBY CERTIFY that true and correct copies of the attached **DEFENDANTS' MOTION TO SEAL** were served upon counsel of record via hand delivery, this 6th day of July, 2009, addressed as follows:

Joel D. Bailey
The Bailey Law Firm
Post Office Box 1437
Beaufort, SC 29901-1437

Thomas A. Pendarvis
Pendarvis Law Offices, P.C.
500 Carteret Street, Suite A
Beaufort, SC 29902-5066

July 6, 2009

Calvin T. Vick, Jr.

STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

Laurance H. Davis, Jr., *et al.*, Plaintiffs, v. Parkview Apartments, a South Carolina Limited Partnership, *et al.*, Defendants.	)	Beaufort County C.A. No. 2003-CP-07-726
Laurance H. Davis, Jr., *et al.*, Plaintiffs, v. Roosevelt Gardens, a South Carolina Limited Partnership, *et al.*, Defendants.	)	Orangeburg County C.A. No. 2005-CP-38-1131
Rhonda G. Rentz, *et al.*, Plaintiffs, v. Orleans Gardens, a South Carolina Limited Partnership, *et al.*, Defendants.	)	Charleston County C.A. No. 2005-CP-10-4229
Laurance H. Davis, Jr., *et al.*, Plaintiffs, v. Palmetto Apartments, a South Carolina Limited Partnership, *et al.*, Defendants.	)	Beaufort County C.A. No. 2005-CP-07
Carolina Management Corporation of Beaufort, *et al.*, Plaintiffs, v. Pinewood Park Apartments, a South Carolina Limited Partnership, *et al.*, Defendants.	)	Beaufort County C.A. No. 2005-CP-07-1990

FILED FOR RECORD
BEAUFORT COUNTY
CLERK OF COURT
BEAUFORT, S.C.

2009 SEP -4 PM 2:55

BEAUFORT COUNTY
CLERK OF COURT
BEAUFORT, S.C.

EXHIBIT
B

ORDER GRANTING DEFENDANTS' MOTION TO SEAL

This matter comes before the Court on Defendants' Motion to Seal, dated July 6, 2009. Pursuant to Rule 41.1(b), SCRCP, Defendants have requested that the Court seal the *In Camera Supplement to Memorandum in Support of Defendants' Motion to Alter Or Amend Order* ("In Camera Memo"), which accompanied Defendants' Motion to Seal. The In Camera Memo is a five-page memo with eight exhibits attached thereto. The eight exhibits are confidential and privileged documents, which are identified in Defendants' Privilege Log. These privileged

Certified - A True Copy
Melissa Johnson
Clerk of Court
Beaufort County, SC

documents, which were reviewed *in camera* by Special Master Clary, are relevant to the Defendants' Motion to Alter or Amend the Court's June 2, 2009 Order. The five-page In Camera Memo describes the content and context of the eight exhibits attached thereto, and explains how these privileged documents are relevant to the grounds asserted in Defendants' Motion to Alter or Amend the Order. The Court finds that Defendants can not preserve the confidentiality and privilege attached to the eight exhibits without filing such documents and the five-page In Camera Memo under seal. Accordingly, the Defendants' Motion to Seal is hereby GRANTED.

IT IS SO ORDERED

This 31 day of July, 2009.
Greenville, South Carolina

Doyet A. Early, III, Circuit Court Judge

STATE OF SOUTH CAROLINA		IN THE COURT OF COMMON PLEAS
Laurance H. Davis, Jr., *et al.*, Plaintiffs, v. Parkview Apartments, a South Carolina Limited Partnership, *et al.*, Defendants.	)	Beaufort County C.A. No. 2003-CP-07-726
Laurance H. Davis, Jr., *et al.*, Plaintiffs, v. Roosevelt Gardens, a South Carolina Limited Partnership, *et al.*, Defendants.	)	Orangeburg County C.A. No. 2005-CP-38-1131
Rhonda G. Rentz, *et al.*, Plaintiffs, v. Orleans Gardens, a South Carolina Limited Partnership, *et al.*, Defendants.	)	Charleston County C.A. No. 2005-CP-10-4229
Laurance H. Davis, Jr., *et al.*, Plaintiffs, v. Palmetto Apartments, a South Carolina Limited Partnership, *et al.*, Defendants.	)	Beaufort County C.A. No. 2005-CP-07-1989
Carolina Management Corporation of Beaufort, *et al.*, Plaintiffs, v. Pinewood Park Apartments, a South Carolina Limited Partnership, *et al.*, Defendants.	)	Beaufort County C.A. No. 2005-CP-07-1990

FILED FOR RECORD
BEAUFORT COUNTY
CLERK OF COURT
2009 SEP -4 PM 2:55

I HEREBY CERTIFY that true and correct copies of the attached **ORDER GRANTING DEFENDANTS' MOTION TO SEAL** were served upon counsel of record by depositing same in the United States mail, first class postage affixed, this 1st day of September, 2009, addressed as follows:

Joel D. Bailey
The Bailey Law Firm
Post Office Box 1437
Beaufort, SC 29901-1437

Thomas A. Pendarvis
Pendarvis Law Offices, P.C.
500 Carteret Street, Suite A
Beaufort, SC 29902-5066

September 1, 2009
Greenville, South Carolina

Deborah L. Herring
Legal Assistant to Calvin T. Vick, Jr.

ATTEST: TRUE COPY

Greenville: 676040 v.1

STATE OF SOUTH CAROLINA	IN THE COURT OF COMMON PLEAS
Laurance H. Davis, Jr., *et al.*, Plaintiffs, v. Parkview Apartments, a South Carolina Limited Partnership, *et al.*, Defendants.	Beaufort County C.A. No. 2003-CP-07-726
Laurance H. Davis, Jr., *et al.*, Plaintiffs, v. Roosevelt Gardens, a South Carolina Limited Partnership, *et al.*, Defendants.	Orangeburg County C.A. No. 2005-CP-38-1131
Rhonda G. Rentz, *et al.*, Plaintiffs, v. Orleans Gardens, a South Carolina Limited Partnership, *et al.*, Defendants.	Charleston County C.A. No. 2005-CP-10-4229
Laurance H. Davis, Jr., *et al.*, Plaintiffs, v. Palmetto Apartments, a South Carolina Limited Partnership, *et al.*, Defendants.	Beaufort County C.A. No. 2005-CP-07-1989
Carolina Management Corporation of Beaufort, *et al.*, Plaintiffs, v. Pinewood Park Apartments, a South Carolina Limited Partnership, *et al.*, Defendants.	Beaufort County C.A. No. 2005-CP-07-1990

ORDER AMENDING COURT'S ORDER DATED JUNE 2, 2009

These matters are before the Court on the Plaintiffs' Motion to Alter or Amend, dated June 11, 2009, and the Defendants' Motion to Alter or Amend, dated June 15, 2009. In their respective motions, the Plaintiffs and the Defendants request that the Court amend its Order dated June 2, 2009, which adopted Special Master Clary's reports verbatim. The parties' motions were timely filed, pursuant to Rule 59(e), SCRCP, and the Court has carefully considered the parties' memoranda, exhibits, oral arguments of all counsel at the July 6, 2009

EXHIBIT C

EXHIBIT 7

hearing, and Special Master Clary's reports, which were incorporated into the Court's June 2, 2009 Order by reference. The motions of the Plaintiffs and the Defendants are granted, in part, and denied, in part, as set forth herein.

The Court's June 2, 2009 Order and the Special Master's reports incorporated therein are sustained in all aspects, except for the following amendments thereto:

(1) With regard to the Plaintiffs' argument that the fiduciary duty exception applies to Defendants' privileged documents, the Court finds that the requisite mutuality of interest between the parties ceased to exist as of December 9, 1999, which is the date of Mr. Weinberg's first letter to a general partner threatening litigation (AMREAL 014864, attached to Defendants' Memorandum as Exhibit 1). Accordingly, the fiduciary duty exception is not available to the Plaintiffs with regard to any privileged document dated (i.e., created) after December 9, 1999, and the following privileged documents, which were previously designated for production, shall not be produced:

Defendants' Documents (listed on pp. 12-14 of the Special Master's April 14, 2009 report):

1	AMREAL 00573–00576
20	AMREAL 004865–004867
23	GWB 000011
60	GWB 000271
76	GWB 000458–000459
78	GWB 000484

"Bryan Cave" Documents (listed on pp. 14-17 of the Special Master's April 14, 2009 report):

2	AMREAL 014670–014671
3	AMREAL 014672–014681
16	AMREAL 014875

2

17	AMREAL 014876
18	AMREAL 014877–014879
19	AMREAL 014880–014886
20	AMREAL 014887–014890
21	AMREAL 014891–014892
22	AMREAL 014893–014894
24	AMREAL 014896–014897
26	AMREAL 014899
27	AMREAL 014900–014902
28	AMREAL 014903–014904
30	AMREAL 014906
31	AMREAL 014907
32	AMREAL 014908
33	AMREAL 014909
34	AMREAL 014910–014912
36	AMREAL 014914
37	AMREAL 014915
59	AMREAL 015060-015061
60	AMREAL 015062–015066
62	AMREAL 015068–015071
63	AMREAL 015072–015074
64	AMREAL 015075–015077
66	AMREAL 015079–015081
67	AMREAL 015087
68	AMREAL 015091–015092
69	AMREAL 015093–015095
70	AMREAL 015100–015103
71	AMREAL 015104–015107
72	AMREAL 015118–015119
73	AMREAL 015120–015122
74	AMREAL 015123–015126
75	AMREAL 015136–015138
76	AMREAL 015139–015140
77	AMREAL 015141–015144
78	AMREAL 015145–015151
79	AMREAL 015152–015153
81	AMREAL 015157–015167
87	AMREAL 015209–015213
89	AMREAL 015256
90	AMREAL 015257
91	AMREAL 015258
92	AMREAL 015259–015261
93	AMREAL 015262–015263
94	AMREAL 015268–015269
95	AMREAL 015272–015273

93	Bailey 4837
94	Bailey 4842
95	Bailey 4843
96	Bailey 4846
97	Bailey 4847-4851
98	Bailey 4854
99	Bailey 4859-4868
104	Bailey 4885-4886
105	Bailey 4968
106	Bailey 4980
107	Bailey 4993
108	Bailey 4995 (identified as 4996 on Plaintiffs' Privilege Log)
109	Bailey 4998
110	Bailey 4999
111	Bailey 5002-5004
112	Bailey 5008-5012
113	Bailey 5016
114	Bailey 5024
115	Bailey 5025
116	Bailey 5028
117	Bailey 5056
118	Bailey 5062
119	Bailey 5064
120	Bailey 5065-5069
121	Bailey 5071
122	Bailey 5073
123	Bailey 5074
124	Bailey 5080-5081
125	Bailey 5088-5089
126	Bailey 5092

Defendants Shall Produce:

70	GWB 000380
71	GWB 000381-000421
"Bryan Cave"	
6	AMREAL 014865
7	AMREAL 014866
8	AMREAL 014867
9	AMREAL 014868
10	AMREAL 014869
11	AMREAL 014870

10

12	AMREAL 014871
13	AMREAL 014872
14	AMREAL 014873
39	AMREAL 014917–014922
41	AMREAL 014924–014928
42	AMREAL 014939–014944
43	AMREAL 014945–014949
44	AMREAL 014950–014953
45	AMREAL 014954–014959
46	AMREAL 014960–014964
47	AMREAL 014965–014968
48	AMREAL 014984–014989
49	AMREAL 014990–014994
50	AMREAL 014995–014998
51	AMREAL 014999–015004
52	AMREAL 015005–015009
53	AMREAL 015010–015013
54	AMREAL 015020–015024
55	AMREAL 015044–015049
56	AMREAL 015050–015054
57	AMREAL 015055–015058

IT IS SO ORDERED

This 15th day of July, 2009.

Beaufort, South Carolina

Doyet A. Early, III. Circuit Court Judge

STATE OF SOUTH CAROLINA)
) IN THE COURT OF COMMON PLEAS
COUNTY OF BEAUFORT)
) FOURTEENTH JUDICIAL CIRCUIT
Laurence H. Davis, Jr.; Mary Jane R. Pike; Eva Marie Reynolds; and Rhoda G. Rentz, individually and in their capacities as the Limited Partners of Parkview Apartments, a South Carolina Limited Partnership;) Civil Action No. 2003-CP-07-726

Plaintiffs,

vs.

Parkview Apartments, a South Carolina Limited Partnership; Apartment Investment and Management Company a/k/a AIMCO; Insignia Financial Group, Inc.; AmReal Corporation a/k/a and f/k/a USS Corporation a/k/a and f/k/a U.S. Shelter Corporation; ISTC Corporation; N. Barton Tuck, Jr., and John Doe, a generic designation for a party or parties whose true identity is unknown;

Defendants.

DEFENDANTS' PRIVILEGE LOG

The following documents are being withheld as subject to the attorney-client privilege or work product doctrine:

DOC. NOS.	DOC. TYPE	DESCRIPTION	PRIVILEGE
AmReal 00573-00576	Memorandum	Memorandum to George Buchanan from Douglas G. Brown, Esq. dated 08/11/00 referencing response to letter from attorney Joel Bailey; Memorandum from attorney Brown to Defendant AIMCO concerns AIMCO's response to Joel Bailey's July 20,	Attorney work product and attorney-client privilege

EXHIBIT 59

EXHIBIT D

		LLP invoice to AIMCO Properties, LP dated 11/30/00 re: Pinewood Housing Proxy Fight	Privilege
01/26/09 UPDATE			
AMREAL_014467-014468	Email	Email to Ellis Johnston from Rosemarie Harris (AIMCO) dated 08/20/08 forwarding 10/18/05 Email among Brian Shuman, Trent Johnson, Lance Graber, Derek McCandless, Eric Hilty, Rosemarie Harris, Cellia Smoot and Tim Aluise re: Barton Tuck and Pinewood	Work Product; Attorney-Client Privilege
AMREAL_014670-014671	Draft	Draft letter by Arthur R. Hessel which was provided to Rosemarie Harris (AIMCO).	Work Product; Attorney-Client Privilege
AMREAL_014672-014681	Memorandum	Memorandum to Pat Foye and Rosemarie Harris (AIMCO) from Arthur R. Hessel dated 08/11/00 re: Barton Tuck's interest in AIMCO entities	Work Product; Attorney-Client Privilege
01/26/09 UPDATE (BRYAN CAVE DOCUMENTS)			
AMREAL_014857-014861	Memorandum	Memorandum to Rodney F. Page (Bryan Cave attorney) from Robert W. Tomilson (Bryan Cave attorney) dated 03/08/01 re: US Shelter Notes	Work Product; Attorney-Client Privilege

		dated 05/24/00 re: US Shelter Notes; cc: David Marquette (AIMCO Consultant), Mark LaVigne, John Meyer (Bryan Cave attorney)	
AMREAL_014876	Email	Email to Rodney F. Page from Mark S. LaVigne (Bryan Cave attorney) dated 05/20/00 re: US Shelter Notes; cc: John Meyer	Work Product; Attorney-Client Privilege
AMREAL_014877-014879	Email	Email to Rodney F. Page from Mark S. LaVigne dated 03/19/00 re: attached draft letter; cc: John Meyer	Work Product; Attorney-Client Privilege
AMREAL_014880-014886	Email	Email strings beginning 02/22/00 and ending 03/15/00 among Rodney F. Page, Troy Gordon (Bryan Cave attorney), Patrick Foye, Mark LaVigne, Fred Scherrer (Bryan Cave attorney) and George Buchanan	Work Product; Attorney-Client Privilege
AMREAL_014887-014890	Memorandum	Memorandum to Troy Gordon from Douglas G. Brown dated 02/28/00 re: Roosevelt Gardens, a Limited Partnership – past due Notes receivable, with attachment	Work Product; Attorney-Client Privilege
AMREAL_014891-014892	Letter	Letter to Rodney F. Page from Douglas G. Brown dated 01/25/00 re: Notes Receivables due and owing to nine Limited Partnerships controlled by	Work Product; Attorney-Client Privilege

AMREAL_015481	Invoice	Douglas G. Brown Invoice dated 10/01/91	REDACTION – Attorney-Client Privilege
AMREAL_015482	Invoice	Douglas G. Brown Invoice dated 02/04/91	REDACTION – Attorney-Client Privilege

Last Updated: January 26, 2009

Doc# 460791v11

THE SUPREME COURT OF SOUTH CAROLINA

Laurance H. Davis, Jr., Rhoda G. Rentz, Mortimer M. Weinberg, Jr., Hodge Land Co., Inc., and Anna Trotter, Individually and in their capacities as the Limited Partners of Roosevelt Gardens, a South Carolina Limited Partnership,	)	Transfer from Court of Appeals Case No. 2010180086
	)	Appellants,
vs.	)	
Roosevelt Gardens, a South Carolina Limited Partnership, Apartment Investment and Management Company a/k/a AIMCO; Insignia Financial Group, Inc.; AmReal Corporation a/k/a and f/k/a USS Corporation a/k/a and f/k/a U.S. Shelter Corporation; ISTC Corporation; N. Barton Tuck, Jr.; and John Doe, a generic designation for a party or parties whose true identity is unknown,	)	Respondents.

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JUL 25 2011
S.C. Supreme Court

Carolina Management Corporation of Beaufort, James B. Jackson, Whaley R. Hinnant, Jr., Mary Gasser Rawl, and Rhoda Rentz, Individually and in their capacities as the Limited Partners of Pinewood Park Apartments, a South Carolina Limited Partnership,	)	Transfer from Court of Appeals Case No. 2010180088
	)	Appellants,
vs.	)	
Pinewood Park Apartments, a South Carolina Limited Partnership; Apartment Investment and Management Company a/k/a AIMCO; Insignia Financial Group, Inc.; AmReal Corporation a/k/a and f/k/a USS Corporation a/k/a and f/k/a U.S. Shelter Corporation; ISTC Corporation; N. Barton Tuck, Jr.; and John Doe, a generic designation for a party or parties whose true identity is unknown,	)	Respondents.

Laurance H. Davis, Jr.; Mary Jane R. Pike; Eva Marie Reynolds; and Rhoda G. Rentz, individually and in their capacities as the Limited Partners of Parkview Apartments, a South Carolina Limited Partnership,	)	Transfer from Court of Appeals Case No. 2010180666
	)	Appellants,
vs.	)	
Parkview Apartments, a South Carolina Limited Partnership; Apartment Investment and Management Company a/k/a AIMCO; Insignia Financial Group, Inc.; AmReal Corporation a/k/a and f/k/a USS Corporation a/k/a and f/k/a U.S. Shelter Corporation; ISTC Corporation; N. Barton Tuck, Jr.; and John Doe, a generic designation for a party or parties whose true identity is unknown,	)	Respondents.
Laurance H. Davis, Jr.; Marvin D. McCarthy; James W. Ivey; and Erin E. Ivey, Individually and in their capacities as the Limited Partners of Palmetto Apartments, a South Carolina Limited Partnership,	)	Transfer from Court of Appeals Case No. 2010180087
	)	Appellants,
vs.	)	
Palmetto Apartments, a South Carolina Limited Partnership, Apartment Investment and Management Company a/k/a AIMCO; Insignia Financial Group, Inc.; AmReal Corporation a/k/a and f/k/a USS Corporation a/k/a and f/k/a U.S. Shelter Corporation; ISTC Corporation; N. Barton Tuck, Jr.; and John Doe, a generic designation for a party or parties whose true identity is unknown;	)	Respondents.

Rhoda G. Rentz, Mary Jane Pike, Eva Marie Reynolds, and Joanne O. Mercy, Individually and in their capacities as the Limited Partners of Orleans Gardens, a South Carolina Limited Partnership,	)	Transfer from Court of Appeals Case No. 2010176826
	)	Appellants,
vs.	)	
Orleans Gardens, a South Carolina Limited Partnership; Apartment Investment and Management Company a/k/a AIMCO; Insignia Financial Group, Inc.; AmReal Corporation a/k/a and f/k/a USS Corporation a/k/a and f/k/a U.S. Shelter Corporation; ISTC Corporation; N. Barton Tuck, Jr.; and John Doe, a generic designation for a party or parties whose true identity is unknown,	)	Respondents.

PROOF OF SERVICE

The undersigned hereby certifies that on the date indicated below, he served counsel for the Appellants with a copy of *RESPONDENTS' MOTION AND MEMORANDUM TO SEAL CONFIDENTIAL AND PRIVILEGED DOCUMENT, WHICH WAS FILED UNDER SEAL IN THE LOWER COURT* by mailing copies of the same by United States Mail with first class postage prepaid to the following addresses:

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Joel D. Bailey
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HAYNSWORTH SINKLER BOYD, P.A.

By: _____
Calvin T. Vick, Jr.

July 22, 2011
Greenville, South Carolina

THE STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM ORANGEBURG COUNTY
Court of Common Pleas

Doyet A. Early, III, Circuit Court Judge

Case No. 2005-CP-38-1131

Laurance H. Davis, Jr., Rhoda G. Rentz, Mortimer M. Weinberg, Jr., Hodge Land Co., Inc., and Anna Trotter, individually and in their capacities as the Limited Partners of Roosevelt Gardens, a South Carolina Limited Partnership.....Appellants

vs.

Roosevelt Gardens, a South Carolina Limited Partnership; Apartment Investment and Management Company a/k/a AIMCO; Insignia Financial Group, Inc.; AmReal Corporation a/k/a and f/k/a USS Corporation a/k/a and f/k/a U.S. Shelter Corporation; ISTC Corporation; N. Barton Tuck, Jr.; and John Doe, a generic designation for a party or parties whose true identity is unknown .....Respondents

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APPELLANTS' RETURN TO RESPONDENTS' MOTION TO SEAL

Appellants submit this Return to the latest motion made by Respondents before this Court, in which they seek to submit certain documents to the Court under seal. It is amazing that the same lawyers for Respondents who could not find time to prepare and file initial briefs in accordance with the time limits imposed on Appellants could somehow find the

time to prepare and file, as of this writing, no less than four (4) motions with voluminous supporting exhibits. Apparently, having accomplished the objective of circumventing this Court's briefing schedule directives by including a motion to dismiss in their motion barrage, Respondents and their counsel are nevertheless committed to pursue the strategy which served them so well in the lower court - obfuscate the real issues with a plethora of diversionary motions.

In order to address the merits - or, more appropriately, the lack thereof - of Respondents' latest motion, Appellants believe it is necessary to accurately set forth just what is being presented in the motion to submit documents under seal in this appeal. These documents apparently concern the Bryan Cave law firm and its involvement with the Respondents and the subject properties. They were previously requested by Appellants years earlier in their initial discovery requests in the Parkview case, but had never been disclosed or produced by Respondents. On January 9, 2009, counsel for Appellants discovered that counsel for Respondents had the Bryan Cave documents in their possession and, in fact, had maintained possession and control of these documents for months without disclosing this fact to Appellants. Judge Clary, as Special Master, was already in the process of reviewing all the documents which Appellants claimed to be privileged; since the Bryan Cave documents had not been disclosed or produced, they were not initially part of the *in camera* review being conducted by Judge Clary. Once counsel for Appellants discovered that the Bryan Cave documents not only existed, but had been in the possession of Respondents' counsel for at least several months, Appellants insisted that they be included in the review being conducted by Judge Clary. Respondents' counsel then prepared an amended Privilege Log which

included the documents. In exchange for an agreement by counsel that Respondents had not waived their claim of attorney-client privilege as to these documents, counsel jointly sought and received an amended order from the lower court permitting Judge Clary to review the Bryan Cave documents in order to determine if they should be deemed privileged.[1] The Special Master, after conducting an extensive *in camera* review, determined that the documents were *not* privileged and directed that they be produced to Appellants by Respondents. Respondents declined to produce the documents, and sought through a Rule 59 motion to have Judge Early reverse the Special Master with respect to this ruling. Respondents submitted a separate motion dated July 6, 2009, requesting that these documents and their supporting memo be sealed. The documents and memo were also submitted to Judge Early *in camera*, so that Appellants were deprived of the ability to determine the merits of Respondents' motion to the lower court.

It should be noted that the motion to seal which was presented to Judge Early did not list or address the factors set forth in Rule 41.1(b), SCRCP. Therefore, counsel for Appellants were placed in the position of having to wait for the lower court to schedule a hearing at which Respondents would have to present evidence in accordance with these factors in order to justify their request to submit documents under seal. Instead of scheduling a hearing, however, Judge Early simply adopted the language of Respondents' motion and issued an order on August 31, 2009 granting their motion. No hearing was ever held; no

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1

The discovery that Respondents' counsel was in possession of the Bryan Cave documents and related events leading to their inclusion in Judge Clary's in camera review are discussed in Appellants' initial briefs and supported by the Affidavit of Thomas Pendarvis dated April 22, 2010, paragraphs 56 - 64.

evidence was ever properly presented by Respondents with respect to their motion to seal; no opportunity was ever given to Appellants to receive or address any arguments as to the factors necessary with respect to a motion to seal. This was done despite the specific requirements of Rule 41.1(b)(7) that "a hearing on the motion *shall* be held," and Rule 41.1(d): "All orders sealing documents ... *shall set forth with specificity the reasons that require they be sealed.*" (Emphasis author's) Accordingly, these documents were never properly presented to or ruled upon in the lower court. This is yet another example of how Respondents' counsel was able to take advantage of Judge Early's imposition of a double standard in the lower court.[2]

Notwithstanding the non-compliance of the Respondents and lower court judge with the requirements of Rule 41.1, Respondents now seek to submit these same documents to be included in the Record on Appeal in this Court. Appellants assert that the granting of this request would be unfair and improper, and would significantly impair and prejudice Appellants in these appeals; in essence, Appellants would be required to argue against phantoms and ghosts - documents which they have never seen. This is not only inequitable, it is impossible. Even though Respondents, evidently realizing that they may no longer have a receptive ear on the bench, now seek to comply with the requirements of Rule 41.1 by

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2

As stated in Appellants' initial briefs, in an effort to avoid the draconian sanctions sought by Respondents' counsel and readily adopted by the lower court judge, Appellants filed a motion for protection in which they sought permission to file a motion to seal and to submit their privileged documents to the lower court for an *in camera* review, just as Respondents had been permitted to do. At the urging of Respondents' counsel, the lower court judge denied the motion for a protective order which would have enabled Appellants to file a motion to seal.

asserting certain arguments concerning the requisite factors in their supporting memoranda, this Court should not be as readily adoptive of the claims of Respondents' counsel as was the lower court. Keeping in mind that Respondents' counsel has gone to great lengths to assert the attorney-client privilege as to communications with counsel with an obvious conflict of interest,[3] while simultaneously attempting to strip Appellants of their attorney-client privilege based on assertions of legal theories not recognized in this State,[4] an objective examination of these arguments shows that they are disingenuous, to say the least.

Respondents' present memorandum now reveals that they wish to submit these documents in order to "show how the general partners (Respondents) perceived the threats

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3

As noted in Appellants' initial briefs, Respondents ostensibly retained independent counsel, *i.e.*, Mr. Brown and Mr. Howson, to pursue recovery of limited partnership assets, including the underlying apartment complexes, once Appellants began pressuring them to do so. After these independent counsel made inquiries, and were met with supporting documentation from the attorneys for the defaulting debtors that Respondents had, unbeknownst to Appellants, rejected offers to return the properties, the "independent" counsel were immediately replaced by Respondents' long-standing counsel, the Bryan Cave law firm. This was the same firm which represented Respondents in their efforts to avoid criminal prosecution by the United States government for kick-back schemes involving the management of the subject properties. Without telling Appellants that they were being so represented, or that they would risk jeopardizing their deal to escape prosecution in exchange for payment of a fine if they took back the subject properties, Respondents made certain that Appellants and the subject limited partnerships were represented by Bryan Cave. This is an obvious conflict of interest on the part of both Bryan Cave and the Respondents, each having fiduciary duties of good faith and full disclosure to Appellants.

4

As also noted in Appellants' initial briefs, the positions utilized by Respondents and the lower court to deprive Appellants of their attorney-client privileges are not in keeping with the laws of South Carolina. For example, the lower court adopted Respondents' claim that the "mere filing" of their complaints in these cases placed the statute of limitations at issue and thereby prevented Appellants from asserting the attorney-client privilege as to communications relating to the statute of limitations. There is no basis for such a position under the law of this State. Other examples of deviations from state law by Respondents and the lower court in this regard are set forth in greater detail in Appellants' initial briefs.

of litigation made by the limited partner, which is material to the legal analysis that has been applied in other jurisdictions to claims of a fiduciary exception to privilege." (Respondents' Memorandum, p.3) This is a patent acknowledgment of the fact that Respondents continue to seek to substitute the laws of other jurisdictions for the law of this State in order to justify their positions and the rulings of the lower court. It should first be noted that the "limited partner" referenced by Respondents is the late M. M. Weinberg, Jr., an attorney who was a limited partner in the Roosevelt limited partnership. He was not a limited partner in any other limited partnership involved in these appeals. Unable to get a response from Respondents to his repeated requests for information in 1999, he sent a letter to Respondent Tuck, the individual general partner, not to AIMCO or any of the corporate general partners which are now asserting that the letter gives them the right to submit documents to the Court under seal; the letter threatened to "sue somebody" - never mentioning the corporate general partners - if his inquiries continued to remain unanswered.[5]

This letter, by one frustrated limited partner in one limited partnership, containing a vague reference to litigation which could note even include the claims in these appeals as they had not yet been discovered, was asserted by Respondents to support their position that the interests of the general partners and limited partners had "diverged," so that the general partners no longer owed a fiduciary duty to the limited partners and could, therefore, justify their conduct toward them. This, simply put, is ridiculous. There was no evidence presented that this letter authorized or even known by any other limited partner in the Roosevelt limited partnership, much less any limited partner in any other limited partnership. There was also

[5] The letter is identified as AmReal bate stamped document #015347.

no legal authority in this State cited to support such a proposition, primarily because South Carolina law does not recognize this "divergence" theory as an exception to fiduciary duties. If a fiduciary in this state had a conflict of interest *vis a vis* the beneficiary of the duty, he is required to either immediately resolve and remove the conflict, or to resign as fiduciary; there is no "fiduciary light" rule in this state.

Although Judge Clary ultimately adopted Respondents' argument that a divergence of interest would terminate a fiduciary's responsibilities,[6] he nevertheless recognized the fallacy of imposing a divergence date based on the Weinberg letter and refused to use that date as the date of divergence. The ruling by Judge Clary, using a later "divergence date," meant that Respondents had to turn over the Bryan Cave documents. Rather than doing so, they elected to return to a friendlier authoritative source, and filed their Rule 59 motion and motion to seal to be heard by Judge Early.

In their present memo, Respondents conveniently skewer the requisite factors to their own position. For example, in discussing the first factor ("the need to ensure a fair trial"), Respondents claim they need to be able to cite the sealed documents in support of their position which, as stated, is inconsistent with South Carolina law. They claim Appellants are not prejudiced because the documents are "identified" in Exhibit A to their memo (which only gives a generic description) and are "described" in their privilege log. An examination of their privilege log shows that the "description" given is virtually meaningless. They have clearly not met their burden as to this initial factor. The same is true with respect to the other

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6

This ruling is a basis of Appellants' appeal of the lower court's order initially adopting, then revising, the rulings of the Special Master.

factors which they chose to address.

It is interesting to note that Respondents do not address the fourth factor of Rule 41.1, "the public or professional significance of the lawsuit." In nearly forty (40) years of practicing law, I cannot think of a more significant lawsuit than those presented in these appeals in terms of the impact upon the public or the legal profession. In these cases, this Court is asked to reject changes to the laws of this State which are advocated by Respondents; these include, *inter alia*, (1) that the mere filing of a complaint puts at issue the statute of limitations, thereby eviscerating the South Carolina Rules of Civil Procedure making such defense an affirmative one which must be pled or it is waived; (2) that the mere filing of a complaint correspondingly waives the attorney-client privilege as to the statute of limitations issue; and (3) that a fiduciary with a conflict of interest *vis a vis* the beneficiary of the duty is able to abrogate his fiduciary duties as of the date of the divergence of interests between the respective parties. These are immense deviations of the existing law of this State, and clearly have a significance to the public and to the legal profession. The "mere filing" argument alone, if adopted, would transfigure litigation in this jurisdiction on a permanent basis. Litigants with valid claims may desist from filing them in order to preserve their attorney-client privilege. Attorneys would desist from representing clients with otherwise valid claims, knowing that the filing of complaints to present the claims would bring about the loss of their clients' attorney-client privilege.

Conversely, this Court is also asked in these appeals to conform to the language of the Code of Judicial Conduct and to modify its present position with respect to a judge's qualifications to preside in a case where his impartiality might reasonably be questioned.

Appellants have asked this Court to bring this state in line with the decision of Justice Kennedy in *Caperton v. A.T. Massey Coal Co., Inc.*, 129 S.Ct. 2252 (2009). Adoption of these requests would restore the confidence of the public and the bar in the integrity of the bench and our system of jurisprudence.

Respondents assert that "there is no significant public interest in the proceedings." Appellants could not disagree more. It should be remembered that Rule 41.1 was adopted in order to provide a transparent vehicle as possible in those rare instances when information in a legal proceeding is kept from the public. As noted in the language of the rule, "Article I, § 9 of the South Carolina Constitution provides that all courts of this state shall be public and this Rule is intended to ensure that that Constitutional provision is fulfilled." Nothing presented by the Respondents or their counsel in this motion is sufficient to have this Court depart from that Constitutional guarantee.

Respectfully submitted,

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Attorneys for Appellants

By: Joel D. Bailey
Joel D. Bailey (SC Bar #471)

July 30, 2011

THE STATE OF SOUTH CAROLINA
In The Supreme Court

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S.C. SUPREME COURT

APPEAL FROM ORANGEBURG COUNTY
Court of Common Pleas

Doyet A. Early, III, Circuit Court Judge

Case No. 2005-CP-38-1131

Laurance H. Davis, Jr., Rhoda G. Rentz, Mortimer M. Weinberg, Jr., Hodge Land Co., Inc. and Anna Trotter, individually and in their capacities as the Limited Partners of Roosevelt Gardens, a South Carolina Limited Partnership. . . . . Appellants,

vs.

Roosevelt Gardens, a South Carolina Limited Partnership; Apartment Investment and Management Company a/k/a AIMCO; Insignia Financial Group, Inc.; AmReal Corporation a/ka and f/k/a USS Corporation a/k/a and f/k/a U.S. Shelter Corporation; ISTC Corporation; N. Barton Tuck, Jr.; and John Doe, a generic designation for a party or parties whose true identity is unknown . . . . . Respondents.

PROOF OF SERVICE

I, Joel D. Bailey, of The Bailey Law Firm, P.A., certify that I have served one (1) copy of Appellants' Return to Respondents' Motion to Seal on counsel for Respondents, by depositing a copy of the same in the United States Mail, postage prepaid, on the 30th day of July, 2011, the same being addressed to:

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Calvin T. Vick, Jr., J.D.
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Counsel for Appellants

July 30, 2011

THE SUPREME COURT OF SOUTH CAROLINA

Laurance H. Davis, Jr., Rhoda G. Rentz, Mortimer M. Weinberg, Jr., Hodge Land Co., Inc., and Anna Trotter, Individually and in their capacities as the Limited Partners of Roosevelt Gardens, a South Carolina Limited Partnership,

vs.

Roosevelt Gardens, a South Carolina Limited Partnership, Apartment Investment and Management Company a/k/a AIMCO; Insignia Financial Group, Inc.; AmReal Corporation a/k/a and f/k/a USS Corporation a/k/a and f/k/a U.S. Shelter Corporation; ISTC Corporation; N. Barton Tuck, Jr.; and John Doe, a generic designation for a party or parties whose true identity is unknown,

Transfer from Court of Appeals
Case No. 2010180086

Appellants,

Respondents.

Carolina Management Corporation of Beaufort, James B. Jackson, Whaley R. Hinnant, Jr., Mary Gasser Rawl, and Rhoda Rentz, Individually and in their capacities as the Limited Partners of Pinewood Park Apartments, a South Carolina Limited Partnership,

vs.

Pinewood Park Apartments, a South Carolina Limited Partnership; Apartment Investment and Management Company a/k/a AIMCO; Insignia Financial Group, Inc.; AmReal Corporation a/k/a and f/k/a USS Corporation a/k/a and f/k/a U S. Shelter Corporation; ISTC Corporation; N. Barton Tuck, Jr.; and John Doe, a generic designation for a party or parties whose true identity is unknown,

Transfer from Court of Appeals
Case No. 2010180088

Appellants,

Respondents.

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S.C. Supreme Court

Laurance H. Davis, Jr.; Mary Jane R. Pike; Eva Marie Reynolds; and Rhoda G. Rentz, individually and in their capacities as the Limited Partners of Parkview Apartments, a South Carolina Limited Partnership,

vs.

Parkview Apartments, a South Carolina Limited Partnership; Apartment Investment and Management Company a/k/a AIMCO; Insignia Financial Group, Inc.; AmReal Corporation a/k/a and f/k/a USS Corporation a/k/a and f/k/a U.S. Shelter Corporation; ISTC Corporation; N. Barton Tuck, Jr.; and John Doe, a generic designation for a party or parties whose true identity is unknown,

Transfer from Court of Appeals
Case No. 2010180666

Appellants,

Respondents.

Laurance H. Davis, Jr.; Marvin D. McCarthy; James W. Ivey; and Erin E. Ivey, Individually and in their capacities as the Limited Partners of Palmetto Apartments, a South Carolina Limited Partnership,

vs.

Palmetto Apartments, a South Carolina Limited Partnership, Apartment Investment and Management Company a/k/a AIMCO; Insignia Financial Group, Inc.; AmReal Corporation a/k/a and f/k/a USS Corporation a/k/a and f/k/a U.S. Shelter Corporation; ISTC Corporation; N. Barton Tuck, Jr.; and John Doe, a generic designation for a party or parties whose true identity is unknown;

Transfer from Court of Appeals
Case No. 2010180087

Appellants,

Respondents.

Rhoda G. Rentz, Mary Jane Pike, Eva Marie Reynolds, and Joanne O. Mercy, Individually and in their capacities as the Limited Partners of Orleans Gardens, a South Carolina Limited Partnership,

vs.

Orleans Gardens, a South Carolina Limited Partnership; Apartment Investment and Management Company a/k/a AIMCO; Insignia Financial Group, Inc.; AmReal Corporation a/k/a and f/k/a USS Corporation a/k/a and f/k/a U.S. Shelter Corporation; ISTC Corporation; N. Barton Tuck, Jr.; and John Doe, a generic designation for a party or parties whose true identity is unknown,

Transfer from Court of Appeals
Case No. 2010176826

Appellants,

Respondents.

RESPONDENTS' REPLY IN SUPPORT OF THEIR MOTION AND MEMORANDUM TO SEAL CONFIDENTIAL AND PRIVILEGED DOCUMENT, WHICH WAS FILED UNDER SEAL IN THE LOWER COURT

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Post Office Box 2048
Greenville, South Carolina 29602
(864) 240-3200

ATTORNEYS FOR RESPONDENTS

Respondents respectfully submit this Reply in Support of their Motion and Memorandum to Seal Confidential and Privilege Document ("Motion"). Appellants' Return in opposition to Respondents' Motion is indicative of Appellants' tactic throughout this litigation – obfuscate and distract. Instead of addressing the substantive merits of Respondents' Motion, Appellants spent the greater portion of their Return addressing their theories of conspiracy and improper motives between Respondents and the lower court. Simply put, Appellants used their Return as a platform for reiterating the arguments set forth in their Initial Briefs instead of addressing the substantive factors for determining whether a document may be filed under seal with this Court. These diversionary arguments are addressed in Part C, below. Because Appellants failed to present any sufficient evidence showing that the right of access outweighs the need for secrecy, Respondents' Motion should be granted and Respondents permitted to file the *In Camera* Memo in a separate, sealed Appendix to the Record on Appeal.

ARGUMENT

A. The *In Camera* Memo was Properly Presented to the Lower Court

As explained in Respondents' Motion, the *In Camera Supplement to Memorandum in Support of Defendants' Motion to Alter Or Amend Order*, dated July 2, 2009, including the eight (8) exhibits attached thereto ("*In Camera* Memo"), was properly presented to the lower court. Respondents properly filed a motion with the lower court to seal the *In Camera* Memo on July 6, 2009. (Defs.' Mot. to Seal, attached as Ex. A to Respondents' Mot.) Appellants' counsel properly received notice of the filing and a copy of the Motion to Seal. Id. Appellants did not object to or contest the

motion, and the lower court granted Respondents' Motion to Seal on August 31, 2009. (Order Granting Defs.' Mot. to Seal, attached as Ex. B to Respondents' Mot.)

Now, faced with the prospect of the *In Camera* Memo being filed under seal and included in a separate, sealed Appendix to the Record on Appeal, **Appellants challenge for the first time** the sufficiency of the Motion to Seal and the Order granting the same. As an initial matter, Appellants did not appeal the August 31, 2009 Order granting the Motion to Seal ("Order"). As a result, Appellants have lost the ability to challenge it on appeal, even through its Return to Respondents' Motion. Nevertheless, in order to correct the record and dispel Appellants' inaccurate implications, Respondents will address Appellants' contentions.

Appellants first challenge the Motion to Seal on the basis that it did not address Rule 41.1(b), SCRCP, factors and, as a result, Appellants' counsel were forced to wait for the lower court to schedule a hearing on the Motion to Seal which never occurred. Conspicuously absent from Appellants' discussion is their failure to acknowledge that **Appellants never filed a responsive pleading contesting Respondents' Motion to Seal**. Moreover, once the Order was filed, **Appellants failed to make any motion which would require the lower court to reconsider its decision**, despite the fact that Appellants now contend that the Order was improperly issued without a hearing. Lastly, in the July 6, 2009 hearing addressing the parties' respective motions to alter or amend the June 2, 2009 Order[1], Respondents' counsel described the documents composing the

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[1] The lower court's 6/2/09 Order was appealed by Appellants and is attached as Ex. 5 to Appellants' Amended Notice of Appeal, dated 1/28/11, which was filed in each of these five (5) appeals (collectively, the "Appeals"). These Appeals arise out of five (5) related lawsuits, and each of the Appeals concern the same thirteen (13) Orders.

In Camera Memo and acknowledged that the *In Camera* Memo was submitted to the lower court without objection or comment by Appellants' counsel. (Hr'g Tr. July 6, 2009, 38:23-39:12; 80:9-10, **Exhibit 1**.)

Considering that Respondents properly filed and served Appellants' counsel with the Motion to Seal, Appellants never filed a responsive pleading, never objected at the July 6, 2009 hearing where the *In Camera* Memo was referred to and discussed, never filed a motion to reconsider (or any other motion) addressing the validity of the Order granting the Motion to Seal, and did not appeal the Order, there is no question that Respondents properly presented the *In Camera* Memo to the lower court and that Appellants' newly created objections are untimely and without merit.

B. Appellants Failed to Present Sufficient Evidence Showing that the Right of Access Outweighs the Need for Secrecy

Despite Appellants' attempt to obfuscate the real issue before the Court by reiterating their Initial Brief arguments, the real question before the Court is whether Respondents have met their burden of showing that the need for secrecy outweighs the right of access. Considering that Respondents addressed each of the twelve (12) factors enumerated in Ex Parte Capital U-Drive-It, Inc., 369 S.C. 1, 630 S.E.2d 464 (2006), and that Appellants completely *failed* to present *any* argument (other than to generally state that Respondents failed to meet their burden) regarding nine (9) of the twelve (12) factors, Respondents met their burden and the *In Camera* Memo should be filed under seal.

With respect to the factors actually addressed by Appellants – the need to ensure a fair trial, the public or professional significance of the lawsuit and the public interest in the proceeding – Appellants failed to present sufficient evidence showing that the right of

access should outweigh the need for secrecy. With respect to the first factor, Appellants contend that the eight (8) confidential and privileged documents attached to the *In Camera* Memo are not appropriately described on Respondents' 1/26/09 Privilege Log. Once again, this is the first time Appellants have raised this objection. After Appellants received Respondents' Motion to Seal (which included a bates number list of exhibits to the *In Camera* Memo) they failed to file a responsive pleading or object on the ground that Respondents' 1/26/09 Privilege Log failed to provide a sufficient description of the *In Camera* Memo exhibits. Moreover, during the July 6, 2009 hearing when the *In Camera* Memo was discussed, Appellants failed to object on any grounds, much less on the ground that Respondents' Privilege Log did not sufficiently describe the eight (8) exhibits to the *In Camera* Memo. Even so, a cursory review indicates that Respondents' 1/26/09 Privilege Log (Ex. D to Respondents' Mot.) clearly and appropriately identifies the eight (8) exhibits identified in the Motion to Seal (Ex. A to Respondents' Mot.) and attached to the *In Camera* Memo.

Despite Appellants' contention to the contrary, Respondents addressed the fourth factor – "the public or professional significance of the lawsuit" – at pages five (5) and six (6) of their Motion and Memorandum. (Respondents' Mot., 5-6.) Respondents acknowledge that certain issues raised in these Appeals, such as the scope of the attorney-client privilege, are of importance to the public. However, Appellants fail to address the true issue - how the *In Camera* Memo and the exhibits thereto, themselves, are of significance to the public. Although the public may have a potential interest in the issues presented in these Appeals, that interest will not be hampered by the sealing of the *In Camera* Memo.

Other than generally citing to the purpose of Rule 41.1, SCRCP, Appellants also failed to explain how there is "public interest in the proceeding." As noted in Respondents' Motion, these Appeals do not concern a matter of public health or safety. Moreover, the litigants are private individuals, limited partnerships and companies. Respondents have maintained the confidentiality of the privileged documents discussed in and attached to the *In Camera* Memo. Lastly, the fundamental interest of public access would not be offended as the *In Camera* Memo does not contain any matter of public interest.

It is true that Rule 41.1, SCRCP, was created, in part, to ensure that Article 1, § 9 of the South Carolina Constitution be upheld. However, the Rule was also created to "protect truly private or proprietary information from public view and to insure that rules of court are fairly applied." Rule 41.1(a), SCRCP. Hence, considering the confidential and privileged nature of the *In Camera* Memo and Appellants' failure to present any sufficient evidence showing that the right of access should outweigh the need for secrecy, Respondents' Motion should be granted.

C. <u>The "plethora of diversionary arguments."</u>

1. Bryan Cave documents.

As in other returns to motions, Appellants again seek to argue issues irrelevant to the Motion at hand and, to borrow their own words, "to obfuscate the real issue with a plethora of diversionary," irrelevant and inaccurate arguments and allegations (Appellants' Ret., p. 2).

They complain that in January 2009, Appellants "discovered" (how, if not told by Respondents?) that recently received Bryan Cave documents (Appellants say "several

months") were not immediately added to Respondents' privilege log and imply some sinister motive, though they cannot say how they were prejudiced by the delay (Ret., pp. 2-3). This is indeed a curious position for Appellants to take considering that: On July 28, 2008 (Pls.' 7/28/08 Priv. Log, **Exhibit 2**), after Respondents' motion for summary judgment based on the statute of limitations was denied, Appellants first amended their three (3) year old July 21, 2005 privilege log (Pls.' 7/21/05 Priv. Log, **Exhibit 3**) to add 90 new documents to the 44 previously identified and even then did not comply with Rule 26(b)(5) SCRCP.[2] In fact, it was not until December 31, 2008, that Appellants attempted to comply with the Rule (Pls.' Priv. Log, 12/31/08, **Exhibit 4**). The previously unidentified documents were dated between 1998 (five (5) years before the first suit was filed) and 2004. They claimed privilege and work product.

They then state, in exchange for an agreement by counsel that Respondents had not waived their claim of attorney-client privileges to these documents, the parties allowed Judge Clary to review the Bryan Cave documents. (Pinewood Appellants' Ret., p.3). In fact, the signed agreement entered between Appellants and Respondents did not say a word about that, but instead provided that neither side would claim the other's delay to have been a waiver of the privilege. (Pls.' and Defs.' Stipulation and Agreement, **Exhibit 5**).

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[2] A party, when claiming privilege or other protection:

> shall describe the nature of the documents, communications or things not produced or disclosed in a manner that, without revealing the information itself privileged or protected, will enable other parties to assess the applicability of the privilege or protection.

Rule 26(b)(5), SCRCP.

2. Appellants claim the General Partners never told the Limited Partners of the offer to give the properties back or of their decision declining to take the properties back. (Pinewood Appellants' Ret., p. 5, fn. 3).[3]

This is just out and out false. Mr. Laurance Davis, as contact person on behalf of all limited partners, wrote to Barton Tuck, one (1) of the general partners on October 25, 1999, (Respondents' Reply Mem. dated 8/1/11, Ex. 19) inquiring as to the status of the notes. Mr. Tuck responded on January 18, 2000, that:

1. Boston Financial Group ("BFG"), the entity that put together the group that purchased the properties from Roosevelt, Orleans, Parkview and Palmetto in 1984, had come to the conclusion that the properties had no value above the first mortgage;

2. Had offered the properties back to the Partnerships;

3. AIMCO, the general partner, came to the same conclusion (*i.e.*, the properties had no value above the first mortgage);

4. As a consequence, AIMCO had refused to take the properties back; and

5. BFG had sold the property for $1 plus assumption of the mortgages to Hediger Enterprises. (Respondents' Reply Mem. dated 8/1/11, Ex. 20, Tuck letter of January 18, 2000, produced by Appellants).

Appellants' continuous denial of knowledge of this is frustrating to say the least.

3. The HUD and United States Department of Justice (DOJ) "investigation" of AIMCO, charade. (Pinewood Appellants' Ret., p. 5, fn. 3).[4]

Appellants argue that AIMCO could not take Orleans, Roosevelt, Parkview or Palmetto back because of an ongoing HUD and DOJ investigation. In doing so, they cite

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[3] This is fully addressed in Respondents' Reply in Support of Their Motion to Stay Time Limits, etc., filed August 1, 2011. The argument is reprinted here for the Court's convenience, without the exhibits.

[4] This is fully addressed in Respondents' Reply in Support of Their Motion to Stay Time Limits, etc., dated August 1, 2011. The argument is reprinted here for the Court's convenience, without exhibits.

to a portion of Respondents' Reply Memorandum dated 8/1/11, Ex. 8. To say that they misrepresent to the Court what those documents reflect, would be an understatement.

The documents reflect that HUD initiated an inquiry into supervisory fee agreements of National Housing Partnership (NHP), not AIMCO, during 1997. These supervisory fee agreements were entered into by NHP during the period 1977 to 1984. (Respondents' Reply Mem. dated 8/1/11, Ex. 8, p. 3). In December, 1997, AIMCO acquired NHP and merged it into AIMCO. (Respondents' Reply Mem. dated 8/1/11, Ex. 8, p. 3). Contrary to the implications in Appellants' Return, AIMCO was never accused of wrong doing.

The documents also reflect that NHP, not AIMCO, entered into a settlement dated September 15, 1998, involving a limited denial of participation which occurred before AIMCO's acquisition of NHP. The limited denial of participation related to one (1) property in St. Louis, Missouri, JVL 19 Associates. The settlement agreement resolved all outstanding issues as they related to JVL 15, JVL 18, JVL 19, and Murphy Blair Apartments, all properties in St. Louis, Missouri. (Respondents' Reply Mem. dated 8/1/11, Ex. 8, pp. 7-10).

On July 2, 2001, AIMCO and NHP settled all outstanding HUD claims with respect to NHP's alleged wrongful conduct in accepting "supervisory management fees." (Respondents' Reply Mem. dated 8/1/11, Ex. 8, pp. 11-25). As reflected in that agreement, the alleged wrongful conduct was by NHP, not AIMCO. (Respondents' Reply Mem. dated 8/1/11, Ex. 8, p. 12).

Despite what these documents say, Appellants claim that, as a result of HUD's investigation, all of AIMCO's applications for HUD approval of Transfer of Physical

Assets (TPA's) and 2530 Previous Participation Certifications were "red flagged" and suspended, preventing it from accepting the offers to transfer the subject apartment complexes back to the limited partnerships. This is false. As reflected in Exhibit A to Defendants' Responses to Plaintiffs' discovery requests dated February 3, 2009, during the period 1997 through 2002, HUD approved every Transfer of Physical Asset application (TPA) and 2530 Previous Participation Certification submitted by AIMCO, a total of 1629 properties (Respondents' Reply Mem. dated 8/1/11, Ex. 9). These included 2530 applications for Parkview, Palmetto, Roosevelt and Orleans which were granted on April 16, 1999, after AIMCO took over management of, not an ownership interest in, the properties (Respondents' Reply Mem. dated 8/1/11, Ex. 10).

4. The Pinewood Return: Appellants attempt to argue here an alleged error in a part of the 7/28/09 Order granting in part and denying in part Appellants' and Respondents' Rule 59(e) Motions.

The 7/28/09 Order is clearly on appeal.[5] Yet, Appellants attempt to argue in their Return to this Motion, which merely seeks to file matters under seal which were already filed under seal in the lower court, alleged errors in the 7/28/09 Order, that are not relevant to the present Motion (i.e., that the lower court allegedly erred in applying a divergence of interest exception to the fiduciary duty exception to the attorney-client privilege). Respondents will fully address that issue in their Initial Briefs.

However, in the Pinewood Return, Appellants go much farther claiming a lack of knowledge of this firm's representation of Pinewood in negotiations with the owner of that property and the filing of two (2) lawsuits against the owner. (Pinewood Appellants'

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[5] The lower court's 7/28/09 Order is attached as Ex. 5 to Appellants' Amended Notice of Appeal, dated 1/28/11, which was filed in each of the Appeals.

Ret., pp. 7-9). They argue this is evidence of a conspiracy and a conflict of interest. This is difficult to swallow and is thus addressed below.

The principal, if not the only, difference between Pinewood and the four (4) related Appeals is that, unlike the other properties, at the time the 1999 Note became due, Pinewood was thought to have value above the HUD insured mortgage.[6] The general partners negotiated with the then owners with respect to recovery on the Note. Proposals were made by the Respondents to the Appellants, to include sale of the Note, renegotiation of the Note's terms, foreclosure (take the property back) and even replacement of the general partners such that the limited partners could do with the property and/or Note what they wished. Each proposal was either rejected or ignored by the limited partners with no alternatives suggested. (**Exhibit 8**, A).[7] Due to this continuing vacillation on behalf of the Appellants, Respondents entered into tolling agreements with the owners. On two (2) occasions, when timely extensions of the tolling agreements could not be accomplished, suit was filed to protect the Partnership's interest. Otherwise, the tolling agreements were continuous. Respondents' attorney was well

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[6] Appellants' statement that Respondents included Pinewood "in the pack" only after the lower court showed a willingness to adopt Respondents' positions, flies in the face of a four (4) year record, by both sides, of combining all five (5) cases and ignores Appellants' letter of 2/22/06 asking this Court to **consolidate these cases** (Pls.' 2/22/06 Ltr., **Exhibit 6**), as well as this Court's combined Order (all five (5) cases) of March 7, 2006 assigning the cases to Judge Early. (3/7/06 Order, **Exhibit 7**)

[7] This vacillation continued until 2007 when an offer to purchase Pinewood was received for $500,000 with a net to the Partnership, after fees and expenses, of $425,000. An appraisal was done. All was forwarded to Appellants, asking that they accept the cash or a return of the property. They claimed they needed more information, though the appraisal included historical and current financial information. The General Partners exercised their business judgment and sold the property, netting $425,000 for the Partnership. (**Exhibit 8**: N, O, P and Q).

aware of the tolling agreements and this firm's representation of Pinewood since 2003 **(Exhibit 8)**.

And, though they now acknowledge notice of the filing of the lawsuits by 2007 (Appellants' Initial Br., Pinewood, p. 8), they falsely represented to the lower court that, as of April 21, 2010, neither this firm, nor Respondents, had ever revealed this firm's representation of Pinewood:

> . . . with the exception of the Haynsworth firm's representation of the Pinewood limited partnership, **which representation has never been revealed by Defendants or their counsel to date**.

(Appellants' Mot. for Recons., Alteration or Amendment, p. 47, 4/21/10, **Exhibit 9** (emphasis added).) Likewise, Mr. Pendarvis in his Affidavit of April 22, 2010, swore:

> Defendants in this litigation **never disclosed this conduct** [(the filing and dismissal of lawsuits)] by Mr. Johnston and Haynsworth Sinkler Boyd to the Plaintiffs or Plaintiffs' counsel in this action.

(Pendarvis Affidavit ¶102, 4/22/10, **Exhibit 10** (emphasis added).)

As reflected in the attached portion of the deposition of William Spransy, Appellants were aware of the filing of the lawsuits, and were aware of at least one (1) of the dismissals (Spransy Dep. pp. 29-31, Nov. 14, 2007, **Exhibit 11**). They were also aware that this firm was representing the general partners of Pinewood, as well as Pinewood itself (Appellants sometimes forget that they sued the General Partners **and** Pinewood). For them to wait seven (7) years after notice of this, to now claim some sort of conflict and conspiracy is just an act of desperation.[8]

Any other "Pinewood" issues will be addressed appropriately where they belong – in Respondents' Initial Brief.

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[8] Such a claim was never timely presented in the lower court.

CONCLUSION

For the reasons set forth in Respondents' Motion and Memorandum to Seal Confidential and Privileged Documents and as set forth in this Reply Memorandum, Respondents respectfully request that the Court grant the relief requested.

Respectfully Submitted,

HAYNSWORTH SINKLER BOYD, PA

Ellis M. Johnston, II, SC Bar # 3065
Calvin T. Vick, Jr., SC Bar #68187
Post Office Box 2048
Greenville, South Carolina 29602
(864) 240-3200

ATTORNEYS FOR RESPONDENTS

This 4th day of August, 2011
Greenville, South Carolina

STATE OF SOUTH CAROLINA	) THE COURT OF COMMON PLEAS
LAURANCE H. DAVIS, JR., ET AL., PLAINTIFFS VS. PARKVIEW APARTMENTS, A SOUTH CAROLINA LIMITED PARTNERSHIP, ET AL., DEFENDANTS	)))) BEAUFORT COUNTY) 2003-CP-07-726)))
LAURANCE H. DAVIS, JR., ET AL., PLAINTIFFS VS. ROOSEVELT GARDENS, A SOUTH CAROLINA LIMITED PARTNERSHIP, ET AL., DEFENDANTS	)))) ORANGEBURG COUNTY) 2005-CP-38-1131)))
RHONDA G. RENTZ, ET AL., PLAINTIFFS VS. ORLEANS GARDENS, A SOUTH CAROLINA LIMITED PARTNERSHIP, ET AL., DEFENDANTS	)))) CHARLESTON COUNTY) 2005-CP-10-4229)))
LAURANCE H. DAVIS, JR., ET AL., PLAINTIFFS VS. PALMETTO APARTMENTS, A SOUTH CAROLINA LIMITED PARTNERSHIP, ET AL., DEFENDANTS	)))) BEAUFORT COUNTY) 2005-CP-07-1989)))

EXHIBIT

tabbies

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CAROLINA MANAGEMENT CORPORATION OF BEAUFORT, ET AL., PLAINTIFFS VS.	)	BEAUFORT COUNTY 2005-CP-07-1990
PINEWOOD PARK APARTMENTS, A SOUTH CAROLINA LIMITED PARTNERSHIP, ET AL., DEFENDANTS	)	

JULY 6, 2009
BARNWELL, SOUTH CAROLINA

B E F O R E:

THE HONORABLE DOYET A. EARLY, III, JUDGE.

A P P E A R A N C E S:

JOEL D. BAILEY, ESQ.
THOMAS A. PENDARVIS, ESQ.
ATTORNEYS FOR THE PLAINTIFF

ELLIS M. JOHNSTON, II, ESQ.
CALVIN T. VICK, JR., ESQ.
ATTORNEYS FOR THE DEFENDANT

LISA H. DAVENPORT
OFFICIAL COURT REPORTER

NOW, DECEMBER 9, 1999 ATTORNEY MR. WINEBERG WRITES TO GENERAL PARTNER BARTON TUCK AND HE EXPRESSES HIS DISPLEASURE WITH WHAT IS HAPPENING OR RATHER NOT HAPPENING WITH RESPECT TO COLLECTION ON A NOTE AND HE WRITES IN THE LAST PARAGRAPH TO GENERAL PARTNER, "IF I DON'T HEAR FROM YOU I AM GOING TO SUE SOMEBODY AND IT WOULD PROBABLY INCLUDE YOU IN THE POT." THAT'S THE FIRST THREAT OF LITIGATION AGAINST THE GENERAL PARTNERS. THE SECOND THREAT OF LITIGATION AGAINST THE GENERAL PARTNERS COMES FROM MR. WINEBERG AGAIN TO THE CORPORATE GENERAL PARTNER AIMCO. PAT FOYE IS WITH AIMCO, AND, AGAIN, HE DISCUSSES HOW HE IS OWED A TON OF MONEY AND HE'S NOT SATISFIED AT ALL WITH WHAT THE GENERAL PARTNERS HAVE DONE OR FAILED TO DO AND HE SAYS IN THE LAST TWO PARAGRAPHS ON THE FIRST PAGE OF THIS FEBRUARY 22, 2000 LETTER, "IT IS OUR INTENTION" -- AND HE IS REFERRING TO HIMSELF AND DANIEL TROTTER WHO HE SAYS HE IS ALSO REPRESENTING HERE -- "IT IS OUR INTENTION TO COLLECT OUR SHARE OF THIS NOTE AND WE WOULD LIKE TO HEAR FROM YOU AS TO YOUR POSITION IN THE MATTER BEFORE SUIT IS FILED. I WOULD APPRECIATE ANY INFORMATION THAT YOU CAN GIVE ME IN ORDER THAT LITIGATION WILL NOT BE NECESSARY."

NOW, THERE HAS BEEN SUBMITTED TO YOU AN IN-CAMERA MEMO OF THE DEFENDANTS THAT CONTAINS EIGHT DOCUMENTS, EIGHT CONFIDENTIAL PRIVILEGED DOCUMENTS THAT ARE ON OUR

PRIVILEGE LOG AND THAT WE BELIEVE THAT IS NECESSARY FOR YOU TO REVIEW. A COUPLE OF THESE DOCUMENTS IDENTIFIED IN THAT IN-CAMERA MEMO -- A COUPLE OF THESE DOCUMENTS ARE BETWEEN -- EXCHANGES BETWEEN AIMCO AND THE BRYAN CAVE ATTORNEYS WHO REPRESENTED AIMCO AND THE LIMITED PARTNERSHIPS AND OR BETWEEN AND AMONG THE ATTORNEYS OF BRYAN CAVE THEMSELVES AND AS TO THE QUESTION OF HOW THE GENERAL PARTNERS PERCEIVE THIS THREAT OF LITIGATION, THOSE DOCUMENTS ANSWER THAT QUESTION BEYOND ANY DOUBT, AND I WOULD BE HAPPY TO APPROACH AND DISCUSS WITH YOU IN CAMERA IF YOU WOULD LIKE THE SPECIFIC DOCUMENTS, BUT IT'S SET OUT THERE IN THAT IN-CAMERA MEMO WITH THE DOCUMENTS ATTACHED.

SO, DECEMBER 9, 1999, LIMITED PARTNER FOR THE FIRST TIME THREATENS LITIGATION AGAINST THE GENERAL PARTNERS. THE SECOND THREAT IS FEBRUARY 22, 2000. FROM THAT POINT -- EXCUSE ME -- AND IT'S IMPORTANT TO UNDERSTAND THOSE THREATS OF LITIGATION IN CONTEXT IN THAT IN OCTOBER OF 1999 LIMITED PARTNER DAVIS COPYING -- ACCORDING TO HIS LETTER COPYING ALL OF THE LIMITED PARTNERS IN SEVEN LIMITED PARTNERSHIPS HE WRITES TO GENERAL PARTNER BARTON TUCK AND SAYS, YOU KNOW, USES THE WORD THAT -- HE SAYS THAT THE GENERAL PARTNERS -- THAT ALL OF THE LIMITED PARTNERS AGREE THAT THE GENERAL PARTNERS HAVE BEEN, QUOTE, NEGLIGENT AND THE LIMITED PARTNERS HAVE DECIDED THAT THEY WOULD PREFER TO BE PAID ON THESE NOTES, BUT FAILING THAT

PREPARATION AND GIRDING OF THE LOINS AS SOON AS THEY GOT MR. WINEBERG'S LETTER THAT WE GOT TO BE READY FOR THE LITIGATION FROM THIS GUY DOWN IN SUMTER, SOUTH CAROLINA, AND I'D BE WILLING TO BET YOU THAT THAT'S PROBABLY NOT THE CASE -- THAT THEY'RE NOT LOOKING AT MR. WINEBERG'S LETTER AS BEING TOO SERIOUS.

MR. JOHNSTON: WE --

MR. BAILEY: BUT EVEN IF HE --

MR. JOHNSTON: LET ME INTERRUPT YOU. WE DID AN IN-CAMERA BRIEF ON THAT.

MR. BAILEY: CAN I FINISH?

MR. JOHNSTON: I'M SORRY. YOU BORROWED MY GLASSES. I COULDN'T WRITE IT DOWN.

MR. BAILEY: AS I TOLD MY WIFE THE OTHER DAY, I APOLOGIZE; I DIDN'T MEAN TO KEEP TALKING WHILE YOU WERE INTERRUPTING ME.

THE COURT: Y'ALL BEHAVE.

MR. BAILEY: IN ANY EVENT, WITH REGARD TO LOOKING AT MR. WINEBERG'S LETTER, AS THOMAS POINTS OUT HE IS ONE LIMITED PARTNER AND ONE LIMITED PARTNERSHIP AND THAT SHOULD NOT AFFECT THE ENTIRE PROCESS.

NOW, ONE OTHER THING THAT I WANT TO POINT OUT IS THAT THERE IS SOME -- SEEMS TO BE SOME ISSUE ABOUT THIS LIS PENDENS AND I THINK THAT'S COME OUT. THE LIS PENDENS WAS FILED, QUITE FRANKLY, IN CONJUNCTION WITH CONSULTATION

CERTIFICATE OF REPORTER

STATE OF SOUTH CAROLINA)
)
COUNTY OF AIKEN)

I, LISA H. DAVENPORT, OFFICIAL COURT REPORTER FOR THE SECOND JUDICIAL CIRCUIT OF THE STATE OF SOUTH CAROLINA, DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE, ACCURATE AND COMPLETE TRANSCRIPT OF RECORD OF THE PROCEEDINGS HAD AND EVIDENCE INTRODUCED IN THE TRIAL OF THE CAPTIONED CASE, RELATIVE TO APPEAL, IN THE COURT OF COMMON PLEAS FOR AIKEN COUNTY, SOUTH CAROLINA, ON THE 6TH DAY OF JULY, 2009.

I DO FURTHER CERTIFY THAT I AM NEITHER OF KIN, COUNSEL NOR INTEREST TO ANY PARTY HERETO.

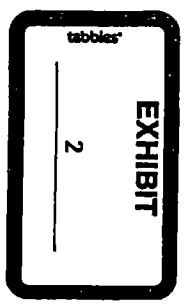
SEPTEMBER 17, 2009

Lisa H. Davenport

LISA H. DAVENPORT, COURT REPORTER

PLAINTIFFS' PRIVILEGE LOG
(Dated July 28, 2008)

Bates No.	Date	From	To	Description	Privilege
Parkview 1951-1952	09/30/2003	Bailey	Adams	Fax Letter	Work Product
Parkview 1991	10/31/2003	Davis	Bailey	Fax Letter	Attorney-Client
Parkview 2015-2016	02/22/2004	Bailey	Rentz	Fax Letter and Memorandum	Attorney-Client
Parkview 2073	04/25/2004	Adams	Bailey	Fax Letter	Work Product
Parkview 2083	undated	Bailey		Internal Memorandum	Work Product
Parkview 2088	05/26/2004	Rentz	Bailey	Fax Letter	Attorney-Client
Parkview 2101	06/08/2004	Bailey		Internal Memorandum	Work Product
Parkview 2114-2115	06/28/2004	Bailey	Clients	Letter	Attorney-Client
Parkview 2143	08/02/2004	Bailey	Clients	Letter	Attorney-Client
Parkview 2165-2168	08/24/2004	Pike	Bailey	Fax Letter	Attorney-Client
Parkview 2177-2182	09/16/2004	Davis	Bailey	Memorandum	Attorney-Client
Bailey 3059	02/16/2000	Bailey	Davis	Letter	Attorney-Client
Bailey 3060	02/17/2000	Davis	Bailey	Fax Letter	Attorney-Client
Bailey 3067-3069	02/21/2000	Davis	Bailey	Fax Letter	Attorney-Client
Bailey 3070-3072	02/24/2000	Davis	Bailey	Memorandum	Attorney-Client



PLAINTIFFS' PRIVILEGE LOG
(Dated July 28, 2008)

Bates No.	Date	From	To	Description	Privilege
Bailey 3073	02/25/2000	Rentz	Davis/ Bailey	Fax Letter	Attorney-Client Work Product
Bailey 3077-3078	03/20/2000	Davis	Bailey	Memorandum	Attorney-Client
Bailey 3082	03/23/2000	Davis	Bailey	Letter	Attorney-Client
Bailey 3105	04/20/2000	Bailey	Davis	Letter	Attorney-Client
Bailey 3148	06/05/2000	Bailey	Aughtman	Letter	Work Product
Bailey 3151	06/14/2000	Aughtman	Bailey	Fax Letter	
Bailey 3152	06/05/2000	Bailey	Aughtman	Letter	Work Product (copy of above)
Bailey 3153	06/16/2000	Bailey	Advantage Title	Letter	Work Product
Bailey 3154	06/16/2000	Bailey	Advantage Title	Letter	Work Product
Bailey 3155 - 3156	06/20/2000	Bailey	Davis	Letter	Attorney-Client
Bailey 3180	07/24/2000	Bailey	Advantage Title	Letter	Work Product
Bailey 3209-3212	08/24/2000	Bailey	Advantage Title	Letter	Work Product

PLAINTIFFS' PRIVILEGE LOG
(Dated July 28, 2008)

Bates No.	Date	From	To	Description	Privilege
Bailey 3215	08/31/2000	Bailey	Advantage Title	Letter	Work Product
Bailey 3216	09/01/2000	Bailey	Adams	Letter	Work Product
Bailey 3217	09/07/2000	Davis	Bailey	Fax Letter	Attorney-Client
Bailey 3316	10/06/2000	Bailey	Davis	Fax Letter	Attorney-Client
Bailey 3317	10/09/2000	Davis	Bailey	Fax Letter	Attorney-Client
Bailey 3320	10/10/2000	Davis	Bailey	Fax Letter	Attorney-Client
Bailey 3321	10/10/2000	Davis	Adams	Letter	Work Product
Bailey 3325	10/10/2000	Davis	Bailey	Fax Letter	Work Product
Bailey 3326-3327	10/12/2000	Davis	Harley Ruff	Letter Requesting Legal Services	Attorney-Client Work Product
Bailey 3328	10/16/2000	Bailey	Clients	Letter	Attorney-Client
Bailey 3333	10/20/2000	Davis	Reynolds	Fax Letter	Attorney-Client
Bailey 3334-3335	undated	Bailey		Handwritten Note	Work Product
Bailey 3512	11/02/2000	Bailey	Davis	Fax Letter	Attorney-Client
Bailey 3526-3528	11/29/2000	Davis	Bailey	Memorandum	Attorney-Client
Bailey 3695	01/17/2001	Bailey	Davis	Letter	Attorney-Client

PLAINTIFFS' PRIVILEGE LOG
(Dated July 28, 2008)

Bates No.	Date	From	To	Description	Privilege
Bailey 3715-3519	02/09/2001	Bailey	Davis	Letter	Attorney-Client
Bailey 3721-3726	02/16/2001	Bailey	Davis	Fax Letter	Attorney-Client
Bailey 3731-3732	02/17/2001	Davis	Bailey	Fax Letter	Attorney-Client
Bailey 3735	02/14/2001	Bailey	Davis	Letter	Attorney-Client
Bailey 3737	03/18/2001	Davis	Bailey	Handwritten Note	Attorney-Client
Bailey 3738	03/01/2001	Adams	Davis	Fax Letter	Work Product
Bailey 3754-3755	06/05/2001	Bailey	Clients	Letter	Attorney-Client
Bailey 3756-3757	06/05/2001	Robinson	Davis	Letter Responding to Requests for Tax Advice Based on Possible Settlement Legal Action	Work Product
Bailey 3758-3759	06/05/2001	Bailey	Clients	Letter	Attorney-Client
Bailey 3768	06/27/2001	Bailey	Clients	Letter	Attorney-Client
Bailey 3799	04/15/2002	Davis	Bailey	Fax Letter	Attorney-Client
Bailey 4019-4020	09/19/2002	Bailey	Clients	Letter	Attorney-Client
Bailey 4043-4044	12/04/2002	Rowell	Bailey	Letter	Work Product
Bailey 4046-4047	01/06/2003	Bailey	Rowell	Letter and E-mail	Work Product

PLAINTIFFS' PRIVILEGE LOG
(Dated July 28, 2008)

Bates No.	Date	From	To	Description	Privilege
Bailey 4063	03/26/2003	Rowell	Bailey	Letter	Work Product
Bailey 4054	04/11/2003	Bailey	Rowell	Letter	Work Product
Bailey 4055	04/22/2003	Bailey	Clients	Letter	Attorney-Client
Bailey 4107	05/20/2003	Pike	Bailey	Fax Letter	Attorney-Client
Bailey 4125 -4128	08/27/2003	Bailey	C. Bailey	Letter	Work Product
Bailey 4144-4145	09/30/2003	Bailey	Adams	Fax Letter	Work Product
Bailey 4185	10/31/2003	Davis	Bailey	Fax Letter	Attorney-Client
Bailey 4193-4206	10/29/2003	Bailey		Internal Memorandum	Work Product
Bailey 4211-4212	12/29/2003	Bailey		Internal Memorandum	Work Product
Bailey 4218-4219	04/03/2000	Weinberg	Davis	Letter	Attorney-Client; Work Product; Common Interest Privilege
Bailey 4232-4234	12/29/2003	Bailey		Typewritten Note	Work Product
Bailey 4280-4281	12/29/2003	Bailey		Typewritten Note	Work Product
Bailey 4374	12/20/2003	Bailey		Typewritten Note	Work Product
Bailey 4380-4381	12/29/2003	Bailey		Typewritten Note	Work Product

PLAINTIFFS' PRIVILEGE LOG
(Dated July 28, 2008)

Bates No.	Date	From	To	Description	Privilege
Bailey 4467-4468	02/15/1999	Davis	Clients	Memorandum	Common Interest Privilege
Bailey 4471	04/02/2000	Griffin	Davis	Handwritten Note	Common Interest Privilege
Bailey 4473	04/02/2000	Griffin	Davis	Handwritten Note	Common Interest Privilege
Bailey 4540-4543	09/05/2000	Davis	Bailey	Letter	Attorney-Client
Bailey 4547	10/11/2000	Bailey	Clients	Letter	Attorney-Client
Bailey 4548	10/25/2000	Warren Griffin	Davis	Handwritten Note	Common Interest Privilege
Bailey 4560	03/13/2001	Rentz	Bailey	Fax Letter	Attorney-Client
Bailey 4565	03/08/2001	Miles Hodge	Bailey	Fax Letter	Attorney-Client
Bailey 4572-4575	04/24/2001	Bailey	Hodge	Letter	Attorney-Client
Bailey 4576-4577	08/02/2001	Davis	Bailey	Fax Letter	Attorney-Client
Bailey 4580–4582	08/02/2001	Bailey	Davis, Rentz, Hodge	Fax Letter	Attorney-Client
Bailey 4584–4583	08/07/2001	Rentz	Bailey	Fax Letter	Attorney-Client

PLAINTIFFS' PRIVILEGE LOG
(Dated July 28, 2008)

Bates No.	Date	From	To	Description	Privilege
Bailey 4591-4592	06/29/2004	Bailey	Rentz / Hodge	Letter	Attorney-Client
Bailey 4593	08/03/2004	Bailey	Rentz / Hodge	Letter	Attorney-Client
Bailey 4763	03/16/2000	Davis	Mercy	Memorandum	Common Interest Privilege
Bailey 4783	06/14/2000	Bailey	Advantage Title	Fax Letter	Work Product
Bailey 4785-4787	06/14/2000	Advantage Tile	Bailey	Hand Written Report	Work Product
Bailey 4804	07/24/2000	Bailey	Advantage Title	Fax Letter	Work Product
Bailey 4808-4809	08/17/2000	Bailey	Advantage Title	Fax Letter	Work Product
Bailey 4810	08/29/2000	Bailey	Mercy	Letter	Attorney-Client
Bailey 4811	09/05/2000	Davis	Mercy	Letter	Common Interest Privilege
Bailey 4027	10/10/2000	Bailey	Adams	Letter	Work Product
Bailey 4831	10/16/2000	Bailey	Clients	Letter	Attorney-Client

PLAINTIFFS' PRIVILEGE LOG
(Dated July 28, 2008)

Bates No.	Date	From	To	Description	Privilege
Bailey 4837	11/02/2000	Bailey	Davis	Fax Letter	Attorney-Client
Bailey 4842	03/30/2001	Bailey	Mercy	Fax Letter	Attorney-Client
Bailey 4843	04/06/2001	Bailey	Mercy	Fax Letter	Attorney-Client
Bailey 4846	06/18/2001	Davis	Mercy	Fax Letter	Common Interest Privilege
Bailey 4847-4851	06/26/2001	Bailey	Davis, Mercy	Fax Letter and Memorandum	Attorney-Client
Bailey 4854	03/15/2002	Rentz	Bailey	Fax Letter	Attorney-Client
Bailey 4859-4868	09/19/2002	Bailey	Haggard	Letter	Attorney-Client; Work Product
Bailey 4874-4875	06/28/2004	Bailey	Clients	Letter	Attorney-Client
Bailey 4876	07/08/2004	Bailey	Haggard	E-mail	Attorney-Client; Work Product
Bailey 4877	07/23/2004	Haggard	Bailey	Letter	Attorney-Client; Work Product
Bailey 4878	08/02/2004	Bailey	Clients	Letter	Attorney-Client
Bailey 4885-4886	undated	Bailey		Internal Memorandum Concerning Property Value	Work Product

PLAINTIFFS' PRIVILEGE LOG
(Dated July 28, 2008)

Bates No.	Date	From	To	Description	Privilege
Bailey 4968	10/30/1998	Wildman	Davis	Letter	Attorney-Client; Work Product; Common Interest Privilege
Bailey 4980	02/09/1999	Davis	Wildman	Letter	Attorney-Client; Work Product; Common Interest Privilege
Bailey 4993	undated	Davis	Bailey	Internal Memorandum	Attorney-Client; Work Product
Bailey 4996	03/16/2000	Davis	James Ivey / Erin Ivey	Internal Memorandum Concerning Lawsuit Investigation	Common Interest Privilege
Bailey 4998	09/05/2000	Davis	Wildman	Letter Concerning Plans for Lawsuit Activities	Common Interest Privilege
Bailey 4999	09/05/2000	Davis	Bailey	Letter	Attorney-Client
Bailey 5002-5004	09/12/2000	Bailey	Wildman	Facsimile with Attachments	Attorney-Client; Work Product
Bailey 5008-5012	09/12/2000	Wildman	Bailey	Facsimile with Attachments	Attorney-Client; Work Product
Bailey 5016	09/14/2000	Wildman	Bailey	Letter	Attorney-Client; Work Product

PLAINTIFFS' PRIVILEGE LOG
(Dated July 28, 2008)

Bates No.	Date	From	To	Description	Privilege
Bailey 5024	10/10/2000	Bailey	Adams	Letter	Work Product
Bailey 5025	10/16/2000	Bailey	Clients	Letter	Attorney-Client
Bailey 5028	11/02/2000	Bailey	Davis	Fax Letter	Attorney-Client
Bailey 5056	11/14/2000	Davis	Bailey	Fax Letter	Attorney-Client
Bailey 5062	03/16/2001	Wildman	Bailey	Fax Letter	Attorney-Client; Work Product
Bailey 5064	03/26/2001	Bailey	Wildman	Fax Letter	Attorney-Client; Work Product
Bailey 5065-5069	02/09/2001	Bailey	Davis	Letter	Attorney-Client
Bailey 5071	11/28/2001	Wildman	Bailey	Letter	Attorney-Client; Work Product
Bailey 5073	01/31/2002	Wildman	Bailey	Letter	Attorney-Client; Work Product
Bailey 5074	11/28/2001	Wildman	Bailey	Letter	Attorney-Client; Work Product
Bailey 5080-5081	03/15/2002	Wildman	Bailey	Fax Letter	Attorney-Client; Work Product
Bailey 5088-5089	03/29/2002	Bailey	Davis	Fax Letter	Attorney-Client

Bates No.	Date	From	To	Description	Privilege
Bailey 5092	04/08/2002	Wildman	Bailey	Fax Letter	Attorney-Client; Work Product
Bailey 5094-5097	02/25/2003	Wildman	Bailey	Fax Letter	Attorney-Client; Work Product
Bailey 5098	04/21/2003	Wildman	Bailey	Fax Letter	Attorney-Client; Work Product
Bailey 5102	04/29/2003	Wildman	Bailey	Letter	Attorney-Client; Work Product
Bailey 5107-5108	06/29/2004	Bailey	Clients	Letter	Attorney-Client
Bailey 5109-5110	07/07/2004	Wildman	Bailey	Fax Letter	Attorney-Client; Work Product
Bailey 5113	08/02/2004	Bailey	Clients	Letter	Attorney-Client
Bailey 5114	09/07/2004	Davis	Bailey	Fax Letter	Attorney-Client

PLAINTIFFS' PRIVILEGE LOG
(Dated July 28, 2008)
INDEX

	IDENTIFICATION
Adams	Gregory B. Adams, Expert
Aughtman	Cathy Aughtman, Title Abstractor
Bailey	Joel D. Bailey, J.D., counsel for Plaintiffs
C. Bailey	Chandler Bailey, J.D., consulting counsel
Davis	Laurence H. Davis, Jr., Plaintiff
Griffin	Warren S. Griffin, limited partner in Lincoln, and client of Joel D. Bailey, J.D.
Haggard	Robert Haggard, J.D., counsel for Mercer
Hodge	W. Miles Hodge, Client's predecessor
Ivey, Erin	Erin Ivey, Plaintiff
Ivey, James	James Ivey, Plaintiff Earnie Ivey, Plaintiff
Mercy	Arthur D. Mercy, Plaintiff Janie Mercy, Plaintiff
Pike	Mary Jane R. Pike, Plaintiff James Pike, Plaintiff
Rentz	Rhonda G. Rentz, Plaintiff Timothy Rentz, Plaintiff
Reynolds	Eva Marie Reynolds, Plaintiff

PLAINTIFFS' PRIVILEGE LOG
(Dated July 28, 2008)

INDEX

	IDENTIFICATION
Robinson	William C. Robinson, CPA, expert tax advisor
Rowell	A. Hoyt Rowell, III, J.D., consulting attorney
Weinberg	Mortimer M. Weinberg, Jr., J.D., Plaintiff
Wildman	Donald B. Wildman, J.D., counsel for Ivey

THE
BAILEY LAW FIRM
A PROFESSIONAL ASSOCIATION
THE ELLIOTT HOUSE • THIRD FLOOR • 1001 BAY STREET
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PHONE: 843-525-6090
FAX: 843-525-6070

July 21, 2005

Ellis M. Johnston, II, Esquire
Haynsworth Sinkler Boyd, P.A.
P.O. Box 2048
Greenville, South Carolina 29602-2048

Re: Parkview Apartments Limited Partners vs. AIMCO, *et al.*

Dear Ellis:

Enclosed please find Plaintiffs' Privilege Log which has been prepared in the above-captioned matter.

With kindest regards, I am

Very truly yours,

THE BAILEY LAW FIRM, P.A.

Joel D. Bailey

Dictated, not read and Signed in my absence

Joel D. Bailey

JDB/vw

Enclosures

cc: John P. Linton, Esquire (w/out enclosures)

Haynsworth Sinkler Boyd, P.A.
Date Rec'd 7/27/05
CM # 11571-0010
Docketed
ITL

EXHIBIT
tabbies
3

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF BEAUFORT	)	C/A # 03-CP-07-726
Laurance H. Davis, Jr.; Mary Jane R. Pike; Eva Marie Reynolds; and Rhoda G. Rentz, individually and in their capacities as the Limited Partners of Parkview Apartments, a South Carolina Limited Partnership;	)	
Plaintiffs,	)	**PLAINTIFFS' PRIVILEGE LOG**
vs.	)	
Parkview Apartments, a South Carolina Limited Partnership; Apartment Investment and Management Company a/k/a AIMCO; Insignia Financial Group, Inc.; AmReal Corporation a/k/a and f/k/a USS Corporation a/k/a and f/k/a U.S. Shelter Corporation; ISTC Corporation; N. Barton Tuck, Jr.; and John Doe, a generic designation for a party or parties whose true identity is unknown;	)	
Defendants.	)	

The following documents are being withheld as subject to the attorney-client privilege or work product doctrine:

DOCUMENT TYPE	DESCRIPTION		PRIVILEGE
Letter	Letter dated 2-16-00 from Joel D. Bailey to Laurance H. Davis, Jr., regarding representation/fees	1 Page	Attorney/Client Privilege

Fax Cover Sheet	Fax cover sheet dated 2-17-00 from Laurance Davis to Joel D. Bailey regarding Partnership percentage and K-1	2 Pages	Work Product
Fax Cover Sheet	Fax cover sheet dated 2-21-00 from Laurance Davis to Bailey Law Firm regarding retention of counsel- (includes 3 pages - 2 page letter to Fellow Limited Partners from Laurance Davis dated 2-22-00)	3 Pages	Attorney/Client and Work Product
Memorandum	Memorandum dated 2-24-00 from Laurance Davis to Joel D. Bailey w/ 2 page letter sent to all limited partners - letter is addressed to Eva Marie Reynolds regarding retention of counsel -	3 Pages	Attorney/Client and Work Product
Letter	Letter dated 2-25-00 from Eva Marie Reynolds to Laurance H. Davis regarding legal fee retainer	1 Page	Work Product
Memorandum	Memorandum dated March 20, 2000 from Laurance Davis to Joel D. Bailey regarding retention of counsel	2 Pages	Attorney/Client and Work Product
Letter	Letter dated March 23, 2000 from Laurance Davis to Joel D. Bailey regarding retainer	1 Page	Attorney/Client
Letter	Letter dated April 20, 2000 from Joel D. Bailey to Laurance Davis regarding HUD contact and fee agreement	1 Page	Attorney/Client and Work Product
Letter	Letter dated June 5, 2000 from Joel D. Bailey to Cathy Aughtman regarding records search	1 Page	Attorney Work Product
Fax Cover Sheet	Fax cover sheet from Cathy Aughtman to Joel D. Bailey w/ copy of Bailey letter of June 5, 2000 regarding records search	2 Pages	Attorney Work Product

Letter	Letter dated June 16, 2000 from Joel D. Bailey to Advantage Title Abstracting regarding record search	1 Page	Attorney Work Product
Letter	Letter dated June 16, 2000 from Joel D. Bailey to Advantage Title Abstracting (same letter w/ new fax number) regarding records search	1 Page	Attorney Work Product
Letter	Letter dated June 20, 2000 from Joel D. Bailey to Laurance Davis regarding case status	2 Pages	Attorney/Client Privilege and Work Product
Letter	Letter dated July 24, 2000 from Joel D. Bailey to Advantage Title Abstracting Company regarding records search	1 Page	Attorney Work Product
Letter	Letter dated August 30, 2000 from Joel D. Bailey to Advantage Title Abstracting Company regarding records search	1 Page	Attorney Work Product
Fax Cover Sheet	Fax cover sheet dated September 7, 2000 from Laurance Davis to Joel Bailey regarding communications with co-plaintiff (1 page) - attorney/client privilege and work product	1 Page	Attorney/Client Privilege and Work Product
Fax Cover Sheet	Fax cover sheet dated October 6, 2000 from Joel Bailey to Laurance Davis regarding communications with George Buchanan	1 Page	Attorney/Client Privilege and Work Product
Fax	Fax transmission dated October 9, 2000 from Laurance Davis to Bailey Law Firm regarding October 24, 2000 meeting	1 Page	Attorney/Client and Work Product
Fax	Fax transmission dated October 10, 2000 from Laurance Davis to Bailey Law Firm regarding other partnerships	1 Page	Attorney/Client and Work Product

Fax Cover Sheet	Fax cover sheet dated October 16, 2000 from Laurance Davis to Bailey Law Firm with letter of October 12, 2000 to Harley D. Ruff, Esquire regarding formation of LLC	3 Pages	Attorney/Client and Work Product
Letter	Letter dated October 16, 2000 from Joel Bailey to Parkview Limited Partners regarding meeting of October 24, 2000	1 Page	Attorney/Client and Work Product
Fax Cover Sheet	Fax cover sheet dated October 20, 2000 from Joel Bailey to Eva Marie Reynolds regarding upcoming meeting	1 Page	Attorney/Client and Work Product
Note	Handwritten note of October 23rd of Joel Bailey regarding document inspection	1 Page	Work Product
Fax Cover Sheet	Fax cover sheet dated November 2, 2000 from Joel Bailey to Laurance Davis regarding status of case and meeting	1 Page	Attorney/Client Privilege and Work Product
Memorandum	Memorandum dated November 29, 2000 from Laurance Davis to Joel Bailey regarding status of case and apartment acquisition	3 Pages	Attorney/Client Privilege and Work Product
Letter	Letter dated January 17, 2001 from Joel D. Bailey to Laurance Davis regarding Greg Adams	1 Page	Attorney/Client and Work Product
Letter	Letter dated February 9, 2001 from Joel D. Bailey to Laurance Davis regarding status report	5 Pages	Attorney/Client and Work Product
Letter	Letter dated February 16, 2001 from Joel D. Bailey to Laurance Davis regarding status report with fax cover sheet	6 Pages	Attorney Client and Work Product
Fax	Fax transmission dated February 17, 2001 from Laurance Davis to Joel Bailey regarding fee agreements and correction of date in letter dated February 9, 2001	2 Pages	Attorney/Client and Work Product

Letter	Letter dated February 14, 2001 from Joel Bailey to Laurance Davis regarding Greg Adams	1 Page	Attorney/Client and Work Product
Memorandum	Memorandum dated March 18, 2001 from Laurance Davis to Joel Bailey enclosing fee agreement	1 Page	Attorney/Client Privilege
Letter	Letter dated June 5, 2001 from Joel D. Bailey to Limited Partners regarding status update	2 Pages	Attorney/Client and Work Product
Letter	Letter dated June 5, 2001 from William C. Robinson to Laurance H. Davis, Jr., regarding tax consequences with copy of Joel Bailey letter of June 5, 2001	4 Pages	Work Product
Letter	Letter dated June 27, 2001 from Joel D. Bailey to Limited Partners re legal fees	1 Page	Attorney/Client Privilege
Fax Cover Sheet	Fax cover sheet dated March 15, 2002 from Tim Rentz to Joel Bailey attaching check dated March 8, 2002 from ISTC Corporation	1 Page	Attorney/Client and Work Product
Fax Cover Sheet	Fax cover sheet dated April 15, 2002 from Laurance H. Davis to Joel Bailey enclosing ISTC letter of March 8, 2002	2 Pages	Attorney/Client and Work Product
Letter	Letter dated September 19, 2002 from Joel D. Bailey to Parkview Limited Partners regarding status update	2 Pages	Attorney/Client and Work Product
Letter	Letter dated December 4, 2002 from A. Hoyt Rowell, Esquire to Joel D. Bailey regarding retention of firm	1 Page	Work Product

Letter	Letter dated January 6, 2003 from Joel D. Bailey to A. Hoyt Rowell regarding retention of firm	1 Page	Work Product
E-mail	Email dated January 13, 2003 from A. Hoyt Rowell to Joel Bailey regarding retention of firm	1 Page	Work Product
Letter	Letter dated March 26, 2003 from A. Hoyt Rowell to Joel Bailey regarding retention of firm	1 Page	Work Product
Letter	Letter dated April 11, 2003 from Joel Bailey to A. Hoyt Rowell regarding retention of firm	1 Page	Work Product
Letter	Letter dated April 22, 2003 from Joel D. Bailey to Parkview Limited Partners regarding filing and service of summons and complaint	1 Page	Attorney/Client and Work Product
E-mail	Email dated May 5, 2003 from Russell Patterson to Joel Bailey regarding Carolina IX, LLC	1 Page	Work Product

PLAINTIFFS' SUPPLEMENTAL PRIVILEGE LOG
(Dated December 31, 2008)

#	Bates No.	Date	From	To	Description	Privilege
8	Parkview 2114-2115	06/28/2004	Bailey	Davis, Rentz, Miller, Pike, Reynolds	Letter concerning status of pending *Parkview* lawsuit, and among other things, agreement at meeting with representatives and counsel for AIMCO to delay all litigation activities regarding Parkview and all related properties pending completion of appraisals on the properties and then mediation.	Attorney-Client
9	Parkview 2143	08/02/2004	Bailey	Clients	Letter concerning AIMCO's unilateral cancellation of mediation	Attorney-Client
10	Parkview 2165-2168	08/24/2004	Pike	Bailey	Fax letter listing real estate sales data and comments on appraisal	Attorney-Client
11	Parkview 2177-2182	09/16/2004	Davis	Bailey	Memorandum concerning suggestions for appraisals prepared by Atlantic Appraisals	Attorney-Client

PLAINTIFFS' SUPPLEMENTAL PRIVILEGE LOG
(Dated December 31, 2008)

#	Bates No.	Date	From	To	Description	Privilege
12	Bailey 3059	02/16/2000	Bailey	Davis	Letter concerning meeting with clients, expenses and attorney's fees associated with investigating / evaluating general partners' response to limited partners' inquiries re: general partners' efforts against purchasing entities to collect on the notes	Attorney-Client
13	Bailey 3060	02/17/2000	Davis	Bailey	Fax letter concerning K-1 issued by ISTC ? AIMCO on the subject partnerships	Attorney-Client
14	Bailey 3067-3069	02/21/2000	Davis	Bailey	Fax letter asking for comments on draft letter to other limited partners concerning financial arrangements for engaging counsel to make inquiries with General Partners about status of negotiations with and/or pursuit of claims against purchasing entities to collect on the notes and/or recover properties	Attorney-Client

PLAINTIFFS' SUPPLEMENTAL PRIVILEGE LOG
(Dated December 31, 2008)

#	Bates No.	Date	From	To	Description	Privilege
15	Bailey 3070-3072	02/24/2000	Davis	Bailey	Memorandum enclosing copy of letter to other limited partners concerning financial arrangements for engaging counsel to make inquiries with General Partners about status of negotiations with and/or pursuit of claims against purchasing entities to collect on the notes and/or recover properties	Attorney-Client
16	Bailey 3073	02/25/2000	Reynolds	Davis/ Bailey	Fax copy of cover letter enclosing funds for escrow	Attorney-Client Work Product
17	Bailey 3077-3078	03/20/2000	Davis	Bailey	Memorandum regarding participation by other limited partners and request for clarification of nature of fee agreement to engage counsel to make inquiries with General Partners about status of negotiations with and/or pursuit of claims against purchasing entities to collect on the notes and/or recover properties	Attorney-Client

PLAINTIFFS' SUPPLEMENTAL PRIVILEGE LOG
(Dated December 31, 2008)

#	Bates No.	Date	From	To	Description	Privilege
1	Parkview 1951-1952	09/30/2003	Bailey	Adams	Fax letter concerning affidavit for use in hearing on motion for change of venue	Work Product
2	Parkview 1991	10/31/2003	Davis	Bailey	Fax letter concerning litigation expenses	Attorney-Client
3	Parkview 2015-2016	02/22/2004	Bailey	Rentz	Fax letter and memorandum concerning search for plats, site plans	Attorney-Client
4	Parkview 2073	04/25/2004	Adams	Bailey	Fax letter concerning payment for services rendered	Work Product
5	Parkview 2083	undated	Bailey		Internal memorandum listing names and addresses of clients	Work Product
6	Parkview 2088	05/26/2004	Rentz	Bailey	Fax letter concerning Bailey letter to Tom Wills regarding mediation	Attorney-Client
7	Parkview 2101	06/08/2004	Bailey		Internal memorandum concerning among other things the agreement between counsel for all parties to delay all litigation activities pending completion of appraisals on the properties and then mediation.	Work Product



PLAINTIFES' SUPPLEMENTAL PRIVILEGE LOG
(Dated December 31, 2008)

#	Bates No.	Date	From	To	Description	Privilege
18	Bailey 3082	03/23/2000	Davis	Bailey	Letter enclosing funds for escrow, concerning participation by other limited partners to engage counsel to make inquiries with General Partners about status of negotiations with and/or pursuit of claims against purchasing entities to collect on the notes and/or recover properties, and noting his possession of very few records	Attorney-Client
19	Bailey 3105	04/20/2000	Bailey	Davis	Letter reporting on investigation activities with General Partners about status of negotiations with and/or pursuit of claims against purchasing entities to collect on the notes and/or recover properties and enclosing copy of fee agreement	Attorney-Client
20	Bailey 3148	06/05/2000	Bailey	Aughtman	Letter requesting title search services	Work Product
21	Bailey 3151	06/14/2000	Aughtman	Bailey	Fax letter declining to do title search based on prior commitments	
22	Bailey 3152	06/05/2000	Bailey	Aughtman	Letter requesting title search services (duplicate of Bailey 3151)	Work Product (copy of above)

PLAINTIFFS' SUPPLEMENTAL PRIVILEGE LOG
(Dated December 31, 2008)

#	Bates No.	Date	From	To	Description	Privilege
23	Bailey 3153	06/16/2000	Bailey	Advantage Title	Letter requesting title search services	Work Product
24	Bailey 3154	06/16/2000	Bailey	Advantage Title	Letter requesting title search services (duplicate of Bailey 3153 w/ handwritten note)	Work Product
25	Bailey 3155 - 3156	06/20/2000	Bailey	Davis	Letter reporting on investigation activities with General Partners about status of negotiations with and/or pursuit of claims against purchasing entities to collect on the notes and/or recover properties	Attorney-Client
26	Bailey 3180	07/24/2000	Bailey	Advantage Title	Letter requesting additional title search services	Work Product
27	Bailey 3209-3212	08/24/2000	Bailey	Adams	Letter engaging expert services concerning legal issues concerning title to property is affected by transition from general partnership to limited partnership, and enclosing documents	Work Product
28	Bailey 3215	08/31/2000	Bailey	Advantage Title	Letter concerning additional title search services	Work Product

PLAINTIFFS' SUPPLEMENTAL PRIVILEGE LOG
(Dated December 31, 2008)

#	Bates No.	Date	From	To	Description	Privilege
29	Bailey 3216	09/01/2000	Bailey	Adams	Letter enclosing documents received from Buchanan	Work Product
30	Bailey 3217	09/07/2000	Davis	Bailey	Fax letter with contact information for Reynolds	Attorney-Client
31	Bailey 3316	10/06/2000	Bailey	Davis	Fax letter transmitting copy of letter received from Buchanan	Attorney-Client
32	Bailey 3317	10/09/2000	Davis	Bailey	Fax letter concerning upcoming partnership meeting about status of negotiations with and/or pursuit of claims against purchasing entities to collect on the notes and/or recover properties	Attorney-Client
33	Bailey 3320	10/10/2000	Davis	Bailey	Fax letter concerning other limited partnerships not involved in these consolidated cases	Attorney-Client
34	Bailey 3321	10/10/2000	Bailey	Adams	Letter delivering copies of correspondence to / from Buchanan	Work Product
35	Bailey 3325	10/10/2000	Davis	Bailey	Fax letter requesting call	Work Product

PLAINTIFFS' SUPPLEMENTAL PRIVILEGE LOG
(Dated December 31, 2008)

#	Bates No.	Date	From	To	Description	Privilege
36	Bailey 3326-3327	10/12/2000	Davis	Ruff	Letter requesting legal services to form new partnership to serve as a substitute general partner in the event existing General Partners were no longer involved	Attorney-Client Work Product
37	Bailey 3328	10/16/2000	Bailey	Clients	Letter advising of upcoming partnership meeting	Attorney-Client
38	Bailey 3333	10/20/2000	Bailey	Reynolds	Fax cover letter enclosing maps to location for partnership meeting	Attorney-Client
39	Bailey 3334-3335	undated	Bailey		Handwritten note with driving directions to location for partnership meeting	Work Product
40	Bailey 3512	11/02/2000	Bailey	Davis	Fax letter with mortgage balances on notes for the subject limited partnerships	Attorney-Client
41	Bailey 3526-3528	11/29/2000	Davis	Bailey	Memorandum concerning possibility of limited partners acquiring the subject apartments or new partnership interest to satisfy notes	Attorney-Client
42	Bailey 3695	01/17/2001	Bailey	Davis	Letter enclosing invoice from expert	Attorney-Client

PLAINTIFFS' SUPPLEMENTAL PRIVILEGE LOG
(Dated December 31, 2008)

#	Bates No.	Date	From	To	Description	Privilege
43	Bailey 3715-3719	02/09/2001	Bailey	Davis	Letter reporting on investigation activities concerning status of negotiations with and/or pursuit of claims against purchasing entities to collect on the notes and/or recover properties	Attorney-Client
44	Bailey 3721-3726	02/16/2001	Bailey	Davis	Fax letter addressing method of reporting to all clients on investigation activities concerning status of negotiations with and/or pursuit of claims against purchasing entities to collect on the notes and/or recover properties, and a report on those investigation activities	Attorney-Client
45	Bailey 3731-3732	02/17/2001	Davis	Bailey	Fax letter commenting on Feb. 9, 2001 letter, and requesting additional information	Attorney-Client
46	Bailey 3735	02/14/2001	Bailey	Davis	Letter reporting on conversation with expert	Attorney-Client

PLAINTIFFS' SUPPLEMENTAL PRIVILEGE LOG
(Dated December 31, 2008)

#	Bates No.	Date	From	To	Description	Privilege
47	Bailey 3737	03/18/2001	Davis	Bailey	Handwritten note enclosing signed documents and reporting on capital raised to fund investigation activities concerning status of negotiations with and/or pursuit of claims against purchasing entities to collect on the notes and/or recover properties	Attorney-Client
48	Bailey 3738	03/01/2001	Adams	Davis	Fax letter regarding payment of invoice	Work Product
49	Bailey 3754-3755	06/05/2001	Bailey	Limited Partners c/o Davis	Letter reporting on investigation activities concerning status of negotiations with and/or pursuit of claims against purchasing entities to collect on the notes and/or recover properties	Attorney-Client
50	Bailey 3756-3757	06/05/2001	Robinson	Davis	Letter responding to request for tax advice based on possible settlement of any legal action against purchasing entities to collect on the notes and/or recover properties	Work Product

PLAINTIFFS' SUPPLEMENTAL PRIVILEGE LOG
(Dated December 31, 2008)

#	Bates No.	Date	From	To	Description	Privilege
51	Bailey 3758-3759	06/05/2001	Bailey	Limited Partners c/o Davis	Letter concerning reporting on investigation activities concerning status of negotiations with and/or pursuit of claims against purchasing entities to collect on the notes and/or recover properties	Attorney-Client
52	Bailey 3768	06/27/2001	Bailey	Limited Partners	Letter enclosing addendum to fee agreement	Attorney-Client
53	Bailey 3799	04/15/2002	Davis	Bailey	Fax letter concerning position taken by Buchannan concerning collateral for the subject notes	Attorney-Client
54	Bailey 4019-4020	09/19/2002	Bailey	Davis, Rentz, Miller, Pike, Reynolds	Letter concerning alternative legal strategies in light of time remaining for General Partners to pursue claims	Attorney-Client
55	Bailey 4043-4044	12/04/2002	Rowell	Bailey	Letter following up on discussion about potential involvement as co-counsel	Work Product
56	Bailey 4046-4047	01/06/2003	Bailey	Rowell	Letter and e-mail following up on discussion about potential involvement as co-counsel	Work Product

PLAINTIFFS' SUPPLEMENTAL PRIVILEGE LOG
(Dated December 31, 2008)

#	Bates No.	Date	From	To	Description	Privilege
57	Bailey 4053	03/26/2003	Rowell	Bailey	Letter following up on discussion about potential involvement as co-counsel	Work Product
58	Bailey 4054	04/11/2003	Bailey	Rowell	Letter following up on discussion about potential involvement as co-counsel	Work Product
59	Bailey 4055	04/22/2003	Bailey	Davis, Hodge, Miller, Pike, Rentz	Letter enclosing copies of pleadings	Attorney-Client
60	Bailey 4107	05/20/2003	Pike	Bailey	Fax letter enclosing documents	Attorney-Client
61	Bailey 4125 -4128	08/27/2003	Bailey	C. Bailey	Letter following up on discussion about potential involvement as co-counsel	Work Product
62	Bailey 4144-4145	09/30/2003	Bailey	Adams	Fax letter concerning change of venue motion	Work Product
63	Bailey 4185	10/31/2003	Davis	Rentz, Miles Hodge, Ivey, Bailey	Fax letter concerning financing litigation	Attorney-Client

PLAINTIFFS' SUPPLEMENTAL PRIVILEGE LOG
(Dated December 31, 2008)

#	Bates No.	Date	From	To	Description	Privilege
64	Bailey 4193-4206	10/29/2003	Bailey		Internal memorandum organizing file, client contact information, and attorney impressions of chronological outline for Roosevelt I partnership	Work Product
65	Bailey 4211-4212	12/29/2003	Bailey		Internal Memorandum containing attorney impressions of chronological outline for Roosevelt I partnership	Work Product
66	Bailey 4218-4219	04/03/2000 and 05/12/2000	Weinberg	Davis	Letter enclosing payments and file materials for delivery to Bailey	Attorney-Client; Work Product; Common Interest Privilege
67	Bailey 4232-4234	12/29/2003	Bailey		Internal memorandum organizing file, client contact information, and attorney impressions of chronological outline for Roosevelt I partnership	Work Product
68	Bailey 4280-4281	12/29/2003	Bailey		Internal Memorandum containing attorney impressions of chronological outline for Roosevelt I partnership	Work Product

PLAINTIFFS' SUPPLEMENTAL PRIVILEGE LOG
(Dated December 31, 2008)

#	Bates No.	Date	From	To	Description	Privilege
69	Bailey 4374	12/20/2003	Bailey		Internal memorandum organizing file, client contact information, and attorney impressions of chronological outline for Roosevelt I partnership	Work Product
70	Bailey 4380-4381	12/29/2003	Bailey		Internal Memorandum containing attorney impressions of chronological outline for Lincoln partnership	Work Product; not responsive to requests
71	Bailey 4467-4468	02/15/1999	Davis	Griffin, Hodge, Coastal Contractors	Memorandum concerning Lincoln Apartments	Common Interest Privilege; not responsive to requests
72	Bailey 4471	04/02/2000	Griffin	Davis	Handwritten note concerning Lincoln Apartments	Common Interest Privilege; not responsive to requests

PLAINTIFFS' SUPPLEMENTAL PRIVILEGE LOG
(Dated December 31, 2008)

#	Bates No.	Date	From	To	Description	Privilege
73	Bailey 4473	04/02/2000	Griffin	Davis	Handwritten note concerning Lincoln Apartments (copy of Bailey 4471)	Common Interest Privilege; not responsive to requests
74	Bailey 4540--4543	09/05/2000	Davis	Bailey	Letter concerning Lincoln Apartments	Attorney-Client; not responsive to requests
75	Bailey 4547	10/11/2000	Bailey	All Limited Partners	Letter advising of upcoming partnership meeting	Attorney-Client
76	Bailey 4548	10/25/2000	Warren Griffin	Davis	Handwritten note concerning Lincoln Apartments	Common Interest Privilege; not responsive to requests
77	Bailey 4560	03/13/2001	Rentz	Bailey	Fax letter concerning offer on Pinewood	Attorney-Client
78	Bailey 4565	03/08/2001	Miles Hodge	Bailey	Fax letter concerning Lincoln Apartments	Attorney-Client; not responsive to requests

PLAINTIFFS' SUPPLEMENTAL PRIVILEGE LOG
(Dated December 31, 2008)

#	Bates No.	Date	From	To	Description	Privilege
79	Bailey 4572-4575	04/24/2001	Bailey	Hodge	Letter concerning Lincoln Apartments and Roosevelt and amounts due on the notes	Attorney-Client
80	Bailey 4576-4577	08/02/2001	Davis	Bailey	Fax letter concerning Lincoln Apartments	Attorney-Client; not responsive to requests
81	Bailey 4580-4582	08/02/2001	Bailey	Davis, Rentz, Hodge	Fax letter regarding Lincoln Apartments	Attorney-Client; not responsive to requests
82	Bailey 4591-4592	06/29/2004	Bailey	Rentz / Hodge	Letter regarding Lincoln Apartments	Attorney-Client; not responsive to requests
83	Bailey 4593	08/03/2004	Bailey	Rentz / Hodge	Letter regarding Lincoln Apartments	Attorney-Client; not responsive to requests
84	Bailey 4763	03/16/2000	Davis	Mercy	Memorandum discussing the investigation activities concerning status of negotiations with and/or pursuit of claims	Common Interest Privilege
85	Bailey 4783	06/14/2000	Bailey	Advantage Title	Fax letter regarding title search services	Work Product

PLAINTIFFS' SUPPLEMENTAL PRIVILEGE LOG
(Dated December 31, 2008)

#	Bates No.	Date	From	To	Description	Privilege
86	Bailey 4785-4787	06/14/2000	Advantage Title	Bailey	Hand written report concerning title search	Work Product
87	Bailey 4804	07/24/2000	Bailey	Advantage Title	Fax letter regarding title search services	Work Product
88	Bailey 4808-4809	08/17/2000	Bailey	Advantage Title	Fax letter regarding title search services	Work Product
89	Bailey 4810	08/29/2000	Bailey	Mercy	Letter memorializing engagement to investigate issues concerning Orleans Gardens	Attorney-Client
90	Bailey 4811	09/05/2000	Davis	Mercy, Bailey	Letter concerning sharing expenses related to the investigation activities	Attorney-Client; Common Interest Privilege
91	Bailey 4027	10/10/2000	Bailey	Adams	Letter providing copy of correspondence from Buchanan	Work Product
92	Bailey 4831	10/16/2000	Bailey	All Limited Partners	Letter concerning upcoming partnership meeting and proxies	Attorney-Client
93	Bailey 4837	11/02/2000	Bailey	Davis	Fax letter with mortgage balances on notes for the subject limited partnerships (duplicate of Bailey 3512)	Attorney-Client

PLAINTIFFS' SUPPLEMENTAL PRIVILEGE LOG
(Dated December 31, 2008)

#	Bates No.	Date	From	To	Description	Privilege
94	Bailey 4842	03/30/2001	Bailey	Mercy	Fax letter providing copy of status report on activities concerning status of negotiations with and/or pursuit of claims against purchasing entities to collect on the notes and/or recover properties	Attorney-Client
95	Bailey 4843	04/06/2001	Bailey	Mercy	Fax letter concerning written fee agreement	Attorney-Client
96	Bailey 4846	06/18/2001	Davis	Mercy, Bailey	Fax letter concerning terms of engagement of counsel with handwritten comments addressed to counsel	Common Interest Privilege; Attorney-Client
97	Bailey 4847-4851	06/26/2001	Bailey	Davis, Mercy	Fax letter and unexecuted addendum to fee agreement	Attorney-Client
98	Bailey 4854	03/15/2002	Rentz	Bailey	Fax letter with copy of check and letter from AIMCO	Attorney-Client
99	Bailey 4859-4868	09/19/2002	Bailey	Haggard	Letters concerning Estate of Arthur Mercy	Attorney-Client; Work Product

PLAINTIFFS' SUPPLEMENTAL PRIVILEGE LOG
(Dated December 31, 2008)

#	Bates No.	Date	From	To	Description	Privilege
100	Bailey 4874-4875	06/28/2004	Bailey	Haggard, Hodge, Miller, Pike, Rentz	Letter providing status report on activities concerning status of negotiations with and/or pursuit of claims against purchasing entities to collect on the notes and/or recover properties	Attorney-Client
101	Bailey 4876	07/08/2004	Bailey	Haggard	E-mail concerning Estate of Arthur Mercy	Attorney-Client; Work Product
102	Bailey 4877	07/23/2004	Haggard	Bailey	Letter concerning Estate of Arthur Mercy	Attorney-Client; Work Product
103	Bailey 4878	08/02/2004	Bailey	Haggard, Hodge, Miller, Pike, Rentz	Letter concerning AIMCO's unilateral cancellation of mediation	Attorney-Client
104	Bailey 4885-4886	undated	Bailey		Internal memorandum concerning overview of Palmetto Apartments, including sales price, amount of note, maturity date, and various property values	Work Product

PLAINTIFFS' SUPPLEMENTAL PRIVILEGE LOG
(Dated December 31, 2008)

#	Bates No.	Date	From	To	Description	Privilege
105	Bailey 4968	10/30/1998	Wildman	Davis	Letter enclosing copy of correspondence and requesting information concerning Palmetto Apartments	Attorney-Client; Work Product; Common Interest Privilege
106	Bailey 4980	02/09/1999	Davis	Wildman	Letter concerning efforts to approach general partners to pursue collection of notes or gain possession of properties	Attorney-Client; Work Product; Common Interest Privilege
107	Bailey 4993	undated	Davis	Bailey	Internal memorandum concerning tax assessments for Palmetto	Attorney-Client; Work Product
108	Bailey 4996	03/16/2000	Davis	James Ivey / Erin Ivey	Letter concerning investigation of claims against purchasing entities to collect on the notes and other alternatives	Common Interest Privilege
109	Bailey 4998	09/05/2000	Davis	Wildman, Bailey	Letter concerning efforts to approach general partners to pursue collection of notes or gain possession of properties	Attorney-Client; Common Interest Privilege
110	Bailey 4999	09/05/2000	Davis	Bailey	Letter concerning Palmetto Apartments	Attorney-Client

PLAINTIFFS' SUPPLEMENTAL PRIVILEGE LOG
(Dated December 31, 2008)

#	Bates No.	Date	From	To	Description	Privilege
111	Bailey 5002-5004	09/12/2000	Bailey	Wildman	Facsimile with attachments concerning proxie for Palmetto	Attorney-Client; Work Product
112	Bailey 5008-5012	09/12/2000	Wildman	Bailey	Facsimile with attachments concerning proxie for Palmetto	Attorney-Client; Work Product
113	Bailey 5016	09/14/2000	Wildman	Bailey	Letter with enclosures concerning proxie for Palmetto	Attorney-Client; Work Product
114	Bailey 5024	10/10/2000	Bailey	Adams	Letter providing copies of correspondence to/from Buchanan	Work Product
115	Bailey 5025	10/16/2000	Bailey	Clients	Letter concerning upcoming partnership meeting and proxies	Attorney-Client
116	Bailey 5028	11/02/2000	Bailey	Davis	with mortgage balances on notes for the subject limited partnerships (duplicate of Bailey 3512)	Attorney-Client
117	Bailey 5056	11/14/2000	Davis	Bailey	Fax letter concerning financial statements for Palmetto	Attorney-Client
118	Bailey 5062	03/16/2001	Wildman	Bailey	Fax letter attaching copy of letter from general partner	Attorney-Client; Work Product
119	Bailey 5064	03/26/2001	Bailey	Wildman	Fax cover letter	Attorney-Client; Work Product

PLAINTIFFS' SUPPLEMENTAL PRIVILEGE LOG
(Dated December 31, 2008)

#	Bates No.	Date	From	To	Description	Privilege
120	Bailey 5065-5069	02/09/2001	Bailey	Davis	Letter reporting on investigation activities concerning status of negotiations with and/or pursuit of claims against purchasing entities to collect on the notes and/or recover properties	Attorney-Client
121	Bailey 5071	11/28/2001	Wildman	Bailey	Letter asking for status report	Attorney-Client; Work Product
122	Bailey 5073	01/31/2002	Wildman	Bailey	Letter asking for status report	Attorney-Client; Work Product
123	Bailey 5074	11/28/2001	Wildman	Bailey	Letter asking for status report (Duplicate of Bailey 5071)	Attorney-Client; Work Product
124	Bailey 5080-5081	03/15/2002	Wildman	Bailey, Ivey	Fax letter enclosing copies of K-1's and disbursement checks	Attorney-Client; Work Product
125	Bailey 5088-5089	03/29/2002	Bailey	Davis	Fax letter concerning disbursement checks	Attorney-Client
126	Bailey 5092	04/08/2002	Wildman	Bailey	Fax letter concerning correspondence from Buchanan and disbursement checks	Attorney-Client; Work Product
127	Bailey 5094-5097	02/25/2003	Wildman	Bailey	Fax letter requesting status report	Attorney-Client; Work Product

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PLAINTIFFS' SUPPLEMENTAL PRIVILEGE LOG
(Dated January 2, 2009)

#	Bates No.	Date	From	To	Description	Privilege
128	Bailey 5098	04/21/2003	Wildman	Bailey, Ivey	Fax letter concerning status report and third-party contact with Mrs. Ivey	Attorney-Client; Work Product
129	Bailey 5102	04/29/2003	Wildman	Bailey, Davis, and Ivey	Letter enclosing executed fee agreement and addendum	Attorney-Client; Work Product
130	Bailey 5107-5108	06/29/2004	Bailey	Clients	Letter reporting on status of claims	Attorney-Client
131	Bailey 5109-5110	07/07/2004	Wildman	Bailey	Fax letter concerning mediation	Attorney-Client; Work Product
132	Bailey 5113	08/02/2004	Bailey	Davis, Ivey, McCarthy, Wildman	Letter concerning AIMCO's unilateral cancellation of mediation	Attorney-Client
133	Bailey 5114	09/07/2004	Davis	Bailey	Fax letter concerning meeting with attorney	Attorney-Client

PLAINTIFFS' SUPPLEMENTAL PRIVILEGE LOG
(Dated January 2, 2009)

INDEX

	IDENTIFICATION
All Limited Partners	Document does not differentiate and identify the name of each Plaintiff
Adams	Gregory B. Adams, L.L.M., J.S.D., Expert
Aughtman	Cathy Aughtman, Title Abstractor
Bailey	Joel D. Bailey, J.D., counsel for Plaintiffs
C. Bailey	Chandler Bailey, J.D., consulting counsel
Davis	Laurence H. Davis, Jr., Plaintiff
Griffin	Warren S. Griffin, limited partner in Lincoln, and client of Joel D. Bailey, J.D.
Haggard	Robert Haggard, J.D., counsel for Plaintiff Mercy
Hodge	W. Miles Hodge, President of Hodge Land Co., Inc, a Limited Partner
Ivey, Erin	Erin Ivey, Plaintiff
Ivey, James	James Ivey, Plaintiff
McCarthy	Marvin McCarthy, Plaintiff
Mercy	Arthur D. Mercy, Plaintiff – Jane Mercy, Plaintiff

PLAINTIFFS' SUPPLEMENTAL PRIVILEGE LOG
(Dated January 2, 2009)

	IDENTIFICATION
Miller	Jane Miller, Attorney-In-Fact for Plaintiff Mary Jane Pike
Pike	Mary Jane Pike, Plaintiff and James Pike, Attorney-In-Fact for Plaintiff Mary Jane Pike
Rentz	Rhoda G. Rentz, Plaintiff – Timothy Rentz, Attorney-In-Fact for Plaintiff Rhoda G. Rentz
Reynolds	Eva Marie Reynolds, Plaintiff
Robinson	William C. Robinson, CPA
Rowell	A. Hoyt Rowell, III, J.D., consulting attorney
Ruff	Harley D. Ruff, J.D., attorney
Weinberg	Mortimer M. Weinberg, Jr., J.D., Plaintiff
Wildman	Donald B. Wildman, J.D., counsel for Ivey

STATE OF SOUTH CAROLINA		IN THE COURT OF COMMON PLEAS
Laurance H. Davis, Jr., *et al.*, Plaintiffs, v. Parkview Apartments, a South Carolina Limited Partnership, *et al.*, Defendants.	))))	Beaufort County C.A. No. 2003-CP-07-726
Laurance H. Davis, Jr., *et al.*, Plaintiffs, v. Roosevelt Gardens, a South Carolina Limited Partnership, *et al.*, Defendants.	))))	Orangeburg County C.A. No. 2005-CP-38-1131
Rhonda G. Rentz, *et al.*, Plaintiffs, v. Orleans Gardens, a South Carolina Limited Partnership, *et al.*, Defendants.	))))	Charleston County C.A. No. 2005-CP-10-4229
Laurance H. Davis, Jr., *et al.*, Plaintiffs, v. Palmetto Apartments, a South Carolina Limited Partnership, *et al.*, Defendants.	))))	Beaufort County C.A. No. 2005-CP-07-1989
Carolina Management Corporation of Beaufort, *et al.*, Plaintiffs, v. Pinewood Park Apartments, a South Carolina Limited Partnership, *et al.*, Defendants.	)))))	Beaufort County C.A. No. 2005-CP-07-1990

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STIPULATION AND AGREEMENT BY AND AMONG COUNSEL FOR PLAINTIFFS AND DEFENDANTS

The Plaintiffs and Defendants in the above-captioned actions, through their respective counsel, have agreed and hereby stipulate that they will not now or hereafter pursue claims or arguments that the opposing party or parties have waived attorney-client privilege or work product protection for documents identified on their respective privilege logs based on when such documents were first identified on the parties' privilege logs in these actions. To the extent Plaintiffs and/or Defendants have previously pursued claims or arguments that the opposing

EXHIBIT tabbies 5

party or parties have waived attorney-client privilege or work product protection for documents identified on their respective privilege logs based on when such documents were first identified on the parties' privilege logs, such claims and arguments are hereby forever abandoned.

The Plaintiffs and Defendants acknowledge and agree that, by entering into this agreement and stipulation, each is forgoing a claim or argument that they believe is available to them in the above-captioned actions, and it would be patently unfair and unjust for the Plaintiffs or Defendants to pursue such claims or arguments with respect to any of the opposing party's documents when the opposing party has refrained from doing so in reliance on this mutual agreement and stipulation.

Further, this agreement and stipulation shall only apply to the claim or argument of waiver of privilege/work product protection based on when such documents were first identified on the parties' privilege logs in these actions, and shall not prevent Plaintiffs or Defendants from claiming or arguing waiver of privilege or work product protection on entirely different grounds.

WE SO AGREE AND STIPULATE:

Ellis M. Johnston, II, SC Bar # 3065
Calvin T. Vick, Jr., SC Bar #68187
HAYNSWORTH SINKLER BOYD, PA
Post Office Box 2048
Greenville, South Carolina 29602
(864) 240-3217

Attorneys for Defendants

1/29/06

Joel D. Bailey
BAILEY LAW FIRM
Post Office Box 1437
Beaufort, South Carolina 29901-1437
(843) 525-6090

1/29/06

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Beaufort, South Carolina 29902-5006
(843) 524-9500

Attorneys for Plaintiffs

PENDARVIS LAW OFFICES, P.C.
500 CARTERET STREET, SUITE A
BEAUFORT, SOUTH CAROLINA 29902-5066

THOMAS@PENDARVISLAW.COM

THOMAS A. PENDARVIS, J.D.
ADMITTED IN SC AND GA

TEL. 843.524.9500
FAX. 843.524.9501

February 22, 2006

VIA FACSIMILE AND US MAIL
Mott Talley
Circuit Court Administrator
SOUTH CAROLINA COURT ADMINISTRATION
1015 Sumter St., Suite 200
Columbia SC 29201

Re: Lawrence H. Davis, Jr., et al. v. Parkview Apartments, et al.
Lawrence H. Davis, Jr., et al. v. Palmetto Apartments, et al.
Carolina Management Corp. of Beaufort, et al. v. Pinewood Park Apts., et al.
Rhoda G. Rentz, et al. v. Orleans Gardens, et al.
Lawrence H. Davis, Jr., et al. v. Roosevelt Gardens, et al.

Dear Mr. Taley:

This is a follow-up to a telephone conversation we had earlier today, and also following up on a conversation I had with Deshields Smith on Tuesday, November 15, 2005, with regard to the steps and procedures necessary to consolidate for discovery and motion practice purposes five separate cases pending in three different counties spread between three judicial circuits. As we discussed, these five cases involve commercial disputes regarding the management of five apartment complexes with many entities in common on both sides of the disputes. During the conversations with you and earlier with Ms. Smith we also discussed the steps and procedures necessary with regard to assigning all of those cases to one judge.

I understood that Court Administration needed an identification of the five cases, the counties in which those cases are pending, and a formal request for consolidation and for assignment to a single judge. Ms. Smith also advised that the request should also state that counsel or all parties are in agreement with the proposal.

The subject cases are identified as follows:

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Case Style	County	Judicial Circuit #
Lawrence H. Davis, Jr., et al. v. Parkview Apartments, et al., 2003-CP-07-723	Beaufort	14th
Lawrence H. Davis, Jr., et al. v. Palmetto Apartments, et al., 2005-CP-07-1989	Beaufort	14th
Carolina Management Corporation of Beaufort, et al. v. Pinewood Park Apartments, 2005-CP-07-1990	Beaufort	14th
Rhoda G. Rentz, et al. v. Orleans Gardens, et al., 2005-CP-10-4229	Charleston	9th
Lawrence H. Davis, Jr., et al. v. Roosevelt Gardens, 2005-CP-38-1131	Orangeburg	1st

Counsel for all parties involved have been negotiating and discussing the steps and procedures necessary during these past few months. Counsel have agreed to the consolidation and we have discussed which judges would be best suited for these cases. Counsel for all parties propose that one of the following three judges be assigned to these complex cases. In no particular order, the three judges are the Honorable Doyet A. Early, III, the Honorable John E. Kinard, Jr., and the Honorable John M. Milling. Counsel could not agree between these three judges which would be best suited and would respectfully request that Court Administration choose between one of these three judges for assignment to this case.

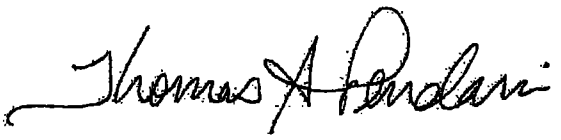
Because a hearing has been scheduled for early March in the *Roosevelt Gardens* case in Orangeburg, counsel for the parties plan on sending to letter to the Chief Administrative Judge for the first judicial circuit to advise of the instant request, and to ask that the hearing be postponed until such time as Court Administration has provided counsel with further direction on how to proceed.

Counsel for all parties reviewed this correspondence prior to transmittal to Court Administration, and will receive a contemporaneous copy of the same. Please let me know if you need any additional information and thank you in advance for your attention to this matter.

With kind regards, I remain

Sincerely,

PENDARVIS LAW OFFICES, P.C.



Thomas A. Pendarvis, J.D.

TAP\pdh

cc: Joel D. Bailey, J.D.
Ellis M. Johnston, II, J.D.

The Supreme Court of South Carolina

Lawrence H. Davis, Jr., et al.,		Plaintiffs,
Parkview Apartments, et al.,	v.	Defendants.
	Beaufort County 2003-CP-07-0723	
Lawrence H. Davis, Jr., et al.,		Plaintiffs,
Palmetto Apartments, et al.,	v.	Defendants.
	Beaufort County 2005-CP-07-1989	
Carolina Management Corporation of Beaufort, et. al,		Plaintiffs,
Pinewood Park Apartments,	v.	Defendants.
	Beaufort County 2005-CP-07-1990	
Rhoda G. Rentz, et al.,		Plaintiffs,
Orleans Gardens, et. al.,	v.	Defendants.
	Charleston County 2005-CP-10-4229	
Lawrence H. Davis, Jr., et al.,		Plaintiffs,
Roosevelt Gardens,	v.	Defendants.
	Orangeburg County 2005-CP-38-1131	

ORDER

Pursuant to the provisions of S. C. CONST. Art. V, § 4, I find that assigning a single circuit judge to dispose of all matters arising out of the apartment management litigation currently pending and to be filed in the state court system will

EXHIBIT 7

promote the effective and expeditious disposition of this litigation by uniform rulings and will conserve the resources of the parties, their counsel, and the judiciary. Therefore,

IT IS ORDERED that the Honorable Doyet A. Early, III is assigned to hear and decide all pre-trial motions and other matters pertaining to these cases, including the trial and post-trial motions. Judge Early may schedule necessary hearings at any time.

S/Jean Hoefer Toal

Jean Hoefer Toal
Chief Justice

March 7, 2006
Columbia, South Carolina

STATE OF SOUTH CAROLINA		IN THE COURT OF COMMON PLEAS
Laurance H. Davis, Jr., *et al.*, Plaintiffs, v. Parkview Apartments, a South Carolina Limited Partnership, *et al.*, Defendants.	)	Beaufort County C.A. No. 2003-CP-07-726
Laurance H. Davis, Jr., *et al.*, Plaintiffs, v. Roosevelt Gardens, a South Carolina Limited Partnership, *et al.*, Defendants.	)	Orangeburg County C.A. No. 2005-CP-38[illegible]
Rhonda G. Rentz, *et al.*, Plaintiffs, v. Orleans Gardens, a South Carolina Limited Partnership, *et al.*, Defendants.	)	Charleston County C.A. No. 2005-CP-10-4229
Laurance H. Davis, Jr., *et al.*, Plaintiffs, v. Palmetto Apartments, a South Carolina Limited Partnership, *et al.*, Defendants.	)	Beaufort County C.A. No. 2005-CP-07-1989
Carolina Management Corporation of Beaufort, *et al.*, Plaintiffs, v. Pinewood Park Apartments, a South Carolina Limited Partnership, *et al.*, Defendants.	)	Beaufort County C.A. No. 2005-CP-07-1990

FILED FOR RECORD
WINNIFA B. CLARK
CLERK OF COURT
ORANGEBURG, SC
2010 JUN 21 P 3:09

JERRI ANN ROSENEAU
BEAUFORT COUNTY, S.C.
CLERK OF COURT
2010 JUN 11 PM 3:21

ATTEST: TRUE COPY
Winnifa B. Clark
CLERK OF COURT
ORANGEBURG COUNTY, SC

AFFIDAVIT OF ELLIS M. JOHNSTON, II

Personally appeared before me, Ellis M. Johnston, II, who, being duly sworn, deposes and states as follows:

1. My name is Ellis M. Johnston, II. I am over the age of 18 years and am competent to testify to the matters contained herein based upon personal knowledge. I submit this Affidavit in opposition to Plaintiffs' Motion for Reconsideration of the Court's April 6, 2010 Order in the above-captioned cases. I have continually represented the Defendants in the above-

Certified - A True Copy
Jerri Ann Roseneau - Clerk of Court
Beaufort County, SC

EXHIBIT
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captioned actions since the time these lawsuits were filed. I have represented Pinewood Park Apartments, a South Carolina Limited Partnership, since October, 2002 (before the above-captioned Pinewood case was filed).

2. I have personal knowledge of the following e-mails, letters and other documents, true and correct copies of which are attached hereto as exhibits as indicated below. As indicated in each of the documents, I sent or received such documents to or from Joel Bailey on or about the date indicated on each respective document.

(a) letter, dated June 4, 2003, from the undersigned to Joel Bailey, attached hereto as Exhibit A;

(b) letter, dated June 27, 2003, from Joel Bailey to the undersigned, attached hereto as Exhibit B;

(c) letter, dated July 7, 2003, from the undersigned to Joel Bailey, attached hereto as Exhibit C;

(d) letter, dated August 27, 2003, from Joel Bailey to the undersigned, attached hereto as Exhibit D;

(e) letter, dated September 2, 2003, from the undersigned to Joel Bailey, attached hereto as Exhibit E;

(f) letter, dated September 7, 2003, from Joel Bailey to the undersigned, attached hereto as Exhibit F;

(g) letter, dated September 8, 2003, from the undersigned to Joel Bailey, attached hereto as Exhibit G;

(h) letter, dated September 17, 2003, from the undersigned to Joel Bailey, attached hereto as Exhibit H;

(i) letter, dated December 9, 2003, from the undersigned to Joel Bailey, attached hereto as Exhibit I;

(j) letter, dated December 22, 2003, from Joel Bailey to the undersigned, attached hereto as Exhibit J;

(k) letter, dated December 22, 2003, from the undersigned to Joel Bailey, attached hereto as Exhibit K;

(l) letter, dated July 9, 2004, from the undersigned to Joel Bailey, attached hereto as Exhibit L;

(m) letter, dated July 30, 2004, from the undersigned to Joel Bailey, attached hereto as Exhibit M;

(n) letter, dated March 16, 2007, from the undersigned to Thomas Pendarvis and Joel Bailey, attached hereto as Exhibit N;

(o) letter, dated March 21, 2007, from Joel Bailey to the undersigned, attached hereto as Exhibit O;

(p) e-mail, dated July 19, 2007, from the undersigned to Joel Bailey, Thomas Pendarvis, Ted Vick, and Eric Hilty; attached hereto as Exhibit P; and

(q) HUD Settlement Statement, attached hereto as Exhibit Q, a copy of which I provided to Joel Bailey via the July 19, 2007 e-mail attached hereto as Exhibit P (a copy was also provided to Plaintiffs' counsel on January 26, 2009, with the Bates stamp shown on the exhibit hereto).

3. The documents attached hereto as Exhibits A through Q are offered in rebuttal to the misrepresentations contained in Plaintiffs' Motion for Reconsideration of the April 6, 2010 Sanctions Order, and the affidavits filed by their attorneys in support of the Motion, concerning

my representation of the Pinewood limited partnership against the then-owner of the property and Plaintiffs' counsel's knowledge regarding the same.

Ellis M. Johnston, II

Subscribed and sworn to me
This 15 day of June, 2010

Notary Public of South Carolina
My Commission expires on 3/12/2019

#748587

STATE OF SOUTH CAROLINA		IN THE COURT OF COMMON PLEAS
Laurance H. Davis, Jr., *et al.*, Plaintiffs, v. Parkview Apartments, a South Carolina Limited Partnership, *et al.*, Defendants.	)	Beaufort County C.A. No. 2003-CP-07-726
Laurance H. Davis, Jr., *et al.*, Plaintiffs, v. Roosevelt Gardens, a South Carolina Limited Partnership, *et al.*, Defendants.	)	Orangeburg County C.A. No. 2005-CP-38-1131
Rhonda G. Rentz, *et al.*, Plaintiffs, v. Orleans Gardens, a South Carolina Limited Partnership, *et al.*, Defendants.	)	Charleston County C.A. No. 2005-CP-10-4229
Laurance H. Davis, Jr., *et al.*, Plaintiffs, v. Palmetto Apartments, a South Carolina Limited Partnership, *et al.*, Defendants.	)	Beaufort County C.A. No. 2005-CP-07-[illegible]
Carolina Management Corporation of Beaufort, *et al.*, Plaintiffs, v. Pinewood Park Apartments, a South Carolina Limited Partnership, *et al.*, Defendants.	)	Beaufort County C.A. No. 2005-CP-07-1990

2010 JUN 11 PM 3:22
JERRI ANN RUSENEAU
BEAUFORT COUNTY, S.C.
CLERK OF COURT

I HEREBY CERTIFY that true and correct copies of the attached **AFFIDAVIT OF ELLIS M. JOHNSTON, II** was served upon counsel of record via Federal Express this 7th day of June, 2010, addressed as follows:

Joel D. Bailey
The Bailey Law Firm
510 Ribaut Road
Beaufort, SC 29902

Thomas A. Pendarvis
Pendarvis Law Offices, P.C.
500 Carteret Street, Suite A
Beaufort, SC 29902-5066

Hugh G. Craddock
Paralegal to Calvin T. Vick, Jr.

June 7, 2010
Greenville, South Carolina



GREENVILLE | CHARLESTON COLUMBIA FLORENCE

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VIA U.S. MAIL, FACSIMILE and E-MAIL

June 4, 2003

Joel Bailey
Bailey Law Firm
705 Prince Street
Post Office Box 1437
Beaufort, South Carolina 29901-1437

Re: **Pinewood Park Apartments, a limited partnership**

Dear Joel:

I represent AmReal Corporation ("AmReal") and N. Barton Tuck, Jr., the general partners in Pinewood Park Apartments, a limited partnership (the "Partnership"). This letter is being addressed to your attention as you have informed AmReal that you represent all of the limited partners in the Partnership. For the past several years, Amreal has made proposals to the limited partners including the sale of the Partnership's note, the renegotiation of the note's terms, foreclosure on the Partnership's collateral, and the replacement of the existing general partners. Each proposal has been either rejected or ignored by the limited partners, with no alternative courses of action suggested.

Over the past 6 months, subject to the terms of the partnership agreement and any approvals it may require, the general partners have endeavored (1) to find a substitute general partner and (2) to negotiate a return of the physical property. The general partners have been unsuccessful in finding a substitute general partner. We are informed, however, that the current owner of the property is willing to substitute as collateral under the note, a mortgage on the property, in lieu of the presently existing collateral (i.e. the purchaser's limited partnership interest). If this is done, the partnership could then foreclose or take a deed in lieu of foreclosure, and again become owner of the property.

As the general partners have expressed in the past, and continue to believe today, they do not believe it is in the best interest of the Partnership to own and continue to operate the property. The general partners understand that the limited partners are of a contrary view. Accordingly, the general partners propose:

(1) that the limited partners immediately find a substitute general partner to whom the current general partners will relinquish their interest in the Partnership, and that the new general

EXHIBIT A

partner consummate the collateral substitution (or such other action as it may find appropriate); or,

(2) that the limited partners accept the resignation of the general partners at which time it is my understanding of South Carolina Law, the limited partnership would then become a general partnership, with the limited partners becoming general partners. These new general partners could then consummate the collateral substitution and foreclose, or take a deed in lieu of foreclosure, and become the owners of the physical property, or take such other action as they deem appropriate.

If the limited partners remain unwilling to authorize either of theses courses of action, or to suggest any other reasonable course of action, then the general partners will have no choice but to move to have the partnership terminated and that they be removed from the partnership by the courts.

Please inform me no later than June 11, 2003 of the limited partners' intentions regarding the partnership.

With kind regards, I remain,

Very truly yours,

Ellis M. Johnston, II

EMJ/kmf


B

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EMAIL ADDRESS:
BAILEYLAWFIRM@CHARTER.NET

June 27, 2003

Ellis M. Johnston, II, Esquire
Haynsworth Sinkler Boyd, P.A.
P.O. Box 2048
Greenville, South Carolina 29602-2048

Re: Pinewood Apartments Limited Partners vs. AIMCO, *et al.*

Dear Ellis:

Please be advised that I have now received a majority consensus from the limited partners of the Pinewood Apartments Limited Partnership, and am in a position to provide an initial response to your recent proposal to have the apartment complex in Allendale returned to the LP. The limited partners are interested in pursuing this goal, with certain *caveats*. In essence, the limited partners have been kept in the dark by the general partners concerning this matter for years and, before making this decision, additional information is required.

In this regard, please provide me with the following information at this time in order to assist the limited partners in making an informed decision regarding your proposal:

1. Identify specifically the persons or entities who currently own the subject real estate, and advise of any ties or affiliations, past or present, with any of our general partners;

2. List all liens, mortgages or other encumbrances which relate to the subject real estate, including the identities of the lienholders and the amount(s) of such lien(s);

3. Provide any documentation in the possession or control of the general partners which reflects the financial condition of the entity which purchased the property from our LP and, specifically, its ability and/or willingness to pay the current outstanding debt to the LP;

4. Provide documentation regarding the history and status of the HUD reserve account(s) relating to the subject property;

5. Provide the latest financial data for the subject property, showing cash flow, receipts, disbursements, appraisals of the property, and estimates of any immediate repairs or renovations needed;

EXHIBIT
B

Ellis M. Johnston, II, Esquire
[illegible]
Page Two

6. Set forth the current status of the subject property vis-a-vis HUD, i.e., is it still in the HUD program? If not, what happened to the HUD funds allocated for the property? If so, what is HUD's position regarding the reconveyance of the subject property?

It may be that additional information will be required before a final decision can be made regarding your proposal, but this information is certainly essential to enable the limited partners to intelligently discuss the proposal.

As you are aware, I am in the process of preparing a lawsuit on behalf of the limited partners against the general partners. Return of the subject property may or may not alleviate the necessity of that litigation, but it could certainly be a step in the right direction as, at the very least, it may serve to substantially mitigate our existing damages. Therefore, your prompt attention and cooperation in getting this information to us will be greatly appreciated.

With kindest regards, I am

Very truly yours,

THE BAILEY LAW FIRM, P.A.

Joel D. Bailey

JDB/lam

cc: Limited Partners


C

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July 7, 2003

Joel Bailey, Esq.
Bailey Law Firm
Post Office Box 1437
Beaufort, South Carolina 29901

Re: **Pinewood Park Apartments**
Our Client No. 11471-0007

Dear Joel:

Enclosed please find the following:

(1) Year end operating statements for the period ending December 25, 2002;
(2) Year to date operating statement for the period ending May 31, 2003; and
(3) a Phase One Environmental Site Assessment.

I would like to get this property transferred to the limited partners, this month.

Please advise of their desires.

With kind regards, I remain,

Very truly yours,

Ellis M. Johnston, II

EMJ/kmf
Enclosures

EXHIBIT
C


D

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August 27, 2003

Ellis M. Johnston, II, Esquire
Haynsworth Sinkler Boyd, P.A.
P.O. Box 2048
Greenville, South Carolina 29602-2048

Re: Pinewood Apartments Limited Partners vs. AIMCO, *et al.*

Dear Ellis:

This will confirm receipt of your letter of August 20th in the above-referenced matter. You correctly note that you wrote to me on June 4th concerning this limited partnership. While you also correctly state that this was over two months ago, I do not share the implication that there has been some sort of delay on our part. You will recall that I responded to your letter on June 27th, requesting specific information needed for the limited partners to evaluate your offer to have the real estate reconveyed to the Limited Partnership. You responded on July 2d, but your response did not specifically address some of the information we had requested. In that regard, please consider:

1. I asked for information regarding any ties or affiliations between the current owners and our general partners. You have provided no information responsive to that request.

2. I asked for the latest financial data on the subject property relative to cash flow, receipts, disbursements, appraisals and estimates of repairs or renovations needed. Your response was that the owner's attorney would check with the property manager and provide what information is available. I have now received some financial information for December 2002 and May 2003. Is this all you have which is responsive to this request?

3. I asked for information concerning HUD's position concerning the reconveyance. Your response was that you do not know. Obviously, this is a major concern, since the highest and best use of this property may well be as subsidized housing.

4. I asked for information concerning the HUD reserve funds. Your response was that these funds "have been released to the partnership, and have been used to take care of operating expenses." You do not say which partnership received these funds, but I assume it was not ours, since our general partners have not advised us of any monies recovered. This revelation raises additional questions which must be answered in order for us to make a decision on the reconveyance offer, including but not limited to the following:

EXHIBIT
D

a. How much money was available in these reserve accounts when the offer to reconvey the property was first made and how much was available when the most recent offer was made?

b. What operating expenses were taken care of with the HUD reserve account money?

c. The financial documents which you have recently provided indicate that the present owners have an account receivable due from their principals of over Ninety Eight Thousand ($98,000.00) Dollars. Did these principals "borrow" money from the operating account? Were the reserve monies used to fund these "loans?" Have these loans been repaid? Were the monies used to pay off the prior mortgages?

As you can see, the documents and information which the general partners finally gave us through you have raised many questions as they have answered. In order to address some of these issues, the limited partners met last week. Based on that meeting, I am prepared to respond to your offer to reconvey the property to the limited partners as follows:

1. The limited partners are willing to take the Pinewood Apartments property back, subject to the following conditions:

a. There must be no adverse tax consequences to the limited partners resulting from the reconveyance. In this regard, a CPA with knowledge of the past history of the Limited Partnership is being retained by the limited partners in order to evaluate the tax consequences to them, and will hopefully have an opinion for us in the very near future.

b. We require full Profit & Loss statements of the owner and manager relating to the operation of Pinewood Apartments from 1999 to date.

c. Provide restitution of the operating capital in a sum equal to the highest amount of any funds which were *or should have been* in the HUD reserve accounts between the due date of the note in 1999 and a like date in 2002, together with operating capital of the owner as of such dates. These funds are essential to the operation of the apartments, whether as subsidized or non-subsidized housing, and it makes no sense to have the property back without sufficient capital to operate them. These would have been assets of the owner subject to attachment had our general partners acted to protect our Limited Partnership as they promised they would.

d. The real estate must be returned *via* a General Warranty deed, free and clear of all liens and encumbrances.

Hillis M. Johnston, II, Esquire
August 28, 2003
Page Three

e. Return of the real estate and operating funds does not relieve or release the general partner from any existing liability to the limited partners but may be considered in mitigation of the total damages which may be due.

f. The general partners must waive and relinquish any claim or entitlement to the recovered real estate and operating funds, or to participate in any future disbursements to members of our Limited Partnership.

g. Upon completion of the transfer of the real estate and operating funds, the general partners will submit their resignation as general partners and transfer their interests in the Limited Partnership to such person(s) or entity as may be designated by the limited partners.

h. HUD must approve of this transfer and agree that the property may be continued as subsidized housing if the limited partners desire such continued use of the property.

2. Alternatively, the limited partners will accept a liquidated settlement of all claims equivalent to (a) the full amount due under the outstanding note as of three (3) years from the due date thereof in 2002, *or* (b) the fair market value of the real estate based upon its appraised highest and best use as of November 2002, together with (i) the highest sum which was in the HUD reserve and operating accounts between 1999 and 2002, and (ii) payment of their litigation costs and attorneys fees in this matter. The attorney's fee would be based upon 1/3 of the total value of the recovery to the limited partners as stated herein.

Please discuss this with your clients and advise me of your position at your earliest convenience.

With kindest regards, I am

Very truly yours,

THE BAILEY LAW FIRM, P.A.

Joel D. Bailey
JDB/lom

cc: Limited Partners



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VIA U.S. MAIL, FACSIMILE and E-MAIL

September 2, 2003

Joel Bailey
Bailey Law Firm
705 Prince Street
Post Office Box 1437
Beaufort, South Carolina 29901-1437
Fax No. (843)525-6070
E-Mail: baileylawfirm@charter.net

Re: Pinewood Park Apartments, a limited partnership

Dear Joel:

Receipt of your letter of August 27, 2003 is acknowledged. I will attempt to respond to your additional inquires, to the best of my ability. The numbers below correspond to those in your letter.

1. We are aware of no "tie or affiliation" between the current owners and the general partners, though I am not precisely sure what you mean by "tie or affiliation".

2. You have the latest financial information that we have available. As you are aware, the general partners are not the general partners of the present owners of the project.

3. I am unaware of what HUD's position might be. That may well depend on who the new general partner is, as well as other considerations. As attorney for the general partners of Pinewood Apartments limited partnership, I am afraid I just cannot answer the question for you.

4. You have all of the information that we have.

With regard to your first demand, I will respond to the lettered paragraphs as follows:

(a) The general partners cannot guarantee what, if any, tax consequences may occur from a reconveyance of the property.

(b) You have all of the financial information that we have, either provided to you by my earlier correspondence or produced to you.

EXHIBIT
E

(c) The general partners are not responsible for restitution of operating capital necessary for the apartments' continued operation.

(d) Agreed.

(e) If the limited partners feel that they have other claims against the general partners, then perhaps you should state what they are. However, the return of the real estate, as well as the 5% general partners' interest to the limited partners, is without condition.

(f) See (e) above.

(g) Agreed.

(h) The general partners cannot guarantee this.

Alternative 2 is rejected.

Joel, the general partners have done virtually everything that they could to satisfy the limited partners in this matter. They sought and obtained an offer to purchase the property, which apparently was rejected. They have obtained an offer to return the property to the partnership. Under the documents executed in 1984, these are essentially the only remedies available to the partnership.

Please give me a call upon receipt of this letter in order that we might finalize a transfer of the property, or decide what other avenue the limited partners might wish to pursue.

With kind regards, I remain,

Very truly yours,

Ellis M. Johnston, II

EMJ/kmf

P.S. You mentioned the implication in my letter of August 20 that you had been remiss in responding to my letter of June 4, because we had not fully responded to your letter of June 27, 2003. My response of July 2 and July 7, 2003, provided all information that we had available to us at this time. It was 8 weeks later that you claimed that that was insufficient.


F

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September 7, 2003
VIA FACSIMILE and U.S. MAIL

Ellis M. Johnston, II, Esquire
Haynsworth Sinkler Boyd, P.A.
P.O. Box 2048
Greenville, South Carolina 29602-2048

Re: Pinewood Apartments Limited Partners vs. AIMCO, *et al.*

Dear Ellis:

This will confirm receipt of your email in the above-referenced matter. The short answer is that the Limited Partners do want this property back. Unfortunately, due to the scarcity of information which has been provided to us by the General Partners, we are not in a position to agree to take the property back by the September 8th deadline you have imposed.

Our tax advisor has indicated that we will need considerable financial data relating to the operation of this partnership in order to determine the extent of any tax consequences associated with the return of the property. We have requested a portion of this data, but it has not been provided by the General Partners. We feel this is the type of data which should have been secured by the General Partners as part of their due diligence in seeking to have the property reconveyed to our Limited Partnership.

If the present owners are willing to cooperate fully concerning our request for financial information, and to extend their current deadline, we will be glad to explore further the possibility of the return of the property. Otherwise, we will continue to look to the General Partners for compensation for the damages sustained by the Limited Partners.

In this regard, I have not heard from you concerning any of the details which you proposed at our last meeting in Beaufort. If you still wish to seek a combined settlement along the lines discussed in our last meeting, please advise me. I will be out of the office all week, but will be back on Monday, September 15th. With kindest regards, I am

Very truly yours,

THE BAILEY LAW FIRM, P.A.

Joel D. Bailey
JDB/lom
cc: Limited Partners
John P. Linton, Esquire

EXHIBIT
F


G

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VIA FACSIMILE and U.S. MAIL

September 8, 2003

Joel Bailey
Bailey Law Firm
705 Prince Street
Post Office Box 1437
Beaufort, South Carolina 29901-1437
Fax No. (843)525-6070

Re: **Pinewood Park Apartments, a limited partnership**

Dear Joel:

Receipt of your letter of September 7, 2003 is acknowledged. I am not certain that I will be able to obtain an additional extension of the Tolling Agreement, but will endeavor to do so.

What specific information does your tax advisor need? We have provided year end operating statements, and operating statements through May, 2003. This was done in June or July, if memory serves me correctly.

Please be advised that I did not impose a September 8 deadline. That is when the Tolling Agreement expires.

The tone of your letter implies that the limited partners are more interested in a lawsuit, than a return of the property.

With kind regards, I remain,

Very truly yours,

Ellis M. Johnston, II

EMJ/kmf

EXHIBIT
G


H

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September 17, 2003

Joel Bailey
Bailey Law Firm
705 Prince Street
Post Office Box 1437
Beaufort, South Carolina 29901-1437

Re: Pinewood Park Apartments, a limited partnership

Dear Joel:

This letter will confirm our telephone conversation of September 17, 2003 with regard to the above. As I discussed, I have been able to obtain a short extension from the current owners. Under the current proposal, there would be a substitution of collateral (mortgage on the property in substitution of the present interest in the purchasers' limited partnership). If this is accomplished, then the limited partners may take a deed in lieu of foreclosure and have the property returned to them.

As I also mentioned to you, the attorney for the present owners mentioned that they might have some interest in purchasing the property to avoid adverse tax consequences. I do not know how adverse those consequences would be to the present owners. It would seem that they would only have two years of accrued but unpaid interest payable, and even with accelerated depreciation, I don't think the tax consequences would be that severe. But, again, neither you nor I are tax attorneys.

In any event, I have e-mailed the owners' attorney and asked what amount they might be willing to pay.

With kind regards, I remain,

Very truly yours,

Ellis M. Johnston, II

EMJ/kmf

EXHIBIT
H



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December 9, 2003

Joel Bailey, Esq.
Bailey Law Firm
705 Prince Street
Post Office Box 1437
Beaufort, South Carolina 29901-1437

Re: Pinewood Park Apartments, a limited partnership

Dear Joel:

I have finally heard back from the current owner's attorney with respect to possible purchase of the project. Their offer was $300,000.00. Please let me know on or before December 15, 2003 as to what your clients wish to do. The options are to accept the $300,000.00, or to take the property back.

With kind regards, I remain,

Very truly yours,

Ellis M. Johnston, II

EMJ/kmf

cc: Johnny Linton
Haynsworth Sinkler Boyd, P.A.
Post Office Box 340
Charleston, South Carolina 29402

Patricia Banks Morrison
Haynsworth Sinkler Boyd, P.A.
Post Office Box 340
Charleston, South Carolina 29402

EXHIBIT
I


J

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December 22, 2003

VIA FACSIMILE and U.S. MAIL

Ellis M. Johnston, II, Esquire
Haynsworth Sinkler Boyd, P.A.
P.O. Box 2048
Greenville, South Carolina 29602-2048

Re: Pinewood Apartments Limited Partners vs. AIMCO, *et al.*

Dear Ellis:

This will confirm receipt of your letter of December 19th in the above-referenced matter. I have forwarded the same to my clients and have received responses from all but Judge Rawl. Their decision is that, as indicated to you in September, the Limited Partners do want this property back, but not based upon the scarcity of information which has been provided to us by the General Partners. For example, we have still not received the financial data relating to the operation of this partnership which we requested from the General Partners in order to determine the extent of any tax consequences associated with the return of the property.

Furthermore, return of the property without return of the monies in the HUD reserve and the operating accounts is not satisfactory. If we can come to a resolution regarding the return of these funds, to which our Limited Partnership would have been entitled had the General Partners pursued the litigation promised, return of the underlying real estate may be a viable settlement option. Otherwise, it probably is not.

With respect to the offer of $300,000.00, we have likewise not been provided with any reliable documentation to support such an offer. As you know, AIMCO's own appraisal of this property was over three (3) times that amount. I feel that my clients would be willing to discount the fair market value slightly in order to avoid future litigation costs, but a 2/3 reduction is not acceptable. Accordingly, we must reject the $300,000.00 offer. If your clients are interested in a counter-proposal, I will be happy to discuss this with my clients.

Very truly yours,

THE BAILEY LAW FIRM, P.A.

Joel D. Bailey
JDB/lom
cc: Limited Partners
John P. Linton, Esquire

EXHIBIT
J


K

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December 22, 2003

VIA U.S. MAIL and FACSIMILE

December 19, 2003

Joel Bailey, Esq.
Bailey Law Firm
705 Prince Street
Post Office Box 1437
Beaufort, South Carolina 29901-1437
Fax No. (843)525-6070

Re: **Pinewood Apartments, Limited Partners**

Dear Joel:

Receipt of your letter of December 22, 2003 is acknowledged. I am still not certain whether the limited partners want the property back. Your letter is not very specific.

As explained to you in prior correspondence, return of the property to the limited partners is not in return for a general release by them of the general partners, or anything else. I assume the general partners, because they are giving up their interest in the partnership properties, would be entitled to a credit for the value of their interest, should any litigation ensue.

Further, you have all of the information that we have. We are not the owners in possession of these properties. We have provided to the limited partners all of the information that we have available to us.

Unless I hear differently from you, we will pursue the return of the property to the limited partners.

With kind regards, I remain,

Very truly yours,

Ellis M. Johnston, II

EMJ/kmf

EXHIBIT
K



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VIA FEDERAL EXPRESS

July 9, 2004

Joel Bailey, Esq.
Bailey Law Firm
705 Prince Street
Beaufort, South Carolina 29901-1437

Re: Pinewood Apartments, Limited Partners

Dear Joel:

Enclosed please find a Loan Modification, Substitution of Collateral, Mortgage, and Security Agreement in connection with Pinewood Park Apartments. In negotiations with the purchaser, Pinewood Housing Limited Partnership, it has agreed to this Loan Modification, Substitution of Collateral, Mortgage, and Security Agreement.

As you have indicated that you represent the limited partners in Pinewood Park Apartments, I would appreciate your review and any comments you may have with respect to the enclosed document.

I have spoken with Alex Park of Ernst & Young, and it is his belief that execution of this agreement would constitute a material modification of the original note, and may therefore be a "taxable event" to the partnership. He informed me, that the same result would occur, if we sued the purchasing limited partnership, were successful in the lawsuit, and received its interest in Pinewood Park Apartments.

We would like to conclude this matter before the end of July. Please provide your comments at your earliest convenience.

With kind regards, I remain,

Very truly yours,

Ellis M. Johnston, II

EMJ/kmf
Enclosures

AMREAL 013489

EXHIBIT
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M

GREENVILLE | CHARLESTON COLUMBIA FLORENCE

Haynsworth Sinkler Boyd, P.A. | ATTORNEYS AND COUNSELORS AT LAW

ELLIS M. JOHNSTON, II
DIRECT DIAL NUMBER (864)240-3217
EMAIL [redacted]

75 BEATTIE PLACE, 11TH FLOOR (29601-2110)
POST OFFICE BOX 2048 (29602-2048)
GREENVILLE, SOUTH CAROLINA
TELEPHONE 864.240.3200
FACSIMILE 864.240.3300
www.hsblawfirm.com

VIA U.S. MAIL and FACSIMILE

July 30, 2004

Joel Bailey
Bailey Law Firm
705 Prince Street
Post Office Box 1437
Beaufort, South Carolina 29901-1437
Fax No. (843)525-6070

Re: Parkview Apartments, et al vs. AIMCO, et al
Our Client/Matter No. 11471-0010

Dear Joel:

Receipt of your fax letter of July 29, 2004 is acknowledged. I would like to clarify several things. First, as I expressed to you earlier and in our conversation of July 29, 2004, my clients are willing to proceed with mediation. However, they are not willing to do so based on the information which has been developed to date, to include Chris Denato's appraisals. As I expressed, those appraisals, as well as values placed on other properties which were to be subject to the mediation, do not have sufficient historical data upon which a reasonable person might make a determination as to their value at the appropriate dates. For that reason, and that reason only, we were unwilling to proceed on the dates chosen. We did discuss trying to mediate in mid October, and, if sufficient information can be developed, would like to proceed at that time.

I will attempt to respond to your discovery requests on or before August 20, 2004.

I am developing a proposed scheduling order, and will e-mail it to you as soon as it has been completed.

With respect to your request that I accept service of the lawsuits except the one for Pinewood, I will ask my client if I have permission to do so, and will advise.

It probably makes sense to consolidate, for the purposes of discovery only, the other potential lawsuits. However, each of those lawsuits will have various other defenses, and venue issues. I think we will need to work through those, before consolidation.

My view of Chris Denato's bill, is that we should pay it. Though I have problems with his appraisals, this is probably a result of his lack of historical information. Though that historical information may be to the detriment of my client, or yours, our inability to furnish it to him is not his fault. It may well be that, after we have the historical information, and both sides have had

EXHIBIT M

an opportunity to discuss it with him, that he can still act as an independent appraiser for both sides.

Finally, with respect to Pinewood, as I have discussed on a number of occasions before with you, the property is available for the partnership to take back. Thus far, despite my requests that your clients tell us what they want to do, you have not indicated whether your clients are willing to take it back, or not, accept the loan modification agreement, sell the note, or what. Accordingly, the general partner will exercise its best judgment as to how to proceed.

With kind regards, I remain,

Very truly yours,

Ellis M. Johnston, II

EMJ/kmf

cc: Johnny Linton
Haynsworth Sinkler Boyd, P.A.
Post Office Box 340
Charleston, South Carolina 29402

Patricia Banks Morrison
Haynsworth Sinkler Boyd, P.A.
Post Office Box 340
Charleston, South Carolina 29402

AMREAL 013496


N

GREENVILLE | CHARLESTON COLUMBIA FLORENCE

Haynsworth Sinkler Boyd, PA | ATTORNEYS AND COUNSELORS AT LAW

ELLIS M. JOHNSTON, II
DIRECT DIAL NUMBER (864)240-3217
EMAIL ejohnston@hsblawfirm.com

75 BEATTIE PLACE, 11TH FLOOR (29601-2119)
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GREENVILLE, SOUTH CAROLINA
TELEPHONE 864.240.3200
FACSIMILE 864.240.3300
www.hsblawfirm.com

VIA FEDERAL EXPRESS and E-MAIL

March 16, 2007

Thomas A. Pendarvis
Pendarvis Law Office, P.C.
500 Carteret Street, Suite A
Beaufort, South Carolina 29902-5006
E-Mail: Thomas@PendarvisLaw.com

Joel Bailey
The Bailey Law Firm
510 Ribaut Road
Post Office Box 1437
Beaufort, South Carolina 29901-1437
E-Mail: Baileylawfirm@charter.net

Re: Pinewood

Dear Thomas and Joel:

I enclose three items which I would appreciate you forwarding to your clients.

(1) The current owners of Pinewood have a contract with an unaffiliated third party for the sale of the property for the gross amount of $500,000, subject to Pinewood Park Apartments Limited Partnership's ("Partnership") approval. I enclose a copy.

(2) I enclose an e-mail from Roger C. Hartman laying out the proposed disposition of the proceeds of that sale. As you will see, the sale price is $500,000, with estimated escrow, closing costs, and seller's legal fees being $45,000 leaving net proceeds of $455,000. The net to the Partnership (labeled "AIMCO loan payoff") would be $425,000.

(3) An appraisal of Pinewood with detailed attachments reflecting the financial condition of the property. The appraised value is $525,000.

Although the general partner of the Partnership has the authority under the terms of the limited partnership agreement to sell or exchange all or any part of the real property owned by the partnership and to sue on and/or compromise the Partnership's claim on the 1984 Note, my client desires for the limited partners of the Partnership to advise it whether they (a) approve the proposed sale to an unaffiliated third-party under the conditions outlined above allowing the Partnership to recover $425,000 of its non-recourse note, or (b) foreclose on its secured interest to take back ownership of the property.

EXHIBIT N

Option A: Under this option, it would be the new buyer's responsibility to obtain HUD approval of the transfer of ownership interest. Although the Partnership would incur some transaction costs going forward, those costs would be minimal. Because the general partner believes that this option maximizes the Partnership's sole remaining asset (the Note), the general partner recommends that the Partnership approve the sale.

Option B: As we have discussed on numerous occasions over the past years, the Partnership may exercise its ability to take the property back. The limited partners should be aware, however, that should the property be transferred back to the limited partnership, there would be transactional costs incurred by the partnership associated with taking the property back. There would be further transactional costs associated with obtaining 2530 HUD approval for the Partnership to own the property once again. Additionally, the individual limited partners that have 25% interests (Jackson, Hinnant, and Rawl) would individually need to receive HUD 2530 approval. Once the Partnership owned the property again, in order to liquidate the asset, the Partnership would incur additional transaction costs associated with a sale.

I will need a response from the limited partners indicating which option they prefer no later than March 29, 2007.

With kind regards, I remain,

Very truly yours,

Ellis M. Johnston, II

EMJ/kmh
Enclosures



THE
BAILEY LAW FIRM
A PROFESSIONAL ASSOCIATION
THE ELLIS THOMPSON MEMORIAL BUILDING · 1001 BAY STREET
POST OFFICE BOX 1437 · BEAUFORT, SOUTH CAROLINA 29901-1437
PHONE: 843.525.6090
FAX: 843.525.6070
EMAIL ADDRESS:
BAILEYLAWFIRM@CHARTER.NET

March 21, 2007

VIA TELECOPIER AND FIRST CLASS MAIL

Ellis M. Johnston, II, J.D.
HAYNSWORTH SINKLER BOYD, P.A.
P.O. Box 2048
Greenville SC 29602

Re: Pinewood Apartments in Allendale

Dear Ellis:

Thank you for your correspondence dated March 16, 2007, with its enclosures, proposing that my clients either approve the Partnership's proposed sale of Pinewood Park Apartments or for the Partnership to proceed with foreclosure on its secured interest to take back ownership of the property. Thomas Pendarvis and I met today concerning your proposal, and we wanted to get back with you as quickly as possible, given the March 29th deadline you set for our response.

As has been the case with previous sales proposals, the proposed transaction and accompanying materials raise quite a number of material questions, the answers to which are critical and necessary before my clients can respond to your proposal. We are in the process of disseminating your materials to the Limited Partners, but we are certain that we will not be able to meet with our clients and have an informed decision responding to your proposal by your deadline of March 29, 2007. The deadline simply does not give us sufficient time to evaluate and respond; as you know, this is a very complex, multifaceted proposal concerning a real estate limited partnership with over 30 years of history, all of which is further compounded by issues involved with the pending litigation.

We believe the Limited Partners need additional information in order to properly evaluate and respond to the proposal. For example, more information is needed about the valuation and appraisal that was included with your March 16, 2007 correspondence; the AIMCO loan, promissory note, etc.; the current ownership of the property; and current financial information regarding the Pinewood Apartments. Also, we believe the most efficient means by which this information can be obtained would be to take "limited depositions" of the appraisers, representatives of the current owners of the property, and the on-site manager. By "limited depositions" we mean very abbreviated depositions limited to issues directly related to the proposed transactions, with leave for any party to resume the deposition in the event the sale was not consummated and the lawsuit was not resolved. In addition, and assuming we reach agreement on taking these depositions, we would also need copies of some of the documents and materials related to these issues. With such limitations in place and provided all of the deponents can be made available at one location, we believe that all of these depositions can be taken in one day.

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Haynsworth Sinkler Boyd, P.A.
Date Rec'd 21 Mar 07
D/M #1147-0007
Docketed
ID#

Please let us know as soon as possible if you and your clients are amenable to our proposal and if so we will provide you with a short list of the documents and materials needed for these depositions. Also, if you concur with this opinion, please let us know if your firm's counsel would be present at one location on a single date. We would have no objection, for example, to doing the depositions at any of your firm's offices. Again, assuming we are able to reach agreement on this limited discovery proposal and those depositions proceed as proposed, we believe the Limited Partners would be able to respond to the transaction proposed in your March 16, 2007 correspondence within seven to 10 days of the depositions.

Looking forward to your response and with kind regards, I remain

Sincerely,

THE BAILEY LAW FIRM, P.A.

Joel D. Bailey
JDB/lom

cc: Thomas A. Pendarvis, J.D. (via e-mail)
Calvin T. Vick, J.D. (via e-mail)


P

Johnston, Ellis

From: Thomas A. Pendarvis
Sent: Thursday, July 19, 2007 06:12 PM
To: Johnston, Ellis
Subject: RE: FW: Pinewood Closing.

Thank you very much.

Thomas A. Pendarvis
PENDARVIS LAW OFFICES, P.C.
500 Carteret St., Suite A
Beaufort, SC 29902-5066
843.524.9500 tel.
843.524.9501 fax.
Thomas@PendarvisLaw.com

-----Original Message-----
From: Johnston, Ellis
Sent: Thursday, July 19, 2007 3:16 PM
To: Thomas A. Pendarvis

forgot to send to you. sorry.
-----Original Message-----
From: Johnston, Ellis
Sent: Thursday, July 19, 2007 1:49 PM
To: Joel D. Bailey, J.D.; Vick, Ted; 'Hilty, Eric (Denver)'
Subject: FW: Pinewood Closing.

Joel, attached is the HUD closing statement for Pinewood. We are looking at the expenses to the partnereship in connection with this transaction and will let you know what they are.
-----Original Message-----
From: Roger C. Hartman [mailto:rhartman@haalaw.com]
Sent: Friday, July 06, 2007 3:07 PM
To: Hilty, Eric (Denver); Johnston, Ellis
Cc: Thomas Mann
Subject: Pinewood Closing.

Dear Eric and Ellis,

The sale of Pinewood Apartments closed on Thursday July 5, 2007. Attached hereto is a copy of the HUD-1 settlement statement.

You will note that the HUD-1 specifies that $425,000 was to be sent to Aimco. That Settlement Statement also provided that the sum of $3,891.00 was to be paid to Seller. This latter sum was inadvertently combined with the $425,000 and sent to AIMCO's bank. Please confirm that AIMCO acknowledges that they are only entitled to $425,000 pursuant to the Note Satisfaction Agreement. Please also advise me if you wish to return the excess to the escrow agent, or forward it to my Clients Trust Account.

Your earliest reply will be appreciated.

Roger

ROGER C. HARTMAN
HARTMAN AND ASSOCIATES
12401 Wilshire Blvd. Suite 200
Los Angeles, CA 90025
Voice: (310) 207-9100
Facsimile (310) 207-5101
Mobile (310) 710-1200

EXHIBIT
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CONFIDENTIALITY NOTICE:This e-mail and any files transmitted with it are confidential and may contain information which is legally privileged or otherwise exempt from disclosure. They are intended solely for the use of the individual or entity to whom this e-mail is addressed. If you are not one of the named recipients or otherwise have reason to believe that you have received this message in error, please immediately notify the sender and delete this message immediately from your computer. Any other use, retention, dissemination, forwarding, printing, or copying of this e-mail is strictly prohibited.

IRS CIRCULAR 230 NOTICE: Internal Revenue Service regulations generally provide that, for the purpose of avoiding federal tax penalties, a taxpayer may rely only on formal written advice meeting specific requirements. Any tax advice in this message, or in any attachment to this message, does not meet those requirements. Accordingly, any such tax advice was not intended or written to be used, and it cannot be used, for the purpose of avoiding federal tax penalties that may be imposed on you or for the purpose of promoting, marketing or recommending to another party any tax-related matters. mmcorp

Attachment(s): Roger C. Hartman.vcf; Pinewood HUD-1 Executed.pdf


Q

A. U.S. DEPARTMENT OF HOUSING & URBAN DEVELOPMENT **SETTLEMENT STATEMENT**	B. TYPE OF LOAN: 1. ☐ FHA 2. ☐ FmHA 3. ☒ CONV. ☐ 4. ☐ VA 5. ☐ CONV. INS. 6. FILE NUMBER: 8188:GRAND INVEST 8. MORTGAGE INS CASE NUMBER:

C. NOTE: This form is furnished to give you a statement of actual settlement costs. Amounts paid to and by the settlement agent are shown. Items marked "(POC)" were paid outside the closing; they are shown here for informational purposes and are not included in the totals. 1.0 GSI (GRAND INVEST)

D. NAME AND ADDRESS OF BORROWER:	E. NAME AND ADDRESS OF SELLER:	F. NAME AND ADDRESS OF LENDER:
GRAND INVESTMENTS LIMITED PARTNERSHIP 1322 GADSDEN STREET COLUMBIA, SC 29201	PARKSIDE VILLAGE LIMITED and PARTNERSHIP 12401 WILSHIRE BLVD STE 200 LOS ANGELES, CA 90025	AM

G. PROPERTY LOCATION:	H. SETTLEMENT AGENT:	I. SETTLEMENT DATE:
PINEWOOD APARTMENTS ALLENDALE, SC ALLENDALE County, South Carolina JOHN B. MCPHERSON APRIL 15, 1972 Plat Book at page	MANN & MCGEE, LLC PLACE OF SETTLEMENT 1527 RICHLAND STREET COLUMBIA, SC 29201	July 2, 2007

J. SUMMARY OF BORROWER'S TRANSACTION			K. SUMMARY OF SELLER'S TRANSACTION		
100. GROSS AMOUNT DUE FROM BORROWER:			400. GROSS AMOUNT DUE TO SELLER:		
101. Contract Sales Price		500,000.00	401. Contract Sales Price		500,000.00
102. Personal Property			402. Personal Property		
103. Settlement Charges to Borrower (Line 1400)		65,833.81	403. LEAD PAINT & SEC DEPOSITS		25,000.00
104.			404.		
105.			405.		
Adjustments For Items Paid By Seller in advance			*Adjustments For Items Paid By Seller in advance*		
106. City/Town Taxes	to		406. City/Town Taxes	to	
107. County Taxes	to		407. County Taxes	to	
108. Assessments	to		408. Assessments	to	
109.			409.		
110.			410.		
111.			411.		
112.			412.		
120. GROSS AMOUNT DUE FROM BORROWER		565,833.81	420. GROSS AMOUNT DUE TO SELLER		525,000.00
200. AMOUNTS PAID BY OR IN BEHALF OF BORROWER:			500. REDUCTIONS IN AMOUNT DUE TO SELLER:		
201. Deposit or earnest money		20,000.00	501. Excess Deposit (See instructions)		
202. Principal Amount of New Loan(s)		550,000.00	502. Settlement Charges to Seller (Line 1400)		501,109.00
203. Existing loan(s) taken subject to			503. Existing loan(s) taken subject to		
204.			504. Payoff of first Mortgage		
205.			505. Payoff of second Mortgage		
206.			506. Deposit retained by seller		20,000.00
207.			507.		
208.			508.		
209.			509.		
Adjustments For Items Unpaid By Seller			*Adjustments For Items Unpaid By Seller*		
210. City/Town Taxes	to		510. City/Town Taxes	to	
211. County Taxes	to		511. County Taxes	to	
212. Assessments	to		512. Assessments	to	
213.			513.		
214.			514.		
215.			515.		
216.			516.		
217.			517.		
218.			518.		
219.			519.		
220. TOTAL PAID BY/FOR BORROWER		570,000.00	520. TOTAL REDUCTION AMOUNT DUE SELLER		521,109.00
300. CASH AT SETTLEMENT FROM/TO BORROWER:			600. CASH AT SETTLEMENT TO/FROM SELLER:		
301. Gross Amount Due From Borrower (Line 120)		565,833.81	601. Gross Amount Due To Seller (Line 420)		525,000.00
302. Less Amount Paid By/For Borrower (Line 220)		(570,000.00)	602. Less Reductions Due Seller (Line 520)		(521,109.00)
303. CASH (FROM) (X TO) BORROWER		4,166.19	603. CASH (X TO) (FROM) SELLER		3,891.00

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EXHIBIT

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L. SETTLEMENT CHARGES

			PAID FROM BORROWER'S FUNDS AT SETTLEMENT	PAID FROM SELLER'S FUNDS AT SETTLEMENT
700. TOTAL COMMISSION Based on Price $ @ %				
Division of Commission (line 700) as Follows:				
701. $ to				
702. $ to				
703. Commission Paid at Settlement				
704.	to			
800. ITEMS PAYABLE IN CONNECTION WITH LOAN				
801. Loan Origination Fee 0.1818 %	to AMERIS BANK		1,000.00	
802. Loan Discount %	to			
803. Appraisal Fee	to AMERIS BANK		3,200.00	
804. Credit Report	to			
805. PROCESSING FEE	to AMERIS BANK		150.00	
806. FLOOD CERT FEE	to			
807. EXPRESS MAIL FEE	to			
808. TAX/SERVICE FEE				
809. UNDERWRITING FEE				
810. DOC PREP FEE				
811. SERVICE FEE PREMIUM				
900. ITEMS REQUIRED BY LENDER TO BE PAID IN ADVANCE				
901. Interest From 07/02/07 to 08/01/07 @ $ /day (30 days %)				
902. Mortgage Insurance Premium for months to				
903. Hazard Insurance Premium for 1.0 years to				
904.				
905.				
1000. RESERVES DEPOSITED WITH LENDER				
1001. Hazard Insurance	months @ $	per month		
1002. Mortgage Insurance	months @ $	per month		
1003. City/Town Taxes	months @ $	per month		
1004. County Taxes	months @ $	per month		
1005. Assessments	months @ $	per month		
1006.	months @ $	per month		
1007.	months @ $	per month		
1008. AGGREGATE ESCROW				
1100. TITLE CHARGES				
1101. Settlement or Closing Fee	to MANN & MCGEE		1,500.00	
1102. Abstract or Title Search	to TITLE ABSTRACTORS OF COLUMBIA		350.00	
1103. RESIDUAL NOTE FINANCING	to AIMCO PROPERTIES, LP			425,000.00
1104. Title Insurance Binder	to MANN & MCGEE, LLC		95.00	
1105. ATTORNEY'S FEES	to HARTMAN & ASSOCIATES			60,000.00
1106. EXPRESS MAIL/FAX FEE	to MANN & MCGEE, LLC		45.00	45.00
1107. E-MAIL /COPY FEE	to MANN & MCGEE, LLC		40.00	
(Includes above item numbers:				
1108. Title Insurance	to INVESTORS TITLE INSURANCE COMPANY		1,150.00	
(Includes above item numbers:		1,150.00		
1109. Lender's Coverage	$ 650,000.00			
1110. Owner's Coverage	$ 650,000.00			
1111.				
1112.				
1113.				
1200. GOVERNMENT RECORDING AND TRANSFER CHARGES				
1201. Recording Fees: Deed $ 10.00; Mortgage $ 25.00;	Releases $		35.00	
1202. City/County Tax/Stamps: Deed	; Mortgage			1,850.00
1203. State Tax/Stamps: Revenue Stamps	1,850.00; Mortgage			20.00
1204. MISSING DEEDS	to ALLENDALE COUNTY TREASURER			
1205. SATISFACTION				
1300. ADDITIONAL SETTLEMENT CHARGES				
1301. Survey	to			
1302. Pest Inspection	to			19,420.00
1303. LEAD PAINT CONTRACTS	to GRAND INVESTMENTS, LLP		58,280.81	
1304. PURCHASE OF CONTRACT RIGHTS	to TED O. MCGEE, JR.			4,774.00
1305. SECURITY DEPOSITS	to GRAND INVESTMENTS		66,833.81	501,109.00
1400. TOTAL SETTLEMENT CHARGES (Enter on Lines 103, Section J and 502, Section K)				

By signing page 1 of this statement, the signatories acknowledge receipt of a complete copy of Page 2 of this two page statement.

MANN & MCGEE, LLC
Settlement Agent

Certified to be a true copy.

[5199 GRAND INVEST / 5199 GRAND INVEST / 17]

AMREAL_017854

ACKNOWLEDGMENT OF RECEIPT OF SETTLEMENT STATEMENT

Borrower:	GRAND INVESTMENTS LIMITED PARTNERSHIP
Seller:	PARKSIDE VILLAGE LIMITED and PARTNERSHIP
Lender:	AMERIS BANK
Settlement Agent:	MANN & MCGEE, LLC (803)252-2376
Place of Settlement:	1527 RICHLAND STREET COLUMBIA, SC 29201
Settlement Date:	July 2, 2007
Property Location:	PINEWOOD APARTMENTS ALLENDALE, SC ALLENDALE County, South Carolina JOHN B. MCPHERSON APRIL 15, 1972 Plat Book al page

I have carefully reviewed the HUD-1 Settlement Statement and to the best of my knowledge and belief, it is a true and accurate statement of all receipts and disbursements made on my account or by me in this transaction. I further certify that I have received a copy of the HUD-1 Settlement Statement.

GRAND INVESTMENTS LIMITED PARTNERSHIP

BY: Richard B. Mc
President

ATTEST:

Secretary/Treasurer

PARKSIDE VILLAGE LIMITED

PARTNERSHIP

By Roger C. Hartman, Attorney for Seller

To the best of my knowledge, the HUD-1 Settlement Statement which I have prepared is a true and accurate account of the funds which were received and have been or will be disbursed by the undersigned as part of the settlement of this transaction.

MANN & MCGEE, LLC
Settlement Agent

WARNING: It is a crime to knowingly make false statements to the United States on this or any similar form. Penalties upon conviction can include a fine and imprisonment. For details see: Title 18 U.S. Code Section 1001 and Section 1010.

AMREAL_017855

STATE OF SOUTH CAROLINA		IN THE COURT OF COMMON PLEAS
Laurance H. Davis, Jr., et al., Plaintiffs v. Parkview Apartments, a South Carolina Limited Parntership, et al., Defendants.	)	Beaufort County C/A # 03-CP-07-726
Laurance H. Davis, Jr., et al., Plaintiffs v. Roosevelt Gardens, a South Carolina Limited Parntership, et al., Defendants.	)	Orangeburg County C/A # 05-CP-38-1131
Rhoda G. Rentz, et al., Plaintiffs v. Orleans Gardens, a South Carolina Limited Parntership, et al., Defendants.	)	Charleston County C/A # 05-CP-10-4229
Laurance H. Davis, Jr., et al., Plaintiffs v. Palmetto Apartments, a South Carolina Limited Parntership, et al., Defendants.	)	Beaufort County C/A # 05-CP-07-1989
Carolina Management Corporation of Beaufort, et al., Plaintiffs v. Pinewood Park Apartments, a South Carolina Limited Parntership, et al., Defendants.	)	Beaufort County C/A # 05-CP-07-1990

NOTICE OF MOTION AND MOTION FOR RECONSIDERATION, ALTERATION OR AMENDMENT

TO: ELLIS M. JOHNSTON, II, CALVIN T. VICK, MARVIN INFINGER AND ANNE ROSS ROSEN, AND THE DEFENDANTS ABOVE-NAMED

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EXHIBIT

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(i) These included communications between the Defendants and attorneys they ostensibly hired to represent the respective limited partnerships, which included the Plaintiffs, in the collection of the notes due to the partnerships or, alternatively, retrieval of the partnership properties.

(ii) These documents and information were clearly relevant to Plaintiffs' claims, as they were needed to determine whether the attorneys hired by the general partners were really engaged to represent the partnerships' interests or were actually sham retentions designed to mislead the limited partners into believing that their interests were being protected.

(iii) Furthermore, they were relevant and necessary to determine whether the attorneys hired by the general partners to represent the limited partnerships had breached any fiduciary duties to the limited partnerships by not pursuing legal remedies to recover the partnership assets. This aspect of the present litigation becomes even more troubling when Judge Early's close extra-judicial relationships with Defendants' counsel is viewed in light of the fact that a lawsuit to recover assets due to the Pinewood limited partnership was initiated - and then abandoned - by the very attorney and law firm which successfully persuaded Judge Early to keep the attorney retention information secret and non-discoverable by the Plaintiffs.

(iv) Defendants' counsel argued that these communications were privileged and not subject to disclosure to Plaintiffs, even though Plaintiffs owned 95% or more of the limited partnerships the attorneys were ostensibly hired to represent and, as such owners and partnership members, were clearly within the "privilege" claimed. Furthermore, Defendants earlier had included Plaintiffs in communications with these attorneys - with the exception of the Haynsworth firm's representation of the Pinewood limited partnership, which representation has never been revealed by Defendants or their counsel to date. Having so included Plaintiffs, the Defendants waived any privilege which might have existed that excluded Plaintiffs. Their arguments were adopted by Judge Early as part of his rulings, even though he had not ever seen the underlying documents.

Respectfully submitted,

THE BAILEY LAW FIRM, P.A.
PO Box 1437, 510 Ribaut Road
Beaufort SC 29901-1437
843.525.6090 Tel.
843.525.6070 Fax.
baileylawfirm@charter.net

Thomas A. Pendarvis, J.D. (SC Bar # 064918)
PENDARVIS LAW OFFICES, P.C.
500 Carteret St Ste A
Beaufort SC 29902-5066
843.524.9500 Tel.
843.524.9501 Fax.
Thomas@PendarvisLaw.com

Attorneys for the Plaintiffs

By: _____
Joel D. Bailey (SC Bar # 471)

Beaufort, South Carolina
April ____, 2010

STATE OF SOUTH CAROLINA	)	**IN THE COURT OF COMMON PLEAS**
Laurance H. Davis, Jr., *et al*, Plaintiffs,	)	
-vs-	)	**Beaufort County**
Parkview Apartments, a South Carolina Limited Partnership, *et al*, Defendants.	)	**C/A # 03-CP-07-726**
Laurance H. Davis, Jr., *et al*, Plaintiffs,	)	
-vs-	)	**Orangeburg County**
Roosevelt Gardens, a South Carolina Limited Partnership, *et al*, Defendants.	)	**CA # 2005-CP-38-1131**
Rhoda G. Rentz, *et al*, Plaintiffs,	)	
-vs-	)	**Charleston County**
Orleans Gardens, a South Carolina Limited Partnership, *et al*, Defendants.	)	**CA # 2005-CP-10-4229**
Laurance H. Davis, Jr., *et al*, Plaintiffs,	)	
-vs-	)	**Beaufort County**
Palmetto Apartments, a South Carolina Limited Partnership, *et al*, Defendants.	)	**C/A #2005-CP-07-1989**
Carolina Management Corporation of Beaufort, *et al*, Plaintiffs,	)	**Beaufort County**
-vs-	)	**C/A # 2005-CP-07-1990**
Pinewood Park Apartments, a South Carolina Limited Partnership, *et al*, Defendants.	)	

CERTIFICATE OF MAILING

I hereby certify that I have served the Plaintiffs' Motion for Reconsideration, Alteration or Amendment, by depositing a copy in the United States Mail, postage prepaid, on April 22, 2010, addressed to the following attorneys of record:

Ellis M. Johnston, II
PO Box 2048
Greenville, SC 29602

Marvin D. Infinger
134 Meeting Street, 3rd Floor
Charleston, SC 29401

Calvin T. Vick
PO Box 2048
Greenville, SC 29602

Anne Ross Rosen
134 Meeting Street, 3rd Floor
Charleston, SC 29401

Sandra H. Bailey
The Bailey Law Firm, P.A.
PO Box 1437, 510 Ribaut Road
Beaufort, South Carolina 29901-1437

April 21, 2010

STATE OF SOUTH CAROLINA

COUNTY OF BEAUFORT

IN THE COURT OF COMMON PLEAS
FOURTEENTH JUDICIAL CIRCUIT
CASE NO. 2003-CP-07-726

Laurance H. Davis, Jr.; Mary Jane R. Pike; Eva Marie Reynolds; and Rhoda G. Rentz, individually and in their capacities as the Limited Partners of Parkview Apartments, a South Carolina Limited Partnership;

Plaintiffs,

vs.

Parkview Apartments, a South Carolina Limited Partnership; Apartment Investment and Management Company a/k/a AIMCO; Insignia Financial Group, Inc.; AmReal Corporation a/k/a and f/k/a USS Corporation a/k/a and f/k/a U.S. Shelter Corporation; ISTC Corporation; N. BartonTuck, Jr.; and John Doe, a generic designation for a party or parties whose true identity is unknown,

Defendants.

AFFIDAVIT OF THOMAS A. PENDARVIS

Personally appeared before me Thomas A. Pendarvis, who, being first duly sworn, states:

1. I am a resident and citizen of the County of Beaufort in the State of South Carolina.

2. I am an attorney and have been continuously licensed to practice law in the State of South Carolina since 1992. I am the sole shareholder of PENDARVIS LAW OFFICES, P.C., located at 500 Carteret St, Ste. A in Beaufort, South Carolina, and prior to April 2004 was a partner in the law firm of LEWIS, BABCOCK & HAWKINS, L.L.P. in Columbia, South Carolina.

EXHIBIT
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motion to alter or amend an Order issued on one of the discovery motions, Judge Early ruled that the Plaintiffs were not entitled to any of this information finding that it was protected by the attorney-client privilege.

102. This particular ruling is troubling given that Plaintiffs now know that Ellis M. Johnston, II, J.D., with HAYNSWORTH SINKLER BOYD, P.A., present counsel for the Defendants in this matter, also represented one of the Plaintiff limited partnerships, specifically, Pinewood Park Apartments Limited Partnership, in a lawsuit that was filed on September 8, 2003. Mr. Johnston and HAYNSWORTH SINKLER BOYD, P.A. apparently never served the COMPLAINT in that action, which resulted in an ORDER issued on July 23, 2004, dismissing the case "for lack of service and/or lack of prosecution pursuant to S.C.R.C.P. 4(g) and 5(d)." Defendants in this litigation never disclosed this conduct by Mr. Johnston and HAYNSWORTH SINKLER BOYD to the Plaintiffs or Plaintiffs' counsel in this action. In fact, on several occasions Mr. Johnston has communicated with counsel for Plaintiffs expressing an interest in either having the Plaintiffs approve the sale of Pinewood's assets at a value lower than the Defendants had it appraised, or settling the Pinewood case. Mr. Johnston never disclosed that he had previously represented Pinewood Park Apartments, Limited Partnership or had filed the COMPLAINT. A copy of the COMPLAINT, correspondence from the Court, and the ORDER dismissing the lawsuit is attached as Composite Exhibit No. 93.

103. Judge Early's rulings on discovery matters in these cases has been particularly burdensome financially on Plaintiffs as Plaintiffs have been obligated to pursue

Further the affiant sayeth not.

Thomas A. Pendarvis

SWORN to before me this

22nd day of April, 2010

Jennifer A. Clark (L.S.)

NOTARY PUBLIC FOR SOUTH CAROLINA

My commission expires July 8, 2015

STATE OF SOUTH CAROLINA
COUNTY OF BEAUFORT

COURT OF COMMON PLEAS
14TH JUDICIAL CIRCUIT
Case No 2003-CP-07-726

Laurance H. Davis, Jr.; et al.,
Plaintiffs,

vs.

CONSOLIDATED CASES
CASE NO. 2005-CP-07-1990
CASE NO. 2005-CP-07-1989
CASE NO. 2005-CP-10-4229
CASE NO. 2005-CP-38-1131

Parkview Apartments, a South Carolina Limited Partnership; Apartment Investment and Management Company a/k/a AIMCO; Insignia Financial Group, Inc.; AmReal Corporation a/k/a and f/k/a USS Corporation a/k/a and f/k/a U.S. Shelter Corporation; ISTC Corporation; N. Barton Tuck, Jr.; and John Doe, a generic designation for a party or parties whose true identity is unknown,
Defendants.

30(B)(6)
DEPOSITION OF: JOSEPH WILLIAM SPRANSY, II

DATE: November 14, 2007

TIME: 9:52 a.m.

LOCATION: Law Offices of
Haynsworth, Sinkler, Boyd
75 Beattie Place, Suite 1100
Greenville, SC

TAKEN BY: Counsel for the Plaintiffs

REPORTED BY: Susan M. Valsecchi, RPR
Certified Realtime Reporter

Computer-Aided Transcription By:

A. WILLIAM ROBERTS, JR., & ASSOCIATES

Charleston, SC
(843) 722-8414

Columbia, SC
(803) 731-5224

Myrtle Beach, SC
(843) 839-3376

Greenville, SC
(864) 234-7030

Charlotte, NC
(704) 573-3919

EXHIBIT

EXHIBIT
11

MR. BAILEY: Okay. I just want to get a point of clarification, Ellis. The notebook that you gave to Thomas before the deposition started is in response to the subpoena; is that correct?

MR. JOHNSTON: Let me look at it. There have been so many document requests and everything else, I'm still trying to figure out who's on first.

In response to your question, I'm not certain at what -- start out -- years ago we produced a massive number of documents, many of which I think would be responsive to this subpoena.

In September and then again on November the 12th -- September 6th, I think it was -- and November the 12th -- we also produced documents that may be responsive to some of the areas.

This morning I gave you the book that contained essentially two topics. One was correspondence between you and I, both ways. And the other was correspondence and e-mails.

When I say correspondence, correspondence and e-mails between Mr. Roger Hartman, who was the attorney for the owners of the Parkview Apartments, that relate to efforts to either have the apartments returned to Parkview

Apartments, a South Carolina Limited Partnership, or to get them to offer some amount for the demand note. It also contains a number of tolling agreement extensions.

There is, as a matter of public record, a lawsuit that was filed against them, I'm trying to say in November of -- it was sometime in 2003.

MR. BAILEY: Against them, meaning --

MR. JOHNSTON: The then owners. That is what resulted in a tolling agreement. That lawsuit was dismissed for lack of prosecution, as we were trying to work through things. I then filed another one. I don't know whether it's been dismissed for lack of prosecution yet or not, but we ultimately worked out an agreement that was presented to the limited partners and AIMCO as the general partner thought -- well, I will just leave it right there.

There was an agreement worked out that was presented to the limiteds. And I understand that you and I have a difference of opinion as to whether -- we never got a clear answer from them as to what they wanted to do is, you know...

MR. BAILEY: When you say a lawsuit was brought against the owners that were represented by

Mr. Hartman, a lawsuit by whom?

MR. JOHNSTON: By -- I'm pretty sure it was Parkview Apartments Limited Partnership.

MR. BAILEY: Parkview.

MR. JOHNSTON: I mean Pinewood. This says Parkview. Pinewood, yes. This being the subpoena you just handed to us that --

MR. BAILEY: Okay. I'm a little confused. So are you saying that Pinewood Limited Partnership sued Mr. Hartman's clients?

MR. JOHNSTON: Yes.

MR. BAILEY: Is that something you guys did -- I mean Haynsworth, Sinkler, Boyd -- or was that something that was in California or what?

MR. JOHNSTON: No, we did it.

MR. BAILEY: Okay. Was that related to the collection of the note or the return of the properties?

MR. JOHNSTON: Yeah.

I mean, it's part of the public record up here at the courthouse. I'll be happy to furnish you copies of the Complaint.

MR. BAILEY: Was it filed in federal or state court?

MR. JOHNSTON: State.

THE SUPREME COURT OF SOUTH CAROLINA

Laurance H. Davis, Jr., Rhoda G. Rentz, Mortimer M. Weinberg, Jr., Hodge Land Co., Inc., and Anna Trotter, Individually and in their capacities as the Limited Partners of Roosevelt Gardens, a South Carolina Limited Partnership,	)	Transfer from Court of Appeals Case No. 2010180086
	)	Appellants,
vs.	)	
Roosevelt Gardens, a South Carolina Limited Partnership, Apartment Investment and Management Company a/k/a AIMCO; Insignia Financial Group, Inc.; AmReal Corporation a/k/a and f/k/a USS Corporation a/k/a and f/k/a U.S. Shelter Corporation; ISTC Corporation; N. Barton Tuck, Jr.; and John Doe, a generic designation for a party or parties whose true identity is unknown,	)	Respondents.

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AUG - 5 2011
S.C. Supreme Court

Carolina Management Corporation of Beaufort, James B. Jackson, Whaley R. Hinnant, Jr., Mary Gasser Rawl, and Rhoda Rentz, Individually and in their capacities as the Limited Partners of Pinewood Park Apartments, a South Carolina Limited Partnership,	)	Transfer from Court of Appeals Case No. 2010180088
	)	Appellants,
vs.	)	
Pinewood Park Apartments, a South Carolina Limited Partnership; Apartment Investment and Management Company a/k/a AIMCO; Insignia Financial Group, Inc.; AmReal Corporation a/k/a and f/k/a USS Corporation a/k/a and f/k/a U.S. Shelter Corporation; ISTC Corporation; N. Barton Tuck, Jr.; and John Doe, a generic designation for a party or parties whose true identity is unknown,	)	Respondents.

Laurance H. Davis, Jr.; Mary Jane R. Pike; Eva Marie Reynolds; and Rhoda G. Rentz, individually and in their capacities as the Limited Partners of Parkview Apartments, a South Carolina Limited Partnership,	)	Transfer from Court of Appeals Case No. 2010180666
vs.	)	Appellants,
Parkview Apartments, a South Carolina Limited Partnership; Apartment Investment and Management Company a/k/a AIMCO; Insignia Financial Group, Inc.; AmReal Corporation a/k/a and f/k/a USS Corporation a/k/a and f/k/a U.S. Shelter Corporation; ISTC Corporation; N. Barton Tuck, Jr.; and John Doe, a generic designation for a party or parties whose true identity is unknown,	)	Respondents.

Laurance H. Davis, Jr.; Marvin D. McCarthy; James W. Ivey; and Erin E. Ivey, Individually and in their capacities as the Limited Partners of Palmetto Apartments, a South Carolina Limited Partnership,	)	Transfer from Court of Appeals Case No. 2010180087
vs.	)	Appellants,
Palmetto Apartments, a South Carolina Limited Partnership, Apartment Investment and Management Company a/k/a AIMCO; Insignia Financial Group, Inc.; AmReal Corporation a/k/a and f/k/a USS Corporation a/k/a and f/k/a U.S. Shelter Corporation; ISTC Corporation; N. Barton Tuck, Jr.; and John Doe, a generic designation for a party or parties whose true identity is unknown;	)	Respondents.

Rhoda G. Rentz, Mary Jane Pike, Eva Marie Reynolds, and Joanne O. Mercy, Individually and in their capacities as the Limited Partners of Orleans Gardens, a South Carolina Limited Partnership,	)	Transfer from Court of Appeals Case No. 2010176826
	)	Appellants,
vs.	)	
Orleans Gardens, a South Carolina Limited Partnership; Apartment Investment and Management Company a/k/a AIMCO; Insignia Financial Group, Inc.; AmReal Corporation a/k/a and f/k/a USS Corporation a/k/a and f/k/a U.S. Shelter Corporation; ISTC Corporation; N. Barton Tuck, Jr.; and John Doe, a generic designation for a party or parties whose true identity is unknown,	)	Respondents.

PROOF OF SERVICE

The undersigned hereby certifies that on the date indicated below, he served counsel for the Appellants with a copy of *Respondents' Reply in Support of Their Motion and Memorandum to Seal Confidential and Privileged Document, Which Was Filed Under Seal in The Lower Court* by mailing copies of the same by United States Mail with first class postage prepaid to the following addresses:

Thomas A. Pendarvis
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Beaufort, South Carolina 29902-5066

Joel D. Bailey
The Bailey Law Firm, P.A.
PO Box 1437
Beaufort, South Carolina 29901-1437

HAYNSWORTH SINKLER BOYD, P.A.

By: _____
Ellis M. Johnston, II

August 4, 2011
Greenville, South Carolina

GREENVILLE | CHARLESTON COLUMBIA FLORENCE

Haynsworth
Sinkler Boyd, P.A.

ATTORNEYS AND COUNSELORS AT LAW

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DIRECT DIAL NUMBER: 864.240-3217
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August 1, 2011

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S.C. Supreme Court

The Honorable Daniel E. Shearouse
Clerk of Court, Supreme Court of South Carolina
P.O. Box 11330
Columbia, South Carolina 29211

RE: *Davis, et al. v. Roosevelt Gardens, Aimco, et al.*
Case No.: 2010180086

Dear Mr. Shearouse:

Enclosed for filing in connection with the above matter, please find the original and seven (7) copies of *Respondents' Reply in Support of Their Motion to Stay Time Limits Imposed by Rules 208(a)(2) and 209(a), SCACR, Until the Court Rules on Pending Motions; Motion to Dismiss the Above-Captioned Appeals; Or, in the Alternative, Motion to Strike Appellants' Initial Briefs and Designations and Require Appellants to File Amended Briefs and Designations* and *Proof of Service* for same. After the documents have been filed, I would appreciate your returning a filed-stamped copy to me in the enclosed self-addressed stamped envelope.

With kind regards, I remain,

Very truly yours,

HAYNSWORTH SINKLER BOYD, P.A.

Ellis M. Johnston, II

EMJII/amp

Enclosures

cc: Calvin T. Vick, Jr., Esquire (via e-mail)
Thomas A. Pendarvis, Esquire (w/enclosures)
Joel D. Bailey, Esquire (w/enclosures)

THE SUPREME COURT OF SOUTH CAROLINA

Laurance H. Davis, Jr., Rhoda G. Rentz, Mortimer M. Weinberg, Jr., Hodge Land Co., Inc., and Anna Trotter, Individually and in their capacities as the Limited Partners of Roosevelt Gardens, a South Carolina Limited Partnership,

Transfer from Court of Appeals
Case No. 2010180086

Appellants,

vs.

Roosevelt Gardens, a South Carolina Limited Partnership, Apartment Investment and Management Company a/k/a AIMCO; Insignia Financial Group, Inc.; AmReal Corporation a/k/a and f/k/a USS Corporation a/k/a and f/k/a U.S. Shelter Corporation; ISTC Corporation; N. Barton Tuck, Jr.; and John Doe, a generic designation for a party or parties whose true identity is unknown,

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Respondents.

Carolina Management Corporation of Beaufort, James B. Jackson, Whaley R. Hinnant, Jr., Mary Gasser Rawl, and Rhoda Rentz, Individually and in their capacities as the Limited Partners of Pinewood Park Apartments, a South Carolina Limited Partnership,

Transfer from Court of Appeals
Case No. 2010180088

Appellants,

vs.

Pinewood Park Apartments, a South Carolina Limited Partnership; Apartment Investment and Management Company a/k/a AIMCO; Insignia Financial Group, Inc.; AmReal Corporation a/k/a and f/k/a USS Corporation a/k/a and f/k/a U.S. Shelter Corporation; ISTC Corporation; N. Barton Tuck, Jr.; and John Doe, a generic designation for a party or parties whose true identity is unknown,

Respondents.

Laurance H. Davis, Jr.; Mary Jane R. Pike; Eva Marie Reynolds; and Rhoda G. Rentz, individually and in their capacities as the Limited Partners of Parkview Apartments, a South Carolina Limited Partnership,

vs.

Parkview Apartments, a South Carolina Limited Partnership; Apartment Investment and Management Company a/k/a AIMCO; Insignia Financial Group, Inc.; AmReal Corporation a/k/a and f/k/a USS Corporation a/k/a and f/k/a U.S. Shelter Corporation; ISTC Corporation; N. Barton Tuck, Jr.; and John Doe, a generic designation for a party or parties whose true identity is unknown,

Transfer from Court of Appeals
Case No. 2010180666

Appellants,

Respondents.

Laurance H. Davis, Jr.; Marvin D. McCarthy; James W. Ivey; and Erin E. Ivey, Individually and in their capacities as the Limited Partners of Palmetto Apartments, a South Carolina Limited Partnership,

vs.

Palmetto Apartments, a South Carolina Limited Partnership, Apartment Investment and Management Company a/k/a AIMCO; Insignia Financial Group, Inc.; AmReal Corporation a/k/a and f/k/a USS Corporation a/k/a and f/k/a U.S. Shelter Corporation; ISTC Corporation; N. Barton Tuck, Jr.; and John Doe, a generic designation for a party or parties whose true identity is unknown;

Transfer from Court of Appeals
Case No. 2010180087

Appellants,

Respondents.

Rhoda G. Rentz, Mary Jane Pike, Eva Marie Reynolds, and Joanne O. Mercy, Individually and in their capacities as the Limited Partners of Orleans Gardens, a South Carolina Limited Partnership,

vs.

Orleans Gardens, a South Carolina Limited Partnership; Apartment Investment and Management Company a/k/a AIMCO; Insignia Financial Group, Inc.; AmReal Corporation a/k/a and f/k/a USS Corporation a/k/a and f/k/a U.S. Shelter Corporation; ISTC Corporation; N. Barton Tuck, Jr.; and John Doe, a generic designation for a party or parties whose true identity is unknown,

Transfer from Court of Appeals
Case No. 2010176826

Appellants,

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S.C. Supreme Court

Respondents.

RESPONDENTS' REPLY IN SUPPORT OF THEIR MOTION TO STAY TIME LIMITS IMPOSED BY RULES 208(a)(2) and 209(a), SCACR, UNTIL THE COURT RULES ON PENDING MOTIONS; MOTION TO DISMISS THE ABOVE-CAPTIONED APPEALS; OR, IN THE ALTERNATIVE, MOTION TO STRIKE APPELLANTS' INITIAL BRIEFS AND DESIGNATIONS AND REQUIRE APPELLANTS TO FILE AMENDED BRIEFS AND DESIGNATIONS

Ellis M. Johnston, II, SC Bar # 3065
Calvin T. Vick, Jr., SC Bar #68187
HAYNSWORTH SINKLER BOYD, PA
Post Office Box 2048
Greenville, South Carolina 29602
(864) 240-3200

ATTORNEYS FOR RESPONDENTS

Respondents respectfully submit this Reply in support of their Motion to Stay Time Limits Imposed by Rules 208(a)(2) and 209(a), SCACR, Until the Court Rules on Pending Motions; Motion to Dismiss the Above-Captioned Appeals; or, in the Alternative, Motion to Strike Appellants' Initial Briefs and Designations and Require Appellants to File Amended Briefs and Designations (hereinafter the "Motion").

Respondents reassert the grounds set forth in their Motion, and request that the Court grant them the relief sought therein. As shown below, Appellants' Return to the Motion did nothing but reaffirm that Appellants' initial briefs and Designations of Matter to be Included in the Record on Appeal ("Designations) are, in fact, substantially defective, and that Appellants have violated Rules 208(b)(4), 208(b)(8), 209(b), 210(c), and 267(c), SCACR, as set forth in the Motion.

I. Appellants' Initial Briefs and Designations Are Defective and in Violation of Court Rules

A. Violation of Rule 209(b), SCACR – Failure to Clearly Identify Materials to be Included in Record

Appellants failed to sufficiently and/or accurately identify materials in their initial briefs and Designations, in that they cited two (2) documents that do not exist, and ambiguously identified another, which could have been one of several different documents. While their errors were likely inadvertent, Appellants' refusal to timely correct or clarify the errors was not. Respondents identified the erroneous or ambiguous cites to Appellants, and requested that Appellants correct or clarify the errors, on June 30, 2011 and again on July 12, 2011 (Motion at Ex. 1). Respondents received no response from Appellants until July 13, 2011, *after* Respondents provided a copy of the Motion to Appellants' counsel via facsimile (Mr. Bailey's 7/13/11 e-mail, **Exhibit 1** hereto). Now

Respondents have learned, via Appellants' Return, that even the corrections stated in Mr. Bailey's 7/13/11 e-mail were erroneous.

Appellants' response on this issue is that the three (3) erroneous or ambiguous cites are harmless "scrivener errors" or "minor typographical errors," which need not be corrected until their final brief. However, Appellants' failure to correct these errors until they filed their Return to the Motion, a *full month* after Respondents first advised them of the errors, has clearly impaired Respondents' ability to fully and completely respond to the Appellants' initial briefs within the 30 days allowed under Rule 208(a)(2), SCACR. Further, these three (3) errors are only a small part of the defects in Appellants' initial briefs and Designations, as shown in Respondents' Motion. Appellants claim that there was no prejudice to Respondents, because the parties' counsel are intimately familiar with all of the materials in the lower court record pertinent to the 13 Orders on appeal. That is ludicrous. The lower court record related to the 13 Orders is approximately 10,000 pages in length, and it spans several years of litigation! See 7/5/11 Mot. for Ext. at Ex. 10, ¶ 3.[1] Respondents' counsel are certainly familiar with the lower court record, but they can not (and should not have to) *guess* as to what documents Appellants *intended* to cite when they cite documents that do not even exist. The purpose of Rule 209(b), SCACR (requiring a party to "*clearly identify* what the party desires to have

---

[1] References to "Respondents' 7/5/11 Mot. for Ext." refer to *Respondents' Motion and Memorandum for Extension of Time to File Initial Brief, Permission to File One Consolidated Brief and One Consolidated Designation of Matter to be Included in the Record on Appeal in the Five Above-Captioned Appeals, and Permission to Exceed 50-Page Limit for Brief*, which Respondents filed and served in these five appeals on July 5, 2011, and which remains pending.

included in the Record" (emphasis added)), is, at least in part, to eliminate such guess work.

The following errors and belated corrections illustrate the impairment to Respondents' ability to fully and completely respond to Appellants' initial briefs within the allotted 30-day period:

- The "Order of Doyet A. Early, III dated 3-13-07," designated by Appellants in each case, does not exist. Mr. Bailey's 7/13/11 e-mail states that Appellants intended to cite "the order of 3-3-09." (**Ex. 1**). Now, in their Return, Appellants state that they intended to cite an order dated 2/13/07. How are Respondents to know what document Appellants *intended* to cite when they have difficulty determining that themselves?
- "Appellants' Motion to Compel dated 10-5-07," designated by Appellants in each case, and cited in their initial brief in the Orleans Appeal, does not exist. Mr. Bailey's 7/13/11 e-mail states that Appellants intended to cite to "the discovery requests dated 10-5-07, so there is no motion of that date." (**Ex. 1**). Now, in their Return, Appellants state that they intended to cite to Appellants' Motion to Compel dated 11/7/07, and infer that this should have been obvious (though it clearly was not to Appellants' attorney, Mr. Bailey), because that "is the only motion to compel filed by Appellants in 2007." Appellants filed at least six (6) different motions to compel in the litigation. How are Respondents to know which aspects of Appellants' cite were erroneous (month, year, type of document)?

- "Appellants' Answers to Interrogatories and Responses to Request for Production dated 7-14-05, with privilege log" are cited by Appellants in each case, but there was no privilege log produced on that date. Respondents certainly suspected that the privilege log being cited was the one produced on 7/21/05, but they needed to be sure since Appellants produced at least four (4) different privilege logs in the litigation. That is why they requested clarification from Appellants a month ago. Mr. Bailey's 7/13/11 e-mail confirmed that they intended to cite to the 7/21/05, and Appellants' Return re-confirms this.

Given Appellants' own difficulties determining which documents they *intended* to cite, Respondents submit that the errors constituted more than harmless scrivener errors or typos that need not be corrected until the final brief. The larger problem was Appellants' failure to timely correct the errors after they were notified of the errors and asked to correct or clarify them.

B. Violation of Rules 209(b) and 210(c), SCACR – Attempts to Include Materials That Were Not Presented to the Lower Court

In their Motion, Respondents identified five (5) documents cited in Appellants' five (5) initial briefs and/or Designations, which were not presented to the lower court. Those documents can not be cited in Appellants' initial briefs or Designations, under Rules 209(b) and 210(c), SCACR. At a minimum, the citations to those documents, and all references to those documents, should be stricken from Appellants' initial briefs and Designations by requiring Appellants to file amended initial briefs and Designations with the offensive cites and references omitted. Appellants' attempts to argue that the documents were presented to the lower court, within the meaning of Rule 210(c),

SCACR, are without merit. Frankly, it is difficult to characterize Appellants' arguments as anything but frivolous.

1. "Transcript of Special Meeting of Limited Partnerships held on 9-14-00" and "Transcript of Special Meeting of Limited Partnership held on 10-24-00"

a. Gary Clary, a retired judge, was not the "lower court"

Appellants first argue that the documents were presented to the lower court, because Appellants provided them to a retired Circuit Court Judge, Gary Clary ("Clary"), in connection with his *in camera* review of certain documents identified on the parties' respective privilege logs. Apparently, Appellants submitted the documents to Clary in confidence, within their confidential, *in camera* meetings with him, because Respondents have no recollection or record of the documents being provided to Clary. Appellants' proof that they provided the documents to Clary is a statement contained in his reports ("Clary Reports"), which he provided to Judge Early and the parties' counsel *after* he had completed his *in camera* review of the documents. The Clary Reports simply state that he had "considered" the two transcripts, along with numerous other documents he listed. In fact, Respondents have no way of knowing if the entire documents were provided to Clary or only portions, and they certainly had no opportunity to respond to Appellants' submission (or to ensure that he read all of the pertinent portions of the transcripts) since they were not aware of it until well after the fact (i.e., when the Clary Reports, which contained his findings and conclusions from the *in camera* inspection, were issued). Respondents submit that allowing such material to be included in the Record would be patently unfair, but putting that issue aside for a moment, the documents can not be included in the Record for other, more concrete reasons.

Judge Early, to whom these cases were specially assigned by this Court in March 2006, *was* the lower court, not Clary. If a document was not presented to Judge Early or filed with one of the Clerks of Court, it was not "presented to the lower court" within the meaning of Rule 210(c), SCACR. Twelve of the 13 Orders on appeal are Orders issued by Judge Early (the thirteenth is this Court's 3/7/06 Order). Clary never issued an Order in these lawsuits, and his reports to Judge Early are not being appealed (nor could they be since they are not an order or judgment). Appellants' five initial briefs take no issue with the Clary Reports themselves. Nor do the Appellants' Notices of Appeal. These appeals of Judge Early's Orders are only concerned with whether Judge Early (i.e., the lower court) acted within the scope of his discretion in ruling as he did, based on the law and **the facts presented to him**. Documents that were presented to Clary, but not to Judge Early or a Clerk of Court, have no place in the Court's consideration of the issues presented in these appeals.

With respect to these cases, Clary was neither a judge, a Master-in-Equity or a Special Referee under S.C. Code Ann. § 14-11-60. Nor did he ever issue an order or judgment, or even file his reports to Judge Early with a Clerk of Court. Clary's reports to Judge Early made a single mention of the transcripts, but they did not include the transcripts or any portion of them, nor did they quote any portion of the transcripts. Clary's role in these cases, and the legal significance (or lack thereof) of that role and his reports, are more fully discussed in the Respondents' Return to Appellants' 9/2/09

Petition for Writ of Prohibition or Alternatively for Writ of Certiorari, the relevant portions of which are attached hereto as **Exhibit 2** and incorporated herein by reference.[2]

b. Appellants' brazen misrepresentation of the 7/6/09 hearing

Appellants also argue that the two (2) transcripts were presented to Judge Early at the July 6, 2009 hearing in these cases. This is, at a minimum, a substantial misrepresentation of the facts, as the Transcript of that hearing clearly shows. Appellants' counsel used a PowerPoint presentation during the hearing, which included limited excerpts from the two (2) transcripts they now seek to include in the Record on Appeal. A copy of the PowerPoint presentation was not provided to Respondents, nor was a copy provided to Judge Early. During the hearing, Mr. Bailey, Appellants' attorney, worked quickly through the PowerPoint slides, skipping some, and paraphrasing or summarizing portions of the documents. The Transcript of the hearing does not reveal which pages of the documents were briefly exhibited, but it does reveal very clearly that the documents themselves were never presented to Judge Early.

> Bailey: Now, the good news about all of that is that we have a transcript of that [9/14/00] meeting -- that verbatim transcript, a court reporter transcript -- and there was a second meeting that was held in October. There is also a transcript of that meeting. So, from a factual standpoint you don't have to say, well, Bailey says this or Ellis says that. You've got the actual transcript to see what actually was said and what took place.[3]

---

[2] So as not to unnecessarily burden the Court, Respondents have only attached the pages of the Return containing argument or evidence relevant to Clary's role in these cases, and the exhibits to the Return that are most relevant to Clary's limited involvement in these cases. See **Ex. 2**. Of course, the entire Return to the Petition for Writ, including all exhibits thereto, are available in the Court's records. This Court denied Appellants' Petition.

[3] In the Return, Appellants quote this line ("You've got the actual transcript to see what actually was said and what took place." Return at p. 14) as evidence that Judge Early in fact had a copy of the entire document before him. This is a blatant misrepresentation of

Rather than go through the transcript what we've done is selected portions of that transcript that we think illustrate our point. We'll try to run through quickly for you in the form of a Power Point. It may be easier than fumbling through the pages. If you don't mind.
(Tr. 7/6/09, 10:22-11:10) [4]

So I am going to try to take you through. These are copies. *Do you want to look at the transcript* or look on here [the screen for the Power Point presentation]?

Judge Early: However you want to do it.

Bailey: I have the actual transcript *available.*
(Tr. 7/6/09, 12:25-13:4) (emphasis added)

[Bailey summarizes and paraphrases unspecified portions of the 9/14/00 transcript using the Power Point presentation] [5] (Tr. 7/6/09, 13:7-17:9)

Judge Early: That last -- when you adjourned that's on page 54 of one transcript. How many pages?

Bailey: There is a few more pages after it, but its, basically, confirming all of that.

Judge Early: So about 60 pages?

Bailey: Sixty-four total [6] and you can -- basically, I mean, there is things in it like George Buchanan says, I'll stay in contact with you and make

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the hearing Transcript, taking the sentence completely out of context in such a manner that it could only be deemed intentional.

[4] The pages of the 7/6/09 Transcript, which are relevant to this Motion, are attached hereto as **Exhibit 3**.

[5] Illustrating just how thoroughly and accurately Mr. Bailey "presented" the 9/14/00 transcript to Judge Early: "Again, Mr. Buchanan says, I don't know. He says, potentially, it depends -- and he goes into a number of things -- long term goals of the partners as a group, what they want to do, interested in recapitalizing, and he goes on and on..." (Tr. 7/6/09, 15:18-22).

[6] **This text pertains to another brazen misrepresentation of the hearing Transcript by Appellants. In their Return, Appellants state, "The judge even stated that one of the transcripts being reviewed by him contained at least 60 pages, evidencing that the entire document was before him." See Return at p. 14.** In context, that is not at all what was said. Judge Early, who clearly did *not* have the transcript before him, asked *Mr. Bailey* how long the transcript was, and *Mr. Bailey* replied that it was 64 pages long.

> sure we can come up with a mutually agreed upon date and time, checking with Pat Foye's schedule. There is about 10 pages of that. The essence of it is what we agreed to do is just recess that meeting, call another meeting.[7]
> (Tr. 7/6/09, 17:12-23)
>
> [Bailey summarizes and paraphrases unspecified portions of the 10/24/00 transcript using the Power Point presentation] (Tr. 7/6/09, 19-27)

There is no evidence whatsoever that the two (2) transcripts Appellants cited in their initial briefs and Designations were ever presented to the lower court. These documents, and all references to them, should be excluded from these appeals.

2. "Appellants' Petition for Writ of Prohibition filed in the Supreme Court"

Appellants argue that their earlier Petition for Writ of Prohibition, which was denied by this Court on November 19, 2009, was presented to the lower court because (i) Judge Early's 4/6/10 Order [8] states that "the Court was informed that Plaintiffs had filed that morning a Petition in the Supreme Court of South Carolina, seeking a Writ of Prohibition...;" (ii) the 4/6/10 Order otherwise acknowledges that Judge Early was aware that the Petition had been filed in the Supreme Court; and (iii) Appellants' attorneys represent in their Return that "appellate counsel [in the prior unsuccessful Petition] advises that Judge Early was provided with a complete copy of the Petition." See Return at 16. First, the fact that Judge Early was aware that Appellants had filed a Petition in the Supreme Court is not evidence that the document (i.e., the Petition itself) was ever presented to the lower court. Second, if Appellants' prior appellate attorneys did provide

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[7] Mr. Bailey's presentation of his selected portions of the 64-page 9/14/00 transcript was accomplished in five (5) pages of the hearing Transcript (Tr. 7/6/09, 13-17).

[8] The pages of the 4/6/10 Order, which are cited in Appellants' Return, are attached hereto as **Exhibit 4** for the Court's inspection.

a copy of the actual document to Judge Early, they should be able to provide evidence of that fact, which is noticeably absent from Appellants' Return.

The evidence shows that Judge Early was provided with several documents filed in the appellate courts in September 2009, but the Petition in the Supreme Court was not one of them. As to the Petition, the appellate attorneys only sent Judge Early an e-mail, without attachments, notifying him that the Petition had been filed. On September 2, 2009, the day the Petition was filed, Appellants' then-appellate attorneys notified Judge Early and Respondents' counsel, via e-mail, that they had filed a Petition in the Supreme Court, essentially seeking to prohibit the enforcement of Judge Early's Orders. The Petition was not attached to the e-mail (see **Exhibit 5** hereto). On that same day, the appellate attorneys sent Respondents' counsel and Appellants' current counsel a copy of the Petition via e-mail, but the e-mail was not sent to Judge Early (**Ex. 5**). The Proof of Service for the Petition shows that it was served on Respondents' counsel and no one else (**Ex. 5**). On September 17, 2009, the appellate attorneys sent a copy of their Notice of Appeal in the Court of Appeals, and a Motion they had filed in the Court of Appeals, to Judge Early via e-mail. The e-mail did not include the Petition in the Supreme Court (**Ex. 5**). On September 21, 2009, the appellate attorneys sent an e-mail to Judge Early and Respondents' counsel containing a copy of their Reply in Support of the Petition in the Supreme Court, but not the Petition itself (**Ex. 5**).

There is no evidence that the Appellants' September 2, 2009 Petition for Writ of Prohibition was ever presented to the lower court. He was only generally aware that it had been filed in the Supreme Court. The document can not be included in Appellants' initial briefs or Designations.

3. "Appellants' Answers to Interrogatories and Responses to Request for Production dated 7-14-05, with privilege log"

Appellants' rather bizarre argument that their 7/14/05 discovery responses were presented to the lower court strains credulity. Appellants admit that the document itself was never presented to the lower court, though not in so many words. They claim, however, that subsequent discovery responses, which *were* actually presented to Judge Early in connection with Respondents' motions to compel and for sanctions, "contained specific references to and incorporation of the 2005 Parkview responses." See Return at 15. In other words, the subsequent discovery responses that were presented to the lower court did not include the 7/14/05 discovery responses themselves, but they incorporated those earlier responses by reference. The relevant pages of one of the subsequent discovery responses described in Appellants' Return is attached hereto as **Exhibit 6**. Essentially, in response to every discovery request, and among many other objections and caveats, Appellants stated, "See Plaintiffs' Answers to Defendants' First Set of Interrogatories, dated July 14, 2005." (**Ex. 6** at p. 7). Well, that would be quite the trick by Judge Early in light of the fact Appellants never presented a copy of the 7/14/05 discovery responses to him in the first place.

Appellants' 7/14/05 discovery responses were clearly never presented to the lower court, and they can not be included or referred to in Appellants' initial briefs or Designations.

4. "Memorandum of Ford Von Weise dated 8-31-99"

Saving the most outrageous claim for last, Appellants do not claim that the 8/31/99 Von Weise Memo (i.e., the document itself) was ever presented to the lower court. Rather, they claim that it was presented to Judge Early by virtue of Appellants'

Motion to Compel #3, dated 6/12/08, which included as Exhibit 2 the Respondents' 11/9/07 discovery responses, which contained not a copy of the subject Memo, but a single reference to it, which was simply "AmReal 000563" (in an exhibit to the discovery responses, no less), which was the Bates number Respondents had assigned to the document when they produced it to Appellants. The Bates numbered document was one of 928 Bates numbered documents to which reference was made in the discovery responses. Conceding all of the above (i.e., the chain of the motion to compel, the discovery responses attached thereto, the single reference to the Bates number of the document in an exhibit to the discovery response) to be true, Respondents attach hereto as **Exhibit 7** the relevant pages of their 11/9/07 discovery responses. If this is not a *frivolous* argument by the Appellants, then Respondents simply do not know the meaning of the word.

Stubbornly refusing to concede their lost cause, Appellants also claim, "The motion to compel, including the reference to the von Weise memo, was argued before the lower court on July 1, 2008." See Return at 16. Respondents can not locate any reference to the Von Weise Memo, or even to its Bates number, in the entire Transcript of the July 1, 2008 hearing. Respondents can only assume that Appellants found no reference to the document in the hearing Transcript either since they did not cite to any portion of the Transcript in their Return.

The 8/31/99 Von Weise Memo was never presented to the lower court, and Appellants can not cite it or reference it in their initial briefs or Designations.

C. Violation of Rule 208(b)(4), SCRCP – Failure to include reference to relevant page(s) of materials cited

In their Motion (at 9), Respondents identify the most glaring omissions of page or paragraph cites for multi-page materials relied upon in Appellants' initial brief in the Orleans Appeal. The omissions listed in the Motion are exemplary of the Appellants' violations of Rule 208(b)(4), SCACR, throughout all five (5) initial briefs. Appellants' initial briefs in the other four (4) appeals are practically identical to the initial brief in the Orleans Appeal, including their nearly verbatim failures to comply with Rule 208(b)(4), SCACR.

Appellants' response to these violations of Rule 208(b)(4), SCACR, and the concomitant impairment of Respondents' ability to comprehend exactly what purported evidence Appellants rely on to support the statements in their briefs, is essentially, "we intended to cite to the documents generally." In many instances, Appellants' non-specific cites to voluminous documents provide no guidance at all with respect to what purported evidence Appellants rely upon. This is particularly troublesome because Appellants' initial briefs contain many statements that Respondents believe are not supported by any evidence in the record at all. Appellants' initial briefs appear to be filled with unsupported and unsubstantiated speculation, conjecture and opinion, which Appellants portray as fact. When these statements are combined with vague, general references to voluminous documents, it becomes practically impossible for Respondents to respond. Though Appellants appear indifferent to Respondents' concerns, Appellants' failure to provide some reasonable guidance as to the evidence they rely upon in their briefs appears to fly in the face of the very purpose of Rule 208(b)(4), SCACR.

Appellants' general response to this issue is that their lack of page references in the identified cites is due to their belief that "certain documents referenced in their briefs must be examined by this Court in their entirety..." See Return at 17. That is absurd, particularly with respect to some of the more voluminous documents to which Appellants provide general citations. Several of Appellants' general cites to materials involve documents ranging in size from 14 pages to 1,921 pages. See e.g. Appellants' initial brief in Orleans Appeal at: 5 (citing Davis Aff. 4-7-10, which is 24 pages long, but no page or paragraph; citing Tr. 9/14/00, which is 65 pages long, but no pages or lines); 6 (citing Tr. 10/24/00, which is 172 pages long, but no page or lines); 22-23 (quoting from Sanctions/Dismissal Order, which is 28 pages long, but citing no page); 23-24 (citing Pendarvis Aff., **which is a staggering 1,921 pages long including exhibits**, but no page or paragraph); 32 and 37 (twice citing Bailey Aff. 4-7-10, which is 14 pages long including exhibits, but no page or paragraph); 44 (citing Bailey Aff. 3/30/11, which is 20 pages long, but no page or paragraph; citing a Motion to Recuse and **nine (9) affidavits** for which they provide no page or paragraph cites). It is clear from the context of many of these general cites that the 20, 30, 65 or 100-page (or worse) documents could not possibly pertain in their entirety to the statements for which they are cited.

Respondents understand and appreciate that general cites, without references to specific pages, are appropriate in some contexts, such as to the fact that an Order was issued or a motion was filed. Similarly, if the cite is to a very short document, and not to a specific section of such a document, Respondents agree that page-specific cites are not always necessary. However, as shown above and in the Motion, Appellants' violations of Rule 208(b)(4), SCACR, present much more serious and pervasive problems for

Respondents, such that Respondents are being deprived of a fair opportunity to fully and completely respond to Appellants' initial briefs.[9]

D. Violation of Rules 208(b)(8) and 267(c), SCACR – Single-spacing of numerous large portions of Appellants' arguments

Respondents agree that the use of single-space formatting is appropriate at times, particularly for lengthy quotations, footnotes, headings, sub-headings, timelines, and the like. However, Appellants' excessive use of single-space formatting for almost one-third of the *argument* in their initial briefs appears to be an obvious attempt to fit 65 pages of argument into a 50-page brief. Frankly, due to the extraordinary scope of these appeals, Respondents do not believe 50 pages is adequate, and they have requested that they be allowed 80 pages in order to adequately (but still concisely) address the issues presented in the 13 Orders appealed. The necessary citations to the lower court record alone will occupy huge portions of Respondents' initial briefs. Nonetheless, the fact remains that Appellants did not request an exception to the page limits, but violated the Rule requiring briefs to be double-spaced, instead.

II. Appellants' Willful Disregard for the Spirit and the Letter of Rule 210(c), SCACR, in Their Ongoing Attempt to Circumvent the Rule and Pollute the Appeals with Documents that Were Never Presented to the Lower Court, that Have No Relevance to the Issues Presented in Respondents' Motion, and Which Appellants Blatantly Mischaracterize and Misrepresent

In reading Appellants' Return to this Motion, which should involve very discrete issues of fact, such as those discussed above, it was at first puzzling as to why Appellants

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[9] Appellants also appear to misconstrue this issue in the Return when they defend their inclusion of entire documents in their *Designations*. Respondents believe it is appropriate to include complete documents in the parties' Designations, even where the parties' briefs do not cite to certain portions of those documents. Respondents contend that Appellants' violations of Rule 208(b)(4), SCACR, consist of their failure to provide page-specific references for multi-page documents cited in their initial briefs.

chose to argue their various conspiracy theories, which are based entirely on conjecture and speculation, rather than evidence, over two-thirds of the Return. It was also puzzling that Appellants included exhibits that had virtually nothing to do with the issues presented in the Motion, the vast majority of which never saw the light of day in the lower court and were certainly never presented to the lower court.[10] It then became apparent that, due to the restrictions in Rule 210(c), SCACR, with respect to materials that can not be included in the parties' initial briefs or the Record on Appeal, Appellants had decided to use this as an opportunity to spin their conspiracy theories and misrepresent their purported "evidence" in an obvious attempt to circumvent the Rule and pollute these appeals.

Not only are these arguments improper, they do not pertain one iota to the subject matter of the appeals or the 13 Orders Appellants claim are erroneous. Rather, Appellants clearly seek to make new arguments, and present new evidence, which may have been relevant to some issue in the lower court, **but were not presented**. Had these documents been presented to the lower court, and construed by Appellants in the manner in which Appellants construe them in their Return to the Motion, Respondents would have presented additional evidence to the lower court that would completely debunk Appellants' misrepresentations of the documents. Respondents are wary of delving too deeply into such a fruitless engagement at this juncture, but would show the Court that

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[10] Exhibits 2-9, and the last page of Exhibit 11, to Appellants' Return can not be included in the Record on Appeal or discussed in Appellants' initial briefs, because they were never presented to the lower court in any shape, form or fashion. They have no place in these appeals, including in Appellants' Return to this Motion.

the true facts applicable to these appeals are not at all what Appellants would have the Court believe.

While Respondents believe their full response to Appellants' conspiracy theories, speculation and conjecture based on the record is more appropriate for their appellate brief, they also believe Appellants' misrepresentations to the Court and indifference to the Rules should be discouraged. Thus, while Respondents do not intend to respond in full in this Reply, they are compelled to point out some of the misrepresentations made by Appellants in their Return.

A. HUD and United States Department of Justice (DOJ) "Investigation" of AIMCO[11]

Appellants argue that AIMCO could not take Orleans, Roosevelt, Parkview or Palmetto back because of an ongoing HUD and DOJ investigation. In doing so, they cite to a portion of **Exhibit 8**. To say that they misrepresent to the Court what those documents reflect, would be an understatement.

The documents reflect that HUD initiated an inquiry into supervisory fee agreements of National Housing Partnership (NHP), not AIMCO, during 1997. These supervisory fee agreements were entered into by NHP during the period 1977 to 1984. (**Ex. 8**, p. 3). In December, 1997, AIMCO acquired NHP and merged it into AIMCO. (**Ex. 8**, p. 3). Contrary to the implications in Appellants' Return, AIMCO was never accused of wrong doing.

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[11] Attached as **Ex. 8** are documents produced by AIMCO to Plaintiffs pursuant to a Rule 30(b)(6), SCRCP, subpoena. They are bates numbered 12-22_30(b)(6)_00001-00039. References to those documents will be to **Ex. 8**, page numbers 1-39.

The documents also reflect that NHP, not AIMCO, entered into a settlement dated September 15, 1998, involving a limited denial of participation which occurred before AIMCO's acquisition of NHP. The limited denial of participation related to one property in St. Louis, Missouri, JVL 19 Associates. The settlement agreement resolved all outstanding issues as they related to JVL 15, JVL 18, JVL 19, and Murphy Blair Apartments, all properties in St. Louis, Missouri. (**Ex. 8**, pp. 7-10).

On July 2, 2001, AIMCO and NHP settled all outstanding HUD claims with respect to NHP's alleged wrongful conduct in accepting "supervisory management fees." (**Ex. 8**, pp. 11-25). As reflected in that agreement, the alleged wrongful conduct was by NHP, not AIMCO. (**Ex. 8**, p. 12).

Despite what these documents say, Appellants claim that, as a result of HUD's investigation, all of AIMCO's applications for HUD approval of Transfer of Physical Assets (TPA's) and 2530 Previous Participation Certifications were "red flagged" and suspended, preventing it from accepting the offers to transfer the subject apartment complexes back to the limited partnerships. This is false. As reflected in Exhibit A to Defendants' Responses to Plaintiffs' discovery requests dated February 3, 2009, during the period 1997 through 2002, HUD approved every Transfer of Physical Asset application (TPA) and 2530 Previous Participation Certification submitted by AIMCO, a total of 1629 properties (**Exhibit 9**). These included 2530 applications for Parkview, Palmetto, Roosevelt and Orleans which were granted on April 16, 1999, after AIMCO took over management of, not an ownership interest in, the properties (**Exhibit 10**).

B. AIMCO allegedly accepted supervisory management fees, to include supervisory management fees on Orleans, Roosevelt, Parkview and Palmetto.

This is false. In support of Appellants' position, they refer the Court to their Exhibit 4 (our **Exhibit 11**). This document, on its face, was prepared by Boston Financial Group, not AIMCO. It does have a column entitled Cumulative Unpaid Supervisory Management Fees, which is unexplained as to its meaning. Whatever it does mean, it was apparently not paid. The document was entered as Exhibit 7 in the deposition of Gary Hediger, who had not seen it before. Appellants never asked any AIMCO official about it. Of more importance and what Appellants do not tell this Court, is that also entered as exhibits in Hediger's deposition were AIMCO's management contracts for the four properties (**Exhibit 12**). As reflected therein, AIMCO neither charged nor received any "supervisory management fees."

C. Ford Von Weise Memorandum

Appellants argue that a memorandum dated 8/31/99 prepared by Ford Von Weise of BFG shows proof of their conspiracy claim (**Exhibit 13**). It does not. As discussed in part I. b. (4), the document was not before the lower court.

Appellants had good reason not to present the document – if they had, they would have had to deal with the inconvenience of the deposition of its author, Mr. Von Weise, which provided, *inter alia*:

1. These properties (Orleans, Roosevelt, Parkview and Palmetto) were marketed as part of a larger portfolio of properties to the real estate industry in the late 1990's. There were a number of bidders (more than one or two), which made bids for the portfolio, but would not take these properties (Von Weise Dep., 22/16-24/4);

2. BFG evaluated the properties and determined they:

   (a) Had no conversion potential;

   (b) Had no value above the HUD mortgages (Von Weise Dep. p. 33/25-36/11);

3. AIMCO's evaluation of these properties came to the same conclusion (Von Weise Dep., 93/6-95/23);

4. They had significant capital needs estimated to be between $920,000 to in excess of $1,600,000 (Von Weise Dep., Ex. 3 and 4);

5. They had significant deferred maintenance issues exceeding the replacement reserves (Von Weise Dep., 75-76);

6. HUD used the Transfer of Physical Assets (TPA) and 2530 Previous Participation Certification processes to force owners to make the capital improvements and bring current the maintenance (Von Weise Dep., 75-76; 80-81);

7. And, with respect to the last sentence of his 8/31/99 memo, Von Weise stated, "he (AIMCO) implied that **these** properties had issues relating to their 2530, but did not elaborate." (Von Weise Dep., 116-117).[12]

And indeed, when considering the capital improvements estimated to be from $920,000 to in excess of $1,600,000, and the deferred maintenance issues, they in fact did have 2530 problems. The general partner had no right to make a capital call on the limited partners to meet these cash requirements[13] and, considering the lack of value in the projects, would have exercised poor business judgment if it had.

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[12] Respondents submit as **Exhibit 14** the excerpts of the Von Weise deposition and exhibits cited.

[13] Orleans 1975 Limited Partnership Agreement, **Exhibit 15**, p. 5; Roosevelt 1975 Limited Partnership Agreement, **Exhibit 16**, p. 4; Parkview 1975 Limited Partnership Agreement, **Exhibit 17**, p. 5; Palmetto 1975 Limited Partnership Agreement, **Exhibit 18**, p. 2.

D. The General Partners never told the Limited Partners of the offer to give the properties back or of their decision declining to take the properties back.

This is just out and out false. Mr. Laurance Davis, as contact person on behalf of all limited partners, wrote to Barton Tuck, one of the general partners on October 25, 1999, (**Exhibit 19**) inquiring as to the status of the notes. Mr. Tuck responded on January 18, 2000, that:

1. Boston Financial Group ("BFG"), the entity that put together the group that purchased the properties from Roosevelt, Orleans, Parkview and Palmetto in 1984, had come to the conclusion that the properties had no value above the first mortgage;

2. Had offered the properties back to the Partnerships;

3. AIMCO, the general partner, came to the same conclusion (*i.e.*, the properties had no value above the first mortgage);

4. As a consequence, AIMCO had refused to take the properties back; and

5. BFG had sold the property for $1 plus assumption of the mortgages to Hediger Enterprises. (**Exhibit 20**, Tuck letter of January 18, 2000, produced by Appellants).

Appellants' continuous denial of knowledge of this is frustrating to say the least.

III. Respondents Respectfully Request that Appellants Be Sanctioned for Their Frivolous Return to the Motion

"Appellants ask that this Court decline to sanction the imposition of yet another double standard against them." See Return at 18. While Respondents understand this is just rhetoric contained in a Return to a Motion, this type of view epitomizes Appellants' conduct over the last several years in this litigation, as Respondents will show, with evidence of record, in their initial brief. In Appellants' view, a ruling against them is never due to a jurist's reasonable judgment based on the law and the facts presented to him or her. Instead, it is always a matter of the unjust persecution of Appellants and their

attorneys, or bias and prejudice manifesting itself by the simple fact that a jurist disagrees with their position.

Sometimes a party loses a motion, motions, or even a case, without there being a grand conspiracy against them. But Appellants can not fathom that. Sometimes, the facts and law are so overwhelmingly on the opposing party's side that the reasonable and appropriate thing to do is to refrain from contesting the matter. That is the case here, as shown in the parties' briefs to the Court with respect to Respondents' Motion. Appellants clearly violated multiple Rules as described in the Motion – that is indisputable. Yet, Appellants stubbornly file a **frivolous** Return, 18 pages long (91 pages including exhibits), stating absolutely nothing that a forthright attorney would deem remotely germane to the issues presented in this Motion. They did much the same in their frivolous Return to Respondents' 7/5/11 Motion for Extension. In their Return to the instant Motion, they offer no viable evidence or arguments to support their position, but merely resist for resistance's sake. They spend the vast majority of the Return (including the vast majority of their exhibits) making improper arguments based on conjecture, speculation and distortions of documents, some of which were never presented to the lower court and that have no relevance to this Motion or the subject matter of these appeals. For these reasons, Respondents respectfully request that the Court sanction Appellants and their attorneys, pursuant to Rule 269, SCACR, for filing a frivolous Return in this matter.

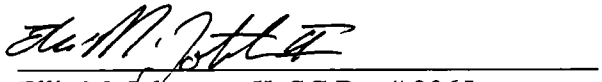
IV. Conclusion

Respondents request that the Court dismiss the five (5) appeals, or strike Appellants' initial briefs and Designations. If the Court deems it appropriate to strike

Appellants' initial briefs and Designations, with leave to file amended briefs and Designations, Respondents request that the court forbid Appellants from including in their amended briefs and Designations citations or any references to the documents, which Respondents have shown were not presented to the lower court. Respondents also request that the Court forbid Appellants from including in their amended briefs citations or any references to the materials, which were inadequately identified (i.e., no page or paragraph references to material within lengthy documents) in Appellants' first initial briefs, or, at a minimum, require Appellants to amend such cites to include more specific references to the materials they rely upon to support the statements of alleged fact contained in their briefs. Finally, in light of the numerous deficiencies in Appellants' initial briefs and Designations, which have clearly impaired Respondents' ability to fully and completely respond to Appellants' initial briefs, Respondents request that the Court stay the time limits applicable to Respondents' initial brief(s) and Designation(s) (to the extent there are currently such time limits), such that Respondents have no less than thirty (30) days to file their initial brief(s) and Designation(s) after the Court rules on this Motion, or after Appellants file amended initial briefs and Designations, whichever the case may be.

Respectfully Submitted,

HAYNSWORTH SINKLER BOYD, PA



Ellis M. Johnston, II, SC Bar # 3065
Calvin T. Vick, Jr., SC Bar #68187
Post Office Box 2048
Greenville, South Carolina 29602
(864) 240-3200

ATTORNEYS FOR RESPONDENTS

This 1st day of August, 2011
Greenville, South Carolina

Vick, Ted

From: baileylawfirm@charter.net
Sent: Wednesday, July 13, 2011 2:50 PM
To: Pack, Angie
Cc: thomas@pendarvislaw.com; Vick, Ted; Johnston, Ellis; Craddock, Hugh
Subject: RE: Davis et al. vs. AIMCO

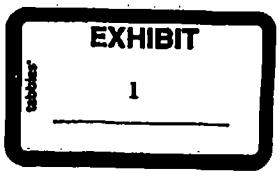
With regard to your questions concerning Appellants' designations, the order should be the order of 3-3-09. The motion to compel actually referred to the discovery requests dated 10-5-07, so there is no motion of that date.

With regard to the privilege log, it is the privilege log that was forwarded to Ellis on 7-21-05.

The Bailey Law Firm, P.A.
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Beaufort, SC 29901-1437
843-525-6090
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On Tue, Jul 12, 2011 at 2:47 PM, Pack, Angie wrote:

> RE: Laurance H. Davis, Jr., et al vs. Parkview Apartments, et al
> Laurance H. Davis, Jr., et al vs. Palmetto Apartments, et al
> Carolina Management Corporation, et al vs. Pinewood Park
> Apartments
> Laurance H. Davis, Jr., et al vs. Roosevelt Gardens, et al
> Rhonda G. Rentz, et al vs. Orleans Gardens, et al
>
> Gentlemen:
>
> Please find attached Mr. Vick's letter of today's date regarding the
> above-referenced matters. Please do not hesitate to contact me if you
> have any questions.
>
> <<Davis v. Parkview, et al - ltr to Bailey and Pendarvis dated July
> 12,
> 2011.pdf>>
>
> Thank you,
>
> Angela M. Pack
> Secretary to Thomas H. Coker, Jr.
> J.W. Matthews III and Calvin T. Vick, Jr. Haynsworth Sinkler Boyd,
> P.A.
> 75 Beattie Place - Eleventh Floor (29601)
> Post Office Box 2048
> Greenville, SC 29602
> Direct Dial: 864-240-3244
> Facsimile: 864-240-3336
>
> **********
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> marketing or recommending to another party any tax-related matters.
> mmcorp

THE STATE OF SOUTH CAROLINA
In the Supreme Court

ORIGINAL JURISDICTION

Ex Parte:

Laurance H. Davis, Jr., *et al.*,..... Petitioners,

In Re:

Laurance H. Davis, Jr., *et al.*,.....Plaintiffs,

v.

Parkview Apartments,
et al.,..... Defendants.

DEFENDANTS' RETURN IN OPPOSITION TO PETITION FOR WRIT OF PROHIBITION OR ALTERNATIVELY FOR WRIT OF CERTIORARI

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(864) 240-3200
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EXHIBIT
2

administration of these lawsuits.

The trial court's July 28, 2009 Order, which is the target of the instant Petition, compels the Petitioners to produce ninety-six (96) documents for which they had claimed attorney-client privilege and/or work product protection. See **Exhibit 2.** As shown below, the Petitioners expressly endorsed each step in the process, now complained of, that ultimately led to the trial court's July 28, 2009 order. They simply do not like the results, and have refused to comply with the trial court's order. As a result of Petitioners' willful non-compliance, the Defendants were forced to file a motion for sanctions seeking dismissal of the actions pursuant to Rule 37(b), SCRCP. See **Exhibit 3.** This was the second time that the Defendants were forced to file a motion for sanctions. The first motion for sanctions, which remains pending in the trial court, was necessary due to the Petitioners' willful non-compliance with another discovery order, dated March 3, 2009, which compelled them to fully and completely respond to Defendants' August 28, 2008 interrogatories and requests for production of documents.[2]

In regards to both of the discovery orders, and both of the Defendants' motions for sanctions, the trial court has exhibited extraordinary patience with the Petitioners. However, with less than five (5) months remaining before the trial in the Parkview action, and the Petitioners openly refusing to comply with the trial court's July 28, 2009 order, the trial court informed the parties that it had no alternative but to dismiss the actions as sanctions for Petitioners' willful non-compliance, with the substantial caveat that it would

[2] Copies of the following documents are attached as exhibits: March 3, 2009 Order, **Exhibit 4**; Defendants' first Motion for Sanctions, **Exhibit 5**; Memorandum in Support of Defendants' Two Motions for Sanctions, **Exhibit 6**; and Supplemental Memorandum in Support of Defendants' Motions for Sanctions, **Exhibit 7** (addressing Petitioners' continuing failure to comply with the March 3, 2009 discovery order).

vacate the dismissal order if the Petitioners complied with the July 28, 2009 discovery order within twenty-five (25) days of the date of the dismissal order. Moments before Judge Early was to sign the dismissal order, he received notice of the instant Petition, and determined that he would not proceed until this Court addressed the Petition. Now, Petitioners ask this Court to ignore well-established precedent in order to run interference with the trial court's proper administration of these lawsuits.

BRIEF SUMMARY OF ARGUMENT

A writ of prohibition should not issue in this case, because:

- By its own terms, Rule 53, SCRCP, does not apply to the proceedings in the trial court:
  - Former Judge Clary was not a Master-in-Equity or a Special Referee under S.C. Code Ann. § 14-11-60;
  - The trial court did not refer a cause of action or case to former Judge Clary; and
  - Former Judge Clary did not issue or enter an order or judgment.
- The trial court alone had the authority and jurisdiction to enter the July 28, 2009 Order.
- The discovery order at issue does not present some "great outrage upon the settled principles of law and procedure." Ex Parte Jones, 160 S.C. 63, 69, 158 S.E. 134, 137 (1931).
- In any event, the Petitioners have an adequate remedy of appeal.
- The imposition of sanctions for failure to comply with the discovery order is within the sound discretion of the trial court, and alleged abuse of discretion is not

grounds for a writ of prohibition.

A writ of certiorari should not issue in this case, because:

- It is well settled that an interlocutory discovery order is not immediately appealable, even when the party that is compelled to produce discovery objects based on the attorney-client privilege, and there are no exceptional circumstances warranting a writ of certiorari in this case.
- There are no novel questions of law concerning issues of significant public interest that are contained in numerous state and federal actions.
- Nor would an immediate decision by this Court serve the interests of judicial economy by eliminating numerous inevitable appeals raising the issues presented in this case.

FACTUAL BACKGROUND

The description of the facts in the Petition are incomplete and misleading. The record that is relevant to the subject discovery disputes is voluminous, spanning more than a year's time, but the key events leading to the trial court's entry of the July 28, 2009 discovery order are summarized as follows:

- July 1, 2008 - The trial court ordered the Petitioners to provide the Defendants with a complete privilege log within 30 days. The Petitioners had previously promised to provide a complete privilege log in March 2008, but had failed to do so.
- July 28, 2008 - Petitioners produced their updated Privilege Log, identifying 90 documents, dated between 1998 and 2004, which had not been previously identified in the litigation (the previous privilege log was provided on July 21,

2005).

- October 8, 2008 - Defendants challenged Petitioners' claims of privilege for most of the documents listed on the new Privilege Log.
- November 6, 2008 - Defendants filed and served their Motion to Compel Discovery, which addressed both the privilege disputes and the Petitioners' failure to respond to Defendants' August 28, 2008 discovery requests.
- November 14, 2008 - Petitioners served their delinquent and incomplete discovery responses, which included an updated Privilege Log. The November 14, 2008 Privilege Log provided very little response to the Defendants' challenges to Petitioners' privilege claims.
- December 8, 2008 - Defendants proceeded with their Motion to Compel Discovery, serving their memorandum in support of the motion. See **Exhibit 6**, at pp. 9-10 (setting forth the above chronology with citations to supporting documents).

On December 9, 2008, the trial court heard oral argument from the parties' counsel on Defendants' Motion to Compel Discovery. The Defendants' Motion was essentially bifurcated between matters concerning Petitioners' claims of privilege and non-privileged discovery disputes. The non-privileged discovery disputes are the subject of the trial court's March 3, 2009 discovery order, and now, yet another motion for sanctions for non-compliance. As for the privilege disputes, the Petitioners suggested that the trial court enlist the aid of a retired judge to inspect the subject documents *in camera* and issue a report to Judge Early to assist him in making his ruling. In the end, the trial court and the parties agreed to enlist the assistance of former Circuit Court Judge

Gary Clary for the limited purpose of reviewing the subject documents *in camera* before Judge Early proceeded to make his ruling on the privilege disputes. Specifically, trial counsel and Judge Early stated:

> Mr. Pendarvis [Petitioners' attorney]: And there is a 14-page privilege log. There are privileged documents for the Plaintiffs' side, an inch and a half to 2 inches. I propose Your Honor appoint a discovery master.
>
> ****
>
> Mr. Pendarvis: My point of all of this is that if you would appoint a discovery master to resolve this motion to compel and make me, Ted [Defendants' attorney], or whoever else go through this thing line by line or whoever the happy discovery master is going to be I think that will be able to present a report to you to make ruling and save everybody another hours of time.
>
> ****
>
> Mr. Pendarvis: I think all of that needs to be in front of a master and make a report to you. That's really my proposal tonight...
>
> ****
>
> The Court: [in response to Defendants' attorney's argument that the subject documents are not privileged and should be produced] You may very well be entitled to it, but before I know you're entitled to it I got to look at it or have somebody look at it.
>
> ****
>
> The Court: Here is what I am going to do. As to the privilege log I am going to appoint somebody. Y'all can agree on who it can be, but I am going to get somebody that can get on it immediately and have us an answer by the first couple of weeks in January.
>
> Mr. Johnston [Defendants' attorney]: Judge Clary would be great, I mean, if we can get him. You said Gary Clary? I mean, if he is available.
>
> The Court: Well, he's done it for me in a number of cases. He issues a written report. He does an excellent job with it. He's familiar with the law in the area. He's just done two for me recently - - big, big cases like this and I would recommend him if he's willing to do it.
>
> Mr. Johnston: Does that suit you guys?
>
> Mr. Pendarvis: That suits us.

See Exhibit 8, at pp. 49 (lines 17-20); 50 (lines 19-24); 53 (lines 22-24); 55 (lines 3-5); and 56 (lines 8-23) (emphasis added).

Following the hearing, the trial court and the parties engaged former Judge Gary Clary to assist with the *in camera* inspection of documents, and the trial court entered an order, dated December 30, 2008, appointing Gary Clary as a special master for this limited purpose. In fact, the trial court ordered former Judge Clary to review *in camera* the documents identified on both parties' privilege logs, even though the trial court had earlier denied the Petitioners' motion to compel the production of the documents identified on Defendants' Privilege Log. See Exhibit 9. On January 31, 2009, as former Judge Clary proceeded with the process of *in camera* review, the trial court entered a consent order submitted by the parties, which amended the December 30, 2008 order and expanded the scope of documents to be reviewed *in camera* by former Judge Clary. Importantly, the consent order further amended the December 30, 2008 order by making it clear that former Judge Clary was not to issue an order of any type, but was merely "to provide this Court with a Report setting forth his findings and conclusions." See Exhibit 10 (emphasis added). The scope of former Judge Clary's review was further amended by an order dated April 9, 2009, which repeated the instruction that he was only to issue a Report to the trial court. See Exhibit 11.

After completing his *in camera* review of the parties' documents, former Judge Clary sent his report to Judge Early and the parties' counsel on April 14, 2009. He subsequently provided a supplemental report to Judge Early and the parties' counsel on April 22, 2009. As these were merely reports to the trial court, rather than orders or judgments, the reports were never filed with the Clerks of Court. After consulting and

reaching agreement with the parties' counsel as to how they wished to proceed, the trial court entered an order on June 2, 2009, adopting the findings and conclusions contained in former Judge Clary's reports. As was specifically agreed to and requested by the parties' counsel, the trial court included the following language in its order:

> **This action is taken without prejudice to the parties' rights to make any arguments or objections concerning the findings and conclusions contained in the Reports, or the subject matter thereof,** via Motion(s) to Alter or Amend this Order, pursuant to Rule 59(e), SCRCP. **As requested by the parties' counsel, the Court will grant a hearing on any Rule 59(e) Motion filed by the parties with respect to this Order and will afford the parties full consideration of any arguments or objections stated in such Motion(s), if any.**

See **Exhibit 12** (emphasis added).

As contemplated by the trial court and the parties, both of the parties timely filed motions to alter or amend the June 2, 2009 order, pursuant to Rule 59(e), SCRCP. A copy of the Petitioners' Rule 59(e) motion, dated June 11, 2009, is attached as **Exhibit 13**, and a copy of the Defendants' Rule 59(e) motion is attached as **Exhibit 14**. The parties filed their memoranda in support of their respective Rule 59(e) motions on July 2, 2009. The Petitioners' memorandum is attached as **Exhibit 15**, and the Defendants' memorandum is attached as **Exhibit 16**. Although the Petitioners now have the audacity to argue that former Judge Clary's reports constitute an "order or judgment" within the meaning of Rule 53(e), SCRCP, they were clearly aware of the reports' true nature when they stated in their Rule 59(e) memorandum: "The Special Master's report, amended, and supplemental reports contain incorrect factual findings and erroneous conclusions of law with regard to three particular topics, **the arguments supporting the need for an Order correcting those findings and conclusions is set forth below...**" See **Exhibit 15** at p. 2 (also stating, "The Special Master's findings and conclusions in that regard are

in error, and should be modified or amended accordingly." (at p. 8)) (emphasis added).

On July 6, 2009, during a hearing of approximately three (3) hours in length, the trial court heard all of the arguments of the parties' counsel concerning their respective motions to alter or amend the June 2, 2009 Order. Not once did the Petitioners, or anyone else, question whether the trial court had the authority to alter or amend its June 2, 2009 Order, to enter the June 2, 2009 Order, to accept reports from former Judge Clary concerning his *in camera* review of the parties' documents, or to assign the *in camera* review of the documents to former Judge Clary in the first instance. The Petitioners did not contrive their jurisdictional argument until after the trial court announced its ruling on the parties' Rule 59(e) motions and the Defendants submitted the proposed order on such motions. On July 8, 2008, Judge Early advised the parties' counsel of his ruling, via e-mail, and instructed Defendants' counsel to prepare a proposed order for his review. See Exhibit 17. On July 10, 2009, Defendants submitted the proposed order via e-mail, per Judge Early's instructions, with a copy to Petitioners' counsel. See Exhibit 18. Less than two (2) hours later, the Petitioners sent a letter to Judge Early and Defendants' counsel, via e-mail, objecting to the entry of the proposed order. This was the first time the Petitioners ever questioned whether Judge Early had the authority to amend his own June 2, 2009 order or the findings contained in former Judge Clary's reports, and they did not file a motion of any kind. See Exhibit 19. The Defendants responded to Petitioners' July 10, 2009 letter, dispelling the notion that Judge Early was without authority to enter the proposed order. Defendants also reminded Petitioners' counsel that they had specifically agreed to amend the December 30, 2008 order appointing former Judge Clary in order to make it clear that he was only to issue a report to Judge Early (see Exhibit

10), "because the parties did not want to risk anyone mistakenly holding that this process was governed by Rule 53, SCRCP, concerning masters (masters-in-equity) and special referees (under S.C. Code 14-11-60)." See Exhibit 20 (quoted language at p. 2).

On July 28, 2009, the trial court entered its Order Amending Court's Order Dated June 2, 2009, granting in part and denying in part each of the parties' Rule 59(e) motions. See Exhibit 2. That same day, Judge Early, through his law clerk, advised the parties' counsel that the order had been signed. See Exhibit 21. The Defendants provided a copy of the July 28, 2009 Order to Petitioners' counsel, via e-mail and U.S. mail, on July 30, 2009, and copied the Petitioners' counsel on the letter to the Clerk of Court filing the order. See Exhibits 22, 23 and 24. The Defendants then produced their documents to Petitioners within seven (7) days as required by the trial court's July 28, 2009 Order. See Exhibit 25. The Petitioners, however, have failed and refused to comply with the trial court's July 28, 2009 Order in any respect.

On August 10, 2009, having received no response from Petitioners' counsel as to when and if the Petitioners intend to comply with the July 28, 2009 Order, Defendants filed and served their Second Motion for Sanctions. See Exhibit 3. On August 13, 2009, all counsel were notified that the hearing on the Defendants' two motions for sanctions would be held on August 24, 2009, at 2:00 p.m., in Aiken, South Carolina. All counsel agreed to this hearing date. See Exhibit 26 hereto. During the hearing on Defendants' motions for sanctions, the following exchanges took place between Petitioners' counsel and Judge Early concerning the Petitioners' failure to comply with the July 28, 2009 Order:

The Court: You want me to change my prior order?

Mr. Bailey [Petitioners' counsel]: Yes, sir. I think it should be changed.

The Court: On what basis?

Mr. Bailey: The basis that we had previously told Your Honor. That is, number one, that the authority to alter or amend the findings and conclusions of a special master apply only to the appellate courts, not to the circuit courts. So it's a usurpation of jurisdiction under that rule. The second basis, Your Honor, is that that particular order will significantly change the mode of trial and trial preparation and we think - -

The Court: Mr. Bailey, you don't like it because it's opened up wide open the issue of the statute of limitations.

****

The Court: I suggested using Judge Clary. Y'all agreed to do that. You went up there. Neither one of you liked his ruling. Both of you filed 59(e)'s. I ruled on that. Now you don't like that. So go off to Columbia if you don't like it. I don't know what else to tell you to do. My patience is -- I gave y'all -- is this the same hearing I gave y'all a three-hour hearing the other night --

Mr. Johnston [Defendants' counsel]: Yes, Your Honor.

****

The Court: So I'm going to take it [Defendants' motions for sanctions] under advisement. I'm going to let you two talk and I'm going to send an e-mail tomorrow and the e-mail very well could be that my order is, as drastic as it may be is that I will dismiss the action for failure to comply. I'll give them x amount of days to comply with it to remedy that. I'd rather not do that but I'm backed into a corner.

****

The Court: I need you to report to your clients that I'm taking this under advisement this afternoon with strong leans towards dismissing the action for them failing to comply. And if they want to take that chance and go to Columbia that I'm wrong on what I did, that's the chance they can take. Or they can comply with my discovery order and let's move forward and try the case straight up on the facts.

****

The Court: I think that they're entitled to whatever documents they can to develop that [statute of limitations] defense as well as you saying it was brought within the statute.

****

> Mr. Bailey: [I]f Your Honor would be willing to sit back and take a longer look at this thing under a 59, it might help get everything resolved and avoid any considerations of review and that type of thing.
>
> The Court: Mr. Bailey, I have listened to y'all for three hours the other night, way into the evening in Barnwell after my court over there. And I've ruled like I think it should be done under the facts of this case, under the pleadings, and I'm not going to go back on that... I urge you to tell your clients that I've ruled on it. I may be wrong, I may be right. But that's the ruling. And if they don't want to comply with it, then it's a good chance this case is going to get tossed.
>
> Mr. Bailey: For the record, Your Honor, we'd like to just go on record now and just ask you pursuant to Rule 59 and/or 60, to vacate that order and basically go back and take a second look at these issues.
>
> The Court: Thank you. Respectfully denied.

See **Exhibit 27**, at pp. 21 (lines 19-25); 22 (lines 1-10; 25); 23 (lines 1-8); 30 (lines 10-17); 31 (lines 9-17); 32 (lines 18-20); 34 (lines 17-25); and 35 (lines 1-13).

On August 27, 2009, via a conference call with all counsel, Judge Early instructed Defendants' counsel to submit a proposed order granting Defendants' Second Motion for Sanctions and dismissing the actions, with the caveat that he would vacate the dismissal order if the Petitioners fully complied with the July 28, 2009 discovery order within 25 days. See **Exhibit 28**. On August 29, 2009, Defendants' counsel submitted the proposed order to Judge Early and Petitioners' counsel, via e-mail. See **Exhibit 28** (proposed dismissal order attached thereto). On September 2, 2009, at 11:30 a.m., Judge Early conducted a conference call with all counsel and advised that he would sign the proposed dismissal order in the early afternoon and mail the order to the Clerk of Court for filing. See **Exhibit 28**. Later that day, John S. Nichols, appellate counsel for Petitioners, advised Judge Early and Defendants' counsel that the Petitioners had filed the instant Petition in this Court. See **Exhibit 28**. On September 3, 2009, Judge Early advised all

1998). Further, "the lawyer-client privilege does not bar questions about the nature of the legal services rendered." See *Weinstein's Federal Evidence*, § 503.14[5][f]. See also Exhibit 7 at pp. 11-12 (discussion of Petitioners' failure to fully and completely respond to the interrogatories described above).

B. Trial Court Has Not Usurped or Exceeded Its Jurisdiction

Despite the fact that *the Petitioners* suggested and agreed to enlist former Judge Gary Clary to review the documents *in camera*, and to issue *a report* to Judge Early so that he, as the presiding judge, could enter an order resolving the privilege disputes, and despite the fact that *the Petitioners* filed a motion asking Judge Early to alter or amend *his* June 2, 2009 Order, which he did, the Petitioners now claim that the trial court had no jurisdiction under Rule 53, SCRCP, to:

(a) enter its Order of June 2, 2009; or

(b) consider Petitioners' and Defendants' subsequent Rule 59(e) Motions; or

(c) issue its July 28, 2009 Order granting in part and denying in part both Plaintiffs' and Defendants' Rule 59(e) Motions; or

(d) enforce its Order with appropriate sanctions.

An examination of Rule 53 shows this claim to be specious.

First, Rule 53 applies only to Masters (defined in Rule 53(a) as "master-in-equity for the county," which former Judge Clary is not) and Special Referees, defined by Rule 53(a) as "a member of the South Carolina Bar to whom a matter has been referred under S.C. Code Ann. §14-11-60." S.C. Code Ann. §14-11-60 provides:

> In case of a vacancy in the office of master-in-equity or in case of the disqualification or disability of the master-in-equity from interest or any

> other reason for which cause can be shown the presiding circuit court judge, upon agreement of the parties, may appoint a special referee in any case who as to the case has all the powers of a master-in-equity.

Here, there was no vacancy in the office of Master-in-Equity, nor was the Master-in-Equity disqualified or disabled from interest or any other reason for which cause could be shown. Former Judge Clary was not appointed a "Special Referee" under S.C. Code Ann. §14-11-60, nor could he have been within the meaning of the Rule. By its own terms, Rule 53, SCRCP, does not apply.

Second, Rule 53 applies to the reference of causes of actions and cases to a Master-in-Equity or Special Referee; not, as here, to a review of documents within a discrete discovery dispute.

> In an action where the parties consent ... some or all of the causes of action in a case may be referred to a master or special referee... In all other actions, the circuit court may, upon application of any party or upon its own motion, direct a reference of some or all of the causes of action in a case... A case shall not be referred to a master or special referee for the purpose of making a report to the circuit court.

Rule 53(b), SCRCP (emphasis added). That the Rule is applicable only to the reference of cases and causes of action is further buttressed by S.C. Code Ann. §14-11-85 (Appeals from final judgment of masters-in-equity), which provides:

> When some or all of the causes of action in a case are referred to a master-in-equity or special referee, the master or referee shall enter final judgment as to those causes of action, and an appeal from an order or judgment of the master or referee must be to the Supreme Court or the court of appeals as provided by the South Carolina Appellate Court Rules.

No "cause of action" or "case," as contemplated by Rule 53, SCRCP, and S.C. Code Ann. §14-11-60, 85, was referred to former Judge Clary. He was merely asked to review *in camera* allegedly privileged documents, and provide a report of his findings to the trial court. Again, Rule 53, SCRCP, does not apply by its own terms.

Third, Petitioners apparently now claim that it was inappropriate (though they requested that it be done) that privileged documents be reviewed by former Judge Clary and a "report" issued, arguing that Rule 53 and S.C. Code Ann. §14-11-85 prohibit such a reference for the purpose of issuing a "report" when clearly they do not. Rule 53's prohibition against referring a matter to a Master or Special Referee (as those terms are defined in Rule 53(a)) to issue a report applies to a "case" or "cause of action;" not, as here, to a review of allegedly privileged documents. See Rule 53(b), SCRCP ("A case shall not be referred to a master or special referee for the purpose of making a report to the circuit court." (emphasis added)).

Fourth, former Judge Clary never issued an "order or judgment," and none was filed with the Clerk of Court. See Rule 53(e), SCRCP ("When a matter has been referred, any appeal from any order or judgment issued by the master or special referee shall be to the Supreme Court or the Court of Appeals..." (emphasis added)). Thus, except for Judge Early's Orders, no enforceable order exists resolving Plaintiffs' and Defendants' privilege disputes, nor does an order exist from which either side could appeal. Instead, as instructed, and pursuant to the trial court's Orders of December 30, 2008, January 31, 2009, and April 9, 2009, former Judge Clary made a report to the trial court with respect to his review of the subject documents. The trial court, at Plaintiffs' and Defendants' request and without argument, entered an Order adopting the report's findings and conclusions, and specifically reserving to Plaintiffs and Defendants an opportunity to object through Rule 59 Motions to any part of it. Both sides timely made Rule 59(e) Motions, a lengthy hearing was held (and no objection was made as to the trial court's authority to hear the Motions), and, on July 8, 2009, Judge Early informed the

parties' counsel of his decision, granting in part and denying in part both parties' Rule 59(e) Motions. Only then did Petitioners mention by letter, and *not* by motion, their contrived Rule 53 jurisdictional issue. The trial court issued its Order on July 28, 2009, and it was forwarded to Petitioners by U.S. Mail and e-mail on July 30, 2009. The Defendants simultaneously sent the Order to the Clerks of Court for Beaufort, Charleston, and Orangeburg for filing, where it was entered on August 3, August 3, and August 6, 2009, respectively.[3] See Exhibit 2. The only orders deciding the "privilege" issues and from which an appeal, when appropriate, might be taken are those of Judge Early.

As for the Petitioners' claim that the trial court was without authority to enter the July 28, 2009 Order because one trial judge can not overrule an order from another trial judge (see Buckley v. Shealey, 370 S.C. 317, 635 S.E.2d 76 (2006)), that rule does not apply here, because (1) former Judge Clary was not a trial judge when he conducted his review of the documents and (2) he did not enter an order at all. In sum, this Court specifically assigned Judge Early to preside over all aspects of this litigation, and he has not relinquished his authority or jurisdiction to former Judge Clary or anyone else. It is beyond dispute that the trial court had jurisdiction to enter the June 2, 2009 and July 28, 2009 Orders, and it has the authority and jurisdiction to enforce those orders. Petitioners have no grounds for a writ of prohibition in this case.

C. Adequate Remedy of Appeal Available to Petitioners

As discussed above, where the Petitioners have an adequate remedy by appeal, a

[3] Plaintiffs claim to have first received written notice of the "entry" of the Order on August 14, 2009, by letter from the Charleston County Clerk's office, and Defendants have no reason to doubt this. Clearly, though, they were on notice no later than July 30, 2009 (15 days earlier) when they received a copy of the signed Order, and even agreed to a hearing date on Defendants' motions for sanctions on August 13, 2009.

STATE OF SOUTH CAROLINA		IN THE COURT OF COMMON PLEAS
Laurance H. Davis, Jr., *et al.*, Plaintiffs, v. Parkview Apartments, a South Carolina Limited Partnership, *et al.*, Defendants.	)	Beaufort County C.A. No. 2003-CP-07-726
Laurance H. Davis, Jr., *et al.*, Plaintiffs, v. Roosevelt Gardens, a South Carolina Limited Partnership, *et al.*, Defendants.	)	Orangeburg County C.A. No. 2005-CP-38-1131
Rhonda G. Rentz, *et al.*, Plaintiffs, v. Orleans Gardens, a South Carolina Limited Partnership, *et al.*, Defendants.	)	Charleston County C.A. No. 2005-CP-10-4229
Laurance H. Davis, Jr., *et al.*, Plaintiffs, v. Palmetto Apartments, a South Carolina Limited Partnership, *et al.*, Defendants.	)	Beaufort County C.A. No. 2005-CP-07-1989
Carolina Management Corporation of Beaufort, *et al.*, Plaintiffs, v. Pinewood Park Apartments, a South Carolina Limited Partnership, *et al.*, Defendants.	)	Beaufort County C.A. No. 2005-CP-07-1990

ORDER AMENDING COURT'S ORDER DATED JUNE 2, 2009

These matters are before the Court on the Plaintiffs' Motion to Alter or Amend, dated June 11, 2009, and the Defendants' Motion to Alter or Amend, dated June 15, 2009. In their respective motions, the Plaintiffs and the Defendants request that the Court amend its Order dated June 2, 2009, which adopted Special Master Clary's reports verbatim. The parties' motions were timely filed, pursuant to Rule 59(e), SCRCP, and the Court has carefully considered the parties' memoranda, exhibits, oral arguments of all counsel at the July 8, 2009

Certified A True Copy

Elizabeth M. S... ...of Court
Beaufort ... SC

EXHIBIT 2

STATE OF SOUTH CAROLINA		IN THE COURT OF COMMON PLEAS
Laurance H. Davis, Jr., *et al.*, Plaintiffs, v. Parkview Apartments, a South Carolina Limited Partnership, *et al.*, Defendants.	)	Beaufort County C.A. No. 2003-CP-07-726
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Rhonda G. Rentz, *et al.*, Plaintiffs, v. Orleans Gardens, a South Carolina Limited Partnership, *et al.*, Defendants.	)	Charleston County C.A. No. 2005-CP-10-02229
Laurance H. Davis, Jr., *et al.*, Plaintiffs, v. Palmetto Apartments, a South Carolina Limited Partnership, *et al.*, Defendants.	)	Beaufort County C.A. No. 2005-CP-07-1989
Carolina Management Corporation of Beaufort, *et al.*, Plaintiffs, v. Pinewood Park Apartments, a South Carolina Limited Partnership, *et al.*, Defendants.	)	Beaufort County C.A. No. 2005-CP-07-1990

FILED FOR RECORD
WINNIFRED L. BLAKE
CLERK OF COURT
BEAUFORT, SC
2009 AUG 5 P 2:47

ORDER AMENDING COURT'S ORDER DATED JUNE 2, 2009

ATTEST: TRUE COPY
CLERK OF COURT
BEAUFORT, SOUTH CAROLINA

These matters are before the Court on the Plaintiffs' Motion to Alter or Amend, dated June 11, 2009, and the Defendants' Motion to Alter or Amend, dated June 15, 2009. In their respective motions, the Plaintiffs and the Defendants request that the Court amend its Order dated June 2, 2009, which adopted Special Master Clary's reports verbatim. The parties' motions were timely filed, pursuant to Rule 59(e), SCRCP, and the Court has carefully considered the parties' memoranda, exhibits, oral arguments of all counsel at the July 6, 2009

Certified A True Copy
Elizabeth M. Strickland, Clerk of Court
Beaufort County, SC

STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

Laurance H. Davis, Jr., *et al.*, Plaintiffs, v. Parkview Apartments, a South Carolina Limited Partnership, *et al.*, Defendants.	)	Beaufort County C.A. No. 2003-CP-07-726
Laurance H. Davis, Jr., *et al.*, Plaintiffs, v. Roosevelt Gardens, a South Carolina Limited Partnership, *et al.*, Defendants.	)	Orangeburg County C.A. No. 2005-CP-38-113
Rhonda G. Rentz, *et al.*, Plaintiffs, v. Orleans Gardens, a South Carolina Limited Partnership, *et al.*, Defendants.	)	~~Charleston County~~ C.A. No. 2005-CP-10-4209
Laurance H. Davis, Jr., *et al.*, Plaintiffs, v. Palmetto Apartments, a South Carolina Limited Partnership, *et al.*, Defendants.	)	Beaufort County C.A. No. 2005-CP-07-1989
Carolina Management Corporation of Beaufort, *et al.*, Plaintiffs, v. Pinewood Park Apartments, a South Carolina Limited Partnership, *et al.*, Defendants.	)	Beaufort County C.A. No. 2005-CP-07-1990

FILED
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JULIE J. ARMSTRONG
CLERK OF COURT
BY
2009 AUG -3 PM 4:07
CLERK OF COURT
BEAUFORT, S.C.

ORDER AMENDING COURT'S ORDER DATED JUNE 2, 2009

These matters are before the Court on the Plaintiffs' Motion to Alter or Amend, dated June 11, 2009, and the Defendants' Motion to Alter or Amend, dated June 15, 2009. In their respective motions, the Plaintiffs and the Defendants request that the Court amend its Order dated June 2, 2009, which adopted Special Master Clary's reports verbatim. The parties' motions were timely filed, pursuant to Rule 59(e), SCRCP, and the Court has carefully considered the parties' memoranda, exhibits, oral arguments of all counsel at the July 6, 2009

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Elizabeth M. Smith - Clerk of Court
Beaufort County, SC

STATE OF SOUTH CAROLINA		IN THE COURT OF COMMON PLEAS
Laurance H. Davis, Jr., *et al.*, Plaintiffs, v. Parkview Apartments, a South Carolina Limited Partnership, *et al.*, Defendants.	))))	Beaufort County C.A. No. 2003-CP-07-726
Laurance H. Davis, Jr., *et al.*, Plaintiffs, v. Roosevelt Gardens, a South Carolina Limited Partnership, *et al.*, Defendants.	))))	Orangeburg County C.A. No. 2005-CP-38-1131
Rhonda G. Rentz, *et al.*, Plaintiffs, v. Orleans Gardens, a South Carolina Limited Partnership, *et al.*, Defendants.	))))	Charleston County C.A. No. 2005-CP-10-4229
Laurance H. Davis, Jr., *et al.*, Plaintiffs, v. Palmetto Apartments, a South Carolina Limited Partnership, *et al.*, Defendants.	))))	Beaufort County C.A. No. 2005-CP-07-1989
Carolina Management Corporation of Beaufort, *et al.*, Plaintiffs, v. Pinewood Park Apartments, a South Carolina Limited Partnership, *et al.*, Defendants.	)))))	Beaufort County C.A. No. 2005-CP-07-1990

ORDER AMENDING COURT'S ORDER DATED JUNE 2, 2009

These matters are before the Court on the Plaintiffs' Motion to Alter or Amend, dated June 11, 2009, and the Defendants' Motion to Alter or Amend, dated June 15, 2009. In their respective motions, the Plaintiffs and the Defendants request that the Court amend its Order dated June 2, 2009, which adopted Special Master Clary's reports verbatim. The parties' motions were timely filed, pursuant to Rule 59(e), SCRCP, and the Court has carefully considered the parties' memoranda, exhibits, oral arguments of all counsel at the

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Clerk of Court

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hearing, and Special Master Clary's reports, which were incorporated into the Court's June 2, 2009 Order by reference. The motions of the Plaintiffs and the Defendants are granted, in part, and denied, in part, as set forth herein.

The Court's June 2, 2009 Order and the Special Master's reports incorporated therein are sustained in all aspects, except for the following amendments thereto:

(1) With regard to the Plaintiffs' argument that the fiduciary duty exception applies to Defendants' privileged documents, the Court finds that the requisite mutuality of interest between the parties ceased to exist as of December 9, 1999, which is the date of Mr. Weinberg's first letter to a general partner threatening litigation (AMREAL 014864, attached to Defendants' Memorandum as Exhibit 1). Accordingly, the fiduciary duty exception is not available to the Plaintiffs with regard to any privileged document dated (i.e., created) after December 9, 1999, and the following privileged documents, which were previously designated for production, shall not be produced:

Defendants' Documents (listed on pp. 12-14 of the Special Master's April 14, 2009 report):

1	AMREAL 00573–00576
20	AMREAL 004865–004867
23	GWB 000011
60	GWB 000271
76	GWB 000458–000459
78	GWB 000484

"Bryan Cave" Documents (listed on pp. 14-17 of the Special Master's April 14, 2009 report):

2	AMREAL 014670–014671
3	AMREAL 014672–014681
16	AMREAL 014875

17	AMREAL 014876
18	AMREAL 014877–014879
19	AMREAL 014880–014886
20	AMREAL 014887–014890
21	AMREAL 014891–014892
22	AMREAL 014893–014894
24	AMREAL 014896–014897
26	AMREAL 014899
27	AMREAL 014900–014902
28	AMREAL 014903–014904
30	AMREAL 014906
31	AMREAL 014907
32	AMREAL 014908
33	AMREAL 014909
34	AMREAL 014910–014912
36	AMREAL 014914
37	AMREAL 014915
59	AMREAL 015060-015061
60	AMREAL 015062–015066
62	AMREAL 015068–015071
63	AMREAL 015072–015074
64	AMREAL 015075–015077
66	AMREAL 015079–015081
67	AMREAL 015087
68	AMREAL 015091–015092
69	AMREAL 015093–015095
70	AMREAL 015100–015103
71	AMREAL 015104–015107
72	AMREAL 015118–015119
73	AMREAL 015120–015122
74	AMREAL 015123–015126
75	AMREAL 015136–015138
76	AMREAL 015139–015140
77	AMREAL 015141–015144
78	AMREAL 015145–015151
79	AMREAL 015152–015153
81	AMREAL 015157–015167
87	AMREAL 015209–015213
89	AMREAL 015256
90	AMREAL 015257
91	AMREAL 015258
92	AMREAL 015259–015261
93	AMREAL 015262–015263
94	AMREAL 015268–015269
95	AMREAL 015272–015273

96	AMREAL 015276–015277
97	AMREAL 015278–015279
98	AMREAL 015282–015283
99	AMREAL 015284
100	AMREAL 015285–015286
101	AMREAL 015287–015297
102	AMREAL 015298–015306
103	AMREAL 015307–015316
104	AMREAL 015317–015332
108	AMREAL 015341–015342
109	AMREAL 015343–015344
110	AMREAL 015345–015346
112	AMREAL 015350–015352
113	AMREAL 015353–015357
114	AMREAL 015358–015362
115	AMREAL 015363–015366
116	AMREAL 015367–015369
129	AMREAL 015423–015426
130	AMREAL 015427–015430
131	AMREAL 015431–015436
132	AMREAL 015437–015442
133	AMREAL 015443–015445

(2) The Court finds that the limited power of attorney from Mary Jane Pike to Jim Pike and/or Jane Miller was valid and there was no waiver of privilege as a result of documents being provided to Jim Pike and/or Jane Miller. The subject documents are identified in Special Master Clary's reports as Plaintiffs' documents 8, 9, 46, 54, 59, 100 and 103. However, two of these documents (46 – Bailey 3735, dated 2/14/01; 54 – Bailey 4019-4020, dated 9/19/02) are subject to production under paragraph 4 below, so they shall be produced as previously ordered. The net result of the Court's findings is that the following documents, which were previously designated for production, shall not be produced:

8	Parkview 2114-2115
9	Parkview 2143
59	Bailey 4055
100	Bailey 4874-4875

103	Bailey 4878

(3) The Special Master concluded that documents involving communications with prospective clients of Mr. Bailey were not privileged and should be produced, because Mr. Bailey lacked the necessary attorney-client relationship with such prospective clients. Plaintiffs argue that the attorney-client privilege extends to communications between Mr. Bailey and prospective clients, such as Warren Griffin, a limited partner in Lincoln Limited Partnership who did not retain Mr. Bailey and is not a party to these lawsuits. The Court agrees with the Plaintiffs. Communications that are solely between Mr. Bailey and prospective clients, who are not parties (or their predecessors or successors) to these lawsuits, are privileged and should not be produced. However, after reviewing the Special Master's reports and the Plaintiffs' Privilege Log, it appears that there are no such documents. There are, however, communications between Mr. Bailey and his current clients (Plaintiffs) concerning, in whole or in part, Lincoln Limited Partnership. Mr. Griffin is a party to some of these communications, but his participation does not, itself, destroy the privilege. Such documents are privileged unless the privilege has been impliedly waived by the Plaintiffs as described in paragraph 4 below (i.e., Plaintiffs have impliedly waived privilege as to documents dated more than three years prior to the filing of these lawsuits). The Court finds that two of the documents concerning the Lincoln Limited Partnership, which were designated for production by the Special Master, are privileged and are not subject to the implied waiver described in paragraph 4. These documents are communications occurring in 2004 between Mr. Bailey and Plaintiffs, Rentz and Hodge. Accordingly, the following documents, which were previously designated for production, shall not be produced:

82	Bailey 4591-4592

5

83	Bailey 4593

(4) The Court finds that the statute of limitations is a major issue in these cases, and, as shown in the Defendants' Memorandum and exhibits thereto, that the Plaintiffs impliedly waived their claims of privilege with respect to documents dated (i.e., created) more than three years prior to the filing of these lawsuits. As a result, the following documents, which were previously designated for protection, shall be produced:

12	Bailey 3059
13	Bailey 3060
14	Bailey 3067-3069
15	Bailey 3070-3072
17	Bailey 3077-3078
18	Bailey 3082
19	Bailey 3105
20	Bailey 3148
21	Bailey 3151
22	Bailey 3152
23	Bailey 3153
24	Bailey 3154
25	Bailey 3155-3156
26	Bailey 3180
27	Bailey 3209-3212
28	Bailey 3215
29	Bailey 3216
30	Bailey 3217
31	Bailey 3316
34	Bailey 3321
38	Bailey 3333
39	Bailey 3334-3335
40	Bailey 3512
41	Bailey 3526-3528
42	Bailey 3695
43	Bailey 3715-3719
44	Bailey 3721-3726
45	Bailey 3731-3732
47	Bailey 3737
48	Bailey 3738

49	Bailey 3754-3755
51	Bailey 3758-3759
52	Bailey 3768
53	Bailey 3799
66	Bailey 4218-4219
77	Bailey 4560
85	Bailey 4783
86	Bailey 4785-4787
87	Bailey 4804
88	Bailey 4808-4809
89	Bailey 4810
91	Bailey 4827
93	Bailey 4837
94	Bailey 4842
95	Bailey 4843
97	Bailey 4847-4851
98	Bailey 4854
99	Bailey 4859-4868
110	Bailey 4999
111	Bailey 5002-5004
112	Bailey 5008-5012
113	Bailey 5016
114	Bailey 5024
116	Bailey 5028
117	Bailey 5056
118	Bailey 5062
119	Bailey 5064
120	Bailey 5065-5069
121	Bailey 5071
122	Bailey 5073
123	Bailey 5074
124	Bailey 5080-5081
125	Bailey 5088-5089
126	Bailey 5092

(5) The Court finds that the Defendants' privileged documents identified as "Bryan Cave" documents Nos. 2 and 3 (listed on p. 15 of the Special Master's April 14, 2009 report) are not subject to the fiduciary duty exception, because these documents are not communications between a general partner, acting in that capacity, and the Limited Partnerships' attorneys.

Rather, these documents concern communications between AIMCO, acting in its individual capacity, and AIMCO's separate counsel, Art Hessel, who did not represent the Limited Partnerships. As a result, the following documents, which were previously designated for production, shall not be produced:

2	AMREAL 014670-014671
3	AMREAL 014672-014681

The Court's June 2, 2009 Order, and the Special Master's reports incorporated therein, are hereby amended as set forth above. In sum, pursuant to the Court's June 2, 2009 Order, as amended herein, the Plaintiffs and Defendants are ordered to produce the following documents within seven (7) days of the date of this Order:

Plaintiffs Shall Produce:

1	Parkview 1951-1952
5	Parkview 2083
12	Bailey 3059
13	Bailey 3060
14	Bailey 3067-3069
15	Bailey 3070-3072
16	Bailey 3073
17	Bailey 3077-3078
18	Bailey 3082
19	Bailey 3105
20	Bailey 3148
21	Bailey 3151
22	Bailey 3152
23	Bailey 3153
24	Bailey 3154
25	Bailey 3155-3156
26	Bailey 3180
27	Bailey 3209-3212
28	Bailey 3215
29	Bailey 3216
30	Bailey 3217

31	Bailey 3316
32	Bailey 3317
33	Bailey 3320
34	Bailey 3321
35	Bailey 3325
36	Bailey 3326-3327
37	Bailey 3328
38	Bailey 3333
39	Bailey 3334-3335
40	Bailey 3512
41	Bailey 3526-3528
42	Bailey 3695
43	Bailey 3715-3719
44	Bailey 3721-3726
45	Bailey 3731-3732
46	Bailey 3735
47	Bailey 3737
48	Bailey 3738
49	Bailey 3754-3755
50	Bailey 3756-3757
51	Bailey 3758-3759
52	Bailey 3768
53	Bailey 3799
54	Bailey 4019-4020
66	Bailey 4218-4219
71	Bailey 4467-4468
72	Bailey 4471
73	Bailey 4473
74	Bailey 4540-4543
75	Bailey 4547
76	Bailey 4548
77	Bailey 4560
78	Bailey 4565
79	Bailey 4572-4575
80	Bailey 4576-4577
81	Bailey 4580-4582
84	Bailey 4763
85	Bailey 4783
86	Bailey 4785-4787
87	Bailey 4804
88	Bailey 4808-4809
89	Bailey 4810
90	Bailey 4811
91	Bailey 4827
92	Bailey 4831

9

93	Bailey 4837
94	Bailey 4842
95	Bailey 4843
96	Bailey 4846
97	Bailey 4847-4851
98	Bailey 4854
99	Bailey 4859-4868
104	Bailey 4885-4886
105	Bailey 4968
106	Bailey 4980
107	Bailey 4993
108	Bailey 4995 (identified as 4996 on Plaintiffs' Privilege Log)
109	Bailey 4998
110	Bailey 4999
111	Bailey 5002-5004
112	Bailey 5008-5012
113	Bailey 5016
114	Bailey 5024
115	Bailey 5025
116	Bailey 5028
117	Bailey 5056
118	Bailey 5062
119	Bailey 5064
120	Bailey 5065-5069
121	Bailey 5071
122	Bailey 5073
123	Bailey 5074
124	Bailey 5080-5081
125	Bailey 5088-5089
126	Bailey 5092

Defendants Shall Produce:

70	GWB 000380
71	GWB 000381–000421
"Bryan Cave"	
6	AMREAL 014865
7	AMREAL 014866
8	AMREAL 014867
9	AMREAL 014868
10	AMREAL 014869
11	AMREAL 014870

12	AMREAL 014871
13	AMREAL 014872
14	AMREAL 014873
39	AMREAL 014917–014922
41	AMREAL 014924–014928
42	AMREAL 014939–014944
43	AMREAL 014945–014949
44	AMREAL 014950–014953
45	AMREAL 014954–014959
46	AMREAL 014960–014964
47	AMREAL 014965–014968
48	AMREAL 014984–014989
49	AMREAL 014990–014994
50	AMREAL 014995–014998
51	AMREAL 014999–015004
52	AMREAL 015005–015009
53	AMREAL 015010–015013
54	AMREAL 015020–015024
55	AMREAL 015044–015049
56	AMREAL 015050–015054
57	AMREAL 015055–015058

IT IS SO ORDERED

This 28th day of July, 2009.

Bamberg, South Carolina

Doyet A. Early, III, Circuit Court Judge

STATE OF SOUTH CAROLINA		IN THE COURT OF COMMON PLEAS
Laurance H. Davis, Jr., *et al.*, Plaintiffs, v. Parkview Apartments, a South Carolina Limited Partnership, *et al.*, Defendants.	))))	Beaufort County C.A. No. 2003-CP-07-726
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Carolina Management Corporation of Beaufort, *et al.*, Plaintiffs, v. Pinewood Park Apartments, a South Carolina Limited Partnership, *et al.*, Defendants.	)))))	Beaufort County C.A. No. 2005-CP-07-1990

I HEREBY CERTIFY that true and correct copies of the attached ORDER AMENDING COURT'S ORDER DATED JUNE 2, 2009 was served upon counsel of record by depositing copies in the United States mail, first class postage affixed, this 30th day of July, 2009, addressed as follows:

Joel D. Bailey
The Bailey Law Firm
Post Office Box 1437
Beaufort, SC 29901-1437

Thomas A. Pendarvis
Pendarvis Law Offices, P.C.
500 Carteret Street, Suite A
Beaufort, SC 29902-5066

July 30, 2009
Greenville, South Carolina

Deborah L. Herring
Legal Assistant to Calvin T. Vick, Jr.

Greenville: 676040 v.1

State of South Carolina	)	Court of Common Pleas
Laurance H. Davis, Jr., et al., Plaintiffs vs. Roosevelt Gardens, a South Carolina Limited Partnership, et al., Defendants	)	2005-CP-38-1131
Rhonda G. Rentz, et al., Plaintiffs, vs. Orleans Gardens, a South Carolina Limited Partnership, et al., Defendants	)	2005-CP-10-4229
Laurance H. Davis, Jr., et al., Plaintiffs, vs. Palmetto Apartments, a South Carolina Limited Partnetship, et al., Defendants	)	2005-CP-07-1989
Carolina Management Corporation of Beaufort, et al., Plaintiffs, vs. Pinewood Park Apartments, a South Carolina Limited Partnership, et al., Defendants	)	2005-CP-07-1990

December 9, 2008
Bamberg, South Carolina

EXHIBIT 8

B E F O R E:

The Honorable Doyet A. Early, III, Judge.

A P P E A R A N C E S:

Joel D. Bailey, Esq.
Thomas A. Pendarvis, Esq.
Attorneys for the Plaintiff

Ellis M. Johnston, II, Esq.
C. Theodore Vick, Jr., Esq.
Attorney for the Defendant

Lisa H. Davenport
Official Court Reporter

tell you what we did? We took theirs precisely verbatim their language that you approved at the July hearing and we submitted it back to them. If it was okay for them, it's got to be okay for us, and, so, that's what we did, and then we went and answered what we could. But a general objection, here is our objection. Subject to the objection, here is what we got and you've got it.

THE COURT: All right, Thomas.

MR. PENDARVIS: Your Honor, I think I've got a proposal that might help everyone tonight. The Plaintiffs' responses alone were 89 pages. They are multiple -- There are are issues on every -- There are questions that are being raised in this motion on virtually every response.

THE COURT: They've got attached to their memorandum they've got 89 --

MR. PENDARVIS: Correct. And there is a 14-page privilege log. There are privileged documents for the Plaintiff's side, an inch and a half to 2 inches. I propose Your Honor appoint a discovery master.

THE COURT: I'll be glad to. I just did it the other day in a big case with the McNair firm.

MR. PENDARVIS: I would suggest with two things in mind -- With the anticipation of Your Honor ruling on the Defendant's motion for protective order regarding the

attorney-client privilege issues, we still -- One other just housekeeping matter that kind of comes back into this very motion is we haven't gotten a written order on that attorney-client motion to compel that the Plaintiffs' filed on requesting the court to compel Defendants to produce this material in the attorney-client -- in that motion to compel which was filed in november of last year. There has not been a written order signed that I've gotten.

MR. VICK: Your Honor, you had me send you orders for the most part denying five or six motions to compel and I sent them to you and, no, we have not received back --

MR. PENDARVIS: My point is there was going to be a rule 59 motion coming behind that to protect our record and these same issues part of your oral ruling was, Well, to the extent that you all are complaining about questions in the deposition that hadn't been asked, your motion is not ripe. Well, those depositions have been taken.

My point of all of this is that if you would appoint a discovery master to resolve this motion to compel and make me, Ted, or whoever else go through this thing line by line or whoever the happy discovery master is going to be I think that will be able to present a report to you to make ruling and save everybody another hours of time. I'll go through this if you need me to, but it's pretty

cut the baby somehow. I don't know how else to do it.

MR. JOHNSTON: Your Honor, you're right. May 18 is going to be here before we know it.

THE COURT: It is bearing down. This is December 9 and Christmas is coming up and then you got -- you don't have but January, February, March, April -- four months to do it.

MR. PENDARVIS: I think we're going to be -- I am going to predict some things. I think we'll probably be able to make some headway on some of the motion -- the document production -- that part and possibly some interrogatory responses, but the attorney-client issue which we've all recognized is really at the heart of this case --

MR. JOHNSTON: That's on the statute of limitations.

MR. BAILEY: Not just the statute of limitations.

MR. PENDARVIS: For example, Your Honor, the at issue argument -- The at issue argument when they take -- When we say, Well, you told us you were going to hire lawyers to pursue claims on these properties and we say, okay, well, what did they say, and you say it's privileged, that's at issue. I mean, it is the very same. I think all of that needs to be in front of a master and make a report to you. That's really my proposal tonight that rather than --

I mean, we got a non-party accountant communicating with a party.

THE COURT: You may very well be entitled to it, but before I know you're entitled to it I got to look at it or have somebody look at it.

MR. PENDARVIS: I'll tell you what I can do and I'll agree to provide a more descriptive privilege log if that will assist things, but there's a couple of things that Your Honor needs to consider while you're evaluating really what to do. The properties that we're talking about weren't sold to third parties until the year of 2000. So, anything that happened in '98 can't be addressing something that hadn't happened yet.

THE COURT: Well, you say that, Mr. Pendarvis, but Mr. Johnston says that it goes right to the heart of the statute of limitations issue.

MR. PENDARVIS: And, Your Honor, to the degree that there's -- you may be aware of a case called Marshall versus Marshall. It's an attorney-client waiver case -- one of the only ones, a Court of Appeals case from '93, I believe. It's cited in text about states that have what's called partial waiver and full waiver. South Carolina is listed as a full waiver state. If you waive privilege, it's all waived. We would be concerned. That's why we have to be as aggressive as we need to be for fear of a

full waiver to the degree there are documents in these privileged materials that deal with Lincoln Partnership that's not a plaintiff in this case or not a property in this case that somehow may relate. I've got to protect privilege for the client that made that communication to counsel. It's in our files. It's a communication between a client.

THE COURT: I understand that. Here is what I am going to do. As to the privilege log I am going to appoint somebody. Y'all can agree on who it can be, but I am going to get somebody that can get on it immediately and have us an answer by the first couple of weeks in January.

MR. JOHNSTON: Judge Clary would be great, I mean, if we can get him. You said Gary Clary? I mean, if he is available.

THE COURT: Well, he's done it for me in a number of cases. He issues a written report. He does an excellent job with it. He's familiar with the law in the area. He's just done two for me recently -- big, big cases like this and I would recommend him if he's willing to do it.

MR. JOHNSTON: Does that suit you guys?

MR. PENDARVIS: That suits us.

MR. JOHNSTON: Should we contact him or should the Court contact him?

CERTIFICATE OF REPORTER

State of South Carolina)
)
County of Aiken)

I, Lisa H. Hicklin, Official Court Reporter for the Second Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Court of Common Pleas for Aiken County, South Carolina, on the 9th day of December, 2008.

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

August 21, 2009

Lisa H. Davenport, Court Reporter

Original mailed 8/26/09

STATE OF SOUTH CAROLINA 2009 JAN -6 PM 2:00 IN THE COURT OF COMMON PLEAS

BEAUFORT COUNTY
CLERK OF COURT
BEAUFORT S.C.

Laurance H. Davis, Jr., *et al.*, Plaintiffs, v. Parkview Apartments, a South Carolina Limited Partnership, *et al.*, Defendants.	))))	Beaufort County C.A. No. 2003-CP-07-726
Laurance H. Davis, Jr., *et al.*, Plaintiffs, v. Roosevelt Gardens, a South Carolina Limited Partnership, *et al.*, Defendants.	))))	Orangeburg County C.A. No. 2005-CP-38-113
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Carolina Management Corporation of Beaufort, *et al.*, Plaintiffs, v. Pinewood Park Apartments, a South Carolina Limited Partnership, *et al.*, Defendants.	)))))	Beaufort County C.A. No. 2005-CP-07-1990

ORDER APPOINTING THE HONORABLE GARY E. CLARY AS SPECIAL MASTER FOR RESOLUTION OF SPECIFIED DISCOVERY DISPUTES

THESE MATTERS COME BEFORE THE COURT on Defendants' Motion to Compel Discovery, dated November 6, 2008, and Plaintiffs' Motion to Compel Production, dated November 7, 2007, in each of the above-captioned actions. The Court has considered the parties' memoranda and other submissions, as well as the oral argument of the parties' counsel at the hearings held on December 9, 2008 (Defendants' Motion) and November 19, 2007 (Plaintiffs' Motion).

Certified - A True Copy
Elizabeth M. Smith - Clerk of Court
Beaufort County, SC

EXHIBIT 9

A portion of the Defendants' Motion concerns whether certain documents listed on the Plaintiffs' Privilege Log are subject to discovery and, thus, whether Plaintiffs should be compelled to produce such documents to Defendants. Similarly, a portion of the Plaintiffs' Motion concerns whether certain documents listed on Defendants' Privilege Log are subject to discovery and, thus, whether Defendants should be compelled to produce such documents to Plaintiffs. By Order dated December 17, 2008, the Court denied the Plaintiffs' Motion. The Court has not yet ruled on the Defendants' Motion.

WHEREFORE, the Court, with the consent of the parties, hereby appoints the Honorable Gary E. Clary as Special Master in these actions for the purpose of conducting an *in camera* inspection of the documents that are the subject of the parties' respective motions to compel, for the purposes set forth below:

(a) With respect to the Defendants' Motion, it is requested that Judge Clary review *in camera* the documents listed on Plaintiffs' Privilege Log, which the Defendants identify as being at issue in their Motion to Compel, and make his ruling as to whether each such document is subject to discovery and production should be compelled; and

(b) With respect to the Plaintiffs' Motion, it is requested that Judge Clary review *in camera* the documents listed on Defendants' Privilege Log, which the Plaintiffs identify as being at issue in their Motion to Compel, and, subject to and in light of this Court's Order dated December 17, 2008, make his ruling as to whether each such document is subject to discovery and production should be compelled.

It is further ordered that the parties shall compensate Judge Clary for his time spent as Special Master in these actions, at a rate agreed upon by the parties and Judge Clary, and that the

Plaintiffs and Defendants shall share this cost equally.

IT IS SO ORDERED

This 30 day of Dec, 2008.

Bamberg, South Carolina

Doyet A. Early, III, Circuit Court Judge

STATE OF SOUTH CAROLINA

COUNTY OF BEAUFORT

2009 FEB 10 PM 1:53
BEAUFORT COUNTY
CLERK OF COURT
BEAUFORT S.C.

IN THE COURT OF COMMON PLEAS
FOURTEENTH JUDICIAL CIRCUIT
CIVIL ACTION NO. 2003-CP-07-726

Laurance H. Davis, Jr.; et al.;

Plaintiffs,
vs.

Parkview Apartments, a South Carolina Limited Partnership; Apartment Investment and Management Company a/k/a AIMCO; Insignia Financial Group, Inc.; AmReal Corporation a/k/a and f/k/a USS Corporation a/k/a and f/k/a U.S. Shelter Corporation; ISTC Corporation; N. Barton Tuck, Jr.; and John Doe, a generic designation for a party or parties whose true identity is unknown,

Defendants.

2005-CP-07-1990 (Beaufort) (Pinewood)
2005-CP-07-1989 (Beaufort) (Palmetto)
2005-CP-10-4229 (Charleston) (Orleans)
2005-CP-38-1131 (Orangeburg) (Roosevelt)

CONSENT ORDER REGARDING SCOPE OF AUTHORITY FOR SPECIAL MASTER

THIS MATTER IS BEFORE THE COURT on a joint motion on behalf of all parties in these foregoing cases for the entry of an Order to alter or amend the language in this Court's Order dated December 30, 2008, appointing Gary E. Clary as Special Master. The subject Order is hereby amended to include in Special Master Clary's authority and scope of engagement the review of the documents from the BRYAN CAVE law firm and AmReal 014467-014468, 014670-014671, 014672-014681, 015481, and 015482, all of which are identified on Defendants' Privilege Log, dated January 26, 2009. The subject Order is further amended to provide that Special Master Clary is to provide this Court with a Report setting forth his findings and conclusions.

EXHIBIT 10

AND IT IS SO ORDERED.

Doyet A. Early, III
Circuit Court Judge

January 31, 2009

Bamberg, South Carolina

WE SO MOVE AND CONSENT:

PENDARVIS LAW OFFICES, P.C.

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500 Carteret Street, Suite A
Beaufort, South Carolina 29902
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(843) 524-9501 fax.
Thomas@PendarvisLaw.com

Joel D. Bailey, J.D.
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baileylawfirm@charter.net

Attorneys for Plaintiffs

HAYNSWORTH SINKLER BOYD, P.A.

Ellis M. Johnston, II, J.D.
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(843) 722-2266 fax.

Attorneys for Defendants

STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

2009 APR 15 PM 2:26
BEAUFORT COUNTY
CLERK OF COURT
BEAUFORT, S.C.

Laurance H. Davis, Jr., *et al.*, Plaintiffs, v. Parkview Apartments, a South Carolina Limited Partnership, *et al.*, Defendants.	))))	Beaufort County C.A. No. 2003-CP-07-726
Laurance H. Davis, Jr., *et al.*, Plaintiffs, v. Roosevelt Gardens, a South Carolina Limited Partnership, *et al.*, Defendants.	))))	Orangeburg County C.A. No. 2005-CP-38-01131
Rhonda G. Rentz, *et al.*, Plaintiffs, v. Orleans Gardens, a South Carolina Limited Partnership, *et al.*, Defendants.	))))	Charleston County C.A. No. 2005-CP-10-4229
Laurance H. Davis, Jr., *et al.*, Plaintiffs, v. Palmetto Apartments, a South Carolina Limited Partnership, *et al.*, Defendants.	))))	Beaufort County C.A. No. 2005-CP-07-1989
Carolina Management Corporation of Beaufort, *et al.*, Plaintiffs, v. Pinewood Park Apartments, a South Carolina Limited Partnership, *et al.*, Defendants.	)))))	Beaufort County C.A. No. 2005-CP-07-1990

FILED
2009 APR 20 PM 2:23
JULIE ARMSTRONG
CLERK OF COURT

ORDER REGARDING SCOPE OF AUTHORITY FOR SPECIAL MASTER

THIS MATTER COMES BEFORE THE COURT on the Plaintiffs' two motions to alter or amend, dated December 30, 2008 and January 13, 2009, in which the Plaintiffs seek to alter or amend the Court's Orders dated December 17, 2008 (Order denying Plaintiffs' Motion to Compel # 2) and December 30, 2008 (Order appointing Gary E. Clary as Special Master, as amended by the Consent Order dated January 31, 2009). This matter is also before the Court on the Defendants' motion for protective order, dated August 21, 2008.

Certified - A True Copy
Elizabeth M. Smith - Clerk of Court
Beaufort County, SC

DAE #1

EXHIBIT 11

The Order dated December 30, 2008 (as amended by the Consent Order dated January 31, 2009), is hereby amended to include in Special Master Clary's authority and scope of engagement the review of objections made based on claims of attorney-client privilege and/or attorney work product during the depositions of attorneys Arthur L. Howson, Jr. (August 14, 2008) and Douglas G. Brown (August 15, 2008). Further, the subject Order is hereby amended to include in Special Master Clary's authority and scope of engagement the review of appropriate limitations, if any, based on claims of attorney-client privilege and/or attorney work product, on the scope of any future depositions of attorneys that represented the Limited Partnerships in and between 1999 and 2001. The subject Order is further amended to provide that Special Master Clary is to provide this Court with a Report setting forth his findings and conclusions.

IT IS SO ORDERED

This 9 day of April, 2009.

Bamberg, South Carolina

Doyet A. Early, III, Circuit Court Judge

STATE OF SOUTH CAROLINA		IN THE COURT OF COMMON PLEAS
Laurance H. Davis, Jr., *et al.*, Plaintiffs, v. Parkview Apartments, a South Carolina Limited Partnership, *et al.*, Defendants.	)	Beaufort County C.A. No. 2003-CP-07-726
Laurance H. Davis, Jr., *et al.*, Plaintiffs, v. Roosevelt Gardens, a South Carolina Limited Partnership, *et al.*, Defendants.	)	Orangeburg County C.A. No. 2005-CP-[illegible]
Rhonda G. Rentz, *et al.*, Plaintiffs, v. Orleans Gardens, a South Carolina Limited Partnership, *et al.*, Defendants.	)	Charleston County C.A. No. 2005-CP-10-4229
Laurance H. Davis, Jr., *et al.*, Plaintiffs, v. Palmetto Apartments, a South Carolina Limited Partnership, *et al.*, Defendants.	)	Beaufort County C.A. No. 2005-CP-07-1989
Carolina Management Corporation of Beaufort, *et al.*, Plaintiffs, v. Pinewood Park Apartments, a South Carolina Limited Partnership, *et al.*, Defendants.	)	Beaufort County C.A. No. 2005-CP-07-1990

ELIZABETH SMITH
BEAUFORT COUNTY, SC
CLERK OF COURT
2009 JUN -4 PM 12:45

ORDER ADOPTING FINDINGS AND CONCLUSIONS OF SPECIAL MASTER CLARY

By Orders of this Court dated December 30, 2008, January 31, 2009, and April 9, 2009 (collectively, "Prior Orders"), the Court appointed the Honorable Gary E. Clary as Special Master in these actions for the purposes set forth in such Prior Orders. Pursuant to the Prior Orders, which are incorporated herein by reference, Special Master Clary issued his Reports to the Court, dated April 14, 2009 and April 22, 2009 (collectively, "Reports"). The Reports contain Special Master Clary's findings and conclusions with respect to the matters referred to

EXHIBIT 12

him. Counsel for the parties have advised the Court that they wish to be heard concerning their respective arguments and objections to the findings and conclusions contained in the Reports.

The Reports are hereby adopted verbatim as an Order of the Court. The Reports, which are attached hereto, are incorporated herein by reference. This action is taken without prejudice to the parties' rights to make any arguments or objections concerning the findings and conclusions contained in the Reports, or the subject matter thereof, via Motion(s) to Alter or Amend this Order, pursuant to Rule 59(e), SCRCP. As requested by the parties' counsel, the Court will grant a hearing on any Rule 59(e) Motion filed by the parties with respect to this Order and will afford the parties full consideration of any arguments or objections stated in such Motion(s), if any.

IT IS SO ORDERED

This 7 day of May, 2009.

Greenville, South Carolina

Doyet A. Early, III, Circuit Court Judge

STATE OF SOUTH CAROLINA	IN THE COURT OF COMMON PLEAS
Laurance H. Davis, Jr., et al., Plaintiffs, v. Parkview Apartments, a South Carolina Limited Partnership, et al., Defendants.	)) Beaufort County) C.A. No. 2003-CP-07-0726)
Laurance H. Davis, Jr., et al., Plaintiffs, v. Roosevelt Gardens, a South Carolina Limited Partnership, et al., Defendants.	)) Orangeburg County) C.A. No. 2005-CP-38-1131)
Rhonda G. Rentz, et al., Plaintiffs, v. Orleans Gardens, a South Carolina Limited Partnership, et al., Defendants.	)) Charleston County) C.A. No. 2006-CP-10-4229)
Laurance H. Davis, Jr., et al., Plaintiffs, v. Palmetto Apartments, a South Carolina Limited Partnership, et al., Defendants.	)) Beaufort County) C.A. No. 2005-CP-07-1989)
Carolina Management Corporation of Beaufort, et al., Plaintiffs, v. Pinewood Park Apartments, a South Carolina Limited Partnership, et al., Defendants.	))) Beaufort County) C.A. No. 2005-CP-07-1990))

PLAINTIFFS' MEMORANDUM IN SUPPORT OF THEIR MOTION TO ALTER OR AMEND ORDER ADOPTING FINDINGS AND CONCLUSIONS OF SPECIAL MASTER CLARY, DATED JUNE 2, 2009

TO: MARVIN D. INFINGER, J.D., ANNE ROSS ROSEN, J.D, ELLIS M. JOHNSTON, II, J.D., JESSE C. BELCHER, J.D., AND CALVIN T. VICK, J.D., ATTORNEYS FOR DEFENDANTS:

EXHIBIT 15

Plaintiffs, through their undersigned counsel, respectfully submit the following memorandum of law in support of their motion filed pursuant to Rule 59(e), SCRCP, for an Order altering or amending the ORDER ADOPTING FINDINGS AND CONCLUSIONS OF SPECIAL MASTER CLARY, issued by the Honorable Doyet A. Early, III, dated June 2, 2009, and received by counsel for Plaintiffs on June 9, 2009.

ARGUMENTS

The Special Master's report, amended, and supplemental reports contain incorrect factual findings and erroneous conclusions of law with regard to three particular topics, the arguments supporting the need for an Order correcting those findings and conclusions is set forth below, all of which are based upon the information presented to the Special Master.

I. THE BRYAN CAVE DOCUMENTS – BECAUSE THERE WAS A MUTUALITY OF INTERESTS – NOT DIVERGENCE – DURING THE FALL OF 2000 THE SPECIAL MASTER'S FACTUAL FINDINGS ON THAT POINT WERE IN ERROR.

While the Plaintiff Limited Partners agree with the Special Master's use of the mutuality of interests test from the *Garner* case, they believe he erred in determining that September 14, 2000 was the date the parties' mutuality of interests ceased to exist. The transcripts from the partnership meetings on September 14, 2000 and October 24, 2000 clearly demonstrate a mutuality of interests not a divergence.

Unlike the parties in *Continental Ins. Co. v. Rutledge & Co., Inc.*, 1999 WL 66528 (Del.Ch. January 26, 1999) (cited in original and amended report by the Special Master), there is no evidence that any of the limited partners in any of these limited

partnerships ever threatened or indicated an intent to withdraw from the partnerships. Unlike the parties in *Metropolitan Bank and Trust Co. v. Dovenmuehle Mortg., Inc.*, 2001 WL 1671445, *3 (Del.Ch. December 20, 2001), there is no evidence that the general partners and limited partners reasonably anticipated litigation between themselves "about an identified dispute". In other words, their interests had not diverged in the fall of 2000. "[S]omething more than a simple disagreement between the limited partner and the general partner must exist before the rationale for preserving confidentiality of the general partner's communications with the partnership's counsel can come into play." *Id.* During the fall of 2000 the only unanswered question between the general partners and limited partners related to how the Limited Partnerships were going to proceed on their claims against Boston Financial on the notes or recovering the properties.

"Once litigation can reasonably be anticipated, the interests of the parties are sufficiently adverse that the general partner should be able to communicate with the partnership's counsel about the matters likely to be litigated without fear that the fiduciary duty exception might be invoked to deny continuing confidentiality to those communications." *Id.* In these matters, because the general partners had not been threatened with litigation by the Limited Partners during the fall of 2000, there is no reason to allow the general partners to protect from disclosure the information (i.e., communications with counsel for the Limited Partnerships about claims belonging to the Limited Partnerships) that their fiduciary duty requires them to disclose to the Limited Partners.

While the Limited Partners began questioning the General Partners in the winter of 1999 about what the Limited Partnerships were going to do about the Boston Financial notes and properties, they did not seek the assistance of legal counsel until the first Limited Partners first contacted Joel D. Bailey, Esq. in the February - March time period of 2000. The information before Judge Clary showed the purpose of the engagement at that time was to investigate the status of the notes and properties on behalf of the Limited Partners of Parkview, with plans to possibly expand the representation to other Limited Partners. If the investigation revealed the existence of any specific claims, a contingency was discussed as a potential payment option. This is documented and confirmed by the correspondence in the February - March 2000 time frame.

It took a period of time for the various partners to engage Mr. Bailey. By September and October 2000, two limited partnership meetings had been conducted, during which Mr. Bailey and his clients were still trying to find out the status of the debt and potential partnership remedies. The transcripts from these meetings with the General Partners clearly shows the Limited Partners' efforts to obtain information and an understanding at the conclusion of the October 2000 meeting that the General Partners were going to engage counsel on behalf of the Limited Partnerships to investigate and then pursue the Limited Partnerships' claims and/or recover the subject properties. The documents reviewed by Judge Clary reveal that, in the fall of 2000, the Limited Partners were still trying to get information from the General Partners as to what they intended to do. The only potential adverse position before the September 14, 2000 meeting vis-a-vis the General Partners was whether the General Partners would be replaced under the partnership agreements if they elected not to pursue any recourse against the Boston

Financial entities. That proved to be unnecessary based upon the discussions during previously referenced meetings of September and October 2000 – when the General Partners indicated that they intended to pursue some recourse for the partnerships.

The subject Order should be amended to require production of all communications between the General Partners and the Bryan Cave lawyers subsequent to the fall of 2000, as there was no evidence before the Special Master showing the mutuality of interest had ceased before that time.

II. BECAUSE JIM PIKE AND JANE MILLER ARE MRS. MARY PIKE'S DULY AUTHORIZED AGENTS FOR THIS LITIGATION THERE WAS NO WAIVER OF PRIVILEGE.

The Special Master's findings and conclusions essentially rule that certain documents on Plaintiffs' privilege log should be produced either because 1) Plaintiffs themselves engaged in communications prior to engaging an attorney, *i.e.*, there never was a privilege, or 2) by a voluntary disclosure to a third-party, i.e., by a waiver of privilege, based upon an allegedly defectively executed power of attorney or a failure file the power of attorney. Plaintiffs acknowledge that communications prior to engaging counsel are not privileged. Plaintiffs disagree, however, with the Special Master that there was a waiver of privilege because the subject powers of attorney were not properly witnessed nor recorded.

The general rule is that clients may act through agents, and the attorney-client privilege covers communications between a client's agent and the client's lawyer. RESTATEMENT (THIRD) OF THE LAW GOVERNING LAWYERS § 70, at 537 (1998) ("Privileged persons . . . are the client (including a prospective client), the client's lawyer, agents of

either who facilitate communications between them, and agents of the lawyer who facilitate the representation."); RESTATEMENT (THIRD) OF THE LAW GOVERNING LAWYERS § 75 cmt. A at 580 (1998) ("A communication subject to the privilege for co-clients may be made through a client's agent for communication and a lawyer's agent for communication and other agents."); *Federal Election Comm'n v. Christian Coalition*, 178 F.R.D. 61, 66 (E.D. Va. 1998). *See also, Floyd v. Floyd*, 365 S.C. 56, 615 S.E.2d 465 (Ct. App. 2005) (he attorney-client privilege may extend to agents); *Rodgers v. Wise*, 193 S.C. 5, 9, 7 S.E.2d 517, 518-19 (1940) (holding the attorney-client privilege was not waived when an attorney dictated a letter to a stenographer). Designating someone as an agent does not require execution of a power of attorney.

Even if a power of attorney is executed, most powers of attorney do not have to be recorded to be effective; only ***durable*** powers of attorney executed under Article V. Protection of Persons Under Disability and Their Property are required to be recorded. See, S.C. CODE ANN. § 62-5-501(C) (Supp. 2009). *See also, Timmons v. Starkey*, 380 S.C. 590, 671 S.E.2d 101, 103 (Ct. App. 2008). In addition, only parties to the power of attorney have standing to challenge whether it is effective. Furthermore, the Defendants should be estopped from challenging Ms. Miller's or Mr. Pike's role as agent based upon Defendants' own conduct in their dealings with the Limited Partners in these Limited Partnerships.

The Special Master's findings and conclusions that the Limited Powers of Attorney from Mrs. Mary Jane Pike to Mr. Jim Pike and/or Ms. Jane Miller is not valid because it was not recorded are in error, and the Order adopting those findings and conclusions should

be altered or amended.

III. THE DOCUMENTS CONTAINING ATTORNEY-CLIENT COMMUNICATIONS BETWEEN COUNSEL FOR PLAINTIFFS AND OTHER PROSPECTIVE CLIENTS ARE PRIVILEGED BASED IN PART ON RULE 1.18, RPC AND SOUTH CAROLINA COMMON LAW.

The Special Masters' findings and conclusions that the communications between certain of the limited partners in the Lincoln Limited Partnership and Mr. Bailey are not privileged because he was not retained as their counsel are in error. There is no dispute that those limited partners were communicating with Mr. Bailey with a view toward engaging him as their attorney. Just because those communications did not lead to a formal engagement and filing suit does not defeat the privilege.

An attorney's communications with prospective clients are privileged. *Clary v. Blackwell*, 160 S.C. 142, 158 S.E. 223 (1931). See also, Rule 1.18, RPC, Rule 407, SCACR. See also, RESTATEMENT (THIRD) OF THE LAW GOVERNING LAWYERS § 70 cmt. c at 537 (1998) ("The privilege protects prospective clients – persons who communicate with a lawyer in an initial consultation but whom the lawyer does not thereafter represent – as well as persons with whom a client-lawyer relationship is established."); *In re Auclair*, 951 F.2d 65, 69 (5th Cir. 1992) ("communications made in the course of preliminary discussions with a view to employing the lawyer are privileged though employment is not . . . accepted. No person could ever safely consult an attorney for the first time . . . If the privilege depended on the chance of whether the attorney after hearing the statement of facts decided not to accept employment or decline it."). Such communications deserve the privilege because both parties are exploring the possibility of establishing a formal attorney-

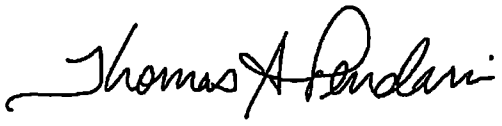
client relationship.

The Special Master's findings and conclusions in that regard are in error, and should be modified or amended accordingly.

Respectfully submitted,

Joel D. Bailey, J.D.
THE BAILEY LAW FIRM, P.A.
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PENDARVIS LAW OFFICES, P.C.



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Attorneys for Plaintiffs

Beaufort, South Carolina

July 1, 2009

STATE OF SOUTH CAROLINA	IN THE COURT OF COMMON PLEAS
Laurance H. Davis, Jr., et al., Plaintiffs, v. Parkview Apartments, a South Carolina Limited Partnership, et al., Defendants.	Beaufort County C.A. No. 2003-CP-07-726
Laurance H. Davis, Jr., et al., Plaintiffs, v. Roosevelt Gardens, a South Carolina Limited Partnership, et al., Defendants.	Orangeburg County C.A. No. 2005-CP-38-1131
Rhonda G. Rentz, et al., Plaintiffs, v. Orleans Gardens, a South Carolina Limited Partnership, et al., Defendants.	Charleston County C.A. No. 2005-CP-10-4229
Laurance H. Davis, Jr., et al., Plaintiffs, v. Palmetto Apartments, a South Carolina Limited Partnership, et al., Defendants.	Beaufort County C.A. No. 2005-CP-07-1989
Carolina Management Corporation of Beaufort, et al., Plaintiffs, v. Pinewood Park Apartments, a South Carolina Limited Partnership, et al., Defendants.	Beaufort County C.A. No. 2005-CP-07-1990

CERTIFICATE OF SERVICE

I, Jennifer A. Clark, paralegal for Pendarvis Law Offices, PC, hereby certify that I have served the documents listed below upon all counsel of record by e-mail and mailing a copy of same, postage prepaid and return address clearly indicated on said envelope, to said counsel at the following address:

Documents Served

PLAINTIFFS' MEMORANDUM IN SUPPORT OF THEIRMOTION TO ALTER OR AMEND ORDER ADOPTING FINDINGS AND CONCLUSIONS OF SPECIAL MASTER CLARY, DATED JUNE 2, 2009

Counsel Served

Ellis M. Johnston, II, JD
Calvin T. Vick, Jr., JD
Jesse C. Belcher, Jr., JD
HAYNSWORTH SINKLER BOYD, PA
PO Box 2048
Greenville SC 29602

Marvin D. Infinger, JD
Anne Ross Rosen, JD
HAYNSWORTH SINKLER BOYD, PA
134 Meeting Street, 3rd Floor
Charleston SC 29401

Jennifer A. Clark

Jennifer A. Clark

Beaufort, South Carolina

July 2, 2009

Vick, Ted

From: Early, Doyet A. Law Clerk (Carra Henderson) [dearlylc@sccourts.org]
Sent: Wednesday, July 08, 2009 1:41 PM
To: Johnston, Ellis; Early, Doyet A.; baileylawfirm@charter.net; Thomas Pendarvis; Vick, Ted
Subject: RE: Kumbaya: FW: #698455 v1 - Davis v. Parkview: letter to Judge Doyet A. Earle, III

PER JUDGE EARLY:

Gentlemen, I have carefully considered everyone's memos, exhibits, arguments, and Judge Clary's reports. I will sustain his report in all aspects except for the following amendments:

1. I will amend the Master's report to alter the date the parties' mutuality of interest ceased to exist to the date of Weinberg's first letter dated December 9, 1999.
2. I overrule the Master's findings that the limited power of attorney from Mary Jane Pike to Jim Pike and/or Jane Miller is not valid and there was no waiver of privilege regarding these documents.
3. I overrule the Master in regarding communications of potential clients of Joel Bailey, thus I find they are deemed to be privileged.
4. I find the statute of limitations to be a major issue in the case and therefore I alter the Master's report to require the production of Plaintiff's documents designated as numbers 5, 12-15, 17-31, 34, 38-45, 47-49, 51-53, 66, 77, 85, 86-89, 91, 93-95, 97-99, 110-114, and 116-126.
5. I overrule the Master's report as it applies to Brian Caves' documents numbered 2 and 3 for the reason as set forth in Defendant's memo.

Mr. Vick please prepare a proposed order for my review. Thanks.

DAE

J. Carra Henderson
Law Clerk to the Honorable D.A. Early, III
The Circuit Court of the 2nd Judicial Circuit
PO Box 90
Bamberg, SC 29003
Telephone: 803.245.4004
Fax: 803.245.2983
dearlylc@sccourts.org

From: Johnston, Ellis [mailto:ejohnston@hsblawfirm.com]
Sent: Wednesday, July 08, 2009 12:33 PM
To: Early, Doyet A.; Early, Doyet A. Law Clerk (Carra Henderson); baileylawfirm@charter.net; Thomas Pendarvis; Vick, Ted
Subject: Kumbaya: FW: #698455 v1 - Davis v. Parkview: letter to Judge Doyet A. Earle, III

Dear Judge Early, attached is a short chronology which should shed some light on Plaintiffs' "Kumbaya" argument made at Monday's hearing. The exhibits (all but one of which came from Plaintiffs' production and the other an exhibit to a deposition) will be forwarded with the hard copy of the letter via US Mail.

EXHIBIT 17

9/9/2009

Ellis M. Johnston, II
Haynsworth Sinkler Boyd, PA
75 Beattie Place, 11th Floor (29601)
PO Box 2048 (29602)
Greenville, SC 29602
864-240-3217 (tel)
864-240-3300 (fax)
ejohnston@hsblawfirm.com

—Original Message—
From: Harris, Kelli
Sent: Wednesday, July 08, 2009 12:18 PM
To: Johnston, Ellis
Subject: #698455 v1 - Davis v. Parkview: letter to Judge Doyet A. Earle, III

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9/9/2009

Vick, Ted

From: Vick, Ted
Sent: Friday, July 10, 2009 1:03 PM
To: 'Early, Doyet A.'; 'Early, Doyet A. Law Clerk (Carra Henderson)'
Cc: 'Thomas A. Pendarvis'; 'baileylawfirm@charter.net'; Johnston, Ellis
Subject: Proposed Order in Parkview et al. re: parties' motions to alter/amend

Attachments: Untitled.pdf; Greenville-698615-v2-Parkview proposed order re parties' motion to amend (Clary reports).DOC

Judge Early, Carra, Thomas and Joel:

Please find attached the proposed Order (in Word format) and a cover letter concerning the proposed Order. If you have any trouble opening these documents, please let me know. We are sending everyone hard copies of the letter and the proposed Order via mail. Please do not hesitate to contact me if you have any questions or concerns. Thank you.

Ted Vick
Haynsworth Sinkler Boyd, P.A.
75 Beattie Place, Eleventh Floor (29601)
P.O. Box 2048 (29602-2048)
Greenville, South Carolina
Telephone 864-240-3324
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tvick@hsblawfirm.com



Untitled.pdf (121 KB)



Greenville-698615-v2-Parkview ...

EXHIBIT 18

GREENVILLE | CHARLESTON COLUMBIA FLORENCE

Haynsworth Sinkler Boyd, P.A. | ATTORNEYS AND COUNSELORS AT LAW

75 BEATTIE PLACE, 11TH FLOOR (29601-2119)
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WEBSITE www.hsblawfirm.com

CALVIN T. VICK, JR.
DIRECT DIAL NUMBER (864) 240-3324
EMAIL cvick@hsblawfirm.com

July 10, 2009

VIA E-MAIL AND U.S. MAIL

The Honorable Doyet A. Early, III
Judge of Second Judicial Circuit
P.O. Box 90
Bamberg, South Carolina 29003
dearly@sccourts.org

Re: Defendants' Proposed Order in Parkview and Related Litigation (C.A. No. 2003-CP-07-726; C.A. No. 2005-CP-07-1989; C.A. No. 2005-CP-10-4229; C.A. No. 2005-CP-07-1989; and C.A. No. 2005-CP-07-1990) Concerning Plaintiffs' and Defendants' Motions to Alter or Amend Order Dated June 2, 2009

Dear Judge Early:

I am enclosing with this letter the Defendants' proposed Order, as you instructed in your e-mail dated July 8, 2009. There are two matters addressed in the proposed Order that I would like to bring to your attention, and these are discussed below. I am providing a copy of this letter and the enclosed proposed Order to Plaintiffs' counsel simultaneously. The length of the proposed Order is primarily due to our listing of the documents affected by your rulings and a summary listing of all of the documents to be produced by the parties pursuant to the June 2, 2009 Order, as amended.

With regard to the second ruling addressed in your e-mail (Mary Jane Pike's limited power of attorney to Jim Pike/Jane Miller was valid; see Paragraph 2 of the proposed Order), your ruling affects seven of Plaintiffs' documents that Special Master Clary had designated for production. However, two of these documents are dated more than three years prior to the filing of these lawsuits (i.e., communications occurring prior to October 15, 2002). These documents were identified by the Special Master as Plaintiffs' Nos. 46 (Bailey 3735, dated 2/14/01) and 54 (Bailey 4019-4020, dated 9/19/02). In accordance with the fourth ruling addressed in your e-mail (see Paragraph 4 of the proposed Order), the Plaintiffs impliedly waived privilege with respect to documents dated more than three years prior to the filing of these lawsuits (statute of limitations at issue in these cases). Thus, even though documents 46 and 54 would otherwise be privileged under the second ruling addressed in your e-mail, these two documents remain subject to production under your cumulative rulings in this matter. In Defendants' Rule 59 Motion, we did not expressly address the implied waiver of privilege with respect to Plaintiffs' documents 46 and 54, because they were already designated for production under the Special Master's report at the time. The cumulative effect of your rulings on documents 46 and 54 is explained in Paragraph 2 of the

proposed Order. If this was not your intent, please let me know and I will make any changes you deem necessary.

On the opposite side of the coin, in reviewing the materials to determine which documents are affected by your rulings, we discovered that two documents between Mr. Bailey and his clients (Rentz, Plaintiff in Parkview, Orleans and Roosevelt; Hodge, Plaintiff in Roosevelt), which were designated for production by Special Master Clary, are dated after October 15, 2002. These two documents were identified by the Special Master as Plaintiffs' Nos. 82 (Bailey 4591-4592, dated 6/29/04) and 83 (Bailey 4593, dated 8/3/04). These documents would not be subject to production under your fourth ruling concerning implied waiver of documents dated earlier than October 15, 2002. Nor does it appear that these documents would be subject to production under your other rulings (whether or not Hodge was a client at the time of the communication, he was at least a prospective client). We have addressed Plaintiffs' documents 82 and 83, and stated that they shall not be produced, in Paragraph 3 of the proposed Order. In that paragraph, we also set forth the third ruling contained in your e-mail (privilege extends to communications between Mr. Bailey and prospective clients). However, as you will see in Paragraph 3, after reviewing the Plaintiffs' Privilege Log and the Special Master's reports, we can not identify any documents that are solely between Mr. Bailey and Mr. Griffin, the prospective client that did not retain Mr. Bailey. There are some documents between/among Mr. Bailey, Mr. Griffin and/or Mr. Bailey's other clients (who are now Plaintiffs), but with the exception of documents 82 and 83, discussed above, all such documents would appear to be subject to production because they are all dated prior to October 15, 2002. If we have misconstrued your third ruling, or any of your other rulings, please let me know and I will make any changes you deem necessary.

Thank you for your consideration of these matters. If you have any questions or would like for me to provide you with additional information, please do not hesitate to contact me.

Sincerely yours,

Calvin T. Vick, Jr.

CTVjr:dlh

Enclosure (via e-mail and U.S. Mail)

cc: Ms. Carra Henderson,
Law Clerk to the Honorable Doyet A. Early, III (via e-mail and U.S. Mail)
Joel D. Bailey, Esq. (via e-mail and U.S. Mail)

Thomas A. Pendarvis, Esq. (via e-mail and U.S. Mail)
Ellis M. Johnston, II. Esq. (via e-mail)

STATE OF SOUTH CAROLINA		IN THE COURT OF COMMON PLEAS
Laurance H. Davis, Jr., *et al.*, Plaintiffs, v. Parkview Apartments, a South Carolina Limited Partnership, *et al.*, Defendants.	))))	Beaufort County C.A. No. 2003-CP-07-726
Laurance H. Davis, Jr., *et al.*, Plaintiffs, v. Roosevelt Gardens, a South Carolina Limited Partnership, *et al.*, Defendants.	))))	Orangeburg County C.A. No. 2005-CP-38-1131
Rhonda G. Rentz, *et al.*, Plaintiffs, v. Orleans Gardens, a South Carolina Limited Partnership, *et al.*, Defendants.	))))	Charleston County C.A. No. 2005-CP-10-4229
Laurance H. Davis, Jr., *et al.*, Plaintiffs, v. Palmetto Apartments, a South Carolina Limited Partnership, *et al.*, Defendants.	))))	Beaufort County C.A. No. 2005-CP-07-1989
Carolina Management Corporation of Beaufort, *et al.*, Plaintiffs, v. Pinewood Park Apartments, a South Carolina Limited Partnership, *et al.*, Defendants.	))))	Beaufort County C.A. No. 2005-CP-07-1990

ORDER AMENDING COURT'S ORDER DATED JUNE 2, 2009

These matters are before the Court on the Plaintiffs' Motion to Alter or Amend, dated June 11, 2009, and the Defendants' Motion to Alter or Amend, dated June 15, 2009. In their respective motions, the Plaintiffs and the Defendants request that the Court amend its Order dated June 2, 2009, which adopted Special Master Clary's reports verbatim. The parties' motions were timely filed, pursuant to Rule 59(e), SCRCP, and the Court has carefully considered the parties' memoranda, exhibits, oral arguments of all counsel at the July 6, 2009

hearing, and Special Master Clary's reports, which were incorporated into the Court's June 2, 2009 Order by reference. The motions of the Plaintiffs and the Defendants are granted, in part, and denied, in part, as set forth herein.

The Court's June 2, 2009 Order and the Special Master's reports incorporated therein are sustained in all aspects, except for the following amendments thereto:

(1) With regard to the Plaintiffs' argument that the fiduciary duty exception applies to Defendants' privileged documents, the Court finds that the requisite mutuality of interest between the parties ceased to exist as of December 9, 1999, which is the date of Mr. Weinberg's first letter to a general partner threatening litigation (AMREAL 014864, attached to Defendants' Memorandum as Exhibit 1). Accordingly, the fiduciary duty exception is not available to the Plaintiffs with regard to any privileged document dated (i.e., created) after December 9, 1999, and the following privileged documents, which were previously designated for production, shall not be produced:

Defendants' Documents (listed on pp. 12-14 of the Special Master's April 14, 2009 report):

1	AMREAL 00573–00576
20	AMREAL 004865–004867
23	GWB 000011
60	GWB 000271
76	GWB 000458–000459
78	GWB 000484

"Bryan Cave" Documents (listed on pp. 14-17 of the Special Master's April 14, 2009 report):

2	AMREAL 014670–014671
3	AMREAL 014672–014681
16	AMREAL 014875

2

17	AMREAL 014876
18	AMREAL 014877–014879
19	AMREAL 014880–014886
20	AMREAL 014887–014890
21	AMREAL 014891–014892
22	AMREAL 014893–014894
24	AMREAL 014896–014897
26	AMREAL 014899
27	AMREAL 014900–014902
28	AMREAL 014903–014904
30	AMREAL 014906
31	AMREAL 014907
32	AMREAL 014908
33	AMREAL 014909
34	AMREAL 014910–014912
36	AMREAL 014914
37	AMREAL 014915
59	AMREAL 015060-015061
60	AMREAL 015062–015066
62	AMREAL 015068–015071
63	AMREAL 015072–015074
64	AMREAL 015075–015077
66	AMREAL 015079–015081
67	AMREAL 015087
68	AMREAL 015091–015092
69	AMREAL 015093–015095
70	AMREAL 015100–015103
71	AMREAL 015104–015107
72	AMREAL 015118–015119
73	AMREAL 015120–015122
74	AMREAL 015123–015126
75	AMREAL 015136–015138
76	AMREAL 015139–015140
77	AMREAL 015141–015144
78	AMREAL 015145–015151
79	AMREAL 015152–015153
81	AMREAL 015157–015167
87	AMREAL 015209–015213
89	AMREAL 015256
90	AMREAL 015257
91	AMREAL 015258
92	AMREAL 015259–015261
93	AMREAL 015262–015263
94	AMREAL 015268–015269
95	AMREAL 015272–015273

96	AMREAL 015276–015277
97	AMREAL 015278–015279
98	AMREAL 015282–015283
99	AMREAL 015284
100	AMREAL 015285–015286
101	AMREAL 015287–015297
102	AMREAL 015298–015306
103	AMREAL 015307–015316
104	AMREAL 015317–015332
108	AMREAL 015341–015342
109	AMREAL 015343–015344
110	AMREAL 015345–015346
112	AMREAL 015350–015352
113	AMREAL 015353–015357
114	AMREAL 015358–015362
115	AMREAL 015363–015366
116	AMREAL 015367–015369
129	AMREAL 015423–015426
130	AMREAL 015427–015430
131	AMREAL 015431–015436
132	AMREAL 015437–015442
133	AMREAL 015443–015445

(2) The Court finds that the limited power of attorney from Mary Jane Pike to Jim Pike and/or Jane Miller was valid and there was no waiver of privilege as a result of documents being provided to Jim Pike and/or Jane Miller. The subject documents are identified in Special Master Clary's reports as Plaintiffs' documents 8, 9, 46, 54, 59, 100 and 103. However, two of these documents (46 – Bailey 3735, dated 2/14/01; 54 – Bailey 4019-4020, dated 9/19/02) are subject to production under paragraph 4 below, so they shall be produced as previously ordered. The net result of the Court's findings is that the following documents, which were previously designated for production, shall not be produced:

8	Parkview 2114-2115
9	Parkview 2143
59	Bailey 4055
100	Bailey 4874-4875

103	Bailey 4878

(3) The Special Master concluded that documents involving communications with prospective clients of Mr. Bailey were not privileged and should be produced, because Mr. Bailey lacked the necessary attorney-client relationship with such prospective clients. Plaintiffs argue that the attorney-client privilege extends to communications between Mr. Bailey and prospective clients, such as Warren Griffin, a limited partner in Lincoln Limited Partnership who did not retain Mr. Bailey and is not a party to these lawsuits. The Court agrees with the Plaintiffs. Communications that are solely between Mr. Bailey and prospective clients, who are not parties (or their predecessors or successors) to these lawsuits, are privileged and should not be produced. However, after reviewing the Special Master's reports and the Plaintiffs' Privilege Log, it appears that there are no such documents. There are, however, communications between Mr. Bailey and his current clients (Plaintiffs) concerning, in whole or in part, Lincoln Limited Partnership. Mr. Griffin is a party to some of these communications, but his participation does not, itself, destroy the privilege. Such documents are privileged unless the privilege has been impliedly waived by the Plaintiffs as described in paragraph 4 below (i.e., Plaintiffs have impliedly waived privilege as to documents dated more than three years prior to the filing of these lawsuits). The Court finds that two of the documents concerning the Lincoln Limited Partnership, which were designated for production by the Special Master, are privileged and are not subject to the implied waiver described in paragraph 4. These documents are communications occurring in 2004 between Mr. Bailey and Plaintiffs, Rentz and Hodge. Accordingly, the following documents, which were previously designated for production, shall not be produced:

82	Bailey 4591-4592

83	Bailey 4593

(4) The Court finds that the statute of limitations is a major issue in these cases, and, as shown in the Defendants' Memorandum and exhibits thereto, that the Plaintiffs impliedly waived their claims of privilege with respect to documents dated (i.e., created) more than three years prior to the filing of these lawsuits. As a result, the following documents, which were previously designated for protection, shall be produced:

12	Bailey 3059
13	Bailey 3060
14	Bailey 3067-3069
15	Bailey 3070-3072
17	Bailey 3077-3078
18	Bailey 3082
19	Bailey 3105
20	Bailey 3148
21	Bailey 3151
22	Bailey 3152
23	Bailey 3153
24	Bailey 3154
25	Bailey 3155-3156
26	Bailey 3180
27	Bailey 3209-3212
28	Bailey 3215
29	Bailey 3216
30	Bailey 3217
31	Bailey 3316
34	Bailey 3321
38	Bailey 3333
39	Bailey 3334-3335
40	Bailey 3512
41	Bailey 3526-3528
42	Bailey 3695
43	Bailey 3715-3719
44	Bailey 3721-3726
45	Bailey 3731-3732
47	Bailey 3737
48	Bailey 3738

49	Bailey 3754-3755
51	Bailey 3758-3759
52	Bailey 3768
53	Bailey 3799
66	Bailey 4218-4219
77	Bailey 4560
85	Bailey 4783
86	Bailey 4785-4787
87	Bailey 4804
88	Bailey 4808-4809
89	Bailey 4810
91	Bailey 4827
93	Bailey 4837
94	Bailey 4842
95	Bailey 4843
97	Bailey 4847-4851
98	Bailey 4854
99	Bailey 4859-4868
110	Bailey 4999
111	Bailey 5002-5004
112	Bailey 5008-5012
113	Bailey 5016
114	Bailey 5024
116	Bailey 5028
117	Bailey 5056
118	Bailey 5062
119	Bailey 5064
120	Bailey 5065-5069
121	Bailey 5071
122	Bailey 5073
123	Bailey 5074
124	Bailey 5080-5081
125	Bailey 5088-5089
126	Bailey 5092

(5) The Court finds that the Defendants' privileged documents identified as "Bryan Cave" documents Nos. 2 and 3 (listed on p. 15 of the Special Master's April 14, 2009 report) are not subject to the fiduciary duty exception, because these documents are not communications between a general partner, acting in that capacity, and the Limited Partnerships' attorneys.

Rather, these documents concern communications between AIMCO, acting in its individual capacity, and AIMCO's separate counsel, Art Hessel, who did not represent the Limited Partnerships. As a result, the following documents, which were previously designated for production, shall not be produced:

2	AMREAL 014670–014671
3	AMREAL 014672–014681

The Court's June 2, 2009 Order, and the Special Master's reports incorporated therein, are hereby amended as set forth above. In sum, pursuant to the Court's June 2, 2009 Order, as amended herein, the Plaintiffs and Defendants are ordered to produce the following documents within seven (7) days of the date of this Order:

Plaintiffs Shall Produce:

1	Parkview 1951-1952
5	Parkview 2083
12	Bailey 3059
13	Bailey 3060
14	Bailey 3067-3069
15	Bailey 3070-3072
16	Bailey 3073
17	Bailey 3077-3078
18	Bailey 3082
19	Bailey 3105
20	Bailey 3148
21	Bailey 3151
22	Bailey 3152
23	Bailey 3153
24	Bailey 3154
25	Bailey 3155-3156
26	Bailey 3180
27	Bailey 3209-3212
28	Bailey 3215
29	Bailey 3216
30	Bailey 3217

31	Bailey 3316
32	Bailey 3317
33	Bailey 3320
34	Bailey 3321
35	Bailey 3325
36	Bailey 3326-3327
37	Bailey 3328
38	Bailey 3333
39	Bailey 3334-3335
40	Bailey 3512
41	Bailey 3526-3528
42	Bailey 3695
43	Bailey 3715-3719
44	Bailey 3721-3726
45	Bailey 3731-3732
46	Bailey 3735
47	Bailey 3737
48	Bailey 3738
49	Bailey 3754-3755
50	Bailey 3756-3757
51	Bailey 3758-3759
52	Bailey 3768
53	Bailey 3799
54	Bailey 4019-4020
66	Bailey 4218-4219
71	Bailey 4467-4468
72	Bailey 4471
73	Bailey 4473
74	Bailey 4540-4543
75	Bailey 4547
76	Bailey 4548
77	Bailey 4560
78	Bailey 4565
79	Bailey 4572-4575
80	Bailey 4576-4577
81	Bailey 4580-4582
84	Bailey 4763
85	Bailey 4783
86	Bailey 4785-4787
87	Bailey 4804
88	Bailey 4808-4809
89	Bailey 4810
90	Bailey 4811
91	Bailey 4827
92	Bailey 4831

93	Bailey 4837
94	Bailey 4842
95	Bailey 4843
96	Bailey 4846
97	Bailey 4847-4851
98	Bailey 4854
99	Bailey 4859-4868
104	Bailey 4885-4886
105	Bailey 4968
106	Bailey 4980
107	Bailey 4993
108	Bailey 4995 (identified as 4996 on Plaintiffs' Privilege Log)
109	Bailey 4998
110	Bailey 4999
111	Bailey 5002-5004
112	Bailey 5008-5012
113	Bailey 5016
114	Bailey 5024
115	Bailey 5025
116	Bailey 5028
117	Bailey 5056
118	Bailey 5062
119	Bailey 5064
120	Bailey 5065-5069
121	Bailey 5071
122	Bailey 5073
123	Bailey 5074
124	Bailey 5080-5081
125	Bailey 5088-5089
126	Bailey 5092

Defendants Shall Produce:

70	GWB 000380
71	GWB 000381–000421
"Bryan Cave"	
6	AMREAL 014865
7	AMREAL 014866
8	AMREAL 014867
9	AMREAL 014868
10	AMREAL 014869
11	AMREAL 014870

12	AMREAL 014871
13	AMREAL 014872
14	AMREAL 014873
39	AMREAL 014917–014922
41	AMREAL 014924–014928
42	AMREAL 014939–014944
43	AMREAL 014945–014949
44	AMREAL 014950–014953
45	AMREAL 014954–014959
46	AMREAL 014960–014964
47	AMREAL 014965–014968
48	AMREAL 014984–014989
49	AMREAL 014990–014994
50	AMREAL 014995–014998
51	AMREAL 014999–015004
52	AMREAL 015005–015009
53	AMREAL 015010–015013
54	AMREAL 015020–015024
55	AMREAL 015044–015049
56	AMREAL 015050–015054
57	AMREAL 015055–015058

IT IS SO ORDERED

This ___ day of July, 2009.

_____, South Carolina

_____
Doyet A. Early, III, Circuit Court Judge

Vick, Ted

From: Jennifer Clark [JClark@pendarvislaw.com]
Sent: Friday, July 10, 2009 2:36 PM
To: The Honorable Doyet A. Early, III; dearlyjc@sccourts.org
Cc: Joel D. Bailey, J.D.; Johnston, Ellis; Vick, Ted; Belcher, Jesse; Infinger, Marvin; Rosen, Anne; Eric.Hilly@almco.com
Subject: Re: Davis v. Almco

Attachments: 2009-07-10 TAP to Early - Object to Entry of Proposed Order.pdf



2009-07-10 TAP to Early - Obje...

Please see attached correspondence.

Jennifer Clark
Pendarvis Law Offices, PC
500 Carteret Street, Suite A
Beaufort SC 29902
843-524-9500

EXHIBIT 19

PENDARVIS LAW OFFICES, P.C.
500 CARTERET STREET, SUITE A
BEAUFORT, SOUTH CAROLINA 29902-5066

THOMAS@PENDARVISLAW.COM

THOMAS A. PENDARVIS, J.D.
ADMITTED IN SC AND GA

TEL. 843.524.9500
FAX. 843.524.9501

July 10, 2009

VIA E-MAIL AND U.S. MAIL
The Honorable Doyet A. Early, III
PO Box 90
Bamberg SC 29003
dearlyj@sccourts.org
dearlyjc@sccourts.org.

Re: Laurence H. Davis, Jr., et al. v. Parkview Apartments, et al.
Laurence H. Davis, Jr., et al. v. Roosevelt Gardens, et al.
Rhoda G. Rentz, et al. v. Orleans Gardens, et al.
Laurence H. Davis, Jr., et al. v. Palmetto Apartments, et al.
Carolina Management Corp. of Beaufort, et al. v. Pinewood Park Apts., et al.

Dear Judge Early:

On behalf of the Plaintiffs in the above-referenced and unconsolidated matters, on multiple grounds Plaintiffs object to the entry of the proposed Order offered on behalf of Defendants.

First, upon further research and investigation we believe the Circuit Court does not have authority to alter or amend the Findings and Conclusions of Special Master. Next, the proposed Order would materially affect the mode and preparation for trial. Finally, the proposed Order is not in keeping with the express direction from Your Honor by e-mail communication earlier this week.

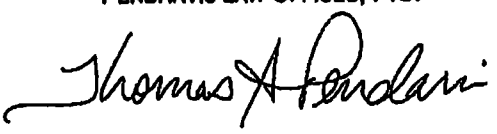
For the above reasons, Plaintiffs respectfully request that Your Honor decline to enter any Order altering or amending the Findings and Conclusions of the Special Master, including the proposed Order submitted on behalf of Defendants via e-mail earlier today.

Thank you for your attention to this matter.

With kind regards, I remain

Sincerely,

PENDARVIS LAW OFFICES, P.C.



Thomas A. Pendarvis, J.D.

TAP\pdh
cc: Joel D. Bailey, J.D. (via e-mail w/enclosures)
Ellis M. Johnston, II, J.D. (via e-mail and U.S. Mail w/enclosures)
Calvin T. Vick, J.D. (via e-mail and U.S. Mail w/enclosures)
Jesse C. Belcher, J.D. (via e-mail and U.S. Mail w/enclosures)
Marvin D. Infinger, J.D. (via e-mail and U.S. Mail w/enclosures)
Anne Ross Rosen, J.D. (via e-mail and U.S. Mail w/enclosures)
Eric Hilty, J.D. (via e-mail w/enclosures)

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July 13, 2009

VIA E-MAIL AND U.S. MAIL

The Honorable Doyet A. Early, III
Judge of Second Judicial Circuit
P.O. Box 90
Bamberg, South Carolina 29003
dearly@sccourts.org

Re: Defendants' Proposed Order in Parkview and Related Litigation (C.A. No. 2003-CP-07-726; C.A. No. 2005-CP-07-1989; C.A. No. 2005-CP-10-4229; C.A. No. 2005-CP-07-1989; and C.A. No. 2005-CP-07-1990) Concerning Plaintiffs' and Defendants' Motions to Alter or Amend Order Dated June 2, 2009

Dear Judge Early:

We are in receipt of Mr. Pendarvis' July 10, 2009 letter to you. While the statements contained in Mr. Pendarvis' letter are so vague as to make it difficult to respond, we feel compelled to address the Plaintiffs' claim that Your Honor has no authority to amend its June 2, 2009 Order.

Plaintiffs' statement that "the Circuit Court does not have authority to alter or amend the Findings and Conclusions of Special Master" is incredible. First, the only order that has been entered is your Order dated June 2, 2009 (copy attached). As the parties and Your Honor intended, Judge Clary never issued an order. He only issued reports to Your Honor, which you adopted in your June 2, 2009 Order. At the request of the Plaintiffs and the Defendants, your Order specifically contemplates the parties' mutual intent to file Rule 59 Motions to alter or amend the findings and conclusions contained in Judge Clary's reports. The Order states, in part:

> "Counsel for the parties have advised the Court that they wish to be heard concerning their respective arguments and objections to the findings and conclusions contained in the Reports. The Reports are hereby adopted verbatim as an Order of the Court. . . . This action is taken without prejudice to the parties' rights to make any arguments or objections concerning the findings and conclusions contained in the Reports, or the subject matter thereof, via Motion(s) to Alter or Amend this Order, pursuant to Rule 59(e), SCRCP. As requested by the parties' counsel, the Court will grant a hearing on any Rule 59(e) Motion filed by the parties with respect to this Order and will afford the parties full consideration of any arguments or objections stated in such Motion(s), if any."

EXHIBIT 20

I prepared the June 2, 2009 Order, as you instructed. Prior to submitting that order to you, I sent it to Plaintiffs' counsel for their review and comments on May 27, 2009. Mr. Pendarvis responded, "Joel and I have no objections to this proposed Order." See Mr. Pendarvis' e-mail, dated May 27, 2009, attached hereto. In the absence of the June 2, 2009 Order, there is no order or judgment resolving the parties' motions to compel documents identified on the privilege logs (except for the December 17, 2008 Order Denying Plaintiffs' Motion to Compel, discussed below). Further, even in the absence of the specific language quoted above, this Court's June 2, 2009 Order would be subject to Rule 59(e).

Now that the Rule 59 Motions have run their course, the Plaintiffs simply do not like the results of the process they, themselves, suggested. Plaintiffs' current attempts to avoid your rulings in this matter are plainly made in bad faith. This entire process started on December 9, 2008, during a hearing on Defendants' Motion to Compel, which was filed on November 6, 2008. Rather than responding to Defendants' arguments that documents on Plaintiffs' privilege log should be produced (i.e., no privilege, or privilege waived), Plaintiffs' counsel simply suggested that the Court enlist someone, such as a retired judge, to assist Your Honor by reviewing the subject documents *in camera*. Plaintiffs' counsel even convinced Your Honor that the same person should review the documents on Defendants' privilege log *in camera*, even though Your Honor had previously rejected Plaintiffs' motion to compel such privileged documents. See Order Denying Plaintiffs' Motion to Compel #2, attached hereto (the Court verbally denied the Plaintiffs' motion on July 1, 2008, and the proposed Order reflecting this ruling was provided to Your Honor on July 16, 2008, but the Order was not signed until December 17, 2008).

After Your Honor indicated interest in having Judge Clary assist with the *in camera* inspection of documents, Defendants' counsel agreed to this process. Three Orders were subsequently entered concerning the *in camera* review of documents by Judge Clary, who was referred to as a Special Master in such orders. These Orders, dated December 30, 2008, January 31, 2009, and April 9, 2009, are attached hereto. In the second Order, which was a consent order, the parties very purposefully stated, "The subject Order is hereby amended to provide that Special Master Clary is to provide this Court with a Report setting forth his findings and conclusions." The third Order reiterates this important mandate (last sentence of third Order). On or about January 21, 2009, the parties' counsel discussed the fact that they did not want Judge Clary to issue an Order, but only wanted Judge Clary to issue a non-binding report to the Court. The parties' counsel agreed that they only wanted Judge Early to issue any resulting Order. As the parties' counsel discussed, this was an important distinction, which needed to be reflected in the Orders concerning Judge Clary's *in camera* review, because the parties did not want to risk anyone mistakenly holding that this process was governed by Rule 53, SCRCP, concerning masters (masters-in-equity) and special referees (under S.C. Code 14-11-60). The parties and Your Honor did not enlist Judge Clary's help as a master-in-equity or as a special referee under S.C. Code 14-11-60, and Rule 53 has no application to this process involving Judge Clary. If the Plaintiffs now claim that Rule 53 does

apply, after the specific discussion of this matter between the parties' counsel and the resulting amendment of the December 30, 2008 Order to state that Judge Clary will only issue a report to Your Honor (not an order or judgment under Rule 53), then Plaintiffs' bad faith in this matter has reached epic proportions.

As for the Plaintiffs' claim that the proposed Order would materially affect the mode and preparation for trial, we frankly have no idea what Plaintiffs mean by this. The discovery disputes concerning the documents on the parties' privilege logs have been going on for many months. Now that the discovery disputes have been resolved by Your Honor, the parties must produce certain documents in accordance with your rulings. This should not be a surprise to the Plaintiffs. The trial in the Parkview action is at least six months away. If the Plaintiffs would cease in delaying the production of their documents and discovery responses, there is no reason to believe the parties can not be ready for trial by late January 2010.

As for the Plaintiffs' claim that the proposed Order is "not in keeping with the express direction from Your Honor by e-mail," we believe that we faithfully prepared the proposed Order pursuant to your instructions (please see proposed Order and our July 10, 2009 cover letter regarding the same). Obviously, Your Honor is the only person capable of determining whether we succeeded in that endeavor. If we misunderstood or misinterpreted your instructions in any way, we would be happy to change the proposed Order as you direct.

Thank you for your consideration of these matters. If you have any questions or would like for me to provide you with additional information, please do not hesitate to contact me.

Sincerely yours,

Calvin T. Vick, Jr.

CTVjr:dlh

Enclosures

cc: Ms. Carra Henderson,
Law Clerk to the Honorable Doyet A. Early, III (via e-mail and U.S. Mail)
Joel D. Bailey, Esq. (via e-mail and U.S. Mail)
Thomas A. Pendarvis, Esq. (via e-mail and U.S. Mail)
Ellis M. Johnston, II, Esq. (via e-mail)

STATE OF SOUTH CAROLINA		IN THE COURT OF COMMON PLEAS
Laurance H. Davis, Jr., *et al.*, Plaintiffs, v. Parkview Apartments, a South Carolina Limited Partnership, *et al.*, Defendants.	)	Beaufort County C.A. No. 2003-CP-07-726
Laurance H. Davis, Jr., *et al.*, Plaintiffs, v. Roosevelt Gardens, a South Carolina Limited Partnership, *et al.*, Defendants.	)	Orangeburg County C.A. No. 2005-CP-38
Rhonda G. Rentz, *et al.*, Plaintiffs, v. Orleans Gardens, a South Carolina Limited Partnership, *et al.*, Defendants.	)	Charleston County C.A. No. 2005-CP-10-4229
Laurance H. Davis, Jr., *et al.*, Plaintiffs, v. Palmetto Apartments, a South Carolina Limited Partnership, *et al.*, Defendants.	)	Beaufort County C.A. No. 2005-CP-07-1989
Carolina Management Corporation of Beaufort, *et al.*, Plaintiffs, v. Pinewood Park Apartments, a South Carolina Limited Partnership, *et al.*, Defendants.	)	Beaufort County C.A. No. 2005-CP-07-1990

ELIZABETH H. SMITH
BEAUFORT COUNTY, S.C.
CLERK OF COURT
2009 JUN -4 PM 12:45

ORDER ADOPTING FINDINGS AND CONCLUSIONS OF SPECIAL MASTER CLARY

By Orders of this Court dated December 30, 2008, January 31, 2009, and April 9, 2009 (collectively, "Prior Orders"), the Court appointed the Honorable Gary E. Clary as Special Master in these actions for the purposes set forth in such Prior Orders. Pursuant to the Prior Orders, which are incorporated herein by reference, Special Master Clary issued his Reports to the Court, dated April 14, 2009 and April 22, 2009 (collectively, "Reports"). The Reports contain Special Master Clary's findings and conclusions with respect to the matters referred to

him. Counsel for the parties have advised the Court that they wish to be heard concerning their respective arguments and objections to the findings and conclusions contained in the Reports.

The Reports are hereby adopted verbatim as an Order of the Court. The Reports, which are attached hereto, are incorporated herein by reference. This action is taken without prejudice to the parties' rights to make any arguments or objections concerning the findings and conclusions contained in the Reports, or the subject matter thereof, via Motion(s) to Alter or Amend this Order, pursuant to Rule 59(e), SCRCP. As requested by the parties' counsel, the Court will grant a hearing on any Rule 59(e) Motion filed by the parties with respect to this Order and will afford the parties full consideration of any arguments or objections stated in such Motion(s), if any.

IT IS SO ORDERED

This 7 day of May, 2009.

Greenville, South Carolina

Doyet A. Early, III Circuit Court Judge

Vick, Ted

From: Thomas A. Pendarvis [tpendarvis@pendarvislaw.com]
Sent: Wednesday, May 27, 2009 1:46 PM
To: Vick, Ted
Cc: Johnston, Ellis; baileylawfirm@charter.net; Pamela D. Higgins
Subject: RE: Proposed Order re: Clary Reports

Ted:

Joel and I have no objections to this proposed Order.

Thomas A. Pendarvis, J.D.
Pendarvis Law Offices, P.C.
500 Carteret St., Ste. A
Beaufort, SC 29902
843.524.9500 tel.
843.524.9501 fax.
Thomas@PendarvisLaw.com

----Original Message----
From: Vick, Ted
Sent: Wednesday, May 27, 2009 11:16 AM
To: Thomas A. Pendarvis; baileylawfirm@charter.net
Cc: Johnston, Ellis

Thomas,

I'll call you to discuss in a few minutes. Thanks.

Ted

<<Greenville-692200-v1-Parkview Proposed Order re Clary reports.DOC>>

CONFIDENTIALITY NOTICE:This e-mail and any files transmitted with it are confidential and may contain information which is legally privileged or otherwise exempt from disclosure. They are intended solely for the use of the individual or entity to whom this e-mail is addressed. If you are not one of the named recipients or otherwise have reason to believe that you have received this message in error, please immediately notify the sender and delete this message immediately from your computer. Any other use, retention, dissemination, forwarding, printing, or copying of this e-mail is strictly prohibited.

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Attachment(s): Greenville-692200-v1-Parkview Proposed Order re Clary reports.DOC

7/13/2009

STATE OF SOUTH CAROLINA 2008 DEC 23 PM 1:31 IN THE COURT OF COMMON PLEAS

BEAUFORT COUNTY CLERK OF COURT BEAUFORT S.C.

Laurance H. Davis, Jr., *et al.*, Plaintiffs, v. Parkview Apartments, a South Carolina Limited Partnership, *et al.*, Defendants.	)	Beaufort County C.A. No. 2003-CP-07-726
Laurance H. Davis, Jr., *et al.*, Plaintiffs, v. Roosevelt Gardens, a South Carolina Limited Partnership, *et al.*, Defendants.	)	Orangeburg County C.A. No. 2005-CP-38-[illegible]
Rhonda G. Rentz, *et al.*, Plaintiffs, v. Orleans Gardens, a South Carolina Limited Partnership, *et al.*, Defendants.	)	Charleston County C.A. No. 2005-CP-10-4229
Laurance H. Davis, Jr., *et al.*, Plaintiffs, v. Palmetto Apartments, a South Carolina Limited Partnership, *et al.*, Defendants.	)	Beaufort County C.A. No. 2005-CP-07-1989
Carolina Management Corporation of Beaufort, *et al.*, Plaintiffs, v. Pinewood Park Apartments, a South Carolina Limited Partnership, *et al.*, Defendants.	)	Beaufort County C.A. No. 2005-CP-07-1990

FILED 2008 DEC 31 PM 2:40 JULIE J. ARMSTRONG CLERK OF COURT BY

ORDER DENYING PLAINTIFFS' MOTION TO COMPEL # 2

THESE MATTERS COME BEFORE THE COURT on Plaintiffs' Motion to Compel Production, dated November 7, 2007 (hereinafter, "Motion"), in each of the above-captioned actions. The Court has considered the parties' memoranda and other submissions, including the Defendants' Privilege Log, a copy of which was provided to the Court and to Plaintiffs' counsel in connection with the Motion (hereinafter, "Defendants' Privilege Log"), as well as the oral argument of the parties' counsel at the hearing held on November 19, 2007. The Court finds that

Certified - A True Copy

Melissa Johnson

Elizabeth M. Smith - Clerk of Court

the documents identified in the Defendants' Privilege Log are privileged and that the Defendants shall not be compelled to produce such documents to Plaintiffs.

Further, the Court finds that Plaintiffs' Motion is not ripe with respect to questions that may be asked at the depositions of certain attorneys that previously represented the Defendants, such depositions having not yet taken place.

WHEREFORE, Plaintiffs' Motion is hereby DENIED. Further, Plaintiffs' request for an award of reasonable expenses of the Motion, including their attorneys' fees, pursuant to Rule 37, SCRCP, is DENIED.

IT IS SO ORDERED

This 17 day of Dec, 2008.
Bamberg, South Carolina

Doyet A. Early, III, Circuit Court Judge

STATE OF SOUTH CAROLINA		IN THE COURT OF COMMON PLEAS
Laurance H. Davis, Jr., *et al.*, Plaintiffs. v. Parkview Apartments, a South Carolina Limited Partnership, *et al.*, Defendants.	)	Beaufort County C.A. No. 2003-CP-07-726
Laurance H. Davis, Jr., *et al.*, Plaintiffs, v. Roosevelt Gardens, a South Carolina Limited Partnership, *et al.*, Defendants.	)	Orangeburg County C.A. No. 2005-CP-38-1131
Rhonda G. Rentz, *et al.*, Plaintiffs, v. Orleans Gardens, a South Carolina Limited Partnership, *et al.*, Defendants.	)	Charleston County C.A. No. 2005-CP-10-4229
Laurance H. Davis, Jr., *et al.*, Plaintiffs, v. Palmetto Apartments, a South Carolina Limited Partnership, *et al.*, Defendants.	)	Beaufort County C.A. No. 2005-CP-07-1989
Carolina Management Corporation of Beaufort, *et al.*, Plaintiffs, v. Pinewood Park Apartments, a South Carolina Limited Partnership, *et al.*, Defendants.	)	Beaufort County C.A. No. 2005-CP-07-1990

ORDER APPOINTING THE HONORABLE GARY E. CLARY AS SPECIAL MASTER FOR RESOLUTION OF SPECIFIED DISCOVERY DISPUTES

THESE MATTERS COME BEFORE THE COURT on Defendants' Motion to Compel Discovery, dated November 6, 2008, and Plaintiffs' Motion to Compel Production, dated November 7, 2007, in each of the above-captioned actions. The Court has considered the parties' memoranda and other submissions, as well as the oral argument of the parties' counsel at the hearings held on December 9, 2008 (Defendants' Motion) and November 19, 2007 (Plaintiffs' Motion).

A portion of the Defendants' Motion concerns whether certain documents listed on the Plaintiffs' Privilege Log are subject to discovery and, thus, whether Plaintiffs should be compelled to produce such documents to Defendants. Similarly, a portion of the Plaintiffs' Motion concerns whether certain documents listed on Defendants' Privilege Log are subject to discovery and, thus, whether Defendants should be compelled to produce such documents to Plaintiffs. By Order dated December 17, 2008, the Court denied the Plaintiffs' Motion. The Court has not yet ruled on the Defendants' Motion.

WHEREFORE, the Court, with the consent of the parties, hereby appoints the Honorable Gary E. Clary as Special Master in these actions for the purpose of conducting an *in camera* inspection of the documents that are the subject of the parties' respective motions to compel, for the purposes set forth below:

(a) With respect to the Defendants' Motion, it is requested that Judge Clary review *in camera* the documents listed on Plaintiffs' Privilege Log, which the Defendants identify as being at issue in their Motion to Compel, and make his ruling as to whether each such document is subject to discovery and production should be compelled; and

(b) With respect to the Plaintiffs' Motion, it is requested that Judge Clary review *in camera* the documents listed on Defendants' Privilege Log, which the Plaintiffs identify as being at issue in their Motion to Compel, and, subject to and in light of this Court's Order dated December 17, 2008, make his ruling as to whether each such document is subject to discovery and production should be compelled.

It is further ordered that the parties shall compensate Judge Clary for his time spent as Special Master in these actions, at a rate agreed upon by the parties and Judge Clary, and that the

Plaintiffs and Defendants shall share this cost equally.

IT IS SO ORDERED

This 3rd day of Dec, 2008.

Bamberg, South Carolina

Doyet A. Early, III, Circuit Court Judge

STATE OF SOUTH CAROLINA COUNTY OF BEAUFORT	IN THE COURT OF COMMON PLEAS FOURTEENTH JUDICIAL CIRCUIT CIVIL ACTION NO. 2003-CP-07-726
Laurance H. Davis, Jr.; et al.: Plaintiffs, vs. Parkview Apartments, a South Carolina Limited Partnership; Apartment Investment and Management Company a/k/a AIMCO; Insignia Financial Group, Inc.; AmReal Corporation a/k/a and f/k/a USS Corporation a/k/a and f/k/a U.S. Shelter Corporation; ISTC Corporation; N. Barton Tuck, Jr.; and John Doe, a generic designation for a party or parties whose true identity is unknown, Defendants.	2005-CP-07-1990 (Beaufort) (Pinewood) 2005-CP-07-1989 (Beaufort) (Palmetto) 2005-CP-10-4229 (Charleston) (Orleans) 2005-CP-38-1131 (Orangeburg) (Roosevelt) CONSENT ORDER REGARDING SCOPE OF AUTHORITY FOR SPECIAL MASTER

THIS MATTER IS BEFORE THE COURT on a joint motion on behalf of all parties in these foregoing cases for the entry of an Order to alter or amend the language in this Court's Order dated December 30, 2008, appointing Gary E. Clary as Special Master. The subject Order is hereby amended to include in Special Master Clary's authority and scope of engagement the review of the documents from the BRYAN CAVE law firm and AmReal 014467-014468, 014670-014671, 014672-014681, 015481, and 015482, all of which are identified on Defendants' Privilege Log, dated January 26, 2009. The subject Order is further amended to provide that Special Master Clary is to provide this Court with a Report setting forth his findings and conclusions.



AND IT IS SO ORDERED.

Doyet A. Early, III
Circuit Court Judge

January 31, 2009

Bamberg, South Carolina

WE SO MOVE AND CONSENT:

PENDARVIS LAW OFFICES, P.C.

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Joel D. Bailey, J.D.
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Attorneys for Plaintiffs

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(843) 722-2266 fax.

Attorneys for Defendants

STATE OF SOUTH CAROLINA		IN THE COURT OF COMMON PLEAS
Laurance H. Davis, Jr., *et al.*, Plaintiffs, v. Parkview Apartments, a South Carolina Limited Partnership, *et al.*, Defendants.	)	Beaufort County C.A. No. 2003-CP-07-726
Laurance H. Davis, Jr., *et al.*, Plaintiffs, v. Roosevelt Gardens, a South Carolina Limited Partnership, *et al.*, Defendants.	)	Orangeburg County C.A. No. 2005-CP-38-1131
Rhonda G. Rentz, *et al.*, Plaintiffs. v. Orleans Gardens, a South Carolina Limited Partnership, *et al.*, Defendants.	)	Charleston County C.A. No. 2005-CP-10-4229
Laurance H. Davis, Jr., *et al.*, Plaintiffs, v. Palmetto Apartments, a South Carolina Limited Partnership, *et al.*, Defendants.	)	Beaufort County C.A. No. 2005-CP-07-1989
Carolina Management Corporation of Beaufort, *et al.*, Plaintiffs, v. Pinewood Park Apartments, a South Carolina Limited Partnership, *et al.*, Defendants.	)	Beaufort County C.A. No. 2005-CP-07-1990

ORDER REGARDING SCOPE OF AUTHORITY FOR SPECIAL MASTER

THIS MATTER COMES BEFORE THE COURT on the Plaintiffs' two motions to alter or amend, dated December 30, 2008 and January 13, 2009, in which the Plaintiffs seek to alter or amend the Court's Orders dated December 17, 2008 (Order denying Plaintiffs' Motion to Compel # 2) and December 30, 2008 (Order appointing Gary E. Clary as Special Master, as amended by the Consent Order dated January 31, 2009). This matter is also before the Court on the Defendants' motion for protective order, dated August 21, 2008.

DAF
#1

The Order dated December 30, 2008 (as amended by the Consent Order dated January 31. 2009). is hereby amended to include in Special Master Clary's authority and scope of engagement the review of objections made based on claims of attorney-client privilege and/or attorney work product during the depositions of attorneys Arthur L. Howson, Jr. (August 14, 2008) and Douglas G. Brown (August 15, 2008). Further, the subject Order is hereby amended to include in Special Master Clary's authority and scope of engagement the review of appropriate limitations, if any, based on claims of attorney-client privilege and/or attorney work product, on the scope of any future depositions of attorneys that represented the Limited Partnerships in and between 1999 and 2001. The subject Order is further amended to provide that Special Master Clary is to provide this Court with a Report setting forth his findings and conclusions.

IT IS SO ORDERED

This 9 day of April, 2009.

Bamberg, South Carolina

Doyet A. Early, III, Circuit Court Judge

STATE OF SOUTH CAROLINA
TRANSCRIPT OF RECORD
CIRCUIT COURT

LAURANCE H. DAVIS, JR., et al, Plaintiff,
-vs-
ROOSEVELT GARDENS, a South Carolina Limited Partnership, et al, Defendant.
Orangeburg County
05-CP-38-1131

RHODA G. RENTZ et al, Plaintiff,
-vs-
ORLEANS GARDENS, a South Carolina Limited Partnership, et al, Defendant.
Charleston County
05-CP-10-4229

LAURANCE H. DAVIS, JR., et al, Plaintiff,
-vs-
PALMETTO APARTMENTS, a South Carolina Limited Partnership, et al, Defendant.
Beaufort County
05-CP-07-1989

LAURANCE H. DAVIS, JR., et al, Plaintiff,
-vs-
PARKVIEW APARTMENTS, a South Carolina Limited Partnership, et al, Defendant.
Beaufort County
03-CP-07-726

CAROLINA MANAGEMENT COMPANY, et al,
Plaintiff,
-vs-
PINEWOOD PARK APARTMENTS, et al,
Defendant.
Beaufort County
05-CP-07-1990

Heard on Monday, August 24, 2009
Aiken, South Carolina

BEFORE:
THE HONORABLE DOYET A. EARLY, II

Cheri L. Young, RPR
Circuit Court Reporter
P O Box 1154
Aiken, SC 29802-1154

EXHIBIT 27

APPEARANCES:
Counsel on Behalf of the Plaintiffs:
Thomas A. Pendarvis, Esq.
Joel D. Bailey, Esq.

Counsel on Behalf of the Defendants:
Ellis M. Johnston, II, Esq.
Calvin T. Vick, Jr., Esq.

THE COURT: I've never heard that you can file a 59, Rule 59 motion in response to a ruling on a Rule 59 motion. You got any law that says I can do that?

MR. BAILEY: Evan versus Department of Transportation.

THE COURT: I know that one right off the top of my head, Mr. Bailey.

MR. BAILEY: That permits it in certain circumstances. We think this falls within it.

We really think, Judge, quite frankly, it's something that the Court really ought to consider because we really need -- we're at a point it seems to me when you got lawyers filing these kinds of motions, somebody needs to step back, take a real hard look at this thing and let's just see if there's some way that all of this can be avoided.

That may be something that can be addressed in a 59 motion.

THE COURT: You want me to change my prior order?

MR. BAILEY: Yes, sir. I think it should be changed.

THE COURT: On what basis?

MR. BAILEY: The basis that we had previously told Your Honor. That is, number one, that the authority to

alter or amend the findings and conclusions of a special master apply only to the appellate courts, not to the circuit courts. So it's a usurpation of jurisdiction under that rule.

The second basis, Your Honor, is that that particular order will significantly change the mode of trial and trial preparation and we think --

THE COURT: Mr. Bailey, you don't like it because it's opened up wide open the issue of the statute of limitations.

MR. BAILEY: That's certainly one reason, Judge. And quite frankly --

THE COURT: And that's a viable defense but I think anything that's a viable defense that you're entitled to look at stuff that's relevant.

MR. BAILEY: But that's not the way you opened it up, Judge. You didn't open it up because it's a viable defense. You opened it up on the theory that we waived it, that we waived any claim of attorney-client privilege by filing the lawsuit. That's what your order says, Judge.

THE COURT: You can take it to Columbia. Do whatever you want to do with it, Mr. Bailey. I'm moving forward.

I don't know of any -- y'all -- I suggested using

Judge Clary. Y'all agreed to do that. You went up there. Neither one of you liked his ruling. Both of you filed 59-E's. I ruled on that. Now you don't like that.

So go to Columbia if you don't like it. I don't know what else to tell you to do. My patience is -- I gave y'all -- is this the same hearing I gave y'all a three-hour hearing the other night --

MR. JOHNSTON: Yes, Your Honor.

THE COURT: -- in Barnwell?

MR. BAILEY: If it's any consolation, Judge, I've been involved since 2000.

THE COURT: Well, there's no consolation on this.

MR. BAILEY: My patience gets a little frayed at times, too.

THE COURT: I understand.

MR. JOHNSTON: Your Honor.

THE COURT: Anything else?

MR. BAILEY: I would point out, Judge, that the order also materially changes the duty of a fiduciary in this state.

That's another reason that, quite frankly, they're looking considerably at advice of other counsel. So for those reasons --

THE COURT: What am I supposed to? Just sit around and wait until they decide what they're going to

are not compliant with the order. And it's -- I've just never heard in all my 35 years that you can do a 59 motion on an order that was a result of a 59 motion. I just don't know where that's coming from.

In all due respect to Mr. Bailey, he and I go back a long way, and it's certainly not anything personal to me and him, but there's no way for this case to be tried in January and it's going to be tried without the discovery being there.

So I'm going to take it under advisement. I'm going to let you two talk and I'm going to send an e-mail tomorrow and the e-mail very well could be that my order is, as drastic as it may be is that I will dismiss the action for failure to comply. I'll give them X. amount of days to comply with it to remedy that.

I'd rather not do that but I'm backed into a corner

MR. JOHNSTON: I understand. The startling thing to me is this discovery dispute is controlling whether this case will get tried when. I mean, we had the trial date set for May or a tentative one set for May and we couldn't do it because of discovery.

Now the Plaintiffs are controlling the trial date, once again. And it is -- just puts us in a heck of a mess. We've got -- I mean, if this thing's going to be

tried in January --

THE COURT: It's going to be tried in January. I don't have any choice, unless it's dismissed.

MR. JOHNSTON: Good reason to dismiss it. My client isn't going to like me very much.

THE COURT: In all due respect to you and Mr. Pendarvis, I just got out of a lengthy trial with Thomas. He knows I try to be fair to everybody. I am fair to everybody. I even try to be, but I need you to report to your clients that I'm taking this under advisement this afternoon with strong leans towards dismissing the action for them failing to comply.

And if they want to take that chance and go to Columbia that I'm wrong on what I did, that's the chance they can take. Or they can comply with my discovery order and let's move forward and try the case straight up on the facts.

Y'all are certainly in a position to be ready to go. You've been living with the thing for a long time.

MR. BAILEY: We were ready to go, Your Honor, until these latest rulings. And, quite frankly, they changed everything. They may well require counsel to be out of the case and testifying.

The latest order, quite frankly, and I'm sure Your Honor doesn't realize the implications, but the

implications are far reaching even beyond this case. I mean, they go to the very substantive issues of law in this state relating to attorney-client privilege and duty of fiduciaries and things of that nature.

So it's not something, you know, that we take lightly.

THE COURT: I'm not suggesting that you take it lightly. I never have suggested that.

MR. BAILEY: Yes, sir.

THE COURT: I'm dealing with a case that's a major, major issue. From the day I got this case, one of the first things I had to do was decide a motion for summary judgment on the statute problem.

MR. BAILEY: Yes, sir.

THE COURT: And that, I ruled in your favor against Mr. Johnston on those that it was a factual issue.

MR. BAILEY: Yes, sir.

THE COURT: I think that they're entitled to whatever documents they can to develop that defense as well as you saying it was brought within the statute. If my ruling creates some problems in that regards, I have to live with it.

MR. BAILEY: But my only comment in that regard, Judge, is that it's -- as I mentioned earlier it was the nature of the ruling. The way the law is historically

between clients that set forth trial strategy, that set forth mental impressions. It basically gives the defense an entire game book right before the game for the opposing party.

So that's the difficulty that I see with it. It's not that they, that they raised it in a traditional manner because had they done it in a traditional manner the law is very clear. You know, the statute of limitations defense being raised by a defendant doesn't trump the attorney-client privilege.

But the way they did it through the back door and claiming that we impliedly waived it, first of all, which we dispute. There's nothing in the complaints that would indicate that. But secondly, that premise has not been adopted by the courts of this state.

So that's a whole different ball game we're into. That's one of the reasons that I think if Your Honor would be willing to sit back and take a longer look at this thing under a 59, it might help get everything resolved and avoid any considerations of review and that type of thing.

THE COURT: Mr. Bailey, I have listened to y'all for three hours the other night, way into the evening in Barnwell after my court over there.

And I've ruled like I think it should be done

under the facts of this case, under the pleadings, and I'm not going to go back on that. Y'all know what my situation is.

I urge you to tell your clients that I've ruled on it. I may be wrong, I may be right. But that's the ruling. And if they don't want to comply with it, then it's a good chance this case is going to get tossed.

MR. BAILEY: I understand, Your Honor. For the record, Your Honor, we'd like to just go on record now and just ask you pursuant to Rule 59 and/or 60, to vacate that order and basically go back and take a second look at these issues.

THE COURT: Thank you. Respectfully denied.

MR. BAILEY: Okay.

THE COURT: All right. I look to hear from you gentlemen. I'm just going to issue the order. Please tell your clients what's going on, and they have a right to know before I do anything.

MR. BAILEY: Yes, sir. I just want to make sure I understand your ruling. Is it your ruling that --

THE COURT: I'm not ruling. I'm telling you that I am thinking very seriously --

MR. BAILEY: I understand.

THE COURT: -- that if they choose not to comply with my order that I am going to dismiss the action. And

I will probably issue some type of order saying that failure to comply within 30 days, not 30 days -- 15 days or something of that nature will result in dismissal as a sanction, and attorney's fees.

MR. BAILEY: All right, sir.

THE COURT: I'll leave attorney's fees open until I decide what to do.

MR. JOHNSTON: All right.

THE COURT: Thank y'all.

MR. JOHNSTON: Thank you, Your Honor.

MR. VICK: Thank you, Judge.

MR. BAILEY: Thank you, Your Honor.

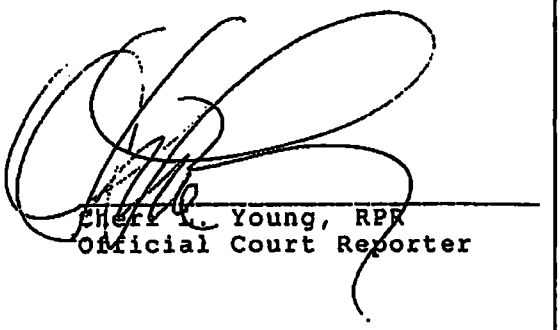
END OF PROCEEDINGS : 2:45 p.m.

CERTIFICATE OF REPORTER

I, Cheri L. Young, Registered Professional Reporter, and Official Court Reporter for the State of South Carolina, do hereby certify that the foregoing transcript of proceedings heard on Monday, August 24, 2009, in Aiken, South Carolina, was reported by me using machine shorthand and realtime computer-aided translation and is a true, accurate and complete transcript of the proceedings had and evidence introduced in the hearing of the matter.

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

I have hereunto set my hand this Saturday, the 5th day of September, 2009.



Cheri L. Young, RPR
Official Court Reporter

STATE OF SOUTH CAROLINA	) THE COURT OF COMMON PLEAS
LAURANCE H. DAVIS, JR., ET AL., PLAINTIFFS VS. PARKVIEW APARTMENTS, A SOUTH CAROLINA LIMITED PARTNERSHIP, ET AL., DEFENDANTS	BEAUFORT COUNTY 2003-CP-07-726
LAURANCE H. DAVIS, JR., ET AL., PLAINTIFFS VS. ROOSEVELT GARDENS, A SOUTH CAROLINA LIMITED PARTNERSHIP, ET AL., DEFENDANTS	ORANGEBURG COUNTY 2005-CP-38-1131
RHONDA G. RENTZ, ET AL., PLAINTIFFS VS. ORLEANS GARDENS, A SOUTH CAROLINA LIMITED PARTNERSHIP, ET AL., DEFENDANTS	CHARLESTON COUNTY 2005-CP-10-4229
LAURANCE H. DAVIS, JR., ET AL., PLAINTIFFS VS. PALMETTO APARTMENTS, A SOUTH CAROLINA LIMITED PARTNERSHIP, ET AL., DEFENDANTS	BEAUFORT COUNTY 2005-CP-07-1989

EXHIBIT
3

CAROLINA MANAGEMENT CORPORATION OF BEAUFORT, ET AL.,

PLAINTIFFS

VS.

PINEWOOD PARK APARTMENTS, A SOUTH CAROLINA LIMITED PARTNERSHIP, ET AL.,

DEFENDANTS

BEAUFORT COUNTY
2005-CP-07-1990

JULY 6, 2009
BARNWELL, SOUTH CAROLINA

B E F O R E:

THE HONORABLE DOYET A. EARLY, III, JUDGE.

A P P E A R A N C E S:

JOEL D. BAILEY, ESQ.
THOMAS A. PENDARVIS, ESQ.
ATTORNEYS FOR THE PLAINTIFF

ELLIS M. JOHNSTON, II, ESQ.
CALVIN T. VICK, JR., ESQ.
ATTORNEYS FOR THE DEFENDANT

LISA H. DAVENPORT
OFFICIAL COURT REPORTER

DIVERGENCE ANALYSIS AS OPPOSED TO A FIDUCIARY DUTY ANALYSIS, IT REALLY BECOMES THEN A FACTUAL ISSUE, AND IF YOU ASSUMED THAT THE LEGAL APPROACH IS CORRECT, THEN IT BECOMES A FACTUAL ISSUE, AND OUR POSITION ON THIS POINT, JUDGE, IS THAT IT'S FACTUALLY INACCURATE TO SAY THAT THE INTEREST OF THE LIMITED PARTNERS AND THE GENERAL PARTNERS HAD DIVERGED AS OF SEPTEMBER TO THE POINT WHERE THE PRIVILEGE SHOULD NOT ATTACH, IF YOU CAN.

THE COURT: WHAT IS YOUR CUT-OFF DATE? WHAT DO YOU ALLEGE FACTUALLY TO BE THE POINT OF DIVERGENCE?

MR. BAILEY: IF YOU'LL BEAR WITH ME, I'LL GET TO THAT, JUDGE.

THE COURT: I WILL.

MR. BAILEY: MY FIRST POINT WAS THAT THE DATE SELECTED BY JUDGE CLARY WAS NOT ACCURATE. WE DON'T THINK IT TOOK PLACE UNTIL THE EARLIEST UNTIL THE SUMMER OF THE NEXT YEAR AND MORE THAN LIKELY IN 2002. THAT'S THE SHORT ANSWER TO YOUR QUESTION. I CAN ADDRESS WHY LATER.

TAKING THE SEPTEMBER 14 DATE THAT JUDGE CLARY LOOKED AT, THE REASON THAT THAT DATE WAS CHOSEN IS BECAUSE THERE WAS A MEETING OF THE VARIOUS LIMITED PARTNERSHIPS THAT WAS HELD IN BEAUFORT ON THAT DATE. NOW, THE GOOD NEWS ABOUT ALL OF THAT IS THAT WE HAVE A TRANSCRIPT OF THAT MEETING -- THAT VERBATIM TRANSCRIPT, A COURT-REPORTER TRANSCRIPT -- AND THERE WAS A SECOND MEETING THAT WAS HELD

IN OCTOBER. THERE IS ALSO A TRANSCRIPT OF THAT MEETING. SO, FROM A FACTUAL STANDPOINT YOU DON'T HAVE TO SAY, WELL, BAILEY SAYS THIS OR ELLIS SAYS THAT. YOU'VE GOT THE ACTUAL TRANSCRIPT TO SEE WHAT ACTUALLY WAS SAID AND WHAT TOOK PLACE.

RATHER THAN GO THROUGH THE TRANSCRIPT WHAT WE'VE DONE IS SELECTED PORTIONS OF THAT TRANSCRIPT THAT WE THINK ILLUSTRATE OUR POINT. WE'LL TRY TO RUN THROUGH QUICKLY FOR YOU IN THE FORM OF A POWER POINT. IT MAY BE EASIER THAN FUMBLING THROUGH PAGES, IF YOU DON'T MIND.

THE SEPTEMBER MEETING WAS CALLED SOMETIME AFTER SOME OF THE LIMITED PARTNERS HAD RETAINED ME TO TRY TO FIND OUT -- BASICALLY, INVESTIGATE AND FIND OUT WHAT WAS THE STATUS OF THE NOTE THAT WAS DUE TO THE LIMITED PARTNERSHIP AND WHAT, IF ANYTHING, WAS BEING DONE TO COLLECT THAT NOTE AND OR TO OBTAIN THE COLLATERAL THAT WOULD BE ASSOCIATED WITH THAT NOTE. THE LIMITEDS HAD BEEN SORT OF AT A POSITION WHERE THEY WERE NOT ABLE TO GET ALL THE INFORMATION THEY THOUGHT THEY NEEDED IN ORDER TO EVALUATE THEIR POSITION FROM THE GENERAL PARTNERS KEEPING IN MIND, ONCE AGAIN, A LOT OF THESE THINGS WERE DOCUMENTS THAT THEY NEEDED TO LOOK AT WERE 25 OR 30 YEARS OLD THAT THEY DIDN'T HAVE.

SO, THEY WERE ASKING, BASICALLY, FOR THE DOCUMENTS. THE GENERAL PARTNER, SOMEWHAT UNDERSTANDABLY, WAS NOT ABLE

TO JUST GRAB, YOU KNOW, 30 YEARS WORTH OF DOCUMENTS AND THEY WERE HAVING TO LOOK FOR SOME STUFF. SO, THE LIMITED PARTNERS BECAME A LITTLE FRUSTRATED AND THEY ASKED ME TO SEE WHAT WE COULD DO. I WAS UNABLE, AND, QUITE CANDIDLY, WHEN IT CAME TO ME MY POSITION WAS, I DON'T KNOW WHAT HAPPENED 20 YEARS AGO, 15 YEARS AGO, 10 YEARS AGO. WE'VE GOT TO GET THE DOCUMENTS BEFORE I CAN GIVE YOU ANY ADVICE. SO, MY INITIAL ROLE WAS TO CONTACT THE GENERAL PARTNER, TRY TO GET THE INFORMATION IF WE COULD.

SHORT OF BEING ABLE TO GET ALL OF THAT, WHAT WE ENDED UP DOING WAS CALLING AN INFORMATIONAL MEETING, BASICALLY, OF THE VARIOUS LIMITED PARTNERSHIPS TO SEE WHAT, IF ANYTHING, COULD BE DONE. ONE OF THE PURPOSES WAS TO TRY TO GET THIS INFORMATION. ANOTHER ONE WAS TO DETERMINE WHETHER OR NOT THE GENERAL PARTNERS WERE INTERESTED IN PURSUING THESE CLAIMS AGAINST THE DEBTOR, AND, IF NOT, THEN WHAT, IF ANYTHING, COULD BE DONE ABOUT REPLACING THEM WITH SOMEBODY WHO MIGHT WANT TO BE MORE AGGRESSIVE IN COLLECTING THE PARTNERSHIP ASSET.

GIVEN THAT BACKGROUND, WE HAD THE MEETING IN SEPTEMBER. GEORGE BUCHANAN WHO IS AN OFFICER OF AIMCO CAME DOWN DO TO THE MEETING IN BEAUFORT AND, BASICALLY, WAS THERE TO TRY TO ANSWER WHATEVER QUESTIONS WE HAD TO PROVIDE AND WHATEVER INFORMATION THAT WE NEEDED.

SO, I AM GOING TO TRY TO TAKE YOU THROUGH. THESE ARE

COPIES. DO YOU WANT TO LOOK AT THE TRANSCRIPT OR LOOK ON HERE?

THE COURT: HOWEVER YOU WANT TO DO IT.

MR. BAILEY: I HAVE THE ACTUAL TRANSCRIPT AVAILABLE.

THE COURT: THIS IS A SEPTEMBER 14, 2000 MEETING. THAT'S SORT OF THE MAGIC DATE WITH JUDGE CLARY?

MR. BAILEY: YES, IT IS, AND THIS IS THE WAY THE MEETING SORT OF STARTED OUT, AND I POINTED OUT FOR THE RECORD THAT I REPRESENTED THOSE PARTNERSHIPS THAT WERE NAMED AT THAT TIME WHICH WERE THE FIVE LIMITED PARTNERSHIPS THAT WE ARE NOW INVOLVED IN, AND I POINTED OUT, JUDGE, AT THAT POINT IN TIME THE LIMITED PARTNERS WERE DUE AND THE PARTNERSHIPS WERE DUE A SUM OF MONEY THROUGH THESE NOTES THAT WERE DUE AND THAT SINCE THEY HAD NOT BEEN PAID THAT AS YOU CAN SEE HERE WE SAY WE HAVE REQUESTED A MEETING WITH THE GENERAL PARTNERS TO GET SOME INFORMATION ABOUT THE STATE OF THESE NOTES AND OTHER MATTERS INVOLVING THE LIMITED PARTNERSHIPS.

SO, THE OVERALL PRIMARY PURPOSE OF THIS MEETING WAS AN INFORMATION-SEEKING INFORMATIONAL MEETING. THE NEXT ITEM WHICH IS ALL -- ALL OF THOSE ARE, BY THE WAY, JUDGE, JUST SIMPLY PAGES OF THE TRANSCRIPT I'M GOING TO GO TO, AND, AS WE SAID, WITH REGARD TO MR. BUCHANAN WE'D LIKE TO HAVE THE GENERAL PARTNERS ANSWER THE QUESTION TO SEE IF WE CAN FIND OUT SOME INFORMATION ABOUT WHERE WE STAND WITH

THE NOTES AND THE VARIOUS PARTNERSHIP AFFAIRS. THEN I POINT OUT THAT WE'RE ALSO LOOKING AT THE FEASIBILITY AND THE ECONOMY OF GOING FORWARD WITH A SORT OF GENERAL QUESTION AND ANSWER SESSION TO WHICH MR. BUCHANAN AGREED.

SO, OUR PURPOSE AT THAT TIME IS WE WERE JUST GOING TO ASK HIM QUESTIONS AND LET HIM ANSWER IT, AND THAT'S THE WAY IT WAS GOING TO TAKE PLACE. SO, FROM WHAT YOU'LL SEE FROM NOW IS A Q & A TYPE OF SITUATION. SO, ONE OF THE THINGS WE WANTED TO KNOW IS WHETHER THERE HAD BEEN ANY ATTEMPT TO PRESERVE THE ASSETS. HE WAS NOT FAMILIAR WITH THAT. I ASKED HIM WHETHER OR NOT THERE HAD BEEN ANY TPA'S FILED. HE DIDN'T KNOW.

WHAT YOU'LL SEE WHEN WE GO THROUGH THIS, JUDGE, IS, BASICALLY, WHAT HAPPENED IS AT THIS MEETING MR. BUCHANAN JUST SIMPLY DID NOT KNOW THE ANSWER TO A LOT OF THE QUESTIONS THAT WE WERE ASKING, AND IT BECAME APPARENT TOWARDS THE END OF THE MEETING THAT THE BEST COURSE TO TAKE AT THAT POINT IN TIME WAS TO CONVENE A SECOND MEETING AND GET SOME PEOPLE IN WHO ACTUALLY HAD ANSWERS TO THE QUESTIONS, BUT HE SAYS -- IN THIS NEXT SLIDE HE SAYS HE'S TALKING WITH A GUY NAMED PAT FOYE.

NOW, PAY FOYE WAS ALSO AN OFFICER WITH AIMCO AND MR. FOYE SAID HE'D BE WILLING TO SIT DOWN AND MEET WITH YOU AND THE PARTNERS IN GREENVILLE IN A FORMAL PROPERLY-CALLED MEETING AND DISCUSS WHATEVER ALTERNATIVES

THAT THE LIMITEDS WOULD LIKE TO FOLLOW AND MR. FOYE APPARENTLY HAD BEEN UNABLE TO ATTEND THAT DAY AS MR. BUCHANAN POINTS OUT. THERE WAS A LITTLE PROBLEM WITH HIM. THE KEY WORDS HERE IS THAT THEY WANTED TO HAVE A SECOND MEETING TO DISCUSS WHATEVER ALTERNATIVES THE LIMITEDS WOULD LIKE TO FOLLOW.

NOW, THAT IS NOT A POINT OF DIVERGENCE. THAT'S A POINT OF CONVERGENCE. AT THAT POINT IN TIME IT'S PRETTY CLEAR FROM THE RECORD WE'RE ON THE SAME -- WE'RE ON THE SAME PROGRAM. AT LEAST WE THOUGHT SO. WE'RE ON THE SAME PROGRAM. THEY WANT TO GET TOGETHER WITH US AND LET'S SEE WHAT IT IS THAT THE LIMITEDS WANT TO DO. LET'S SEE IF WE CAN GET TOGETHER AND ADOPT A COMMON MUTUAL COURSE OF ACTION.

NOW, THE NEXT QUESTION IS, DO YOU THINK THERE WOULD BE ANY BENEFIT AT THIS TIME IN SUING THE PURCHASERS IN ORDER TO REGAIN THESE PROPERTIES ULTIMATELY? THE PURCHASORS MEANING BOSTON FINANCIAL. AGAIN, MR. BUCHANAN SAYS, I DON'T KNOW. HE SAYS, POTENTIALLY, IT DEPENDS -- AND HE GOES INTO A NUMBER OF THINGS -- LONG-TERM GOALS OF THE PARTNERS AS A GROUP, WHAT THEY WANT TO DO, INTERESTED IN RECAPITALIZING, AND HE GOES ON AND ON, BUT, YOU KNOW, HE SAYS IT POINTS OUT THAT THE GENERAL PARTNERS REALLY HAVE ONLY A 3 PERCENT INTEREST IN IT, BUT AT THE SAME TIME THAT IS THEIR INTEREST. SO, OBVIOUSLY, THEY ARE IN THE

SAME BOAT WE ARE, ALBEIT TO A LESSER EXTENT, AND HE USES THE SAME TERM. WE'RE IN THE SAME SHOES AS THE LIMITEDS. THE ONLY DIFFERENCE IS WE HAVE TO TRY AND MAKE DECISIONS THAT WILL AFFECT THE COLLECTIBILITY OF THE NOTES AND HOW DO WE GO ABOUT DOING IT.

THAT'S FINE. WE HAVE NO PROBLEM WITH THAT. THAT'S WHAT WE WANTED TO KNOW: ARE WE GOING TO GO AFTER THEM? CAN WE COLLECT THEM? IF WE CAN COLLECT THEM, FINE. IF WE CAN'T, CAN WE GET SOME OF THE COLLATERAL BACK? SO, AS HE POINTS OUT, WE'RE IN THE SAME SHOES. WE'RE ALL IN THE SAME BOAT AT THAT POINT IN TIME.

I ASKED HIM THEN IF IT WOULD HELP IF WE COULD GET THE INFORMATION. HE AGAIN SAYS HE DOESN'T KNOW, DOESN'T HAVE ANY ANSWERS, BUT HE KNOWS WHERE TO GO TO GET THEM, AND THAT'S WHEN WE MADE THE DECISION THAT WE WOULD, BASICALLY, HAVE A SECOND MEETING, AND AS YOU CAN SEE ACCORDING TO THE TRANSCRIPT I THANK HIM AT THE BEGINNING FOR GIVING US THE INFORMATION HE WAS ABLE TO AND TOLD HIM THAT IT WAS PRETTY OBVIOUS WE DIDN'T HAVE ACCESS TO SOME OF THE STUFF WE NEEDED -- THE INFORMATION AND RECORDS -- AND I PROPOSED THAT WE RECESS IT AND THAT WE, YOU KNOW, RECONVENE IT LATER IN THE FALL AND THAT, YOU KNOW, IN THE MEANTIME WE COULD HOPEFULLY GET SOME OF THE INFORMATION TOGETHER SO WE COULD ALL TRY TO COME TO A CONCLUSION ON THAT, AND THEN I SAID IF YOU COULD HAVE THE RECORDS AVAILABLE FOR US TO

LOOK AT AND HAVE PEOPLE THERE WHO WOULD ANSWER THE QUESTIONS -- AND WE HAD MENTIONED MR. TUCK AND MR. FOYE OR MR. GERARD -- I SAID, YOU KNOW, GIVEN THAT, THEN WE SHOULD HAVE ENOUGH INFORMATION THAT WE COULD SATISFY OUR CONCERNS IN THE CASE.

SO, BASICALLY, THE WAY WE HAD IT AT THAT POINT IN TIME I ASKED HIM, YOU KNOW, DOES THAT -- IS THAT THE AGREEMENT? HE SAID, NO, HE DIDN'T HAVE A PROBLEM WITH THAT. HE SAID IT SOUNDED REASONABLE TO HIM. SO, THAT GETS US TO THE OCTOBER MEETING.

SO, WHEN YOU LOOK AT THE SEPTEMBER --

THE COURT: THAT LAST -- WHEN YOU ADJOURNED THAT'S ON PAGE 54 ON ONE TRANSCRIPT. HOW MANY PAGES?

MR. BAILEY: THERE IS A FEW MORE PAGES AFTER IT, BUT IT'S, BASICALLY, CONFIRMING ALL OF THAT.

THE COURT: SO ABOUT 60 PAGES?

MR. BAILEY: SIXTY-FOUR TOTAL AND YOU CAN -- BASICALLY, I MEAN, THERE IS THINGS IN IT LIKE GEORGE BUCHANAN SAYS, I'LL STAY IN CONTACT WITH YOU AND MAKE SURE WE CAN COME UP WITH A MUTUALLY AGREED-UPON DATE AND TIME, CHECKING WITH PAT FOYE'S SCHEDULE. THERE IS ABOUT 10 PAGES OF THAT. THE ESSENCE OF IT IS WHAT WE AGREED TO DO IS JUST RECESS THAT MEETING, CALL ANOTHER MEETING. ACCORDING TO MR. BUCHANAN HE FELT LIKE THE MEETING SHOULD BE CALLED BY THE GENERAL PARTNERS. IT SHOULD ALL BE DONE

OCTOBER 24 MEETING, JUDGE, AND AS YOU CAN SEE THERE AGAIN I'VE KIND OF REFERRED TO THESE MEETINGS AS MAYBE ONE OF THE FEW TRUE KUMBAYA TIMES THAT WE HAD THE WITH THE GENERALS. I THOUGHT AT BOTH OF THESE MEETINGS THAT WE WERE ALL ON THE SAME PAGE. WE POINT OUT AT THE BEGINNING THAT WHEN WE WERE AT THE MEETING IN BEAUFORT HE WAS UNABLE -- HE ACKNOWLEDGED HE WAS UNABLE TO ANSWER SOME OF THE QUESTIONS AND THAT MAYBE SOME THESE OTHER PEOPLE COULD AND HE POINTED OUT THAT PAY FOYE -- HE IS REFERRING TO PAT FOYE THERE -- HAS INFORMATION MORE THAN HE DID AND THAT HE WOULD BE ATTENDING THIS MEETING AND SO FORTH AND WHAT THE THOUGHT PROCESSES WERE.

SO, WHAT WE THEN DECIDED TO DO BECAUSE PAT WASN'T THERE INITIALLY WAS TO TALK TO MR. TUCK AND WHAT WE ENDED UP DOING WAS SORT OF DIVIDING IT INTO TWO AREAS AT THIS MEETING, JUDGE. ONE AREA WAS FOR MR. TUCK WHO HAD BEEN IN IT FROM THE INCEPTION TO SORT OF GIVE US A HISTORICAL BACKGROUND BECAUSE, AS I SAID, SOME OF THE PEOPLE WHO WERE THERE WERE CHILDREN OF THE ORIGINAL PARTIES. THEY DIDN'T KNOW WHAT HAD GONE ON. THEY WERE, YOU KNOW -- IT WAS JUST AN IDEA THAT WE NEEDED TO GET EVERYBODY EDUCATED INCLUDING MYSELF TO FIND OUT WHAT ALL HAD HAPPENED. IN ORDER TO KNOW WHERE YOU'RE GOING, YOU GOT TO KNOW WHERE YOU ARE. IN ORDER TO KNOW YOU ARE, YOU GOT TO KNOW WHERE YOU'VE BEEN. SO, THAT WAS KIND OF WHERE WE WERE.

SO, MR. TUCK WAS, BASICALLY, GOING TO TELL US THE HISTORY AND WHAT WAS THE ORIGINAL THINKING AND THE RATIONALE BEHIND THE ORIGINAL PARTNERSHIP WHICH HE DID. HE WENT THROUGH SOME LONG DISSERTATION AND TOLD US ALL THAT AND AS I SAID HERE TO FIND OUT HOW WE GOT HERE AND THEN WHERE WE'RE GOING, AND MR. FOYE SAYS SURE.

SO, THEN MR. FOYE SAYS -- HE TELLS US THAT THERE REALLY ARE THREE OPTIONS IS THE WAY THAT IT WAS BEING VIEWED, AND HE -- AS YOU CAN SEE HERE, HE SAYS, WE'RE WILLING TO TAKE INPUT FROM YOU AND YOUR CLIENTS AS TO WHICH OF THEM THEY INTENDED TO PURSUE. SO, IT WASN'T AT THIS POINT IN TIME A MY-WAY-OR-THE-HIGHWAY MEETING BY ANY MEANS BY THE GENERAL PARTNERS. IN FACT, THEY WERE TELLING US THAT, LOOK, WE WANT INPUT FROM YOU GUYS. WE WANT TO COME TO A MUTUAL DECISION AS TO HOW TO PROCEED AGAINST THIS THING, AND LET'S TALK ABOUT WHAT OPTIONS ARE AVAILABLE, AND THEN LET'S TRY TO SELECT A COURSE OF ACTION.

SO, WHAT HE SAYS HERE IS HE STARTS TALKING AND HE SAYS THEY HAD ALREADY DONE A COUPLE OF THINGS TO BRING US UP TO DATE. HE TALKS ABOUT A GUY NAME GARY HEDIGER WHO SAYS HE BUYS NOTES LIKE THIS AND HE SAYS THEY HAD BEEN TALKING TO HIM FOR A WHILE AND HE SAYS THAT THE PROCESS WAS GOING A LITTLE SLOWER, BUT, BASICALLY, HE SAYS THAT THAT'S WHAT HE IS GETTING INTO IS THAT THAT'S ONE

OPTION -- MAYBE HE WOULD JUST BUY THE NOTE FROM US FOR SOME SORT OF VALUE.

THEN HE SAYS THAT SINCE THEY HAVE A SMALL OWNERSHIP IN IT THAT WE ARE WILLING TO ALLOW THE MAJORITY NOTEHOLDERS WHICH WOULD BE THE LIMITEDS TO DETERMINE OR INFLUENCE BECAUSE IT'S ULTIMATELY THE GENERAL PARTNERS' CALL THAT WE WOULD BE GUIDED BY THE DESIRES OF THE MAJORITY NOTEHOLDERS INCLUDING THE CHOICE TO INSTITUTE LEGAL ACTION, THE CHOICE OF COUNSEL, THE HIRING OF AN APPRAISER AND SO FORTH.

SO, ONCE AGAIN, AS LATE AS OCTOBER WE'RE NOT ON A DIVERGING METHOD. WE'RE ON A CONVERGING. THEY'RE SAYING WE'RE ALL UNDER THE SAME TENT. YOU GUYS -- WE'RE GOING TO MUTUALLY DECIDE CHOICE OF COUNSEL OR APPRAISERS, WHATEVER WE NEED. YOU GUYS ARE INVOLVED IN THE THOUGHT PROCESS. HE STARTED TALKING ABOUT POTENTIAL BUYERS AND POTENTIAL PEOPLE WHO MIGHT BE INTERESTED AND HE POINTS OUT THAT A LOCAL CHARLESTON OPERATOR MAY BE BELOW OUR RADAR SCREEN WHO MAY HAVE AN INTEREST IN BUYING IT AND WE'RE OPEN TO EXPLORING THAT.

SO, HE COMES DOWN TO -- HE SAYS THAT HE TALKED TO -- THIS IS MR. TUCK. HE SAID HE TALKED TO LAWRENCE ABOUT TRYING TO SIT DOWN WITH THIS GUY MR. HEDIGER AND SEE IF THERE IS ANYTHING TO DO WITH THAT AND THEN HE POINTS OUT THAT MR. HEDIGER HAD A CONTRACT TO BUY THE PROPERTIES FOR

A DOLLAR PLUS THE MORTGAGE WHICH WAS A LITTLE REVELATION, BUT AT THAT POINT IN TIME IT WAS A MATTER OF DEALING WITH MR. HEDIGER SINCE HE, APPARENTLY, HAD A CONTRACT TO SEE IF THERE WAS SOME SORT OF JOINT VENTURE THAT WE COULD WORK OUT WITH HIM OR WHETHER HE WAS INTERESTED IN BUYING THE NOTES, FINDING A LOCAL PURCHASER OR SOMEBODY ON THE LOCAL LEVEL. HE MENTIONED THE CHARLESTON AREA. IT COULD HAVE BEEN ANY AREA LOCALLY FOR ANY OF THESE PROPERTIES BECAUSE WHAT REALLY WAS TAKING PLACE IS --

THE COURT: GIVE ME FIVE MINUTES. I GOT A CONFERENCE CALL. IT WON'T TAKE BUT FIVE MINUTES.

(WHEREUPON, A BREAK WAS TAKEN.)

THE COURT: ALL RIGHT. THANK YOU, GENTLEMEN.

MR. BAILEY: BASICALLY, AS YOU CAN SEE EVEN AS LATE AS OCTOBER 24 --

THE COURT: OCTOBER 24.

MR. BAILEY: -- WE'RE STILL TALKING ABOUT GETTING ON BOARD TOGETHER AND FIGURING OUT VARIOUS WAYS AND DIFFERENT AVENUES TO LOOK AT. HE SAYS THAT THEY ARE -- ONE OF THE THINGS THEY'RE GOING TO DO MR. FOYE SAYS IS THEY HAD BEFORE WE CAN MAKE ANY DECISION WE NEED TO LOOK AT THE REGULATORY AGREEMENT AND SEE WHAT REGULATORY AGREEMENTS MIGHT HAVE BEEN IN EFFECT AT THE TIME. THEY TALKED ABOUT $40,000 IN ADDITION TO THE REGULATORY AGREEMENT.

JUDGE, I AM NOT SURE THAT YOU'RE AWARE OF THE FACT

THAT EACH OF THESE UNITS ALSO HAD WHAT THEY CALLED RESIDUAL FUNDS THAT WERE KEPT. HE MENTIONS THAT ONE OF THEM IS $43,000 IN CASH. SO, WE HAD TO LOOK AT THE REGULATORY AGREEMENT. WE HAD TO LOOK AT WHETHER OR NOT THERE WAS CASH AVAILABLE IN THESE THINGS WHEN WE TOOK THEM BACK. THERE WERE A NUMBER OF THINGS WE WERE DISCUSSING THAT HAD TO TAKE A LOOK AT AND HE MADE THE SUGGESTION EVEN THEN ABOUT HIRING THE LOCAL APPRAISERS AND HAVING THE PROPERTIES APPRAISED AND ALL OF THAT SORT OF STUFF.

SO, THAT WAS ONE OF THE THINGS BEING CONSIDERED AND WE WERE GOING TO GET BACK IN AND I MADE THE POINT THAT I THINK HIS IDEA WAS A GOOD ONE -- FIND OUT ABOUT THE REGULATORY AGREEMENTS AND HE SAYS THEY WOULD GET BACK WITH US ON THAT. TRY TO COME UP WITH A BUYER OR SOME OTHER BUYERS BESIDES MR. HEDIGER PERHAPS. TALK WITH HIM ABOUT IT AND SEE WHAT HE SAYS IF HE IS INTERESTED, BUT LET'S SEE WHETHER THERE ARE ANY LOCAL PEOPLE OUT THERE. SO, ONCE AGAIN, WE'RE ON THE SAME SHEET HERE. WE'RE ALL EXPLORING THESE VARIOUS OPTIONS.

HE TALKED ABOUT THE DIFFERENT APARTMENTS AND HE MENTIONS LINCOLN IN HERE AS WELL. THEY WERE NOT REALLY PRESENT AT THE SEPTEMBER MEETING BUT WERE AT BY THE TIME WE HAD THE OCTOBER MEETING, AND I MADE THE POINT THAT, YOU KNOW, I DIDN'T -- I THINK I SAID I DON'T SEE ANY NEED IN GOING THROUGH THE SAME THING WITH THE OTHERS BECAUSE WHAT

HAD HAPPENED IS WHEN WE STARTED OUT WITH THE MEETING ON ONE PARTNERSHIP AND THEN WE'RE GOING TO GO TO THE NEXT ONE, SINCE WE'RE TALKING ALL OF THEM, BASICALLY, AT THE TIME THAT THERE IS NO NEED TO HAVE THE SAME THINGS SAID. SO, BASICALLY, WE KIND OF JUST DEALT WITH IT IN ONE MEETING.

SO, THEN I JUST WANTED TO POINT OUT WHAT THE UNDERSTANDING WAS AND THAT THERE WERE REALLY THREE POTENTIAL OPTIONS. ONE WAS TO SELL THE NOTE BASED ON WHAT MR. FOYE WAS TELLING US, ONE TO SELL THE PARTNERSHIP, AND THE OTHER TO PURSUE AN ACTION AGAINST THE BOSTON FINANCIAL CROWD TO TRY TO COLLECT THE DEBT, AND I SAID SO -- BUT IN ALL CASES THAT WE HAD AN AGREEMENT THAT WE WERE GOING TO AT LEAST EXPLORE THESE POSSIBILITIES AND THEY SAID ABSOLUTELY. WE'RE ON THE SAME PAGE. WE'RE NOT DIVERGING. WE'RE AT A -- THIS IS OUR KUMBAYA MOMENT.

I SAID IF WE DROP BACK TO THE OTHER OPTIONS; THAT IS, FOR SOMEBODY TO PURCHASE THE NOTE AND THEN I SAID THE ONLY PROSPECT FROM WHAT MR. FOYE SAID OF SOMEBODY DOING THAT WOULD BE HEDIGER. THEN I ASKED ABOUT WHETHER HE HAD SHOWN ANY INTEREST AND THEY SAID THAT HE HAD SHOWN AN INTEREST IN PINEWOOD ONLY, BUT HE SAID THEY WERE GOING TO PRESENT ALL OF THEM TO THEM. SO, ONCE AGAIN, WE'RE IN AGREEMENT THAT THEY SHOULD GO FORWARD AND TRY TO DO THAT.

HE SAYS THAT TO THE EXTENT THAT ANY HELP TO THE

PARTNERS WOULD GIVE US IN IDENTIFYING THE PROSPECTS WOULD BE A BENEFIT TO US. HE IS ASKING FOR INPUT FOR THE PARTNERS BECAUSE IT IS GOING TO BE A JOINT EFFORT TO TRY TO DO THESE THINGS. WHAT HE WAS POINTING OUT THERE, JUDGE, AND THIS HAS BECOME KIND OF AN ISSUE WITH IT LATER ON I THINK IS TRUE IS THAT THERE REALLY WAS NO REAL MARKET FOR THESE THINGS IN THE BIG NATIONAL MARKET. PEOPLE AT THAT TIME, THEY WERE LOOKING FOR THE 6000 UNIT THINGS IN CHICAGO, NOT THE 60 UNIT THINGS IN SOUTH CAROLINA.

SO, THEY'RE WERE SAYING IF WE'RE GOING TO FIND SOMEBODY, IT'S GOING TO HAVE TO PROBABLY BE SOMEBODY LOCAL AND THAT'S ONE OF THE THINGS WE'RE GOING TO COOPERATE IN LOOKING FOR, AND THEN, FRANKLY, I POINTED OUT ON THERE THAT IN DISCUSSING THE OPTIONS MY QUESTION WAS IS THAT WE REALLY WON'T KNOW UNTIL WE GET THE PROPERTIES APPRAISED AND EVALUATED TO SEE WHETHER IT'S GOING TO BE, YOU KNOW, FEASIBLE TO TAKE IT BACK OR WHETHER TO CONTINUE THEM AS HUD PROPERTIES. WE DIDN'T KNOW WHETHER TO CONVERT THEM AND TRY TO MAKE THEM CONVENTIONAL OR WHATEVER. SO, WE WERE ALL TALKING ABOUT THAT, AND AS MR. BUCHANAN SAYS, YOU KNOW, THAT'S RIGHT. AGAIN, WE'RE ON THE SAME SONG SHEET.

THEN MR. BUCHANAN POINTED OUT THAT -- HE SAYS, WE CAN'T AGREE EXACTLY THE CONCLUSION AND THE FINDINGS. HE SAYS, WE'VE AGREED ON A PROCESS WHEREBY WE WILL GO ABOUT CERTAIN STEPS TO GATHER FACTS AND THEN COME BACK OR

COMMUNICATE THAT IN WRITING AND SAY THESE ARE THE FACTS AS WE UNDERSTAND THEM AND IT MAY LEAD US TO A CONCLUSION OR IT MAY LEAD US TO A DIFFERENT QUANDARY. HE SAID, I DON'T KNOW. I SAID, WELL, I UNDERSTAND THAT, BUT YOU'RE GOING TO PROVIDE US WITH THE FINANCIAL DATA CONCERNING THESE THINGS, PARTNERSHIPS SO WE CAN DETERMINE WHETHER OR NOT THERE MAY BE ANY OTHER ASSETS OR ANY OTHER -- IN ORDER TO MAKE THESE DECISIONS, AND HE SAID, RIGHT.

SO, ONCE AGAIN, PROCESS-WISE WE'RE ON THE SAME PAGE, AND HE SAYS, WE WILL NOT SELL ANYTHING AND THE NOTES AND SO FORTH, AND I TOLD HIM HE HAD OUR APPROVAL TO DO THAT IF HE COULD GET FACE VALUE OF THEM, BUT HE SAYS, NO, WE'RE NOT GOING TO SELL ANYTHING WITHOUT COMING TO YOU GUYS FIRST. THAT'S OUR AGREEMENT. SO, WE'RE ON THE SAME PAGE. WE'RE GOING TO BE WORKING TOGETHER TO TRY TO GET SOMETHING ACCOMPLISHED TO EITHER SELL THE NOTE, SELL THE PARTNERSHIP, OR COLLECT WHAT WAS DUE TO THE PARTNERSHIP.

HE THEN POINTED OUT THAT THEY WERE, BASICALLY, TRYING TO DECIDE THEIR OPTIONS -- WHICH OPTION TO CHOOSE AND THEY WERE STILL GATHERING INFORMATION. JUST LIKE WE WERE TRYING TO GET IT, THEY WERE STILL GATHERING INFORMATION WHETHER TO SELL IT. SO, HE SAYS, IT IS REALLY SELL OR FORECLOSE AND HOLD OR FORECLOSE AND DO SOMETHING ELSE, BUT TO GET TO DECIDE WHICH OPTION IS THE MOST VIABLE WE MUST GATHER SOME MORE INFORMATION WITH REGARD TO REGULATORY

AGREEMENTS, PROPERTY VALUES. ONCE WE HAVE THAT INFORMATION, THEN WE GET TO SIT BACK DOWN THROUGH THE LETTERS AND CONFERENCE CALLS OR WHATEVER AND COME TO SOME CONSENSUS OR OPINION, AND THAT'S, BASICALLY, WHAT WE WERE TALKING ABOUT DOING BY THE END OF THAT MEETING.

WE NEEDED TO ALL GET MORE INFORMATION, SIT BACK DOWN TOGETHER, AND LET'S DECIDE WHERE ARE WE GOING WITH THIS THING. ONE OF THE THINGS THAT MR. FOYE SAYS -- YOU CAN SEE THERE, HE SAYS, WE DON'T THINK SITTING ON OUR HANDS IS A KIND OF STRATEGY. WE'RE GOING TO DO SOMETHING. SO, OUR INITIAL CONCERN UP UNTIL THAT POINT WAS WHETHER OR NOT ANYTHING WAS GOING TO BE DONE. HE ASSURED US THAT THEY WERE GOING TO DO SOMETHING.

INCLUDED IN THE THINGS THAT THEY WERE GOING TO DO IS THEY WERE GOING TO GO HIRE COUNSEL, AND, IN FACT, THEY DID HIRE COUNSEL SHORTLY AFTER THAT MEETING. THE FACT OF THE MATTER IS THAT THEY HAD ALREADY HIRED COUNSEL PRIOR TO THAT MEETING THAT WE HAD NOT BECOME AWARE OF UNTIL THE MEETING. THEY HAD HIRED THE BRYAN CAVE LAW FIRM AND THEY HAD ACTUALLY WRITTEN -- A MAN NAMED LEVINE HAD WRITTEN A LETTER BACK IN THE SPRING OF 2000 TO BOSTON FINANCIAL ABOUT TRYING TO COLLECT SOME OF THESE THINGS.

AFTER THE MEETING THEY HIRED SOME OTHER COUNSEL. THEY HIRED MR. HOWSON AND HE WROTE LETTERS AND THEY COPIED. THEY TOLD US ABOUT HIM. HE COPIED US ON THE

CERTIFICATE OF REPORTER

STATE OF SOUTH CAROLINA)
COUNTY OF AIKEN)

I, LISA H. DAVENPORT, OFFICIAL COURT REPORTER FOR THE SECOND JUDICIAL CIRCUIT OF THE STATE OF SOUTH CAROLINA, DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE, ACCURATE AND COMPLETE TRANSCRIPT OF RECORD OF THE PROCEEDINGS HAD AND EVIDENCE INTRODUCED IN THE TRIAL OF THE CAPTIONED CASE, RELATIVE TO APPEAL, IN THE COURT OF COMMON PLEAS FOR AIKEN COUNTY, SOUTH CAROLINA, ON THE 6TH DAY OF JULY, 2009.

I DO FURTHER CERTIFY THAT I AM NEITHER OF KIN, COUNSEL NOR INTEREST TO ANY PARTY HERETO.

SEPTEMBER 17, 2009

Lisa H. Davenport

LISA H. DAVENPORT, COURT REPORTER

STATE OF SOUTH CAROLINA		IN THE COURT OF COMMON PLEAS
Laurance H. Davis, Jr., *et al.*, Plaintiffs,	)	
v.	)	Beaufort County
Parkview Apartments, a South Carolina Limited Partnership, *et al.*, Defendants.	)	C.A. No. 2003-CP-07-726
Laurance H. Davis, Jr., *et al.*, Plaintiffs,	)	
v.	)	Orangeburg County
Roosevelt Gardens, a South Carolina Limited Partnership, *et al.*, Defendants.	)	C.A. No. 2005-CP-38-1131
Rhonda G. Rentz, *et al.*, Plaintiffs,	)	
v.	)	Charleston County
Orleans Gardens, a South Carolina Limited Partnership, *et al.*, Defendants.	)	C.A. No. 2005-CP-10-4229
Laurance H. Davis, Jr., *et al.*, Plaintiffs,	)	
v.	)	Beaufort County
Palmetto Apartments, a South Carolina Limited Partnership, *et al.*, Defendants.	)	C.A. No. 2005-CP-07-1989
Carolina Management Corporation of Beaufort, *et al.*, Plaintiffs,	)	
v.	)	Beaufort County
Pinewood Park Apartments, a South Carolina Limited Partnership, *et al.*, Defendants.	)	C.A. No. 2005-CP-07-1990

2010 APR -9 PM 3:32

BEAUFORT COUNTY, S.C.

ORDER GRANTING DEFENDANTS' TWO MOTIONS FOR SANCTIONS, FINDING PLAINTIFFS IN CONTEMPT OF COURT, AND DISMISSING THE ABOVE-CAPTIONED ACTIONS AS SANCTIONS FOR PLAINTIFFS' CONTEMPT

This matter comes before the Court on Defendants' two Motions for Sanctions, dated July 24, 2009 and August 10, 2009. For the reasons set forth below, the Court grants Defendants' Motions. The Court finds and hereby declares that Plaintiffs in each of the above-captioned actions are in contempt of court as a result of their willful failure to comply with the Court's Order dated July 28, 2009 (which amended the Court's Order dated June 2, 2009), and

DAE #1

EXHIBIT

4

discovery orders, the Court was compelled to continue the scheduled trial of these cases from the January 19, 2010 trial term, by Order dated January 4, 2010.[2]

On January 14, 2010, the Court held a second hearing on the record concerning Defendants' Motions for Sanctions, which was the fourth hearing on the record concerning Plaintiffs' discovery deficiencies.[3] At the hearing, Plaintiffs once again represented to the Court that their latest responses (i.e., Second Supplemental Responses to Discovery Requests) fully complied with the General Discovery Order. Contrary to such representation, the Court found that the Plaintiffs had not complied with the General Discovery Order, but granted Plaintiffs' request for an additional ten (10) days to fully comply. On January 25, 2010, Plaintiffs in the Parkview case served their Third Supplemental Responses to the Discovery Requests, supplementing their answers to Interrogatory Nos. 6, 18 and 19. None of the other Plaintiffs provided any supplemental response. Defendants responded by filing and serving their Second Supplemental Memorandum in Support of Motion for Sanctions Re: General Discovery Order, identifying the continuing failure of all Plaintiffs, including the Parkview Plaintiffs, to comply with the General Discovery Order.

The Court finds that, despite the numerous opportunities afforded to Plaintiffs over the last year, the Plaintiffs have persistently failed to comply with the General Discovery Order and have failed to provide any legitimate excuse for their non-compliance. Plaintiffs' continuous non-compliance is well documented in the Memorandum in Support of Defendants' Two Motions for Sanctions, dated August 21, 2009 (pp. 2-6, 12-13), Supplemental Memorandum in

[2] The Court took no further action concerning the Motions for Sanctions between September and December, because the Plaintiffs filed a petition in the Supreme Court (denied), and a Notice of Appeal in the Court of Appeals (dismissed), seeking immediate review of the Privilege Discovery Order. The Court of Appeals issued remittitur on December 17, 2009.

[3] In addition to the hearings on the record, the Court and the parties' counsel have discussed Plaintiffs' discovery deficiencies during several telephone conference calls and in-person meetings over the last 14 months.

DAE #8 8

face sanctions for their failure to comply. At the August 24, 2009 hearing, the Court informed the parties' counsel that it was taking the matter under advisement, but warned that, if Plaintiffs' failure to comply with the Court's Order continued, the Court would likely dismiss the lawsuits pursuant to Rule 37(b), SCRCP. Plaintiffs made an oral motion for reconsideration of the Privilege Discovery Order at the conclusion of the hearing, which this Court denied.

On August 27, 2009, during a conference call among the parties' attorneys and the Court, the Court informed the parties' counsel that it intended to grant Defendants' Second Motion for Sanctions and dismiss the actions, but such sanctions would be vacated if Plaintiffs complied with the Privilege Discovery Order within twenty-five (25) days. The Court instructed Defendants' counsel to submit a proposed order and instructed Plaintiffs' counsel to immediately inform each of the Plaintiffs of the Court's intention to sign such an order in the next week. During a September 2, 2009 conference call with the parties' attorneys, the Court informed Plaintiffs' counsel that it would sign the aforementioned sanctions order that day. However, hours after the conference call concluded, and before the Court issued the written sanctions order, the Court was informed that Plaintiffs had filed that morning a Petition in the Supreme Court of South Carolina, seeking a Writ of Prohibition and/or a Writ of Certiorari concerning the Privilege Discovery Order and/or the sanctions order. The Court informed the parties that, in light of Plaintiffs' Petition to the Supreme Court, it would hold in abeyance the signing of the sanctions order. On September 10, 2009, Plaintiffs filed a Notice of Appeal to the Court of Appeals of South Carolina, seeking immediate review of the Privilege Discovery Order. On October 6, 2009, Plaintiffs sent a letter to Chief Justice Toal, requesting that these cases be transferred from the Undersigned to the Business Court. Chief Justice Toal denied Plaintiffs' request for a transfer on November 3, 2009. The Supreme Court denied Plaintiffs Petition on

DAE#15 15

November 19, 2009. The Court of Appeals dismissed Plaintiffs' appeal as premature on December 2, 2009, and issued remittitur on December 17, 2009.

On January 14, 2010, the Court held a second hearing on Defendants' Motions for Sanctions, which was the fourth hearing concerning Plaintiffs' discovery deficiencies.[8] Plaintiffs' counsel acknowledged that Plaintiffs still had not complied with the Privilege Discovery Order, and the Court instructed Defendants' counsel to revise the proposed order granting Defendants' Second Motion for Sanctions to account for the passage of time since the Court first stated it would sign the sanctions order. The Court also advised Plaintiffs' counsel that they would have ten (10) days from the date Defendants' counsel submitted the revised proposed order to respond to the proposed order. Defendants' counsel submitted the revised proposed order, with a copy to Plaintiffs' counsel, and Plaintiffs' counsel responded within the ten (10) day period, sending a letter to the Court (copied to Defendants' counsel) with alternative proposed orders and filing and serving Motions for Relief from July 28, 2009 Order Amending Court's Order Dated June 2, 2009 in each of the above-captioned cases. Plaintiffs' motions purported to be motions made under Rule 60(b), SCRCP.

The above findings are based upon evidence appearing in the record of these cases, including the various motions, memoranda and transcripts of the hearings identified on pp. 3-4 of this Order.

DISCUSSION OF APPLICABLE LAW AND CONCLUSIONS

I. Civil Contempt

At this time, Plaintiffs have given the Court no reason to believe that they intend to

[8] In addition to the hearings on the record on December 9, 2008, July 6, 2009, August 24, 2009 and January 14, 2010, the Court and the parties' counsel have discussed Plaintiffs' discovery deficiencies on several other occasions, including conference calls and meetings off the record.

DAE #16 16

for reconsideration on August 24, 2009, which the Court denied). Further, Plaintiffs' motions are clearly untimely under Rule 59(e), which requires that such a motion be served "not later than 10 days after receipt of written notice of the entry of the order." Rule 59(e), SCRCP. Plaintiffs' motions are inappropriate and are, therefore, denied.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED THAT: both of the Defendants' Motions for Sanctions are hereby GRANTED; the Court finds and hereby declares that the Plaintiffs in the above-captioned actions are in CONTEMPT of court; each of the above-captioned actions is hereby DISMISSED WITH PREJUDICE as sanctions for Plaintiffs' contempt, and pursuant to Rule 37(b)(2), SCRCP, subject to the terms stated herein; and the Court finds and hereby declares that Defendants are entitled to an award of reasonable expenses, including attorneys' fees, incurred in connection with their Motion to Compel Discovery and each of their two Motions for Sanctions, and that a subsequent order shall be entered as to the amount of the award. Plaintiffs may purge the sanctions of dismissal with prejudice by showing the Court that they have fully complied with the Court's Orders dated March 3, 2009 and July 28, 2009 within twenty-five (25) calendar days of the date of this Order (i.e., the date this Order is signed, set forth below). Further, Plaintiffs' Motions for Relief from July 28, 2009 Order, which purport to be motions under Rule 60(b), SCRCP, but are actually untimely motions for reconsideration, are DENIED.

IT IS SO ORDERED.

This 7th day of April, 2010.

Aiken, South Carolina

Doyet A. Early, III, Circuit Court Judge

28

Vick, Ted

From: John Nichols [jsnichols@bntdlaw.com]

Sent: Wednesday, September 02, 2009 1:46 PM

To: dearlylc@sccourts.org; dearlyj@sccourts.org

Cc: baileylawfirm@charter.net; tpendarvis@pendarvislaw.com; Vick, Ted; Johnston, Ellis; Blake Hewitt; John Nichols; Ashleigh Hair

Subject: Davis, et al. v Parkview Apartments, etc., et al.

September 2, 2009

Honorable Doyet A. Early, III
Judge
Second Judicial Circuit

RE: *Davis, et al. v Parkview Apartments, etc., et al.*
Case No. 2003-CP-07-726
Case No. 2005-CP-38-1131
Case No. 2005-CP-4229
Case No. 2005-CP-07-1989
Case No. 2005-CP-07-1990

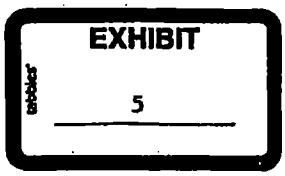
Dear Judge Early:

Blake Hewitt and I have been retained to assist the plaintiffs in these matters in seeking appellate review of the discovery orders you have entered as well as your ruling that you intend to sign an order dismissing these actions. I am writing to inform you that today we filed a Petition with the Supreme Court of South Carolina seeking a Writ of Prohibition directed at your orders as well as a Petition in the Court's Original Jurisdiction seeking issuance of a common law writ of certiorari to review those orders. It is my understanding you held a conference call today advising trial counsel that you intended to sign and enter the draft order provided to you by Mr. Vick and Mr. Johnston. I felt it best to advise you of the steps we have taken on behalf of the plaintiffs in the Supreme Court. We will serve these documents upon counsel for the defendants as well as the Clerk of Court, and will provide a copy to you.

If you need any additional information please let me know.

Regards,

John S. Nichols
Bluestein Nichols Thompson & Delgado, LLC
Post Office Box 7965
Columbia, South Carolina 29202
(803) 779-7599
(803) 779-8995 fax
jsnichols@bntdlaw.com



Vick, Ted

From: Blake Hewitt [bhewitt@BNTDlaw.com]
Sent: Wednesday, September 02, 2009 2:53 PM
To: Vick, Ted; Johnston, Ellis
Cc: Thomas A. Pendarvis; baileylawfirm@charter.net
Subject: RE: Davis, et al. v Parkview Apartments, etc., et al.
Attachments: Petition for Writ of Prohibition or Cert .pdf

Ted:

Here you go. Please do not hesitate to contact John or me if we can be of any additional assistance.

-Blake Hewitt

From: Vick, Ted [mailto:tvick@hsblawfirm.com]
Sent: Wednesday, September 02, 2009 2:49 PM
To: John Nichols; dearlylc@sccourts.org; dearlyj@sccourts.org
Cc: baileylawfirm@charter.net; tpendarvis@pendarvislaw.com; Johnston, Ellis; Blake Hewitt; Ashleigh Hair
Subject: RE: Davis, et al. v Parkview Apartments, etc., et al.

Mr. Nichols,

Would you please send us an electronic copy of everything you have filed via reply to this e-mail? Thank you for your courtesy.

Ted Vick
Haynsworth Sinkler Boyd, P.A.
75 Beattie Place, Eleventh Floor (29601)
P.O. Box 2048 (29602-2048)
Greenville, South Carolina
Telephone 864-240-3324
Facsimile 864-240-3336
tvick@hsblawfirm.com

From: John Nichols [mailto:jsnichols@bntdlaw.com]
Sent: Wednesday, September 02, 2009 1:46 PM
To: dearlylc@sccourts.org; dearlyj@sccourts.org
Cc: baileylawfirm@charter.net; tpendarvis@pendarvislaw.com; Vick, Ted; Johnston, Ellis; Blake Hewitt; John Nichols; Ashleigh Hair
Subject: Davis, et al. v Parkview Apartments, etc., et al.

September 2, 2009

Honorable Doyet A. Early, III
Judge
Second Judicial Circuit

RE: *Davis, et al. v Parkview Apartments, etc., et al.*
Case No. 2003-CP-07-726
Case No. 2005-CP-38-1131
Case No. 2005-CP-4229
Case No. 2005-CP-07-1989
Case No. 2005-CP-07-1990

Dear Judge Early:

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If you need any additional information please let me know.

Regards,

John S. Nichols
Bluestein Nichols Thompson & Delgado, LLC
Post Office Box 7965
Columbia, South Carolina 29202
(803) 779-7599
(803) 779-8995 fax
jsnichols@bntdlaw.com

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THE STATE OF SOUTH CAROLINA
In the Supreme Court

ORIGINAL JURISDICTION

Ex Parte:

Laurance H. Davis, Jr., *et al.*, ... Petitioners,

In Re:

Laurance H. Davis, Jr., *et al.*, ... Plaintiffs,

v.

Parkview Apartments,
et al., ... Defendants.

PROOF OF SERVICE

The undersigned hereby certifies that on the date indicated below, he served counsel for the Defendants, with a copy of the Petition for the Writ of Prohibition or Alternatively for Writ of Certiorari by mailing copies of the same by United States Mail with first class postage prepaid to the following addresses:

C. Theodore Vick, Jr., Esquire
Ellis M. Johnston, II, Esquire
Haynsworth Sinkler Boyd, P.A.
Post Office Box 2048
Greenville, South Carolina 29602-2048

September 2, 2009
Columbia, South Carolina

Blake A. Hewitt

Vick, Ted

From: Blake Hewitt [bhewitt@BNTDlaw.com]
Sent: Thursday, September 17, 2009 4:59 PM
To: Early, Doyet A. Law Clerk (Britton All); Vick, Ted; Johnston, Ellis
Cc: Thomas A. Pendarvis; Joel D. Bailey
Subject: FW: Parkview Cases
Attachments: Motion to Hold Appeal in Abeyance.pdf; Notice of Appeal.pdf

Britton:

If you would please relay this correspondence to Judge Early, I would be most grateful. Thank you for your assistance.

-Blake Hewitt

Judge Early:

Ted Vick kindly forwarded to me your correspondence related to the January dates set aside in Beaufort to try these cases. I am an attorney in Columbia and along with John Nichols, I am assisting the plaintiffs with their filings in the Supreme Court.

As a housekeeping matter, please allow me to inform you that we filed a notice of appeal in the Court of Appeals with respect to the order issued 7/28/09. The petition filed in the Supreme Court referenced our plans in this respect, and we filed the notice last Thursday. Along with the notice, we filed a motion to hold the direct appeal in abeyance while the petition in the Supreme Court is pending. I apologize for not sending you a courtesy copy of these filings immediately after they were filed. We will not repeat the oversight.

Without speaking out-of-turn, I believe your assessment that a January trial is doubtful will prove to be accurate; particularly in light of these recent filings.

A copy of the filings in the Court of Appeals are attached in the event you want to review them. Please do not hesitate to contact me if you think I may be of any assistance, and I will of course be glad to furnish you with courtesy copies of any additional filings in these matters should you desire them.

Blake Hewitt
Bluestein Nichols Thompson & Delgado, LLC

From: Vick, Ted [mailto:tvick@hsblawfirm.com]
Sent: Thursday, September 17, 2009 4:10 PM
To: Blake Hewitt
Subject: FW: Parkview Cases

Blake,

Please see the e-mail below from Judge Early to Judge Kinard regarding trial dates. It appears that Judge Early does not yet know about the Notice of Appeal filed in the Court of Appeals. Given his concern about not wasting the January jury trial term in Beaufort, it might be helpful to him if you would notify him of the Notice of Appeal. If you think it best that we notify him, please let me know. Thank you.

Ted

From: Early, Doyet A. Law Clerk (Britton All) [mailto:dearlylc@sccourts.org]
Sent: Thursday, September 17, 2009 3:40 PM
To: 'ekinardj@sccourt.org'
Cc: 'coccp@bcgov.net'; Bailey, J.D., Joel D.; Thomas A. Pendarvis; Johnston, Ellis; Vick, Ted; Craddock, Hugh; Buckner, Perry M.; Talley, Motte; Mullen, Carmen T.; Kinard, J. Ernest Jr. Law Clerk (Julia Miller)
Subject: Parkview Cases

RE: Parkview Cases

Judge Kinard, please see the below correspondence from Judge Early:

Ernest,

The Chief assigned the above cases to me some time ago (my apologies, I'm in Aiken and do not know the CA numbers). I had scheduled the first of the five cases to be tried in Beaufort 1-18-10 and 1-25-10 (the third time I have set this case). Court Administration has assigned the above weeks to me in Beaufort to try the first case. Recently I signed a discovery order requiring the production of certain records in the Plaintiff's possession. Plaintiff has now filed a petition with the Supreme Court seeking a "Writ of Prohibition" and/or an appeal of my discovery order. Whatever the Court decides, the appeal and/or petition will probably cause another delay in this case unless they render an immediate decision. I wanted to give you advance notice of this latest development so you can make the most efficient use of those two weeks.

Thanks,

Jack

Cc: Judge Mullen
Judge Bucker
Clerk of Court – Beaufort County
Motte Talley
Parkview Attorneys
Thomas Pendarvis
Joel Bailey
Ellis Johnston
Hugh Craddock
Ted Vick

Britton All
Law Clerk to the Honorable D.A. Early, III
The Circuit Court of the 2nd Judicial Circuit
PO Box 90
Bamberg, SC 29003
Telephone: 803.245.4004
Fax: 803.245.2983
dearlylc@sccourts.org

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Vick, Ted

From: Blake Hewitt [bhewitt@BNTDlaw.com]
Sent: Monday, September 21, 2009 4:40 PM
To: Vick, Ted; Johnston, Ellis
Cc: John Nichols; Ashleigh Hair; Thomas A. Pendarvis; baileylawfirm@charter.net; Early, Doyet A. Law Clerk (Britton All)
Subject: Davis v. Parkview et al
Attachments: Reply in Support of Petition for Prohibition or Cert .pdf

Ted & Ellis:

A copy of the reply we filed today in the Supreme Court is attached to this message. I have copied Judge Early's law clerk on this message in the event their office would like a copy of the filings.

Please do not hesitate to contact me if you believe I may be of assistance in any respect. Yours truly,

Blake Hewitt
Bluestein Nichols Thompson & Delgado, LLC

STATE OF SOUTH CAROLINA IN THE COURT OF COMMON PLEAS

Laurance H. Davis, Jr., et al., Plaintiffs, v. Parkview Apartments, a South Carolina Limited Partnership, et al., Defendants.	))))	Beaufort County C.A. No. 2003-CP-07-0726
Laurance H. Davis, Jr., et al., Plaintiffs, v. Roosevelt Gardens, a South Carolina Limited Partnership, et al., Defendants.	))))	Orangeburg County C.A. No. 2005-CP-38-1131
Rhoda G. Rentz, et al., Plaintiffs, v. Orleans Gardens, a South Carolina Limited Partnership, et al., Defendants.	))))	Charleston County C.A. No. 2005-CP-10-4229
Laurance H. Davis, Jr., et al., Plaintiffs, v. Palmetto Apartments, a South Carolina Limited Partnership, et al., Defendants.	))))	Beaufort County C.A. No. 2005-CP-07-1989
Carolina Management Corporation of Beaufort, et al., Plaintiffs, v. Pinewood Park Apartments, a South Carolina Limited Partnership, et al., Defendants.	)))))	Beaufort County C.A. No. 2005-CP-07-1990

PLAINTIFFS' SECOND SUPPLEMENTAL RESPONSES TO DEFENDANTS' DISCOVERY REQUESTS TO ALL PLAINTIFFS DATED AUGUST 28, 2008

TO: CALVIN T. VICK, J.D., AND ELLIS M. JOHNSTON, II, J.D., ATTORNEYS FOR DEFENDANTS:

INTRODUCTION

EXHIBIT A

EXHIBIT 6

Without waiving any objection, any such non-privileged or protected documents were previously produced in connection and association with the following discovery responses: See PLAINTIFFS' ANSWERS TO DEFENDANTS' FIRST SET OF INTERROGATORIES, dated July 14, 2005; PLAINTIFFS' RESPONSES TO DEFENDANTS' FIRST REQUEST TO PRODUCE, dated July 14, 2005; PLAINTIFFS' SUPPLEMENTAL RESPONSES TO DEFENDANTS' FIRST REQUEST TO PRODUCE dated November 6, 2007; PLAINTIFFS' SUPPLEMENTAL RESPONSES TO DEFENDANTS' FIRST REQUEST TO PRODUCE dated November 12, 2007; PLAINTIFFS' SUPPLEMENTAL DISCOVERY RESPONSES dated December 10, 2007; PLAINTIFFS' SUPPLEMENTAL DISCOVERY RESPONSES dated December 12, 2007; PLAINTIFFS' SUPPLEMENTAL DISCOVERY RESPONSES dated December 19, 2007; PLAINTIFFS' SUPPLEMENTAL DISCOVERY RESPONSES dated January 7, 2008; PLAINTIFFS' SUPPLEMENTAL RESPONSES TO DEFENDANTS' REQUEST TO PRODUCE dated March 5, 2008; or are already in the possession of Defendants or counsel for Defendants.

SUPPLEMENTAL RESPONSE: Subject to the previous stated objections, the Plaintiffs in the *Parkview Apartments* matter respond with the attached documents with Bates Nos. Davis 007134 - Davis 007192. See also, PLAINTIFFS' SUPPLEMENTAL PRIVILEGE LOG, dated January 5, 2009.

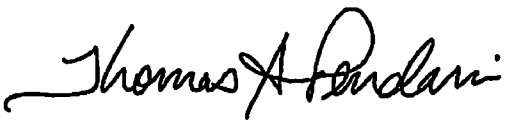
SECOND SUPPLEMENTAL RESPONSE: In addition to documents being produced herewith, Defendants are directed to any documents identified and/or produced in prior discovery responses by all parties, as well as any documents identified or produced at any deposition taken in this case or obtained via subpoena. All additional relevant non-privileged documents or information believed to be responsive to this request and which

Respectfully submitted,

Joel D. Bailey
THE BAILEY LAW FIRM, P.A.
PO Box 1437
Beaufort SC 29901-1437
843.525.6090 Tel.
843.525.6070 Fax.
baileylawfirm@charter.net

PENDARVIS LAW OFFICES, P.C.
Thomas A. Pendarvis
500 Carteret St Ste A
Beaufort SC 29902-5066
843.524.9500 Tel.
843.524.9501 Fax.
Thomas@PendarvisLaw.com

Attorneys for the Plaintiffs



Thomas A. Pendarvis, J.D. (SC Bar # 064918)

Beaufort, South Carolina

August 24, 2009

STATE OF SOUTH CAROLINA COUNTY OF BEAUFORT	)	IN THE COURT OF COMMON PLEAS FOURTEENTH JUDICIAL CIRCUIT CASE NO. 2005-CP-07-726
Laurance H. Davis, Jr.; et al.; Plaintiffs, vs. Parkview Apartments, a South Carolina Limited Partnership; Apartment Investment and Management Company a/k/a AIMCO; Insignia Financial Group, Inc.; AmReal Corporation a/k/a and f/k/a USS Corporation a/k/a and f/k/a U.S. Shelter Corporation; ISTC Corporation; N. Barton Tuck, Jr.; and John Doe, a generic designation for a party or parties whose true identity is unknown, Defendants.	)	**CONSOLIDATED CASES:** 2005-CP-07-1990 (Beaufort) (Pinewood) 2005-CP-07-1989 (Beaufort) (Palmetto) 2005-CP-10-4229 (Charleston) (Orleans) 2005-CP-38-1131 (Orangeburg) Roosevelt) **DEFENDANTS' RESPONSES TO PLAINTIFFS' DISCOVERY REQUESTS (Dated October 5, 2007)**

TO: PLAINTIFFS AND THEIR ATTORNEYS, JOEL D. BAILEY, ESQ. AND THOMAS A. PENDARVIS, ESQ.

Defendants hereby answer the Interrogatories of Plaintiffs pursuant to SCRCP 26 and 33, as follows:

INTRODUCTION

The following responses are made without waiver of, and with preservation of:

A. All questions as to competency, relevancy, materiality, privilege, and admissibility of each response and the subject matter thereof as evidence for any purpose in any further proceedings in this action (including the trial of this action), and in any other action;

B. The right to object to the use of any response, or the subject matter thereof, on any ground in any further proceedings in this action (including the trial of this action), and in any other action;

EXHIBIT 7

EXHIBIT 2

REQUEST NO. 6: For each of the five subject apartment complexes produce all writings and recordings reflecting or making any reference to bank accounts in which the HUD reserve accounts funds were deposited and any other bank accounts reflecting assets held or otherwise owned at the end of each year for each year between 1984 to the present.

RESPONSE:

All non-privileged responsive documents in Defendants' possession, custody or control have been produced to Plaintiffs' counsel.

REQUEST NO. 7: For each of the five subject apartment complexes produce all writings and recordings reflecting or making any reference to appraisals, valuations, and attempts to appraise or value the property that took place between 1984 to the present.

RESPONSE:

All non-privileged responsive documents in Defendants' possession, custody or control have been produced to Plaintiffs' counsel.

HAYNSWORTH SINKLER BOYD, PA

Ellis M. Johnston, II, SC Bar # 3065
Jesse C. Belcher, SC Bar #621
Calvin T. Vick, SC Bar #68187
Post Office Box 2048
Greenville, South Carolina 29602
(864) 240-3200

Attorneys for Defendants

November 9, 2007
Greenville, South Carolina
DOC #609170

EXHIBIT A

AmReal 000259
AmReal 000522
AmReal 002457
AmReal 002617
AmReal 002817
AmReal 003099
AmReal 003336
AmReal 003377
AmReal 003524
AmReal 004065
AMREAL005904
AMREAL005926
AMREAL005952
AMREAL005985
AMREAL006020
AMREAL006088
AMREAL006290
AMREAL006525
AMREAL006538
AMREAL006565
AMREAL006688
AMREAL006701
AMREAL006877
AMREAL006999
AMREAL007089
BAO_0052
BAO_0125
BAO_0127
BAO_0174
BAO_0176
BAO_0412
BAO_0498
CAO_0076
Dep. Exh. 14 (Buchanan)
Dep. Exh. 16 (Buchanan)
Dep. Exh. 20 (Buchanan)
Dep. Exh. 21 (Buchanan)
Dep. Exh. 22 (Buchanan)
Dep. Exh. 23 (Buchanan)
HEDIGER_001027
HEDIGER_001099
HEDIGER_001168
HEDIGER_006216
HEDIGER_006569
HEDIGER_007055
HEDIGER_007105
HEDIGER_009100
HEDIGER_009174
HEDIGER_009180
HEDIGER_009254
HEDIGER_009365
HEDIGER_009498
HEDIGER_009657
HEDIGER_009841
HEDIGER_009970
HEDIGER_010132
HEDIGER_010395
HEDIGER_010547
HEDIGER_010663
HEDIGER_010805
HEDIGER_010924
HEDIGER_017655
HEDIGER_017840
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Dep. Exh. 102 (Tuck)	OA00107	P_001287
HBDIGBR_009064	P000001	P_001292

FROM RODNEY P. PAGE
PARTNER

TO: Anne-Christine Massullo, Esq.
Dane Narode, Esq.

DATE: October 5, 1998

RE: Settlement Proposal

The HUD IG has demanded payment of $4.2 million to settle proposed civil charges arising from the receipt by NHP of supervisory management fees from management companies which have contracts with partnerships in which an NHP affiliate is the general partner. In addition, the settlement demand requires that the amounts being held in escrow by AIMCO since it took over the NHP portfolio be rebated to the reserve for replacement accounts; that AIMCO agree not to receive such fees in the future; and that, as the owner, NHP agree to reduce the management fee by the amount of the fee portion paid to NHP. AIMCO countered by offering the payment of $1.75 million, or, if the additional investigation relating to cash management issues and Buyers Access were also resolved, $ 2 million. HUD rejected this offer and repeated its original demand.

On behalf of AIMCO, I submit the following proposal to you for resolving the supervisory management fee issue:

1. AIMCO will pay immediately the sum of $2 million as a refund for NHP having received the supervisory management fees, without admitting that the receipt of the fees was illegal or improper.

2. The other terms demanded by HUD will be accepted as well, except that, with regard to the management fee level, NHP can only agree for itself since it is not the controlling general partner in all of the ownership entities, contrary to HUD's assumption.

3. AIMCO will agree to submit to binding arbitration before a three person panel of neutral arbitrators selected in accordance with the Administrative Dispute Resolution Act, 5 U.S.C. sec. 571, et. seq., and in a proceeding conducted under that law and other applicable Alternative Dispute Resolution provisions and orders of the Federal Government, the question of whether any other payments should be made to resolve the "fee splitting" issue with respect to supervisory management fees, up to a maximum of $4.2 million. The proceeding will determine and resolve the defenses AIMCO has asserted, i.e., that NHP had approvals for the fees it charged, and that NHP lacked the intent or willfulness to support multiple damages in any violations that occurred.

4. A settlement agreement at this time will include the limited release proposed by the IG, i.e., one which covers all civil liability for those matters which are disclosed. The scope of the agreement will exclude the other matters under review by the IG, including the Oxford transaction.

EXHIBIT
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BRYAN CAVE LLP
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WASHINGTON, D. C. 20005-3960

DIRECT DIAL: (202) 508-6002
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5. The agreement will include HUD's approval of all 2530 applications now pending and an agreement by HUD that, because AIMCO is cooperating in good faith to resolve all pending inquiries relating to NHP's practices, the pendency of any investigation by HUD into those practices will not in the future be an impediment with regard to Multifamily Participation Review Committee decisions or other programatic decisions regarding AIMCO and its affiliates.

6. The arbitration shall be completed within 120 days, or within such longer time period requested by the IG and HUD.

7. To the extent that the Administrative Dispute Resolution Act does not resolve or define the procedures required to conduct the arbitration, the parties will proceed in good faith to discuss and agree upon those procedures.

8. In addition, AIMCO will agree that the investigation into cash management practices of NHP and dividend procedures of Buyers Access when it was owned by NHP will be subject to negotiation and mediation. If the parties have not reached a resolution within 90 days, these matters shall also be submitted to binding arbitration as outlined above.

9. Except as agreed upon by the parties, the terms of the settlement agreement and the steps taken to implement it shall be confidential.

The advantages of this settlement to both sides are these:

a.) AIMCO commits to comply with HUD policy regarding the "fee splitting" issue by not receiving supervisory management fees; its cooperation will result in the reduction of management fees paid at the approximately 50 properties in the portfolio;

b.) the procedure will result in a speedy resolution of this portion of the OIG's inquiry in a cost-efficient manner;

c.) to the extent AIMCO succeeds in asserting the defenses noted above, the outcome of this proceeding will not be a precedent in HUD/IG cases involving others in the industry; and,

d.) the resolution permits AIMCO to conduct its business without being unfairly burdened by the separate history of one of the companies it acquired, NHP, while remaining responsible for its own conduct.

I would appreciate hearing from you at your earliest convenience.

cc: Laura A. Miller, Esq.

AIMCO
Apartment Investment and Management Company

MEMORANDUM

To: Members of the Multifamily Participation Review Committee

From: Apartment Investment and Management Company
Joel F. Bonder, Exec. Vice President and General Counsel

Re: AIMCO Compliance with HUD Inspector General Subpoena

Date: September 16, 1998

Apartment Investment and Management Company ("AIMCO") is a real estate investment trust headquartered in Denver, Colorado which acquired the ownership of The National Housing Partnership ("NHP") and it general partner, National Corporation for Housing Partnerships ("NCHP"), in June 1997, AIMCO also acquired an interest in NHP Incorporated ("NHPI"), then the parent of NHP Management Company ("NHPMC"), in May 1997. AIMCO purchased the remaining shares of NHPI in December 1997, at which time NHPI was merged into AIMCO. NHP and NHPMC serve, respectively, as the general partner and management agent of over 400 limited partnerships, which own HUD-assisted multifamily properties.

Prior to these transactions, AIMCO's participation in government-assisted housing programs was limited to approximately ten multifamily properties with FHA-insured mortgages only. In October 1997, NHPI and others in the affordable housing industry received a subpoena from the HUD Inspector General ("IG") requesting documents relating to any so-called "fee-splitting" arrangements NHPI or its affiliates had entered into with other owners or managers of HUD-assisted properties.

As the new owners of NHP, NCHP and NHPMC, AIMCO's intent is to conduct business in full compliance with the law and HUD policy. In that spirit, AIMCO has responded candidly and quickly to any inquiries from the IG. Upon learning that certain arrangements entered into by NCHP and NHPMC during the period 1977 to 1984 with local joint venture partners were of concern to the IG and Assistant U.S. Attorney for San Francisco ("AUSA"), AIMCO's President directed that all monies received for supervisory management fees and management consulting fees since receipt of the subpoena be held in escrow and not taken into income.

1873 SOUTH BELLAIRE STREET • 17TH FLOOR • DENVER COLORADO 80222-4348 • TELEPHONE 303-757-8101 • FACSIMILE 303-757-8735

We understand that the HUD Office of General Counsel ("OGC") has raised a "flag" in the 2530 system related to the IG subpoena. While AIMCO continues to negotiate in good faith with the IG and AUSA to reach a resolution of all pending issues related to NHP and NHPMC, we do not know whether an agreement will be reached prior to this Committee's consideration of AIMCO's pending 2530 applications. Notwithstanding the OGC flag, AIMCO believes its practices and history as an owner and manager of government-assisted housing is clearly distinguishable from that of other owners and managers, and therefore, it would be appropriate for the Committee to approve AIMCO's 2530 at this time. Distinguishing factors are:

(1) AIMCO's own previous participation record has always been clear.

(2) AIMCO itself has never initiated a fee-splitting arrangement. All practices under review by the IG and AUSA were put in place by NHP and NHP Management Company.

(3) Unlike other situations in the industry, AIMCO has shown the IG and AUSA that significant services were provided by NHP Management Company for the fees at issue.

(4) AIMCO has cooperated fully with the IG and AUSA in the production of documents and is making a good faith effort to resolve all issues with the government. As noted above, AIMCO has escrowed all supervisory management fees received since receipt of the subpoena.

AIMCO intends to be a good partner with the Department and has demonstrated that AIMCO makes a difference. For example the company has instituted a "properties come first policy" with respect to capital needs and vendor payables. In that regard, AIMCO held back for property repairs, capital improvements, working capital and accounts payable $9.1 million out of a total $17.2 million of otherwise distributable 1997 Surplus Cash from 204 HUD-assisted properties. As the largest owner and manager of HUD-assisted properties in the country, we look forward to working closely with HUD to address the needs and future of both NHP and Insignia's affordable portfolios in a comprehensive and creative way.

We respectfully request 2530 approval today.

Royal Towers - Kansas City

In fulfilling its original congressional mandate, NHP developed many properties in America's most difficult neighborhoods. NHP's experiences in Kansas City are representative of the inherent risks associated with developing and owning properties which are challenged by problems such as drug-related crime and the general decline of America's inner cities.

Royal Towers, one of the few active residential buildings in Downtown Kansas City, further represents NHP's effort to provide housing not only for those in need of assistance, but those with the greatest and most pressing needs, the elderly and disabled. Although not formally a Single Room Occupancy community, the property's unit configuration, 233 small one-bedroom units, and location in an area devoid of basic residential services, effectively mandates a resident profile limited to those elderly and disabled who would otherwise be without shelter. To support residents, shopping and social services were brought into the building. The importance of these ancillary support services to the community's success is a focal point of ownership's efforts to meet resident needs. In order to open additional funding doors for resident support programs, NHP plans to transfer ownership of Royal Towers to a non-profit entity acceptable to HUD. This will also position the property to be rehabilitated using low income housing tax credits.

In the meantime, NHP has responded to the Area Office by addressing all known ownership-related issues, including the contribution of $183,000 to the property, and resolving long standing paperwork issues regarding the original Transfer of Physical Assets. When the Area Office expressed dissatisfaction with the management of the property, NHP Management Company stepped aside, appointing a HUD-approved local agent. Since that transfer in December 1996, NHP, as general partner, has continued to oversee improvement of the property's operations.

AIMCO - St. Louis HUD Settlement Agreement

The St. Louis field office issue a Limited Denial of Participation to NHP in June 1997 related to a property known as JVL 19. Although the LDP expired by its terms on June 24, 1998, AIMCO and the St. Louis office, with the approval of Deputy Secretary Wehrwein, have reached agreement on a Settlement Agreement, which addresses JVL 19 and certain other NHP properties in the St. Louis area.

It is expected that the Settlement Agreement will be fully executed prior to the date of the Committee's meeting and that the St. Louis office will report that all flags have been satisfactorily resolved. Attached is a copy of the Settlement Agreement, executed by AIMCO.

UNITED STATES OF AMERICA
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
OFFICE OF ADMINISTRATIVE LAW JUDGES
Washington, D.C.

Before Administrative Law Judge William C. Cregar

In the Matter of: JVL 19 Associates and Affiliates: National Housing Partnership, Ltd., National Corp. For Housing Partnership, NHP Partners, Inc., J. Roderick Heller, Ann Torre Grant, Linda G. Davenport, Mildred C. Banks, Joel F. Bonder and NHP Property Management, Inc. Respondents.	HUDALJ 98-8004-DB(LDP)

SETTLEMENT AGREEMENT

This Settlement Agreement ("Agreement") is entered into by and between JVL 19 Associates and Affiliates, The National Housing Partnership, identified in this matter as National Housing Partnership, Ltd. (collectively, "NHP"), National Corp. For Housing Partnership ("NCHP"), NHP Partners, Inc., J. Roderick Heller, Ann Torre Grant, Linda G. Davenport, Mildred C. Banks, Joel F. Bonder and NHP Property Management, Inc. (a/k/a NHP Management Company) (collectively "Respondents"), and the United States Department of Housing and Urban Development ("HUD").

WHEREAS, Respondents are, respectively, the owner, general partner of the owner, general partner of the general partner, parent of the general partner, officers of the management agent, and management agent of a previously insured HUD property known as JVL 19 Apartments ("JVL 19") which is located in St. Louis, Missouri, and NHP is the general partner and NHP Property Management, Inc. is the management agent of other HUD insured properties in St. Louis ("Related Properties"); and

WHEREAS, Apartment Investment and Management Company ("AIMCO") acquired all of the stock of the parent of NCHP and all of the limited partner interests in NHP on or about June 7, 1997; and

WHEREAS, under the terms of the FHA insured mortgage ("Mortgage") and the HUD Regulatory Agreement ("Regulatory Agreement") applicable to JVL 19, HUD is allowed to inspect JVL 19, conduct management reviews, and audit the books and records of JVL 19; and

WHEREAS, the physical inspection and management reviews of JVL 19 are undertaken by the HUD St. Louis Area Office ("HUD St. Louis"), and HUD St. Louis caused a physical inspection of JVL 19 to take place on or about January 7-9, 1997 ("Inspection"); and

WHEREAS, as a result of the Inspection, HUD St. Louis issued a Limited Denial of Participation ("LDP") to Respondents; and

WHEREAS, Respondents have pursued an appeal of the LDP through the HUD Office of Administrative Law Judges; and

WHEREAS, Respondents and HUD St. Louis desire to settle the LDP as well as other issues which concern Respondents, JVL 19, and the Related Properties; and

NOW, THEREFORE, for and in good consideration of the terms contained herein, and other good and valuable consideration, the receipt and sufficiency of which is acknowledged, Respondents and HUD agree as follows:

1. This Agreement will become effective as of the date the final signature is applied to the Settlement Agreement ("Effective Date").

2. On or within 10 business days of the Effective Date of this Agreement, AIMCO will tender to HUD the sum of $375,000.00 ("Settlement Payment"). HUD may elect, at its sole discretion, to use the Settlement Payment in any manner it deems appropriate.

3. On or within 10 business days of the Effective Date of this Agreement, HUD St. Louis will withdraw the LDP which was issued against Respondents. The parties further agree that they will jointly advise the HUD Office of Administrative Law Judges that the LDP has been withdrawn and that Respondent's Appeal should be dismissed as moot.

4. HUD represents that it will not impose any sanction against Respondents with respect to JVL 19, or against any owner, any affiliate of any owner, or any Principal concerning JVL 15, JVL 18 and/or Murphy Blair Apartments. Notwithstanding this representation, HUD reserves the right to impose any sanction or take any other action based on (i) facts of which it or any employee, representative or agent is not actually and could not be deemed to be aware with respect to a Property as of the Effective Date of this Agreement, (ii) facts and circumstances related to criminal activity involving any Property; and (iii) facts and

circumstances occurring or coming to the attention of HUD subsequent to the Effective Date of this Agreement with respect to the Murphy Blair Apartments, provided HUD or any employee, representative or agent was not actually and could not be deemed to have been aware of such fact or circumstance prior to the Effective Date.

5. In response to any inquiry from the Previous Participation System Committee, or any similar or successor entity, HUD St. Louis will respond that HUD has reached a satisfactory resolution of any issues or defaults which may have occurred at JVL 15, JVL 18, and JVL 19 while those properties were under Respondents' ownership, management, or control, or under the ownership and control of an entity in which one or more of Respondents are the general partner of the owner, management agent, or Principal. As to Murphy Blair, HUD St. Louis' response will be based upon the then current status of that project. In response to any such inquiry, HUD St. Louis may provide to the inquiring entity a copy of this Agreement as evidence of the satisfactory resolution of any issue concerning JVL 15, JVL 18, JVL 19 and Murphy Blair.

6. As part of the consideration for this Agreement, simultaneous to the execution of this Agreement AIMCO will bring current the mortgage loan on Murphy Blair, including all late fees and default interest. Further, AIMCO will provide to HUD St. Louis a workout proposal concerning Murphy Blair within 30 days of the Effective Date, which will address Murphy Blair's long term physical needs.

7. AIMCO has caused an inspection of all properties in St. Louis in which NHP is a general partner and is the beneficiary of FHA Insurance or HUD assistance. These inspections checked the physical condition of the properties as well as management operations. AIMCO provided reports of those inspections to HUD St. Louis on or about April 3, 1998. HUD St. Louis has received and reviewed those inspection reports, and is prepared to enter into this Agreement.

8. This Agreement constitutes the entire agreement between Respondents and HUD. No party has relied on any statement or oral representation made by any other party in entering into this Agreement. Any modification or amendment to this Agreement will only be enforceable if made in writing.

9. This Agreement may be executed in more than one counterpart, each of which shall be deemed an original.

10. This Agreement shall be governed by the laws of the State of Missouri and Federal Law. To the extent there is a conflict between the laws of the State of Missouri and applicable Federal Law, Federal Law shall control.

11. By execution of this Agreement, each party represents that the individual executing this Agreement on behalf of the party is authorized to do so, and has provided the other party with satisfactory evidence of such authorization.

12. Respondents agree to waive, release, and remit any and all claims against HUD that the may have had with respect to this administrative action or the issuance of the LDP dated June 24, 1997.

13. Failure of the Respondents to timely perform in accordance with the terms of this Agreement shall render the Agreement null and void.

On behalf of HUD:

By: _____ DATE: _____
Joy M. Miller, Director
Office of Housing - St Louis Office
United States Department of Housing
and Urban Development
1222 Spruce Street
St. Louis, MO 63103

On behalf of Respondents:

By: _____ DATE: 9/15/98
Joel F. Bondar, Esq.
Executive Vice President and
General Counsel
AIMCO - Suite 200
1225 Eye Street, N.W.
Washington, D.C. 20005

COPY

AGREEMENT AND RELEASE

Parties

This Agreement and Release ("Agreement") is made this 2nd day of July, 2001, (the "Effective Date of this Agreement") between and among the United States of America ("United States"); The United States Department of Housing and Urban Development ("HUD"), acting on its behalf and acting through the Department of Justice and the United States Attorney's Office for the Northern District of California; and Apartment and Investment Management Company and its affiliated entities (collectively "AIMCO"), with its principal place of business at 2000 S. Colorado Boulevard, Denver, Colorado 80222 (hereinafter jointly referred to as "the Parties"), through their undersigned counsel and/or authorized representatives.

Recitals

For purposes of this Agreement, the Parties agree to the following recital of facts:

1. The Housing and Urban Development Act of 1968 established The National Housing Partnership ("NHP") and National Corporation for Housing Partnerships ("NCHP"). These two private, for-profit entities were created to promote private investment in the development of low- and -moderate income multifamily housing properties throughout the country through joint venture partnerships with local businesses. NHP Management Company ("NHPMC"), an affiliate of NCHP and NHP, provides property management services to multifamily housing properties. For purposes of this Agreement, "affiliate" shall mean any entity or person controlling, controlled by, or under common control with AIMCO.

2. From 1977 through 1984, NHP, NCHP or NHPMC entered into approximately 110 agreements with local property management companies. Pursuant to these agreements, the property managers paid NCHP, NHP, or NHPMC a supervisory management fee.

3. Prior to 1998, NHP Incorporated ("NHPI") (as of 1986, the parent company of NHP, NCHP, and NHPMC), NHP, NCHP or NHPMC participated in several transactions in which they expanded their ownership and management of multifamily housing units.

4. In October and December 1997, the HUD Office of Inspector General began investigating NHPI and NHP for alleged statutory and regulatory violations and violations of the HUD Regulatory Agreement regarding HUD-insured and -assisted housing projects, including but not limited to requiring management companies to pay to NHP a fee as a condition of NHP awarding the management companies management contracts for projects in which NHP held a general partnership interest.

5. Findings from the HUD Office of Inspector General's investigation indicate that NHP received, among other things, payments for supervisory management fees from certain management agents who managed certain of NHP's HUD-insured and -assisted projects. The United States contends that, based on these findings, NHP's request and receipt of supervisory management fees, and other conduct, may give rise to civil liability under the False Claims Act, 31 U.S.C. §§ 3729-3733, as amended, common law, Section 421 of the Housing and Community Development Act of 1987, 12 U.S.C. § 1715z-4a, the Anti-Kickback Act of 1986, 41 U.S.C. §§ 51-58, and under administrative regulations; AIMCO and NHP contend that NHPs conduct was not contrary to law and would not give rise to any such liability.

6. In June 1997, AIMCO acquired the ownership of NHP and NCHP. In May 1997, AIMCO acquired an interest in NHPI, then the parent of NHP Management Company. AIMCO purchased the remaining shares of NHPI in December 1997, and NHPI was merged into an AIMCO affiliate.

7. The Parties have negotiated in good faith and desire a final compromise as set forth more fully herein, without any admission or determination of liability, legal fault or responsibility.

Terms and Conditions

Accordingly, in reliance upon the representations contained herein, and in consideration of the mutual promises, covenants and obligations in this Agreement, and for good and valuable consideration receipt of which is hereby acknowledged, the Parties agree and covenant as follows:

8. Within five (5) business days following the Effective Date of this Agreement, AIMCO and NHP will pay the United States the sum of Four Million Two Hundred Thousand Dollars ($4,200,000.00) (the "Settlement Amount"). AIMCO's payment will be made by Fedwire electronic funds transfer made payable to the "Department of Justice." Arrangements for the payment will be made through the Financial Litigation Unit, Office of the United States Attorney, Northern District of California within one (1) business day after the Effective Date of this Agreement.

9. Within thirty (30) business days following the Effective Date of this Agreement, AIMCO shall take the following measures to reduce the management fees paid on the HUD-insured and -assisted projects where NHP or an affiliate has received supervisory management

fees to an amount commensurate with the amount of the current fee minus the amount paid as a supervisory fee (current management fee - supervisory fee). Within sixty (60) days following the Effective Date of this Agreement, AIMCO will provide documentation to the HUD Enforcement Center (or its successor) demonstrating its compliance with these measures.

(a) For properties that AIMCO or an affiliate owns as of the Effective Date of this Agreement but for which it does not perform management services, AIMCO will propose the reduction in writing first to the management agents currently managing the properties and then to the appropriate HUD Field Offices which have jurisdiction over the projects.

(b) For properties that AIMCO or an affiliate manages (whether owned by AIMCO or an affiliate, or by some third party) as of the Effective Date of this Agreement, AIMCO will unilaterally reduce the fee that it charges for managing these properties.

At the end of one year from the date of reduction pursuant to Paragraph 9(a) or (b), AIMCO or the management company (at properties where AIMCO owns but does not perform management services), may seek an increase in its management fees from the appropriate local HUD Field Offices with jurisdiction over the projects. This Paragraph 9 shall be effective only as long as AIMCO or an affiliate owns or manages a property subject to this Agreement. Any reduction in the management fees under Paragraphs 9(a) or (b) shall not be the basis, in whole or in part for a reduction in the level of Section 8 payments paid to properties subject to this Agreement. A list of the properties that AIMCO or an affiliate owns and/or manages as of the Effective Date of this Agreement is attached hereto as Attachment A.

10. Upon the Effective Date of this Agreement, AIMCO agrees as follows:

(a) Subject to Paragraph 10(b), AIMCO agrees not to, and shall not at anytime hereafter, require management companies who manage HUD-insured, HUD-assisted or HUD-held properties to remit a percentage of their respective management fees to AIMCO or any of its affiliates.

(b) In the event the practice described in Paragraph 10(a) of this Agreement is determined not to be prohibited subsequent to the Effective Date of this Agreement, whether by legislative, regulatory or written governmental action, or by mutual written agreement between the Parties, neither anything contained in this Agreement nor any actions taken by AIMCO or any of its affiliates pursuant to this Agreement will be deemed to preclude AIMCO from thereafter engaging in or resuming such a practice. AIMCO shall provide the HUD Enforcement Center (or its successor) written notice thirty (30) days prior to its engaging in or resuming such a practice.

11. This Agreement does not cover any payments, actions, or conduct not specifically disclosed in writing (with the exception of what is commonly referred to as the NHP-Oxford transaction which closed as of December 10, 1993 [the "NHP-Oxford Transaction"], and claims related to AIMCO's participation in the Buyers Access program), prior to the Effective Date of this Agreement. The United States expressly reserves the right to take appropriate civil, administrative, or other action regarding any matter not disclosed in writing prior to the Effective Date of this Agreement.

12. AIMCO agrees to cooperate in a timely and reasonable manner with reasonable requests for information or assistance that the United States or HUD may make in connection with other investigations concerning allegations of the splitting of fees (or similar arrangements) for goods or services provided to HUD-insured and/or -assisted properties. Such cooperation will include, but not be limited to, making employees available for interviews, depositions and/or testimony at trial, provided that reasonable notice is given regarding same. In this regard, AIMCO agrees to encourage and not interfere with requests for assistance directed by the United States or HUD to AIMCO and its affiliates, divisions, subsidiaries, and their respective predecessors, successors and assigns, and their respective current and former directors, officers, members, partners, employees and agents (collectively "the AIMCO-related Parties"). AIMCO will respond affirmatively to any subpoenas or other official process directed to it. Nothing in this paragraph shall be construed to eliminate the AIMCO-related Parties' ability to exercise their rights under the Fifth Amendment of the United States Constitution.

13. In consideration for and upon full payment of the amount referred to in Paragraph 8, the United States and the Department of Housing and Urban Development, acting through the United States Department of Justice, hereby release the AIMCO-related Parties from any civil or administrative monetary claim that the United States or HUD has or may have under the False Claims Act, 31 U.S.C. §§ 3729-3733; the Program Fraud Civil Remedies Act, 31 U.S.C. §§ 3801-3812; the Housing and Community Development Act of 1987, 12 U.S.C. § 1715z-4a; the Anti-Kickback Act of 1986, 41 U.S.C. §§ 51-58, or any other statute or common law theories creating causes of action for civil damages or civil penalties for the claims of relief alleged in Paragraph 5, including specifically, but not limited to, claims relating to or arising from those

matters disclosed in writing to HUD prior to the Effective Date of this Agreement in response to those certain subpoenas dated October and December, 1997. This release specifically excludes any claims related to the NHP-Oxford Transaction and/or AIMCO's participation in the Buyers Access program, and any claims for actions that were not specifically disclosed in writing to HUD prior to the Effective Date of this Agreement.

14. Should any third party seek contribution or implied indemnity arising out of the claims hereby released, the United States will not oppose any effort by AIMCO to dismiss such third party claims upon the grounds that this Agreement represents a good faith compromise of the claims hereby released.

15. Subject to the exceptions set forth in Paragraph 16 of this Agreement, and in consideration for the full and faithful performance by AIMCO of its material obligations under this Agreement, HUD agrees to refrain from instituting or maintaining any administrative claim or action seeking to debar or suspend AIMCO from, or limit AIMCO's participation in, HUD programs pursuant to 24 C.F.R. Part 24 for the conduct and matters released in Paragraph 13.

16. Notwithstanding any term of this Agreement, specifically reserved and excluded from the scope and terms of this Agreement are any and all:

(a) claims for personal or property injury or for other consequential damages arising from defective or deficient management services to the projects, including the breach of any express or implied warranty of habitability, which claims are held solely by the tenants or other third parties;

(b) claims based on such obligations as are created by this Agreement;

(c) liability to the United States (or any agencies thereof) for any conduct other than that released herein;

(d) claims by HUD relating to mismanagement of a project other than those relating to conduct released herein;

(e) determinations or actions by HUD related to the termination or nonrenewal of Section 8 Housing Assistance Payments contracts which HUD may have with AIMCO as the owner of properties where AIMCO has not complied with Housing Quality Standards; or

(f) claims that the United States may have under the Internal Revenue Code, Title 26 of the United States Code.

17. AIMCO has no claim against the United States or HUD for the actions of the United States or HUD in pursuing its rights and claims leading to the settlement of this matter, except for:

(a) any claims based on such obligations as are created by this Agreement; or

(b) any claims that AIMCO may have under the Internal Revenue Code, Title 26 of the United States Code.

18. Should either party default and fail to perform any of the obligations set forth in this Agreement, the non-defaulting party shall notify the defaulting party in writing of the default as soon as practical after the default is known to the non-defaulting party, and provide the defaulting party ten (10) business days to cure the default. In no event shall a default under this Agreement result in the recision or modification of the releases set forth in this Agreement.

If the defaulting party fails to cure the default, the Parties agree that suit may be filed in the United States District Court for the Northern District of California by the non-defaulting party seeking to cure the default, except as otherwise prohibited by the terms of this Agreement, including by specific performance. The Parties agree that the District Court for the Northern District of California shall have jurisdiction over any such suit and shall be the exclusive forum in which to enforce the terms of this Agreement.

19. AIMCO agrees that all costs incurred by or on behalf of it, its present or former officers, directors, agents and employees in connection with (a) the matters covered by this Agreement; (b) the Government's audit and investigation of the matters covered by this Agreement; (c) AIMCO's investigation, defense and corrective actions with respect to the matters covered by this Agreement; (d) the negotiation of this Agreement; and (e) the payments made to the United States and HUD pursuant to this Agreement, shall not be paid from project funds (as HUD uses that term); provided, however, that this does not limit AIMCO's ability to use funds identifiable as surplus cash (as HUD uses that term) or fees earned by AIMCO.

20. This Agreement is intended to be for the benefit of the United States, HUD, AIMCO and the AIMCO-related Parties, as described above, only, and by this instrument the Parties do not waive, compromise or release any claims or causes of action against any other person or entity not expressly released by this Agreement.

21. The Parties agree that the facts and circumstances underlying the negotiations leading up to this Agreement and the Agreement itself shall not be admissible for any purpose against AIMCO or its affiliates, or the AIMCO-related Parties in any action or proceeding of any

kind, without regard to the forum or its governing rules of evidence, except to prove a default pursuant to Paragraph 18.

22. All notices given pursuant to, or relating to, this Agreement shall be forwarded by facsimile and Federal Express, next morning delivery, as follows:

(a) If to AIMCO to:

Rodney F. Page, Esq.
Bryan Cave LLP
700 Thirteenth Street, NW
Washington, D.C. 20005-3960
Fax: (202) 508-6200

and

Joel F. Bonder, Esq.
General Counsel
AIMCO
2000 S. Colorado Blvd.
Tower Two, Suite 2-1000
Denver, Colorado 80222
Fax: (303) 300-3260

(b) If to the United States or HUD to:

United States Attorney
for the Northern District of California
Civil Division
450 Golden Gate Avenue, 10th Floor
San Francisco, CA 94102
Fax: (415) 436-6748

23. In no event shall any term or provision of this Agreement, or any document executed in connection herewith, or the performance hereunder, be interpreted to effect a waiver by AIMCO and the AIMCO-related Parties of the attorney-client privilege, attorney-work product immunity or any other privilege or immunity, and all such privileges are expressly reserved by AIMCO and the AIMCO-related Parties, except to the extent that AIMCO or the

AIMCO-related Parties subsequently, in their sole discretion, expressly and in writing waive such privileges.

24. This Agreement is executed in quadruplicate originals, and each shall be of the same force and effect at law as an original.

25. Each person who signs this Agreement in a representative capacity warrants that his or her execution of this Agreement is duly authorized, executed, delivered by and for the entity for which he or she signs.

26. This Agreement is effective when all parties have signed. Facsimiles of signatures shall constitute acceptable, binding signatures for purposes of this Agreement.

On Behalf of the UNITED STATES OF AMERICA:

ROBERT S. MUELLER, III
United States Attorney

Dated: 7-2-01 By: _____
JOANN SWANSON
Assistant United States Attorney
United States Attorney
for the Northern District of California
Civil Division
450 Golden Gate Avenue, 10th Floor
San Francisco, CA 94102
Telephone: (415) 436-6855

UNITED STATES DEPARTMENT OF
HOUSING AND URBAN DEVELOPMENT

Dated: _____ By: _____
SEAN G. CASSIDY
General Deputy Assistant Secretary for Housing
U.S. Department of Housing and
Urban Development
451 7th Street, SW
Washington, D.C. 20410-4500
Telephone: (202) 708-2601

On Behalf of the UNITED STATES OF AMERICA:

ROBERT S. MUELLER, III
United States Attorney

Dated: _____ By: _____

JOANN SWANSON
Assistant United States Attorney
United States Attorney
for the Northern District of California
Civil Division
450 Golden Gate Avenue, 10th Floor
San Francisco, CA 94102
Telephone: (415) 436-6855

UNITED STATES DEPARTMENT OF
HOUSING AND URBAN DEVELOPMENT

Dated: _____ By: _____

SEAN G. CASSIDY
General Deputy Assistant Secretary for Housing
U.S. Department of Housing and
Urban Development
451 7th Street, SW
Washington, D.C. 20410-4500
Telephone: (202) 708-2601

On Behalf of APARTMENT INVESTMENT AND MANAGEMENT COMPANY:

APARTMENT INVESTMENT AND
MANAGEMENT COMPANY

Dated: 6/14/01

By: _____

JOEL F. BONDER
General Counsel
AIMCO
2000 S. Colorado Blvd.
Tower Two, Suite 2-1000
Denver, CO 80222
Tel: (303) 691-4379

COUNSEL FOR APARTMENT INVESTMENT
AND MANAGEMENT COMPANY

By: _____

RODNEY F. RAGE
Bryan Cave LLP
700 Thirteenth Street, NW
Washington, D.C. 20005-3960
Telephone: (202) 508-6000

Exhibit A.

Paragraph 9(a) Properties

1. Clemens Place A
2. Duke Manor L
3. Genesee Gardens L
4. Howard Robbins Tower L
5. Lee Ky Manor A
6. Miami Manor A
7. Park View Arms I A
8. Park View Arms II A
9. Pittsfield A
10. South Mountain Terrace L
11. Talladega Downs A
12. Tiffany L
13. Townview Towers A
14. Twin Gables A
15. Two Bridges A
16. Vienna Heritage A

Paragraph 9(b) Properties

1. Academy Gardens L
2. Athens Arms L
3. Baisley Park A - 38761 - NO - 8/19/99 - NY Ltr of F
4. Brunswick House A - 38247 - Yes - 1/11/06
5. Buckingham Hall L
6. Carolina L
7. Columbus Square I L
8. Columbus Square II L
9. Elmwood Apartments A 40916 - Yes ('01) - 7/11/01
10. Hatillo A 38763 - Yes - 12/11/04
11. Hollows A 38451 - NO - 4/16/99
12. Las Americas L
13. Laurelwood A 40981 - Yes 10/1/03
14. Miramar A 38768 - Yes ('01) 7/11/01
15. Montblanc Housing L
16. Oakwood Apts. A 38370 - Yes 9/1/05
17. Parkview ~~A 41044 - NO - 11/1/01, but currently~~ IVA, SC-LOST
18. Pershing Waterman I L
19. Pershing Waterman III L
20. Pershing Waterman IV L
21. Pershing Waterman V L
22. Pershing Waterman VI L
23. St. Nicholas Manor L
24. Winter Gardens A 42579 - Yes (Mgt + Agmt) 2

U.S. Department of Justice

Criminal Division

Washington, D.C. 20530

July 12, 1999

BY MESSENGER

Rodney Page, Esq.
Bryan Cave LLP
600 Thirteenth Street, N.W.
Washington, DC 20005

Re: July 12, 1999 District of Columbia Grand Jury Subpoena

Dear Mr. Page:

Pursuant to your agreement to accept service on behalf of your client, National Housing Partnerships, Inc. ("NHP"), and its affiliates, enclosed is a grand jury subpoena issued by a federal grand jury in connection with a criminal investigation being conducted in the District of Columbia. The subpoena directs a custodian of records to appear and produce certain documents before the grand jury in Washington, D.C. on Thursday, August 19, 1999, at 9:00 a.m. As a convenience to you, you may deliver the requested documents to the United States Department of Justice, Criminal Division, Fraud Section, Third Floor, 1400 New York Ave., N.W., Washington, D.C. 20005.

Should you have any questions, please feel free to call me at (202) 514-0886. Thank you for your attention to this matter.

Sincerely,

Marie A. O'Rourke

Marie A. O'Rourke.
Senior Litigation Counsel
Fraud Section

Enclosure

12-22_30(b)(6)_000026

CD 283 (Rev. 6/91) Subpoena to Testify Before Grand Jury

United States District Court

FOR THE DISTRICT OF COLUMBIA

TO: National Housing Partnerships, Inc.
c/o Rodney Page, Esq.
Bryan Cave LLP
600 Thirteenth Street, N.W.
Washington, DC 20005

SUBPOENA TO TESTIFY BEFORE GRAND JURY

SUBPOENA FOR:
☒ PERSON ☒ DOCUMENT(S) OR OBJECT(S)

YOU ARE HEREBY COMMANDED to appear and testify before the Grand Jury of the United States District Court at the place, date, and time specified below.

PLACE	COURTROOM
United States District Court for the District of Columbia United States Courthouse Third & Constitution Avenues, N.W. Washington, D.C. 20001	Grand Jury Third Floor
	DATE AND TIME August 19, 1999 9:00 a.m.

YOU ARE ALSO COMMANDED to bring with you the following document(s) or object(s):*

Please provide all of the documents listed on the Attachment.

☐ *Please see additional information on reverse.*

This subpoena shall remain in effect until you are granted leave to depart by the court or by an officer acting on behalf of the court.

U.S. MAGISTRATE / CLERK OF COURT	DATE
Nancy M. [illegible], Chief (BY) DEPUTY CLERK: Mary M. Napier	July 12, 1999
This subpoena is issued upon application of the United States of America.	NAME, ADDRESS AND PHONE NUMBER OF ASSISTANT U.S. ATTORNEY Marie O'Rourke, Giuliana Dunham, John Cunningham (202) 514-0819 U. S. Department of Justice Criminal Division, Fraud Section 1400 New York Avenue, N.W. Washington, D.C. 20005

*If not applicable, enter "none."

*U.S.GPO:1993-0-350-702/80319

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ATTACHMENT A

INSTRUCTIONS

1. This subpoena requires a complete search of all documents and records in your possession or subject to your control, as well as documents or records in the possession of your agents, attorneys, auditors, employees, representatives, partnerships, trusts, corporations, officers, directors, subsidiaries or affiliates.

2. Unless otherwise noted, unaltered original documents and records shall be produced to the grand jury on the date shown on the subpoena and supported by the testimony of a qualified custodian of records who can authenticate the documents as business records.

3. The person designated as the custodian of records must be a person who is fully knowledgeable concerning the search for the documents and records that are responsive to this subpoena; the custodian of records also must be able to authenticate the documents. Should the same person not be capable of performing both of the foregoing requirements, you shall designate such additional persons as may be necessary to appear before the grand jury on the same date and time.

4. Except as otherwise noted, the time period covered by the subpoena is January 1, 1992 to the present.

5. Bates stamped numbers may be affixed to the documents or records produced to the grand jury; however, no additional alterations may be made on the face of the documents and records, including identifying markings, such as the company name, date of the subpoena or the identity of location of the grand jury issuing the subpoena.

6. Each and every document or record requested by this subpoena shall be produced in the manner in which it is or has been maintained in the ordinary course of business. If, by way of illustration, documents or records requested by this subpoena are or have been maintained in a folder, the documents or records requested shall be produced in the original folder, with the original label or marking.

7. If any document or record was, but no longer is, in your possession or subject to your control, whether actual or constructive, identify the document or record as completely as possible and provide the following information:

   a. The manner of transfer/removal/disposal, including destruction, loss discarding, or any other means of disposal;

   b. The date of transfer/removal/disposal;

c. The reason for transfer/removal/disposal;

d. The person authorizing the transfer/removal/disposal and the person transferring/removing/disposing of the document or record;

e. The present custodian and location of the document or record;

f. If the document or record was destroyed, the date such document or record was destroyed, the procedure or policy pursuant to which such document or record was destroyed, and the identity of the last known custodian of such document or record prior to its destruction, and

g. All of the memoranda, orders, minutes or other documents relating to such transfer/disposal or destruction.

8. In the event that any document or record responsive to this subpoena is to be withheld on the basis of a claim of privilege, as to each such document or record:

a. Identify the nature of the privilege which is being claimed and all facts upon which any such privilege is based; and

b. Provide the following information:

(i) the type of document or record;

(ii) the subject matter of the document or record;

(iii) the date of the creation;

(iv) the author of the document or record, including the author's address, telephone number and employment capacity;

(v) the signatory of the document or record, if different from the author;

(vi) the addressee of the document or record, including the addressee's address and employment capacity;

(vii) where not apparent, the relationship of the author and the addressee to each other;

(viii) any other recipient of the document or record; and

(ix) the number of pages of the document or record.

9. Please provide an index of the documents and records produced. The index should identify the person, office and department from which the documents and records were obtained, and may include the Bates stamp numbers, if any, of such documents and records. The index should also identify the paragraph(s) and subparagraph(s) of the subpoena to which the documents or records are responsive.

10. No modifications will be made to the terms of this subpoena except in writing.

11. This subpoena is continuing in nature and shall remain in effect until the conclusion of the grand jury's investigation.

DEFINITIONS

1. "NHP" shall refer to National Housing Partnership, Inc., all of its affiliates, present and former subsidiaries, divisions, branches, predecessors or successors in interest, including, but not limited to Apartment Investment and Management Company, National Corporation for Housing Partnerships, NHP Incorporated, NHP Management Company, and NHP Partners, Inc., and all present and former officers, directors, partners, employees, agents and representatives, and each person purporting to act on behalf of any of the foregoing.

2. "HUD/FHA" shall mean the United States Department of Housing and Urban Development, the Federal Housing Administration, and any subdivision, office, entity, agency, agent, representative, employee, or contractor thereof.

3. "Document" refers to each and every writing, of whatever nature, whether an original, a draft, or a copy, however produced, reproduced, or stored, whether manually, mechanically, electronically, electromagnetically or otherwise, and each and every tangible thing from which information can be processed or transcribed, including, but not limited to letters, telegrams, telexes, facsimiles, contracts, agreements, memoranda, receipts, calendars, diaries, appointment books, personal files, telephone messages and message logs, notes, schedules, work sheets, books, pamphlets; summaries, proposals, photographs, ledgers, statements, files, invoices, billing information, notebooks, verifications of assets, adding machine tapes, financial statements and other compilations of financial data, work papers, checks, records of wire transfers or cash payments, charts, graphs, research materials, prospectuses, registration statements, e-mail, computer printouts, word processing files and other computer-generated writings, or any similar item.

4. "Record" includes all tangible, written or non-written forms of expression in your possession, custody or control, including partial, preliminary and completed versions, however created, produced or stored, whether electronically, electromagnetically or

otherwise, including but not limited to, e-mail (the content of those communications, however created or stored), tape recordings, video recordings, magnetic tapes, disks, diskettes, disk packs, and other electronic media, microfilm, microfiche, and storage devices, or any similar item.

5. The terms "document" and "record" include all drafts and versions, whether or not identical with the final document, and also includes all copies which are not identical with the original, whether or not different because of notes made on or attached to such copy or otherwise.

6. The terms "document" and "record" also include any such items that have been deleted or otherwise destroyed but are recoverable by any electronic, mechanical, optical or other means. However, the terms "document" and "record" exclude materials in "electronic storage" for 180 days or fewer. "Electronic storage" is specifically defined in 18 U.S.C. Section 2510(17) to be "any temporary, intermediate storage of a wire or electronic communication incidental to the electronic transmission thereof; and any storage of such communication by an electronic communication service for purposes of backup protection of such communication." The government does not seek access to any such materials.

7. As used herein, "project" shall refer to a multifamily housing development for low-and-moderate-income families, which is insured, held or assisted by HUD/FHA.

8. As used herein, "asset management services" shall refer to those functions and activities associated with overseeing the management agent's performance and managing and protecting the assets of the ownership entity, as set forth in HUD Handbook 4381.5 REV-2, namely: disbursing surplus cash; owner visits to the project to review the management agent's performance; and obtaining or providing tax advice to the ownership entity or its principals. "Asset management fees" shall refer to the reasonable and necessary costs of providing asset management services.

9. The term "Named Properties" shall refer to the following HUD-insured and -assisted housing projects, as designated by project name, FHA project number and NHP project number:

Project Name	FHA Project Number	NHP Project Number
Park Place	085-35204	1002
Townview Terrace I	087-44026	1004
Elmwood Towers	044-44030	1011
RAC Gardens	012-44090	1026
Spring Hill	042-44080	1040
Townview Towers	087-44032	1067

Two Bridges	012-57018	1215
Debaliviere Place I	085-35259	1245
Clemens Place	017-35131	1247
Lamorada	056-35217	1252
Muneki	053-35053	1267
San Luis	056-35052	1268
Jardines de Joanne	056-35054	1269
Williamsport Manor	PA26-8023-023	1750
Buckingham Hall	012-57190	1767
Baisley Park	012-32201	1772
Duke Manor	034-35149	1790
Hollows	012-32191	1792
Academy Gardens	012-57128	1797
Debaliviere Place II	085-35291	1806
Parkview	054-35484	1848
Crosland Housing	054-35480	1849
Tiffany	085-35297	1856
Vistula Heritage Village	042-35298	1864
Debaliviere Place III	085-35307	1868
Shaker Boulevard	042-35331	1928
Page-Wymore	042-35311	1930
Caroline	085-35310	1933
Queenstown	000-35244	1935
Columbus Square I	085-35313	1940
Lee-Hy Manor	051-35326	1943
Elmwood Apts	062-35330	3004
Elkhorn Towers	045-35130	3005
Laurelwood	087-35091	3006
Kapuna I	140-38005	3017
Oakwood Apts	061-35312	3019
Kaneohe Elderly Apts	140-35091	3024
St. Nicholas Manor	012-57199	3031
Hatillo	056-35092	3036
Montblanc Housing	056-35093	3037
Waipahu Elderly	140-35087	3046
Las Americas	056-35120	3047
Halli Elderly	140-35089	3062
Boardwalk Apts	042-35378	3095
Columbus Square II	085-35337	3096
Debaliviere Place IV	085-35324	3101
Miramar	056-35132	3114
Muneki II	056-35133	3123
South Mountain Terrace	123-35139	3128

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Villa de Lomas Verdes	056-35134	3133
Washington Northgate	033-55031	3151
Washington Westgate	033-55024	3152
Harris Gardens	033-44054	3167
Churchview Gardens	033-44090	3168
Hawkworth	033-44092	3169
Willow Creek	000-55066	3170
	000-44113	
Genesee Gardens	012-55079	3172
	012-92504	
Athens Arms	061-55068	3177
Colonial Terrace I	061-55011	3178
Colonial Terrace II	061-55017	3179
Brunswick Village	031-55075	3200
Kimberton	032-44013	3235
Windsor Apts	032-44012	3236
Deballviere Place V	085-35352	3257
Holly Oak Park	053-44202	3258
Talladega Downs	062-44054	3260
Rodeo Drive	122-44452	3263
Savoy Court	085-35353	3265
Spruce Park	034-44103	3291
Spring Meadow	023-44087	3292
Leyden Woods	023-44091	3293
Eldon Terrace	000-44086	3294
Woodmark	000-44062	3295
Indian Valley I	042-44028	3306
Indian Valley II	042-44079	3307
Indian Valley III	042-44164	3308
Newton Hill	042-44094	3311
Galion East	042-35068	3312
Park Avenue West I	042-55048	3314
	042-92504	
Park Avenue West II	042-44021	3315
Muskeon Townhouses	047-55021	3321
Twin Gables	046-44041	3591
Miami Manor	046-44100	3592
Parkview Arms I	046-35046	3593
Parkview Arms II	046-35388	3594
Howard Robbins Tower	042-44062	(unknown)

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DOCUMENTS AND RECORDS TO BE PRODUCED

1. For each of the "Named Properties," any and all documents and records that constitute, refer to or concern any contract, agreement or arrangement between NHP and the property management companies or agents responsible for providing management services. This request includes, but is not limited to:

   a. Project Owner's and Management Agent Certifications, Form HUD-9839-B;

   b. Any and all documents and records that specify contract amounts, list dates of contracts, statements of work, budget by task/activity, standard provisions, and amendments;

   c. Any and all documents and records that constitute, discuss or refer to written or oral communications relating to asset management services and fees;

   d. Any and all documents and records that constitute, discuss or refer to the first or initial management contract, agreement or arrangement entered into between NHP and the property management company for each of the "Named Properties.".

2. For each of the "Named Properties," any and all documents and reports that constitute, refer to or concern any contract, agreement or arrangement whereby the property management company provides or provided compensation, payment(s), loan(s) or anything of value (other than asset management services and fees, as defined above) to NHP, or to any affiliates or other entities designated by NHP, in connection with the property management company's management of a project or projects. This request includes, but is not limited to supervisory management agreements, consulting agreements, fee-splitting arrangements, indirect management arrangements, or any arrangements whereby the property management company paid a percentage or portion of its HUD/FHA-approved management fee to NHP, or to any affiliates or other entities designated by NHP. This request also includes any other contract, agreement or arrangement to provide NHP, or any affiliates or other entities designated by NHP, distributions from project income, or payments from any other source. Documents to be produced include, but are not limited to:

   a. All such contracts or agreements and amendments thereto, and any and all corresponding negotiation notes;

   b. Any and all payment and billing records relating to the receipt of funds by NHP for payments made under the arrangement described above, including but not limited to invoices, receipts, checks, check ledgers, cash ledgers, wire transfers, deposit slips, and bank/financial institution account statements;

c. Any and all documents and records relating to and describing work performed or services rendered in support of payments made to NHP under the arrangement described above, including but not limited to work requests, invoices, project inspection and/or trip reports, statements of work, and budget by task/activity;

d. Any and all documents and records that constitute, discuss or refer to the first or initial contract, agreement or arrangement entered into between NHP and the property management company for the "Named Properties."

3. For each of the "Named Properties," all documents or records relating to NHP's "Buyers Access" program. This request includes, but is not limited to:

a. any and all documents and records received or processed by NHP relating to requests from property management agents for work, services, materials, supplies or repairs under the "Buyers Access" program;

b. documents and records relating to any form of compensation, payment, rebates, consideration, loans or anything of value received by or processed by NHP in connection with the "Buyers Access" program; and

c. any and all payment and disbursement records relating to the disbursement of funds, including rebates, by NHP to the property management companies in connection with the "Buyers Access" program.

4. For each of the "Named Properties," any and all documents pertaining to:

a. the Regulatory Agreement and mortgage note;

b. the mortgagor entity, that is, the partnership, corporation or other form of ownership;

c. ownership transfer of physical assets;

d. bankruptcy petitions;

e. the filing of Housing Assistance Payments (HAP) Contract, and HAP Contract Renewal; and

f. the filing of Section 8 rental increases.

5. Complete personnel files, including but not limited to all documents reflecting current or last known addresses and phone numbers, job applications, job descriptions, employment agreements or contracts, consulting agreements or contracts, salaries, evaluations, ratings,

awards, promotions, merit pay increases, bonuses, distribution of stock options and performance shares, retirement packages, post-employment restrictions, confidentiality agreements, as well as any other financial incentives from the initial period of employment through the present for the following individuals:

a. Tom Alm
b. Patrizia A. Bailey
c. Mary Bergstrom
d. Howard Campbell
e. John Ehrhardt
f. Tracey Franklin
g. Virginia Glenn
h. John Robert Heiner
i. Rod Heller
j. David Lowe
k. Jack H. Murray
l. C. Shannon Murray
m. David O'Leary
n. Eric Ross
o. Carla R. Stoner
p. Barbara Stover
q. Roberta A. Ujakovich
r. Charlie Vanover
s. Charles S. Wilkins, Jr.

6. All organizational charts, manning charts, and personnel rosters that identify any and all employees, personnel, secretaries, and clerical staff at NHP who had responsibility, whether direct or indirect, for implementing or overseeing any phase of NHP's supervision or operation of the "Named Properties," including, but not limited to any and all departments handling Asset Management, Buyers Access, Finance and Administration.

7. All documents and records relating to NHP's Code of Ethics, Code of Conduct, compliance manuals, regulations, directives, procedures, guidelines, policies, notes, training materials and other documents and notes relating to compliance with HUD/FHA rules and regulations and with the Anti-Kickback Act, 41 U.S.C. §§ 51-58.

8. All documents and records of any audits, whether internal or external relating to the "Named Properties".

9. For each year from 1992 to the present, NHP's annual audited financial plans.

10. All documents and records relating to NHP's record and document retention and

destruction policies and procedures.

11. For each year from 1992 to the present, NHP's internal telephone directories.

12. All corporate records of NHP, including, but not limited to, articles of incorporation, by-laws, list of officers or directors, ownership records, minutes, resolutions, and related records.

BRYAN CAVE LLP
700 THIRTEENTH STREET, N.W.
WASHINGTON, D.C. 20005-3960
(202) 508-6000
FACSIMILE: (202) 508-6200

ST. LOUIS, MISSOURI
NEW YORK, NEW YORK
KANSAS CITY, MISSOURI
PHOENIX, ARIZONA
SANTA MONICA, CALIFORNIA

SHANGHAI, PEOPLE'S REPUBLIC OF CHINA
IN ASSOCIATION WITH BRYAN CAVE,
A MULTINATIONAL PARTNERSHIP,
LONDON, ENGLAND

RODNEY F. FAICE
DIRECT DIAL NUMBER
(202) 508-6002

INTERNET ADDRESS
RFFAICE@BRYANCAVE.COM

July 31, 2000

By Fax (415) 436-6748 and by First Class Mail

Joann M. Swanson, Esquire
Assistant United States Attorney
Northern District of California
10th Floor, Federal Building
450 Golden Gate Avenue, Box 36055
San Francisco, California 94102

Dear Ms. Swanson,

I have your letter of July 21, 2000, relating to the "NHP-Supervisory Management Fee Settlement."

Your letter correctly reflects the fact that the settlement specified under paragraph 2 of the December 17, 1998, agreement between Apartment Investment and Management Company ("AIMCO") and the United States Department of Housing and Urban Development ("HUD") (the "Agreement"). As you state, the period of time contemplated by the Agreement for the implementation of that settlement has been extended at the request of the United States. AIMCO has at all times remained ready, in good faith, to implement the settlement.

AIMCO agrees to memorialize a further extension of time within which to implement the settlement under paragraph 2 of the Agreement, as you have requested. We assume, in so stating, that all other provisions in the Agreement remain in full force and effect, and any other obligations of the parties therein are also extended. In addition, it would seem prudent to extend the implementation period until December 1, 2000, subject to further agreement of the parties, inasmuch as the September 15 date you suggested is already close.

If you agree to extend the provisions of the Agreement in accordance with the foregoing paragraph, i.e. subject to the premise that all obligations of the parties are extended and that the date for expiration of this extension is December 1, 2000, please sign a copy of this letter and return it to me, retaining the original in your files. A copy is provided herewith for that purpose.

DC01DOCS\194917.01

BRYAN CAVE LLP

Joann M. Swanson, Esquire
July 31, 2000
Page 2

At your convenience, I am available to discuss this matter further.

Sincerely yours,

Rodney F. Page
Counsel for AIMCO

cc: Helen Gaebler, Esq. (DOJ)
Joel F. Bonder, Esq. (AIMCO)

Agreed on behalf of the United States of America and the United States Department of Housing and Urban Development:

8-7-00

Joanne M. Swanson
Assistant United States Attorney

DC01DOCS/194917.01

EXHIBIT A

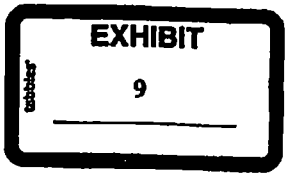


EXHIBIT A

TPA and 2530 Applications Submitted By and on Behalf of AIMCO and Insignia
1997-2002

Timeframe	2530 Applications for Properties Owned	2530 Applications for Properties Managed	TPA's	
AIMCO NHP Merger - 1997[1]	145	141		
Insignia (Pre AIMCO) - 1997[2]	1	43		
Insignia Merger - 1998[3]	242	437		
Outside of merger - 1998[4]	12	24		
1999[5]	1	8	24	
Oxford Merger - 2000[6]	69			
Outside of merger - 2000[7]	10	17		
2001[8]	2	1	3	
Casden/Napico Merger - 2002[9]	329	119		
Outside of merger - 2002[10]			1	
Totals	811	790	28	1629

[1] Submitted as result of AIMCO/NHP merger/acquisition. Not clear whether separate 2530 application submitted for each property, or one 2530 application submitted for all properties, or both.

[2] Submitted by and on behalf of Insignia before AIMCO/Insignia merger/acquisition.

[3] Submitted by and on behalf of AIMCO as result of AIMCO/Insignia merger/acquisition.

[4] Submitted by and on behalf of AIMCO and Insignia.

[5] Submitted by and on behalf of AIMCO.

[6] Submitted by and on behalf of AIMCO as result of AIMCO/Oxford merger/acquisition (Oxford Realty Financial Group, Inc. and Oxford Holdings Corp.).

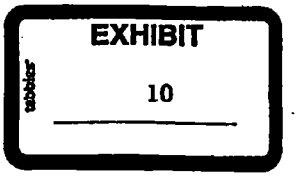
[7] Submitted by and on behalf of AIMCO.

[8] Submitted by and on behalf of AIMCO.

[9] Submitted by and on behalf of AIMCO as result of AIMCO/Casden Properties, Inc. and Napico merger/acquisition.

[10] Submitted by and on behalf of AIMCO.

EXHIBIT B



APR-16-'99 FRI 15:27 ID:PARTICP & COMPLI DIV TEL NO: #721 P01

2530's approved ag HUD

BKUP2530 Query 04/16/1999

PRTIN	PROJNAME	PRJNUM	PRT2N	ANALYST	RECVD
INSIGNIA RES	ANTON SQUA	062-35366	MURRAY, JAC	KT	03/11/1999
INSIGNIA RES	BETHEL APAR	054-35002	MURRAY, JAC	KT	03/18/1999
INSIGNIA RES	BETHEL BISH	054-35025	MURRAY, JAC	KT	03/18/1999
INSIGNIA RES	CEDAR CREE	062-36270	MURRAY, JAC	KT	03/11/1999
INSIGNIA RES	CHESTNUT PL	024-35040	MURRAY, JAC	KT	04/01/1999
INSIGNIA RES	COMMUNITY	042-44136	MURRAY, JAC	KT	03/11/1999
INSIGNIA RES	CONNECTICU	054-35060	MURRAY, JAC	KT	03/18/1999
INSIGNIA RES	CROFT HOUS	054-EH001	MURRAY, JAC	KT	03/18/1999
INSIGNIA RES	ELM APARTM	054-02505	MURRAY, JAC	KT	03/18/1999
INSIGNIA RES	FAIRWOOD A	054-35051	MURRAY, JAC	KT	03/18/1999
INSIGNIA RES	FOREST HILL	062-35002	MURRAY, JAC	KT	03/11/1999
INSIGNIA RES	HERITAGE CO	024-EH015	MURRAY, JAC	KT	04/01/1999
INSIGNIA RES	JEFFERSONIA	089-35309	MURRAY, JAC	KT	03/11/1999
INSIGNIA RES	JOSEPH PAUL	054-35020	MURRAY, JAC	KT	03/18/1999
INSIGNIA RES	LAKESIDE AP	054-EH003	MURRAY, JAC	KT	03/18/1999
INSIGNIA RES	LAPLATA GRA	062-34514	MURRAY, JAC	KT	03/31/1999
INSIGNIA RES	LAPLATA GRA	062-35360	MURRAY, JAC	KT	03/31/1999
INSIGNIA RES	LAWRENCE S	042-35395	MURRAY, JAC	KT	03/11/1999
INSIGNIA RES	LINCOLN APA	054-35061	MURRAY, JAC	KT	03/18/1999
INSIGNIA RES	MAPLE KNOLL	022-35011	MURRAY, JAC	KT	04/01/1999
INSIGNIA RES	MCNALLEY H	022-44029	MURRAY, JAC	KT	04/01/1999
INSIGNIA RES	MILL RUN	062-35344	MURRAY, JAC	KT	03/11/1999
INSIGNIA RES	MT. ZION AME	054-35037	MURRAY, JAC	KT	03/18/1999
INSIGNIA RES	MT. ZION AME	054-44055	MURRAY, JAC	KT	03/18/1999
INSIGNIA RES	OAKLAND AP	054-44076	MURRAY, JAC	KT	03/18/1999
INSIGNIA RES	ORLEANS GA	054-35005	MURRAY, JAC	KT	03/18/1999
INSIGNIA RES	PALMETTO A	054-44011	MURRAY, JAC	KT	03/18/1999
INSIGNIA RES	PARKVIEW AP	054-35038	MURRAY, JAC	KT	03/18/1999
INSIGNIA RES	PENDLETON	126-44093	MURRAY, JAC	KT	04/07/1999
INSIGNIA RES	PINECREST I	024-EH012	MURRAY, JAC	KT	04/01/1999
INSIGNIA RES	PINETREE	054-44141	MURRAY, JAC	KT	03/18/1999
INSIGNIA RES	PINEWOOD P	054-35047	MURRAY, JAC	KT	03/18/1999
INSIGNIA RES	RIVERBEND A	ME36-H017-32	MURRAY, JAC	KT	03/18/1999
INSIGNIA RES	ROOSEVELT	054-35083	MURRAY, JAC	KT	03/18/1999
INSIGNIA RES	ST. STEPHEN	054-35075	MURRAY, JAC	KT	03/18/1999
INSIGNIA RES	STANDPOINT	054-35494	MURRAY, JAC	KT	03/18/1999
INSIGNIA RES	STONEGATE	062-92002	MURRAY, JAC	KT	03/11/1999
INSIGNIA RES	SWIFT CREEK	054-44099	MURRAY, JAC	KT	03/18/1999
INSIGNIA RES	THE WOODLA	062-35342	MURRAY, JAC	KT	03/11/1999
INSIGNIA RES	WATERFORD	062-10519	MURRAY, JAC	KT	03/11/1999
INSIGNIA RES	WESTVIEW A	042-35286	MURRAY, JAC	KT	03/11/1999
INSIGNIA RES	WESTWOOD	054-35242	MURRAY, JAC	KT	03/18/1999
INSIGNIA RES	WILTON GENI	024-EH009	MURRAY, JAC	KT	04/01/1999
INSIGNIA RES	WOODLAND C	062-35358	MURRAY, JAC	KT	03/11/1999
INSIGNIA RES	WOODLAND C	062-35358	MURRAY, JAC	KT	03/11/1999

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OPTIONAL FORM 99 (7-90)

FAX TRANSMITTAL # of pages ▸ 1

To Kate Murray — From Dana Theriot

Dept./Agency — Phone #

Fax # — Fax #

NSN 7540-01-317-7368 5099-101 GENERAL SERVICES ADMINISTRATION

161 Total

AMREAL 018056

PRTIN	PROJNAME	PR.NUM	STATUS	PRTZN	ANALYST	RECVD
MURRAY, JAC	DRUID HILLS	054-35433	A		KT	03/18/1999
MURRAY, JAC	HI VIEW GAR	033-44025	A		KT	03/18/1999
MURRAY, JAC	HICKORY HEI	054-35139	A		KT	03/18/1999
MURRAY, JAC	CLINTON MAN	054-35403	A		KT	03/18/1999
MURRAY, JAC	CANYON	087-35040	A		KT	03/18/1999
MURRAY, JAC	CL LUND HILL	FM39-H200-02	A		KT	03/18/1999
MURRAY, JAC	KALMIA APAR	054-35451	A		KT	03/18/1999
MURRAY, JAC	INDIAN LAND	054-35161	A		KT	03/18/1999
MURRAY, JAC	GREENLEAF	IHDA-MI-74	A		KT	03/18/1999
MURRAY, JAC	FOREST GRO	102-10527	A		KT	03/25/1999
MURRAY, JAC	GLENDALE TE	054-44046	A		KT	03/18/1999
MURRAY, JAC	J.B. MILAM	116-35117	A		KT	03/18/1999
MURRAY, JAC	CARNEGIE TO	033-44074	A		KT	03/18/1999
MURRAY, JAC	CAPITOL HEI	045-35003	A		KT	03/18/1999
MURRAY, JAC	GREENVILLE	054-35395	A		KT	03/18/1999
MURRAY, JAC	WALHALLA G	054-44063	A		KT	03/18/1999
MURRAY, JAC	SUNSET TOW	102-44014	A		KT	03/18/1999
MURRAY, JAC	SUNNY HILL	076-35080	A		KT	03/18/1999
MURRAY, JAC	TOWN AND C	073-35454	A		KT	03/18/1999
MURRAY, JAC	WOODLAND A	054-44020	A		KT	03/18/1999
MURRAY, JAC	TILLERY RIDG	087-35085	A		KT	03/18/1999
MURRAY, JAC	ROOSEVELT	054-35166	A		KT	03/18/1999
MURRAY, JAC	THE WOODS	IL08-0034-001	A		KT	03/18/1999
MURRAY, JAC	SALEM MANO	126-44169	A		KT	03/18/1999
MURRAY, JAC	SUNNYBROO	087-35103	A		KT	03/18/1999
MURRAY, JAC	THE WOODS		A		KT	03/18/1999
MURRAY, JAC	PULLMAN WH	071-35360	A		KT	03/18/1999
MURRAY, JAC	WOODCREST	117-44105	A		KT	03/22/1999
MURRAY, JAC	WEST VIRGINI	045-35082	A		KT	03/18/1999
MURRAY, JAC	WESTGATE VI	033-35032	A		KT	03/18/1999
MURRAY, JAC	THE GLENS	054-35505	A		KT	03/18/1999
MURRAY, JAC	SWIFT CREEK	054-35459	A		KT	03/18/1999
MURRAY, JAC	WESTGATE VI	033-35016	A		KT	03/18/1999
MURRAY, JAC	STONEWALL I	087-35016	A		KT	03/18/1999
MURRAY, JAC	STONEWALL I	087-35043	A		KT	03/18/1999
MURRAY, JAC	STRAWBRIDG	000-35149	A		KT	03/18/1999
MURRAY, JAC	STEEPLECHA	054-35323	A		KT	03/18/1999
MURRAY, JAC	NORTH WASH	071-35472	A		KT	03/18/1999
MURRAY, JAC	LONG MEADO	054-44119	A		KT	03/18/1999
MURRAY, JAC	MARTEL PAR	122-35371	A		KT	03/18/1999
MURRAY, JAC	MIDTOWN PL	033-44175	A		KT	03/18/1999
MURRAY, JAC	MODEL CITY	087-35052	A		KT	03/18/1999
MURRAY, JAC	MODEL CITY	087-35049	A		KT	03/18/1999
MURRAY, JAC	VANTAGE POI	102-35132	A		KT	03/18/1999
MURRAY, JAC	1212 SOUTH	071-35358	A		KT	03/18/1999
MURRAY, JAC	NEW SALEM A	033-44128	A		KT	03/18/1999
MURRAY, JAC	NEWTON PLA	102-35148	A		KT	03/18/1999

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AMREAL 018057

SKUP2530 Query 04/16/1999

PRTIN	PROJNAME	PRJNUM	STATUS	PRTIN	ANALYST	RECVD
MURRAY, JAG	PULLMAN WH	971-35369	A		KT	03/16/1999
MURRAY, JAG	NORTHWASH	971-34077	A		KT	03/16/1999
MURRAY, JAG	WALWALLA O	994-35117	A		KT	03/16/1999
MURRAY, JAG	TUBLEWEED	102-35164	A		KT	03/16/1999
MURRAY, JAG	PINE HAVEN	992-35264	A		KT	03/16/1999
MURRAY, JAG	PINE TREE VI	993-35038	A		KT	03/16/1999
MURRAY, JAG	TRINITY HBY	994-35019	A	INSIGNIA RES	KT	03/16/1999
MURRAY, JAG	TRIALRIDGE	102-35162	A		KT	03/16/1999
MURRAY, JAG	PLEASANT VI	022-44260	A		KT	03/16/1999
MURRAY, JAG	POINT JAMES	994-35097	A		KT	03/16/1999
MURRAY, JAG	NEWBERRY A	994-35369	A		KT	03/16/1999
INSIGNIA RES	FOREST HILL	993-35002	A	MURRAY, JAG	KT	03/16/1999
INSIGNIA RES	LINCOLN APA	994-35097	A	MURRAY, JAG	KT	03/16/1999
INSIGNIA RES	HERITAGE CO	02CE-35015	A	MURRAY, JAG	KT	04/01/1999
INSIGNIA RES	RIVERBEND A	02BM-35017-03	A	MURRAY, JAG	KT	03/16/1999
INSIGNIA RES	ORLEANS CA	994-35015	A	MURRAY, JAG	KT	03/16/1999
INSIGNIA RES	ROOSEVELT	994-35018	A	MURRAY, JAG	KT	03/16/1999
INSIGNIA RES	WOODLANDS	992-35249	A	MURRAY, JAG	KT	03/16/1999
INSIGNIA RES	MAPLE KNOLL	022-35011	A	MURRAY, JAG	KT	04/01/1999
INSIGNIA RES	LAWRENCE S	012-35136	A	MURRAY, JAG	KT	03/16/1999
INSIGNIA RES	MONTALEY H	022-44039	A	MURRAY, JAG	KT	04/01/1999
INSIGNIA RES	MILL RUN	992-35114	A	MURRAY, JAG	KT	03/16/1999
INSIGNIA RES	LAPLAYA GRA	992-35249	A	MURRAY, JAG	KT	03/16/1999
INSIGNIA RES	MT. ZION AME	994-35037	A	MURRAY, JAG	KT	03/16/1999
INSIGNIA RES	MT. ZION AME	994-44050	A	MURRAY, JAG	KT	03/16/1999
INSIGNIA RES	PARKVIEW AP	994-35034	A	MURRAY, JAG	KT	03/16/1999
INSIGNIA RES	LAKESIDE AP	992-35033	A	MURRAY, JAG	KT	03/16/1999
INSIGNIA RES	PINEWOOD P	994-35047	A	MURRAY, JAG	KT	03/16/1999
INSIGNIA RES	JOSEPH PAUL	994-35029	A	MURRAY, JAG	KT	03/16/1999
INSIGNIA RES	UPPER SONIA	994-35109	A	MURRAY, JAG	KT	03/16/1999
INSIGNIA RES	OAKLAND AP	994-44078	A	MURRAY, JAG	KT	03/16/1999

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AMREAL 018058

PRTN	PROJNAME	PRJNUM	STATUS	PRTN	ANALYST	RECVD
VIRGINIA REA	PALMETTO A	044-44011	A	MURRAY, JAC	KT	03/18/1999
VIRGINIA REA	PENCLETON	116-44013	A	MURRAY, JAC	KT	04/07/1999
VIRGINIA REA	PINEFOREST A	021-EN012	A	MURRAY, JAC	KT	04/01/1999
VIRGINIA REA	PINETREE	044-44111	A	MURRAY, JAC	KT	03/18/1999
VIRGINIA REA	LAPLATA GRA	008-44114	A	MURRAY, JAC	KT	03/31/1999
VIRGINIA REA	THE WOODLA	044-44125	A	MURRAY, JAC	KT	03/11/1999
VIRGINIA REA	WOODLAND G	003-44126	A	MURRAY, JAC	KT	03/11/1999
VIRGINIA REA	ANTON SCHA	062-44130	A	MURRAY, JAC	KT	03/11/1999
VIRGINIA REA	WALTON REAL	027-EN009	A	MURRAY, JAC	KT	04/01/1999
VIRGINIA REA	WESTWOOD	012-EN002	A	MURRAY, JAC	KT	03/18/1999
VIRGINIA REA	WESTVIEW A	041-44103	A	MURRAY, JAC	KT	03/11/1999
VIRGINIA REA	BETHEL APAR	084-44002	A	MURRAY, JAC	KT	03/18/1999
VIRGINIA REA	BETHEL HIGH	084-44022	A	MURRAY, JAC	KT	03/18/1999
VIRGINIA REA	WATERFORD	043-44018	A	MURRAY, JAC	KT	03/18/1999
VIRGINIA REA	CEDAR CREEK	003-EN010	A	MURRAY, JAC	KT	03/11/1999
VIRGINIA REA	CHESTNUT PL	021-44010	A	MURRAY, JAC	KT	04/01/1999
VIRGINIA REA	FAIRWOOD A	021-44001	A	MURRAY, JAC	KT	03/18/1999
VIRGINIA REA	SWIFT CREEK	021-44019	A	MURRAY, JAC	KT	03/18/1999
VIRGINIA REA	POQUANTY	021-44154	A	MURRAY, JAC	KT	03/11/1999
VIRGINIA REA	CONNECTICU	084-44005	A	MURRAY, JAC	KT	03/18/1999
VIRGINIA REA	ST. STEPHEN	044-44078	A	MURRAY, JAC	KT	03/18/1999
VIRGINIA REA	CROFT HOUS	041-EN001	A	MURRAY, JAC	KT	03/18/1999
VIRGINIA REA	STANDPOINT	041-44140	A	MURRAY, JAC	KT	03/18/1999
VIRGINIA REA	BLUE APARTM	044-44105	A	MURRAY, JAC	KT	03/18/1999
VIRGINIA REA	STONEGATE	003-44002	A	MURRAY, JAC	KT	03/11/1999
VIRGINIA REA	CENTREVILLE	084-44048	A	MURRAY, JAC	KT	04/01/1999
MURRAY, JAC	BURNETT MA	073-44151	A		KT	03/18/1999
MURRAY, JAC	NEW SALEM A	033-44139	A		KT	03/18/1999
MURRAY, JAC	BEVERLY APA	027-44116	A		KT	03/18/1999
MURRAY, JAC	LINDAU APA	044-44107	A		KT	03/18/1999
MURRAY, JAC	DEERFIELD A	073-44007	A		KT	03/18/1999
MURRAY, JAC	FAIRVIEW OA	044-44025	A		KT	03/18/1999
MURRAY, JAC	LAURENS VIL	044-44109	A		KT	03/18/1999
MURRAY, JAC	EDENBRIDGE	FIDA WL-30	A		KT	03/18/1999
MURRAY, JAC	FRIENDSHIP	044-44075	A		KT	03/18/1999
MURRAY, JAC	CHERRY HILL	035-44007	A		KT	03/18/1999
MURRAY, JAC	CROSS CREEK	027-44071	A		KT	03/18/1999
MURRAY, JAC	HIVIEW OAK	084-44023	A		KT	03/18/1999

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Exhibit 8. Summary of Current and Projected Total Management Fees

NOTES TO BE FORECLOSED

BPTG Carolina I	7.5%												
1 Orleans		100	Charleston	SC	$39,237	$0	$14,708	$500	$54,445	$46,672	3.00%	$56,078	$57,761	$59,494
2 Roosevelt I	8%	100	Orangeburg	SC	$39,806	$0	$12,705	$500	$53,011	$38,572	3.00%	$54,601	$56,239	$57,927
3 Roosevelt II	7.25%	100	Orangeburg	SC	$40,122	$0	$11,326	$500	$51,948	$16,575	3.00%	$53,506	$55,112	$56,765
* 4 Walhalla	9%	32	Walhalla	SC	$0	$0	$0	$0	$0	$0	3.00%	$0	$0	$0
BPTG Carolina II	9.5%												
1 Madison		92	Savannah	GA	$32,132	$1,502	$15,901	$460	$49,995	$35,306	3.00%	$51,495	$53,040	$54,631
2 Swift Creek	10%	48	Darlington	SC	$21,873	$1,031	$4,304	$240	$27,368	$4,115	3.00%	$28,189	$29,035	$29,906
BPTG Carolina III	8.5%												
1 Palmetto		40	Burton	SC	$17,045	$1,283	$4,438	$200	$22,966	$8,449	3.00%	$23,655	$24,365	$25,096
2 Parkview	8%	60	Beaufort	SC	$25,315	$1,003	$8,998	$300	$36,616	$31,617	3.00%	$37,714	$38,846	$40,011
3 Ramblewood	9%	96	Shelby	SC	$25,866	$1,657	$11,662	$480	$39,665	$62,602	3.00%	$40,855	$42,081	$43,343
TOTAL		668			$241,396	$6,496	$83,942	$3,180	$336,014	$293,908		$346,094	$356,477	$367,172

8 properties -

* We currently manage * 490 Walhalla I

AMREAL_015538

EXHIBIT 4

tabbies EXHIBIT 11

INSIGNIA RESIDENTIAL GROUP, L.P.
ONE INSIGNIA FINANCIAL PLAZA • P. O. BOX 1089
GREENVILLE, SOUTH CAROLINA 29602
Phone: (864) 239-1428 Fax: (864) 239-1495 or 1455

PART I NOTICE OF MANAGEMENT OF AN ASSISTED/AFFORDABLE PROPERTY

Submitted By: Brenda DuPre Date: February 10, 1998

Effective Date:	January 1, 1998
Property Number:	37464
Property Name:	PALMETTO Apartments
Property Address:	209 Old Jericho Road
	Burton, SC 29902 (county Beaufort)
Telephone Number:	(803) 524-9191
Fax Number:	(803) 524-4927
Modem Number:	
Number Units:	40
HUD FHA#/Section 8#/FmHA #:	FHA#054-44011 / Section 8#SC16-L000-06
Insignia Affiliation:	Non-Affiliated
Portfolio Number & Reference Name:	30016
Owner: New Palmetto Limited Partnership	by: BFG Carolina III Inc., G.P.
Federal ID Number:	04-2845888
Property Manager:	Mary Chapman
District Manager:	Cliff Smalls
Regional Vice President	Frank DuPree
Sr. Vice President:	Jim Mathes
Previous Management:	Boston Financial
	101 Arch Street
	Boston, MA 02110
	David Flad / 617-439-3911

National Purchasing: YES Swimming Pool: NO Propane Gas: NO

PART 2 MANAGEMENT FEE INFORMATION SCHEDULE

Submitted By: Brenda DuPre Date: April 13, 1998

(Part 2 Not Applicable)

Term of Contract:	01/01/98-12/31/02; thereafter, like-term renewal
Cancellation Provisions:	60 days initial term / 30 days renewal term
Management Fee:	8.5%
Bookkeeping Fee:	5.30
Other Fees:	
Expense Limit:	10,000

cc: Distribution List
cc: (Form & Agreement) Brent Cox DM RVP Sr. VP
cc: Mike Bickford / Affiliated

EXHIBIT KSM
1
HEDIGER 1/8/09

AMREAL_015460

EXHIBIT
12

INSIGNIA RESIDENTIAL GROUP, L.P.
ONE INSIGNIA FINANCIAL PLAZA ◆ P. O. BOX 1089
GREENVILLE, SOUTH CAROLINA 29602
Phone: (864) 239-1428 Fax: (864) 239-1495 or 1455

PART I: NOTICE OF MANAGEMENT OF AN ASSISTED/AFFORDABLE PROPERTY

Submitted By: Brenda DuPre Date: February 10, 1998

Effective Date:	January 1, 1998
Property Number:	37463
Property Name:	ORLEANS GARDENS Apartments
Property Address:	1900 Hazelwood Drive Charleston, SC 31405 (county Charleston)
Telephone Number:	(803) 556-4184
Fax Number:	(803) 769-6854
Modem Number:	
Number Units:	100
HUD FHA#/Section 8#/FmHA #:	FHA#054-35005 / Section 8#SC16-M000-026
Insignia Affiliation:	Non-Affiliated
Portfolio Number & Reference Name:	30016
Owner: New Orleans Gardens Apartments Associates	by: BFG Carolina I, G.P.
Federal ID Number:	04-2845875
Property Manager:	TBA
District Manager:	Cliff Smalls
Regional Vice President	Frank DuPree
Sr. Vice President:	Jim Mathes
Previous Management:	Boston Financial 101 Arch Street Boston, MA 02110 David Flad / 617-439-3911

National Purchasing: YES Swimming Pool: NO Propane Gas: NO

PART 2: MANAGEMENT FEE INFORMATION SCHEDULE

Submitted By: Brenda DuPre Date: April 13, 1998
(Cert & Mgt Agreement attached)

Term of Contract:	1/1/98-12/31/02; thereafter, like-term renewal
Cancellation Provisions:	60 days initial term / 30 days prior to renewal term
Management Fee:	7.5%
Bookkeeping Fee:	5.30
Other Fees:	
Expense Limit:	10,000

cc: Distribution List
cc: (Form & Agreement) Brent Cox DM RVP Sr. VP
cc: Mike Bickford/Affiliated

AMREAL_015461

INSIGNIA RESIDENTIAL GROUP, L.P.
ONE INSIGNIA FINANCIAL PLAZA @ P. O. BOX 1089
GREENVILLE, SOUTH CAROLINA 29602
Phone: (864) 239-1428 Fax: (864) 239-1495 or 1455

PART I. NOTICE OF MANAGEMENT OF AN ASSISTED/AFFORDABLE PROPERTY

Submitted By: Brenda DuPre Date: February 10, 1998

Effective Date:	January 1, 1998
Property Number:	37465
Property Name:	PARKVIEW Apartments
Property Address:	2500 Duke Street
	Burton, SC 29902 (county Beaufort)
Telephone Number:	(803) 524-7815
Fax Number:	(803) 524-4927
Modem Number:	
Number Units:	60
HUD FHA#/Section 8#/FmHA #:	FHA#054-35038/ Section 8#SC16-M000-041
Insignia Affiliation:	Non-Affiliated
Portfolio Number & Reference Name:	30016
Owner: New Parkview Limited Partnership by: BFG Carolina III Inc., G.P.	
Federal ID Number:	04-2845889
Property Manager:	Mary Chapman
District Manager:	Cliff Smalls
Regional Vice President	Frank DuPree
Sr. Vice President:	Jim Mathes
Previous Management:	Boston Financial
	101 Arch Street
	Boston, MA 02110
	David Flad / 617-439-3911

National Purchasing: YES Swimming Pool: NO Propane Gas: NO

PART 2. MANAGEMENT FEE INFORMATION SCHEDULE

Submitted By: Brenda DuPre Date: April 13, 1998

(Cert & Mgt Agreement Attached)

Term of Contract:	01/01/98-12/31/02;thereafter, like-term renewal
Cancellation Provisions:	60 days initial term / 30 days renewal term
Management Fee:	7.5%* (*NOTE-original fee was listed as 8.0%)
Bookkeeping Fee:	5.30
Other Fees:	
Expense Limit:	10,000

cc: Distribution List

cc: (Form & Agreement) Area Dir DM RVP Sr. VP

cc: Mike Bickford/Affiliated

INSIGNIA RESIDENTIAL GROUP, L.P.
ONE INSIGNIA FINANCIAL PLAZA • P. O. BOX 1089
GREENVILLE, SOUTH CAROLINA 29602
Phone: (864) 239-1428 Fax: (864) 239-1495 or 1455

PART I: NOTICE OF MANAGEMENT TO BE ASSIGNED TO FOR DOABLE PROJECTS

Effective Date:	January 1, 1998
Property Number:	37461
Property Name:	ROOSEVELT GARDENS I Apartments
Property Address:	3290 Magnolia Street Orangeburg, SC 29115 (county Orangeburg)
Telephone Number:	(803) 524-9701
Fax Number:	(803) 533-1876
Modem Number:	(803) 533-1750 / 803-536-4288
Number Units:	100
HUD FHA#/Section 8#/FmHA #:	FHA#054-35063 / Section 8#SC16-M000-051
Insignia Affiliation:	Non-Affiliated
Portfolio Number & Reference Name:	30016
Owner:	New Roosevelt I Apartments Associates LP by: BFG Carolina I Inc., G.P.
Federal ID Number:	04-2845876
Property Manager:	Valerie Powell
District Manager:	Melanie Thompson
Regional Vice President	Frank DuPree
Sr. Vice President:	Jim Mathes
Previous Management:	Boston Financial 101 Arch Street Boston, MA 02110 David Flud / 617-439-3911

National Purchasing: YES **Swimming Pool:** NO **Propane Gas:** NO

PART 2: MANAGEMENT FEE INFORMATION SCHEDULE

Submitted By: Brenda DuPree **Date:** April 13, 1998

(Term of Agreement is Flexible)

Term of Contract:	01/01/98-12/31-02; thereafter, like-term renewal
Cancellation Provisions:	60 days initial term / 30 days renewal term
Management Fee:	8.0%
Bookkeeping Fee:	5.30
Other Fees:	
Expense Limit:	10,000

cc: Distribution List
cc: (Form & Agreement) Brent Cox RM RVP Sr. VP
cc: Mike Bickford / Affiliated

EXHIBIT KSM
3
HEDIGAN 1/8/09

MEMORANDUM

TO: File

FROM: Ford von Weise

DATE: August 31, 1999

RE: AIMCO Chronology

2nd Week, May, 1999: Spoke with Mike Bickford of AIMCO about taking back the Orphans which they had agreed to as part of the BF Carolina deal. Mike said they didn't want to take back all the deals but were interested in taking back the good ones. I said we were not interested in that and that we wanted them to take all of them back as a portfolio. Alternatively, I proposed we sell the portfolio in a third party sale with them getting all the excess proceeds over deal costs and that we hire Berkeley to market the portfolio. Mike tentatively agreed to this strategy but said he had to talk with his people about it. I called later to schedule a meeting in Greenville with him.

May 27, 1999. Greenville, SC. Meeting with Mike Bickford, Doug Plyler and Tom Shuler to discuss Orphans. Stephen Roger and I asked them to live up to their agreement to take the deals back. They refused and said they would agree to market the deals through Berkeley and get the excess proceeds. We agreed and scheduled a trip through South Carolina to visit the properties and the markets with Bickford and Plyler.

June 8, 1999. Called Pender Murphy of Berkeley to discuss marketing the Orphans. He asked for financial information for the deals. Faxed information to him.

June 11, 1999. Sent Letter of Intent to Mike Bickford to market Orphans through Berkeley.

June 22-24, 1999. Tour of South Carolina to visit the deals. Mike Bickford and Doug Plyler informed me that they were being laid off at the end of August and that the Orphans would be handled by Les Boeckel out of Denver. Bickford said LOI was being reviewed in Denver and would be signed shortly.

July 6, 1999. Called Les Boeckel to inquire why the LOI hadn't been signed. Les said he would look into and get back to me.

July 12, 1999. Les Boeckel informed me that AIMCO had decided to take the deals back but were concerned about HUD's requirement for a TPA. They were selling a subsidized portfolio and would include these deals as "sweeteners". He said he would ask Jack Murray of AIMCO to research with HUD weather or not HUD would require a TPA from AIMCO.

EXHIBIT 6

EXHIBIT 13

AMREAL 00563

July 19 - August 13, 1999. Called Les on several occasions to inquire about the status of their discussions with HUD regarding the TPA. Les did not return calls, except for Agust 20th were he said he did not know anything but would call the following week.

August 24, 1999. Les called to say that AIMCO did not want to take the deals back due to HUD's requirement for a TPA. He also informed me that they would be resigning as management agent for the Orphans due their concern over a possible 2530 problem associated with their management of them. He said he was still willing to take back the better deals. I informed him that the portfolio had to remain intact in order for us to sell it. He asked me to hire a broker to sell the portfolio and to get three bids. I replied that we had asked Berkley to stop work due to AIMCO's previous desire to take the deals back. I also said that the portfolio in my opinion did not have much value due to the dire capital needs of three deals and the decrease in income due to the mark-to-market program coming us on three deals. He responded by saying that the management contracts had value of $2-$3 million. I said that the capital needs would chew up a bunch of that value and that a buyer would have to have some value in the deal to be incented to buy. He insisted that I involve a third party broker because he had a fiduciary responsibility to his investors to seek the highest value. He stated he needed a third party valuation to give to his investors.

September 2, 1999. Les called to check in to see how I was coming on hiring a third party broker. I replied that we had asked Berkeley to look at the deals again and that the preliminary feedback indicated that there wasn't much value. I also informed him of last night's fire at Roosevelt. Les said he wasn't surprised that there wasn't much value but needed something to give his investors. I said to prepare his investors for the eventuality that they wouldn't be getting any money. I also reminded him that the better BF Carolina second notes were settled for $0.10 on the dollar and that these were the worst deals and, correspondingly, he should get a lot less, maybe nothing. He said he understood and agreed. He even asked if we had considered simply walking way from the deals and giving them back to HUD. I said that would create a 2530 problem and didn't want to do that and that we might have to find someone to take the deals for a $1.00. Les was very understanding and appeared to be looking for something to give his investors. Les even admitted to me that the only thing of value was the management contracts and that they themselves had given that away. He said the 2530 problem was just to great for them to worry about value to their investors.

STATE OF SOUTH CAROLINA
COUNTY OF BEAUFORT
IN THE COURT OF COMMON PLEAS
FOURTEENTH JUDICIAL CIRCUIT

CONSOLIDATED CASES: 2005-CP-07-1990 (Beaufort) (Pinewood); 2005-CP-07-1989 (Beaufort) (Palmetto); 2005-CP-10-4229 (Charleston) (Orleans); 2005-CP-38-1131 (Orangeburg) (Roosevelt), Laurance H. Davis, Jr., et al.,
Plaintiffs.

vs.

Parkview Apartments, a South Carolina Limited Partnership; Apartment Investment and Management Company a/k/a AIMCO; Insignia Financial Group, Inc.; AmReal Corporation a/k/a and f/k/a USS Corporation a/k/a and f/k/a U.S. Shelter Corporation; ISTC Corporation; N. Barton Tuck, Jr.; and John Doe, a generic designation for a party or parties whose true identity is unknown,
Defendants.

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DEPOSITION OF

BRADFORD L. VON WEISE

January 13, 2009
9:58 a.m.

Jet Aviation of America, Inc.
380 Hanscom Drive
Bedford, Massachusetts

Susan A. Romano, Notary Public, Registered Merit Reporter and Certified Realtime Reporter within and for the Commonwealth of Massachusetts

EXHIBIT
14
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converted to market rate units, and how Boston Financial might go about marketing those properties to convert to -- to sell them to be converted to create some -- some return to their investors. Because they never received any return on the tax benefits or a very limited return for a short period of time.

So the was -- the idea was to market the entire portfolio to somebody who would go out and convert the properties to market rate and try and create some value, because, you know, in and of themselves as HUD properties, they didn't have a tremendous amount of value.

Q. Okay. And among those that were put out for, I guess, bids, did that include Parkview? Was it a part of the group?

A. Yes, it was.

Q. And Palmetto --

A. Yes.

Q. -- was it part of the group?

And Orleans, was it part of the group?

A. Yes.

Q. And Roosevelt 1, was it part of the group?

A. Yes.

Q. And how were these properties -- and this was, as a larger group of -- as part of the larger group of properties, I assume?

A. Yes.

Q. How would they -- how did you go about putting them out to the market, so to speak?

A. An offering memorandum was prepared for the real estate industry as a group of properties. I do not know how many people bid on it, but I know it was put out to a large number of people. There were several bidders. I was not directly involved in that process. But what I do know is that all the bidders came back and said, we will purchase the portfolio properties minus what we came to know as, what we called the "orphans." And the four properties you just mentioned were part of the orphan group.

Nobody -- we tried to force people to buy the entire portfolio to include the

orphans, but nobody was willing to do so, so ultimately, the portfolio was sold without the four properties you mentioned being included in part of the sale. Just the way it was.

Q. Okay. Let me -- let's see.

MR. JOHNSTON: This is coming apart. Your stapler is as good as ours.

BY MR. JOHNSTON:

Q. Let me hand you what

MR. JOHNSTON: Let's ask the court reporter to mark this as Exhibit 2 to your deposition.

(Exhibit-2, July 30, 1997 Letter, marked for identification).

BY MR. JOHNSTON:

Q. Mr. von Weise, I put in front of you what has been marked as Exhibit 2 to your deposition, which appears to be an offer that was presented to Insignia Financial Group in connection with Dogwood Forest I apartments, which I believe was -- were part of the ones that were not considered "orphans."

MR. BAILEY: Before you answer, let me just ask you, Ellis, where are you

(Deponent viewing document)

A. Next item, "There is interest rate risk associated with the funding of this transaction."

Again, during the construction period, construction loans are variable rate loans. If there was a -- a quick spike-up in interest rates could have a dramatic negative impact on the construction costs of the project.

(Deponent viewing document)

And the last item, "There's a limited window of opportunity to take advantage of the HUD prepayment program."

HUD initiated, during this time, the ability for people to prepay mortgages and convert properties to market-rate housing. And the question was, how long would that window for people to get out of their existing contracts remain open? There was a rush of properties to prepay their mortgages to take them out of the program, but there was a risk that that may not continue in the -- in the medium term or distant future.

Q. Okay. Now we've gone through the

risk associated with the -- the, quote, non-orphans. Why didn't the -- if you know, why were the orphans -- why didn't people bid on them? Why didn't they want them to be part of --

MR. BAILEY: Objection --

A. I can speak --

MR. BAILEY: -- to the form.

You can answer.

BY MR. JOHNSON:

Q. Okay. Go ahead.

A. I can speak generally to the orphans as a collective group of properties, of nine properties, but not specifically to any one property. But, primarily, the -- a bunch of reasons. Number one, the people who bought the other properties didn't feel that there was a substantial upside in -- in converting the -- the orphans to market-rate properties, that there wasn't enough of a delta to be made to justify the investment. Also, some of the orphan properties had substantial deferred maintenance. And the overall demographics of where these properties resided, for the most part, was not terribly

desirable. There were some properties located in better areas, but the people who were looking to buy these properties didn't feel that there was significant upside there.

Q. Now, did -- we're going to get into a little more detail about your own evaluation, but -- of the properties and the numbers and that type of thing, but is that consistent with what you found upon your review, not only of the financial statements of the properties but your visit to the properties? Is that -- is that consistent with that?

A. Based on visiting, you know, hundreds of properties over several years and being generally familiar with affordable housing and properties purchased as part of the tax advantage boom in the early '80s and late '70s, as well as my familiarity with tax credit housing, for the most part, these properties were dumps, they were in poor shape, not in good areas. So the answer to your question is, yes.

What I subsequently found on physical inspections of these properties, and

I can speak generally as a group in comparison to my experience with affordable housing and in comparison to the specific group of properties that were sold to be converted, which are collectively not known as the "orphans," I would say yes, they were -- I can see why the investor -- why the investor group who purchased the overall group of properties excluded these. In comparison to the rest of the properties, they were in much worse physical and financial condition.

Q. Okay. Now, why, as I understand it, all of these properties were HUD-financed and supported properties; is that --

A. Yes. There were different HUD mortgages on some of the -- it wasn't exact structure -- the structure wasn't the same for every property, but yes, generally, there was HUD assistance both in the form of debt and income assistance.

Q. Why would you want to convert and take these out of HUD?

A. Well, if a property was in an area that you could -- an attractive area, you might be able to buy the property and invest

invoice that backs it up somewhere --

Q. I'm not concerned about that.

A. -- if you gave me ten, you know, ten hours to dig through my old computer records.

Q. Please don't.

Let me just sort of summarize, and then I'm going to turn the floor over to Mr. Bailey and Mr. Pendarvis.

But it's my understanding that Boston Financial attempted to market not only the properties that are issued -- at issue in this litigation, together with the other orphans, but others to basically put together a package, and submitted it to the real estate market in general; is that correct?

A. Yes.

Q. And the responses that you got to that, you got several bids, all of which excluded these nine, quote, orphans?

A. Correct.

MR. BAILEY: Objection to the form.

BY MR. JOHNSTON:

Q. In response to that bid package,

what -- I was just trying to summarize. I apologize.

In response to that bid package, did you receive a number of bids?

A. Yes.

Q. Did any of them include the Carolina -- excuse me, the orphans?

A. No.

Q. Did you independently analyze the properties, their financials, and visit the properties themselves?

A. Yes.

Q. And did you come to the conclusion that the properties had no value above the first mortgage?

A. Yes.

Q. Did -- and did you also -- I think we saw this in Exhibit Number 3, analyze the value of the properties, if you continued them and if they were continued in the HUD program?

A. Yes.

Q. And did you reach the same conclusion under that scenario?

A. Yes, I did.

Q. Okay. Did you attempt to have -- get a reputable real estate investment group to market the properties?

A. Yes.

Q. And was that Berkeley Capital Advisors?

A. Yes.

Q. And did they agree to market the properties?

A. No.

Q. In speaking with AIMCO representatives, did they come to the same conclusion that you did and Berkeley did, that the properties had no value?

MR. BAILEY: Objection to the form.

A. As stated to me by Les Boeckel, yes.

Q. Okay. And, ultimately, the properties were sold to, looks like Carolina IX LLC, for essentially nominal consideration; is that fair?

A. Yes.

Q. During the course of my questions today you have, perhaps, delved into the

MR. JOHNSTON: I'll withdraw the question.

BY MR. JOHNSTON:

Q. I see an entry on August 24, "Les called to say that AIMCO did not want to take the deals back due to HUD's requirement for a TPA."

(Deponent viewing document)

What was -- I guess my question is, is what are HUD's requirements when you do a transfer of physical assets? Or is there anything associated with capital improvements and that type of thing?

A. The short answer is yes. The properties have to have any deferred maintenance brought current.

Q. Okay. And why is maintenance -- I mean, you indicated earlier that there's a limited amount of return that you get. Why is maintenance deferred on a property such as this?

A. There just isn't cash available.

Q. Okay. Well, isn't there something called a "reserve for improvements" or "reserve for" -- there's some category of

reserve that HUD requires?

A. Typically, the reserves were not sufficient to pay for this, but sometimes HUD, seizing an opportunity to get work done on properties that they otherwise wouldn't get done, sometimes would require owners to do more work than was originally contemplated when you established and calculated the level of reserves.

Q. Okay. And if -- if you do not bring the -- if the owner doesn't have the money to bring the property up to snuff, what happens? Is that a black mark?

A. It -- if the problem got worse enough and HUD got mad enough, it could be a black mark and affect a firm's ability to obtain and participate in new HUD projects going forward.

Q. How about a manager? Is it a black mark on his record putting the property as not properly maintained?

A. I can't recall. I don't know specifically.

Q. Okay. All right. Let's go to the September 2, 1999 entry. And this

Q. Okay.

A. Originally it was AIMCO had managed the properties for a period of time. AIMCO called us up and said they no longer wanted to manage the properties. I had to scramble to find somebody to manage the properties and I gave the management to Gary Hediger.

Q. Okay. And then it goes on to say he said the 20 -- you mentioned the 2530 problem earlier with respect to Boston Financial. And your last sentence says, he said the 2530 problem is just too great for them to worry about value to their investors.

(Deponent viewing document)

What is the -- what -- what is this 2530 problem or issue?

A. The 2530 refers to, actually, a form that HUD requires every property owner to file to essentially obtain a, what one might call a "certificate of good standing with HUD."

Q. Okay.

A. And that HUD, as part of the Reagan administration's reforms, had been under a tremendous amount of pressure to force

property owners to clean up their act, essentially, and that they were really -- whereas the form was essentially a formality before, it was now being used by HUD to gain leverage against property owners and to force property owners to invest money in older properties to upgrade them.

Q. Okay.

A. And that in -- the 2530, in order for anybody to buy a HUD-sponsored property to develop a new HUD property, you had to have a clean 2530.

Q. Okay. What -- and I've seen these 2530s, you know, you -- do you file -- you file a 2530 if you're an owner, as well as if you're a manager; is that correct?

A. I can only speak from the perspective of owners, as I was never -- never worked for our management company or was involved in a management company --

Q. Okay.

A. -- so I can only speak from -- my only knowledge was that an owner had to file it. I don't know if a management company had to file it. I wouldn't be surprised if

A. Yes.
Q. And what did Mr. Boeckel tell you about the management contracts?
A. Specifically, I can't remember what he said at the time.
Q. All right. But what did you put down in your memo that he said at that time?
(Deponent viewing document)
A. That the only thing on these properties of any value were the management contracts themselves.
Q. Okay. And did he also indicate to you that they themselves had given those away?
A. Yes.
Q. Okay. And would that coincide with your earlier notation about them resigning as manager?
A. Yes.
Q. Okay. Now, when he says in the last sentence that the 2530 problem was just too great for them to worry about value to their investors, did he elaborate at all on the 2530 problem?
A. No. He did not specifically say

what their 2530 -- what the 2530 problem meant to them. He implied that these properties themselves had issues relating to their 2530, but he did not elaborate.

Q. Okay. And did he -- did he, at any time, ever tell you that AIMCO had their 2530s flagged by HUD because of a -- of a kickback scheme investigation that HUD was doing on one of their affiliates and AIMCO?

A. No, he did not.

MR. JOHNSTON: Object to the form of the question.

Good stopping point to go get something to eat?

MR. BAILEY: Is it ready?

(Recess)

BY MR. BAILEY:

Q. Mr. von Weise, during this '99, up until 2000 time frame, was Boston Financial in the process of merging with Lend Lease?

A. Yes. But I can't remember exactly when the merger took place.

Q. I don't know that it really matters that much, but let me just give you a reference point. Looking at the purchase

AMREAL 00567

South Carolina Insignia Portfolio Analysis - *Updated to Include Mark-to-Market Rent Adjustments & Capital Improvements*

	New Madison	New Orleans	New Palmetto	New Parkview	New Ramblewood	New Roosevelt I	New Roosevelt II	New Swift Creek	New Wathalla	Total	Per Unit
Effective Gross Income	$ 390,360	$ 490,000	$ 177,728	$ 288,000	$ 293,580	$ 417,000	$ 477,000	$ 185,845	$ 125,000	$ 2,852,493	4,270
Less Operating Expenses	(345,749)	(389,746)	(150,417)	(223,910)	(217,233)	(368,562)	(349,343)	(216,650)	(105,120)	(2,341,720)	(3,505)
Net Operating Income	$ 44,611	$ 120,254	$ 27,311	$ 65,090	$ 73,327	$ 48,448	$ 133,657	$ (30,805)	$ 19,880	$ 510,773	765
Value at 13.00% Cap Rate	$ 343,162	$ 925,031	$ 210,085	$ 500,692	$ 564,054	$ 372,677	$ 1,028,131	$ (160,038)	$ 145,231	$ 3,929,023	5,882
Outstanding First Mortgage	1,002,927	469,456	311,537	301,709	619,626	514,534	1,167,368	329,365	181,155	4,929,001	7,378
After 1st Mortgage Value	*(659,765)*	*455,575*	*(101,752)*	*198,983*	*(45,573)*	*(141,857)*	*(159,258)*	*(489,403)*	*(35,924)*	*(999,979)*	*(1,497)*
Less Capital Improvements	(425,000)	(395,000)	(150,000)	(225,000)	(750,000)	(150,000)	(175,000)	(225,000)	(175,000)	(2,670,000)	(3,997)
Market Value	*(1,084,765)*	*60,575*	*(251,752)*	*(26,017)*	*(795,573)*	*(291,857)*	*(334,258)*	*(714,403)*	*(210,924)*	*(3,669,979)*	*(5,494)*
Outstanding Second Mortgage	240,752	696,421	153,444	269,731	294,559	610,294	321,108	75,669	130,865	2,682,843	4,016
Accrued Interest on 2nd	1,301,877	991,537	478,726	807,704	817,660	934,830	846,881	388,007	253,674	6,831,496	10,227
After 2nd Note Value	*(2,202,394)*	*(1,152,383)*	*(733,922)*	*(898,452)*	*(1,128,214)*	*(1,555,981)*	*(1,327,327)*	*(963,079)*	*(420,463)*	*(10,514,117)*	*(15,740)*
1st Mortgage Type	236	221(d)(3)	236	236	236	221(d)(3)	221(d)(3)	236	236		
Section 8 Expiration	3/31/99 10/31/99	10/31/98	9/30/98	9/30/98	9/30/98 9/30/00	8/30/98	5/31/99	10/31/98 10/31/03	7/31/99 9/30/99		
Units	92	100	40	60	95	100	100	48	32	668	
Current Assets	$ 34,155	$ 70,743	$ 23,609	$ 59,838	$ 34,272	$ 71,942	$ 39,775	$ 50,232	$ 12,365	$ 396,732	
Payables - Operations	$ 62,886	$ 7,263	$ 20,322	$ 6,810	$ 8,954	$ 62,493	$ 50,293	$ 42,422	$ 2,910	$ 265,483	
Management Fee	$ 30,720	$ 43,860	$ 14,668	$ 26,925	$ 19,306	$ 40,369	$ 37,003	$ 20,091	$ 11,059	$ 243,901	$ 365
Other Fees	$ 4,476	$ 5,412	$ 2,692	$ 3,732	$ 3,024	$ 5,812	$ 16,681	$ 8,747	$ 766	$ 51,344	$ 77
Location	601 W. 64th Street Savannah, GA	1900 Hazelwood Drive Charleston, SC	Highway 280, #127 Burton, SC	2500 Duke Street Beaufort, SC	203 Ramblewood Drive Shelby, NC	Highway 601 North Orangeburg, SC	Highway 601 North Orangeburg, SC	411 Wells Street Darlington, SC	100 Wathalla Gardens Ctr. Walhalla, SC		

Von Weise
Exhibit 3
Date: 1/13/09
Rptr: Susan A. Romano

February 1, 2000

Mr. Bradford L. von Weise
Vice President
LEND LEASE
101 Arch Street
Boston, MA 02110-1106

Re: ***Roosevelt Gardens Apartments, Phases I & II***
Parkview Apartments
Palmetto Apartments
Swift Creek Apartments
Orleans Gardens Apartments

Dear Ford:

The meeting with Barton Tuck and the other partners that you may attend in February involves only the above referenced properties. I am attaching a mortgage balance and the NOI for each.

There are three (3) properties in the Mark to Market process. They are:

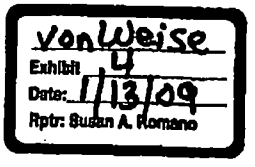
Roosevelt Gardens, Phase I – will have its rent cut by $25,000 decreasing the NOI by $25,000. In addition, the Replacement Reserve will be increased from $20,800 a year to $35,000. I am also attaching the summary pages of the Physical Condition Assessment prepared by JPS & Associates, Inc. for South Carolina State Housing Finance and Development Authority, the PAE who is doing the Mark to Market for HUD. If you will note on the second page of the Executive Summary there is $928,118 worth of repairs that may be required. The owner will be required to contribute 25% of this amount under the Mark to Market program or face foreclosure.

Roosevelt Gardens, Phase II – will have its revenue cut $109,000 directly reducing the NOI. In addition, the Replacement Reserve will be increased from $22,100 a year to $25,000. Also attached is the Executive Summary done by the same firm showing $906,802 of work to be done on the property with the owner contributing 25%.

Parkview Apartments – the rent cut has not yet been established. The initial physical inspection and repairs has been done by MTB Investments, Inc. of Rockwall, Texas for the South Carolina State Housing Finance and Development Authority. The second page of the summary shows the total of various categories. All of them add up to $398,148 and again the ownership would be required to contribute 25% of this or face foreclosures.

AMREAL 00570

HEDIGER ENTERPRISES, INC. • 301 N. Main Street, Ste. 1901 • Greenville, SC 29601 Telephone: 864-370-0480 • Fax: 864-370-0482



00570

The next set of properties is not on the Mark to Market hit list; however, they do require extensive work.

Palmetto Apartments – I am enclosing the last couple of pages of our budget showing $163,000 worth of repairs needed.

Swift Creek Apartments – I am showing a schedule summarizing the work that we feel is needed for the property during the coming year.

Orleans Gardens Apartments – I am again enclosing the last few pages of the capital work that we feel is needed at the property. The amount of $187,900 may actually be slightly more because there are two fire-damaged areas that need repair. The proof of loss has been settled for $5,000 each less than the total cost of repairs, which is the amount of the deductible.

This last group of properties has yet to go through the TPA process. HUD's opinion of what needs to be repaired at the properties may actually be more than we estimated; therefore, HUD may require us to contribute more than we anticipated as a condition of their approval of the TPA.

Finally, you should be aware that the partners who are pushing Barton into this are all located in the Beaufort area and are familiar with the Parkview, Palmetto and Orleans Gardens properties possibly from recent visits.

Sincerely,

HEDIGER ENTERPRISES, INC.

Gary R. Hediger, CPM®
President

GRH/amm

J:\garyletters\vonweise2

STATE OF SOUTH CAROLINA)
COUNTY OF BEAUFORT)

AMENDED CERTIFICATE AND AGREEMENT OF LIMITED PARTNERSHIP

FILED
AUG 11 1975

THIS AMENDED CERTIFICATE AND AGREEMENT OF LIMITED PARTNERSHIP made this 1st day of June, 1975 by and among U. S. SHELTER CORPORATION, a South Carolina Corporation, and N. BARTON TUCK, JR. (hereinafter called "General Partners") and the Undersigned parties designated as Limited Partners (hereinafter called "Limited Partners").

W I T N E S S E T H :

WHEREAS, a Partnership was formed on September 5, 1968, under the laws of South Carolina pursuant to an Agreement dated as of that date, and

WHEREAS, said Partnership was amended in certain respects by an Amendment of Partnership Agreement dated April 30, 1970, and

WHEREAS, the parties hereto desire to amend the Partnership Agreement, as amended, for the purpose of, among other things, continuing the Partnership as a Limited Partnership and admitting U. S. Shelter Corporation and N. Barton Tuck, Jr. as General Partners, all effective as of the date hereof;

NOW, THEREFORE, for and in consideration of the mutual premises and covenants set forth herein, it is hereby agreed among the parties hereto as follows:

1. Continuation. A Partnership known as Orleans Gardens is hereby continued under the laws of the State of South Carolina as a Limited Partnership.

2. Name. The name of the Partnership shall be "Orleans Gardens, A Limited Partnership". The location of the principal place of business shall be in Charleston, Charleston County, South Carolina.

3. Purpose. The purpose of the Partnership shall be to own, manage and operate an apartment project located in Charleston, Charleston County, South Carolina known as Orleans Gardens and designated as FHA Porject No. 054-35005-LOP-SUP by the Department of Housing and Urban Development, Federal Housing Administration.

EXHIBIT
15

AMREAL 005823

December 31, 2008 unless sooner terminated by law or by any of the following:

(a) The withdrawal, retirement, death, insanity, adjudication of bankruptcy, insolvency, dissolution, liquidation or removal of either General Partner. If any such event occurs with respect to either General Partner, the remaining General Partner shall have the sole right to elect to continue the Partnership and the business of the Partnership which election shall be made within ninety (90) days of the occurrence of any such event. If there is no remaining General Partner then, if all the obligations of the General Partners and under any FHA Regulatory Agreement applicable to the project are assumed by a successor General Partner with such ninety (90) days period, approved in writing by all of the Limited Partners within ninety (90) days of receipt of written notice of such event, the Partnership shall not be dissolved but shall continue to do business. Each Limited Partner hereby agrees that he will accept and consent without further action to the election of a successor General Partner by 75% in interest of the Limited Partners. In such event the General Partners will be required to purchase the General Partner interest of the predecessor General Partner at a price equal to the then market price of such interest. In such event the relationship of the partners and of any person who has acquired an interest of a partner in the Partnership shall be governed by this Agreement which shall continue in full force and effect.

(b) Whenever partners owning 75% of the interest in the Partnership shall contemporaneously determine in writing that the Partnership shall be dissolved.

(c) The sale or condemnation of all or substantially all of the property of the Partnership; or the condemnation of a part of the property or the destruction of all or part of the property where the General Partners determine that no restoration is required or feasible.

In the event the Partnership is dissolved any group of Partners owning 75% of the total Partnership interest may reform the Partnership and continue in business under arrangements which make proper provisions for its liabilities.

AMREAL 005824

5. Capital. The capital contributed and the capital interest of each partner are as follows:

NAME	CAPITAL CONTRIBUTED	CAPITAL INTEREST
General Partners:		
U. S. Shelter Corporation		3%
N. Barton Tuck, Jr.		2%
Limited Partners:		
Carson R. Rentz	$ 30,000	20%
Edwin W. Pike, Jr.	30,000	25%
W. N. Hodge	30,000	25%
Arthur D. Mercy	27,000	25%

The Limited Partners shall not be required to make any additional capital contributions.

The net profits and losses and cash flow of the Partnership shall be distributed among the Partners in accordance with their respective capital interests.

6. Powers of the General Partners.

Effective as of the date hereof, U. S. Shelter Corporation and N. Barton Tuck, Jr. shall be the General Partners of the Partnership. The General Partners shall use their best efforts to further the interest of the Partnership but this shall not be construed so as to prevent them from engaging in other business

In addition to the powers given them by law, the General Partners shall have authority:

(a) To generally supervise the management of the Partnership property and the operations of the Partnership and to set up the management of the Partnership so as to provide for the efficient and economical operation of its business;

(b) To acquire, own, lease, mortgage, and manage the property;

(c) To negotiate, enter into and execute other contracts or leases or modifications thereof, and to incur obligations for and on behalf of the Partnership in connection with its business;

(d) To borrow money or issue evidences of indebtedness in furtherance of any of all of the objects of its business; to secure the same by a mortgage to be insured by the Federal Housing Authority, pledge or other lien;

-3-

AMREAL 005825

(e) To execute notes, guarantees, endorsements, loan applications, instruments and agreements of any and every sort required or requested from time to time by any lending institution;

(f) With the written consent of 75% in interest of the Limited Partnership to repay in whole or in part, refinance, recast, modify or extend any mortgage affecting the property, and in connection therewith to execute for and on behalf of the Partnership any or all extensions, renewals, modifications of such mortgage, or to execute new mortgages on the property in lieu of any mortgage, and to execute instruments to carry out the intentions and the purposes thereof;

(g) With the written consent of 75% in interest of the Limited Partners, to sell the property or any interests therein, and to execute in the name of the Partnership any contract, deed or other documents necessary to effect such sale;

(h) To make tax accounting elections including depreciation methods;

(i) To enter into any kind of activity, and to perform and carry out contracts of any kind to, or in connection with, or incidental to the accomplishment of the purposes of the Partnership including the entering into of contracts of any kind necessary or appropriate to the accomplishment of the development of the project referred to herein, including a Regulatory Agreement and any other contract or contracts with the Federal Housing Commissioner which may be desirable or necessary to comply with the requirements of the Federal Housing Act, as amended, and the Administrative Rules and Regulations of the Federal Housing Commissioner thereunder, relating to the regulations of restriction of mortgagors, rents, sales, charges, capital structure, rate of return and methods of operations;

(j) To enter into agreements for lease or management of the property with other firms or corporations (including the General Partners and including one in which a General or a Limited Partner has an interest; and to pay such firm such amount for such services as is permitted under applicable FHA regulations;

(k) To do any and all things necessary and proper for the accomplishment of the objects herein enumerated or necessary or incident to the protection and benefit of the Partnership.

The General Partners shall not be liable, responsible or accountable in damages or otherwise to any Partner for any acts performed by them in good faith within the scope of the authority conferred on them by this Agreement.

AMREAL 005826

interest in the Partnership, a General Partner or the General Partners may be removed provided that such removal shall be for good cause shown, including negligence, willfull misconduct, or other similar acts but such General Partner or General Partners shall not be removed if they have faithfully performed their duties pursuant to this Agreement.

7. Activities of Limited Partners.

The Limited Partners shall take no part in the conduct or control of the Partnership business and shall have no right or authority to act for the Partnership in any way. No Limited Partner shall be subject to calls or assessments for cash contributions beyond the amount of capital shown herein as already contributed nor shall any Limited Partner in his capacity as such, be bound by, or be personally liable for, any expense, liability or obligation of the Partnership, except to the extent of his contribution to the capital of the Partnership as reflected in his capital account.

8. Assignability of the Limited Partner's Rights and Interests.

The Limited Partners agree that they will not sell, transfer or assign, pledge, encumber, mortgage, or otherwise hypothecate the whole or any part of their interest in the Partnership without complying with the provisions of this paragraph.

(a) In the event that a Limited Partner shall desire to sell his interest in the Partnership, the such Limited Partner shall receive a bonafide written offer for the whole or any part of his interest in the Partnership, which offer is acceptable to such Partner, such Partner (herein referred to as the "Selling Party") may sell the whole or any part of such interest, as the case may be, after compliance with the following requirements and limitations:

(i) Such Selling Party shall extend to the General Partners a written offer to purchase the interest of the Selling Party at the same price as that contained in the bonafide written offer; provided, however, that the terms and conditions of the offer made to the General Partners need not be the same as the terms and conditions of the bonafide written offer. The General Partners (or their designees) shall have the right for a period of 15 days from the receipt of such written notice to purchase said interest in their pro rata percentages of ownership. If neither the General Partners nor their designees accept said offer within said 15-day period, the Selling Party shall then extend such offer to the Limited Partners at the same price. If neither the Limited

AMREAL 005827

[redacted] party, the Purchasing Party may, within thirty days of receipt of written notice of such offer, the Selling Party may thereupon accept such bonafide written offer, but if for any reason the Selling Party does not consummate such sale, the interest of the Selling Party shall continue to be subject to the provisions hereof.

(ii) In the event that any Purchasing Party deemed bound to purchase any interest of the Selling Party, or any portion thereof as above provided, shall default in his obligation to purchase the same, the Selling Party shall be deemed free of the restrictions imposed by the provisions of this subparagraph in respect to such interest or portion thereof.

(b) Notwithstanding the foregoing, the interest of a Limited Partner may be:

(i) Transferred or disposed of by Will or intestacy to or for the benefit of his immediate family.

(ii) Transferred during his lifetime, by gift or inter vivos trust to or for the benefit of his immediate family. For the purpose of this subparagraph, "immediate family" is defined as the husband, wife, adult child, father, mother or adult sister or adult brother of the Limited Partner.

(iii) Sold, transferred, assigned, pledged, encumbered or otherwise hypothecated to the Partnership or any other Partner herein.

(iv) Transferred or assigned to any Successor Corporation of a Limited Partner or to its stockholders in event of its dissolution.

(c) No conveyance of a Limited Partner's interest, or any part thereof, though otherwise permitted hereunder, shall be valid and effective, and the Partnership shall not recognize the same for the purposes of making payment of profits, income, return or contributions, or other distributions with respect to such interest or part thereof, until:

(i) The written consent of the General Partners is obtained with respect to the substitution of the Transferee as the new Limited Partner in place of the Transferor.

(ii) An appropriate instrument of conveyance or assignment is executed and filed with the General Partners, and

(iii) The incoming Limited Partner shall execute a Limited Partnership Agreement to evidence his acceptance and agreement to be bound as a Limited Partner by all the terms of this Agreement.

AMREAL 005828

(iv) If either the Transferor or the Transferee is a corporation, such corporation shall provide the General Partners with a certified copy of a Corporate Resolution authorizing the sale and/or purchase of such Partnership interest in accordance with the terms and conditions set forth herein.

(d) The Partnership shall, after recording any transfer pursuant to the provisions herein, thereafter pay all further distributions of income, profits and contributions on account of the interest transferred to the Transferee, regardless of whether such transfer as between the parties thereto, is or is intended to be by way of pledge, mortgage, encumbrance or other hypothecation, until such time as the interest transferred on its books in accordance with the provisions thereof.

9. Distribution on Dissolution.

Upon the dissolution and termination of the Partnership, the then General Partners shall proceed with the sale and liquidation of the Partnership assets on such terms as it may approve and the proceeds of such liquidation shall be applied and distributed as follows:

(a) To the payment of the debts and liabilities of the Partnership and the expenses of liquidation, including sales commission to the selling agent and any indebtedness to a Partner.

(b) To the setting up of any reserves which the then General Partners may deem reasonably necessary for any contingent or unforeseen liability or obligations of the Partnership or of the than General Partners arising out of or in connection with the Partnership. Such reserves shall be paid over by the then General Partners to a bank or to an attorney at law as escrowee, to be held for the purpose of disbursing such reserves in payment of any of the aforementioned contingencies, and, at the expiration of such period as the then General Partners shall deem advisable, to distributed the balance thereafter remaining in the manner provided in this section in the order named. Such assets on hand after payment of all debts and liabilities is hereafter referred to as Distributable Net Worth.

(c) To the payment to each of the Partners of any advance made and not repaid but not payment of contributed capital to the Partnership.

(d) To the payment to all Partners, to the extent available, an amount equal to the product of their respective interests provided herein and the Distributable Net Worth.

(e) The balance of any monies or other assets shall then be divided among all the Partners in proportion to their respective Partnership interests as set out herein.

AMREAL 005829

A reasonable time shall be allowed for the orderly liquidation of the assets of the Partnership and the discharge of liabilities to the creditors so as to enable the then General Partner to minimize the normal losses attendant upon liquidation. No Limited Partner shall have the right to demand and receive property other than cash in return for his capital contribution.

Each of the Partners shall be furnished with a statement prepared by the Partnership's then accountants, which shall set forth the assets and liabilities of the Partnership as at the date of complete liquidation and the manner in which the assets of the Partnership are to be distributed. Upon the then General Partners complying with the foregoing distribution plan (including payment over to the escrowee if there are sufficient funds therefor), the Limited Partners shall cease to be such, and the then General Partners shall execute, acknowledge and cause to be filed a Certificate of Cancellation of the Partnership.

Anything in this Agreement to the contrary notwithstanding, the then General Partners shall not be personally or individually liable for the return of any capital contributions of Limited Partners, or any portion thereof, it being expressly understood that any such return shall be made solely from Partnership assets; nor shall the General Partners be required to pay to the Partnership or the Limited Partners any advances or any deficit reflected in the Partnership capital account upon dissolution or otherwise.

10. Books, Records and Reports.

At all times during the continuance of the Partnership, the General Partners shall keep or cause to be kept true and full books of account, in which shall be entered fully and accurately the transactions of the Partnership; all of the books shall at all times be maintained at the principal office of the Partnership and shall be open to the inspection and examination of the Limited Partner or his representatives. The books and transactions of the Partnership shall be kept separately from all other books and transactions of the General Partners. The General Partners agree to deliver to the Limited Partners within a reasonable time after the expiration of each fiscal year of the Partnership a statement of receipt and expenses as prepared by the Partnership's accountant, together with a statement showing the profit or losses of the Partnership for Federal Income Tax purposes and the distribution thereof to the Limited Partners.

AMREAL 005830

(11) Neither U. S. Shelter Corporation nor N. Barton Tuck, Jr. shall be deemed to assume personal liability for any obligations of the Partnership incurred prior to their admission to the Partnership and the liability for such obligations shall be satisfied solely out of Partnership property.

EXCEPT AS SPECIFICALLY amended herein, the provisions of the Agreement dated September 5, 1968 as amended by Amendment of Partnership Agreement dated April 30, 1970 shall remain unchanged and in full force and effect.

IN WITNESS WHEREOF the parties hereto have set forth their hands and seals as of the date hereof.

GENERAL PARTNERS:

U. S. SHELTER CORPORATION

By: _____
N. Barton Tuck, Jr., President
P. O. Box 6725
Greenville, South Carolina 29606

_____
N. Barton Tuck, Jr.
P. O. Box 6725
Greenville, South Carolina 29606

LIMITED PARTNERS:

_____
Carson K. Kreitz
P. O. Box 1064
Beaufort, South Carolina 29902

_____
Edwin M. Pike, Jr.
P. O. Box 1064
Beaufort, South Carolina 29902

_____
H. M. Hodge
P. O. Box 636
Sumter, South Carolina 29150

_____
Arthur D. Mercy
P. O. Box 57
Manning, South Carolina 29102

AMREAL 005831

STATE OF SOUTH CAROLINA)
COUNTY OF Berkeley)

I, Michael A. Layton, a Notary Public in and for the State and County aforesaid, whose commission expires on the 15 day of January, 1978, do hereby certify that EDWIN W. PIKE, JR., signed and swore to the foregoing AMENDED CERTIFICATE AND AGREEMENT OF LIMITED PARTNERSHIP.

Given under my hand and Notarial seal, this 24 day of July, 1975.

Notary Public for South Carolina
My Commission Expires:

STATE OF SOUTH CAROLINA)
COUNTY OF Berkeley)

Michael A. Layton, a Notary Public in and for the State and County aforesaid, whose commission expires on the 15 day of January, 1978, do hereby certify that W. M. HODGE, signed and swore to the foregoing AMENDED CERTIFICATE AND AGREEMENT OF LIMITED PARTNERSHIP.

Given under my hand and Notarial seal, this 25 day of July, 1975.

Notary Public for South Carolina
My Commission Expires: 1-15-78

AMREAL 005832

STATE OF SOUTH CAROLINA }
COUNTY OF GREENVILLE }

I, Carol S. Reams, a Notary Public in and for the State and County aforesaid, whose commission expires on the 20th day of March, 1984, do hereby certify that U. S. SHELTER CORPORATION by its President and N. BARTON TUCK, JR. signed and swore to the foregoing AMENDED CERTIFICATE AND AGREEMENT OF LIMITED PARTNERSHIP.

Given under my hand and Notarial seal, this 23rd day of July, 1975.

Carol S. Reams
Notary Public for South Carolina
My Commission Expires: 3-20-84

STATE OF SOUTH CAROLINA }
COUNTY OF Greenville }

I, Michael A Voyles, a Notary Public in and for the State and County aforesaid, whose commission expires on the 15 day of January, 1978, do hereby certify that CARSON R. RENTZ, signed and swore to the foregoing AMENDED CERTIFICATE AND AGREEMENT OF LIMITED PARTNERSHIP.

Given under my hand and Notarial seal, this 25 day of July, 1975.

Michael A Voyles
Notary Public for South Carolina
My Commission Expires: 1-15-78

AMREAL 005833

STATE OF SOUTH CAROLINA)
COUNTY OF CLARENDON)

I, W. C. Boffey, Jr., a Notary Public in and for the State and County aforesaid whose commission expires on the 15th day of January, 1980, do hereby certify that ARTHUR D. MERCY, signed and swore to the foregoing AMENDED CERTIFICATE AND AGREEMENT OF LIMITED PARTNERSHIP.

Given under my hand and Notarial seal this 7th day of August, 1975.

Notary Public for South Carolina
My Commission Expires 1/15/80

AMREAL 005834

STATE OF SOUTH CAROLINA)
COUNTY OF ORANGEBURG)

AMENDED CERTIFICATE AND AGREEMENT OF LIMITED PARTNERSHIP OF ROOSEVELT GARDENS, A LIMITED PARTNERSHIP

THIS AMENDED CERTIFICATE AND AGREEMENT OF LIMITED PARTNERSHIP made this 1st day of June, 1975 by and among, HODGE LAND COMPANY, INC., a South Carolina Corporation, and CARSON R. RENTZ (hereinafter sometimes called "Former General Partners"), U. S. SHELTER CORPORATION, a South Carolina Corporation, and N. BARTON TUCK, JR. (hereinafter called "General Partners") and the Undersigned parties designated as Limited Partners (hereinafter called "Limited Partners").

W I T N E S S E T H :

WHEREAS, a General Partnership was formed and organized under the laws of the State of South Carolina pursuant to a Partnership Agreement dated May 15, 1970 which Partnership was continued as a Limited Partnership by a Limited Partnership Agreement dated February 18, 1971 and which Limited Partnership was further amended in certain respects as of August 1, 1971, all of which Amendments were reflected by a Certificate or Amended Certificate of Limited Partnership duly filed with the Office of the Secretary of State and the Clerk of Court of Orangeburg County, South Carolina; and

WHEREAS, the parties hereto desire to amend the Partnership Agreement, as amended, and the Certificate of Limited Partnership, as amended, for the purpose of, among other things, substituting U. S. Shelter Corporation and N. Barton Tuck, Jr. as General Partners in place of Hodge Land Company, Inc. and Carson R. Rentz who shall be deemed as withdrawn from the Partnership as General Partners but who shall become Limited Partners in the Partnership effective as of the date hereof, and,

WHEREAS, the parties hereto further desire to amend the Partnership Agreement, as amended, and the Certificate of Limited Partnership, as amended, by combining and incorporating both documents into the within Amended Certificate and Agreement of Limited Partnership,

NOW, THEREFORE, for and in consideration of the mutual premises and covenants set forth herein, the parties hereto hereby agree as follows:

EXHIBIT
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AMREAL 005860

1. Continuation. A Limited Partnership known as Roosevelt Gardens, a Limited Partnership is hereby continued under the laws of the State of South Carolina.

2. Name. The name of the Partnership shall be Roosevelt Gardens, A Limited Partnership. The location of the principal place of business shall be Orangeburg, Orangeburg County, South Carolina.

3. Purpose. The purpose of the Partnership shall be:

(a) To hold for investment, operate and manage an apartment project known as Roosevelt Gardens located in Orangeburg, Orangeburg County, South Carolina, and designated as FHA Project No. 054-35063-LDP-SUP.

(b) To mortgage, sell, transfer and exchange or otherwise convey and encumber said property and the improvements built thereon in furtherance of any of the Partnership's business in connection with said Project.

(c) To enter into contracts of any kind necessary or appropriate to the development of said Project, including, but not by way of limitation, any contract or contracts with the Federal Housing Commissioner which may be desirable or necessary to comply with the requirements of the National Housing Act, as amended, and the administrative rules and regulations of the Federal Housing Commissioner thereunder, relating to the regulations or restriction of mortgagors as to rents, sales, charges, capital structure, rate of return and methods of operation.

(d) To rent units in said Project from time to time for periods not less than thirty (30) days or more than three (3) years, collect the rents therefrom, pay the expenses incurred in connection with said property and distribute the net proceeds to the Partners, all of which shall be subject to any requirements which may be imposed by the Federal Housing Administration Regulatory Agreement.

4. Term. The term of the Partnership shall expire on August 2, 2011 unless sooner terminated by law or by any of the following events:

(a) The bankruptcy, resignation, death, incapacity, insolvency or removal of a General Partner, not otherwise provided for herein.

AMREAL 005861

(b) The sale or destruction of the improvements constructed on said premises; provided, however, that a sale of the improvements may not be made without the consent of all General Partners and at least 70% in interest of the Limited Partners in terms of profit and loss sharing ratio.

(c) The payment in full, foreclosure or other discharge of the first lien indebtedness on the said premises which is insured by the Federal Housing Administration; provided, however, that payment in full resulting from refinancing may not be made without the consent of the General Partners and 70% in interest of the Limited Partners in terms of profit and loss sharing ratio.

(d) The unanimous written consent of all partners.

The death of a Limited Partner shall not dissolve the Partnership nor terminate the Partnership business. Upon dissolution of this Partnership while the Regulatory Agreement with the Federal Housing Commissioner in connection with the insured loan on said Project is still in effect, no title or right to possession and control shall pass to any individual unless he has agreed to become bound by the Regulatory Agreement in a manner satisfactory to the Federal Housing Commissioner.

The insolvency, resignation, bankruptcy, removal or withdrawal for any other cause from the Partnership of either General Partner shall not result in the dissolution of the Partnership if all of the remaining Partners, General and Limited, shall unanimously elect to continue the Partnership with the remaining General Partners or Partner, and to carry on the business of the Partnership. Upon the dissolution of the Partnership by reason of the death, insolvency, incapacity, resignation, removal or bankruptcy of the last surviving General Partner the remaining Limited Partners, together with the personal representative of said General Partner, may elect by unanimous decision, to form a new Partnership with a new General Partner satisfactory to 70% in interest of the Limited Partners in terms of profits and loss sharing ratio. No General Partner may resign or withdraw from the Partnership without the consent of all of the Limited Partners and without providing a successor General Partner satisfactory to all of the Limited Partners. The Limited Partners will not unreasonably withhold approval of a proposed successor General Partner.

AMREAL 005862

5. Capital. The capital contributions and the capital interests of the partners are as follows:

Name	Capital Contributed	Capital Interest
General Partners:		
U. S. Shelter Corporation		3%
N. Barton Tuck, Jr.		2%
Limited Partners:		
Hodge Land Company, Inc.		25.0%
Carson R. Rentz		8.0%
Laurance H. Davis, Jr.	$ 100.00	13.0%
Dan Trotter	30,000.00	24.5%
Mortimer M. Weinberg, Jr.	30,000.00	24.5%

The net profits and losses and available cash flow of the Partnership shall be distributed to the partners in accordance with their respective capital interests.

The Limited Partners shall not be required to make any additional capital contributions beyond the amounts shown as contributed herein.

Effective as of the date hereof U. S. Shelter Corporation and N. Barton Tuck, Jr. shall be deemed as substituted as General Partners in place of Hodge Land Company, Inc. and Carson R. Rentz both of which shall be deemed as withdrawn from the Partnership as General Partners and which shall become Limited Partners effective as of the date hereof.

6. Neither U. S. Shelter Corporation nor N. Barton Tuck, Jr. shall be deemed to assume personal liability for any obligations of the Partnership incurred prior to their admission to the Partnership and such obligations shall be satisfied solely out of Partnership property.

EXCEPT AS SPECIFICALLY AMENDED herein the provisions of the Limited Partnership Agreement, as amended, and the Certificate of Limited Partnership, as amended, for Roosevelt Gardens, shall remain unchanged and in full force and effect as of the date hereof.

AMREAL 005863

hand and seals as of the date hereof.

FORMER GENERAL PARTNERS:

Hodge Land Company, Inc.

By: _____

Beaufort, South Carolina 29902

_____

Larson R. Rentz
P. O. Box 1064
Beaufort, South Carolina 29902

GENERAL PARTNERS:

U. S. Shelter Corporation

By: _____

[illegible]
Greenville, South Carolina 29606

_____

N. Bartow Tuck, Jr.
P. O. Box 6725
Greenville, South Carolina 29606

LIMITED PARTNERS:

Hodge Land Company, Inc.

By: _____

Beaufort, South Carolina 29902

_____

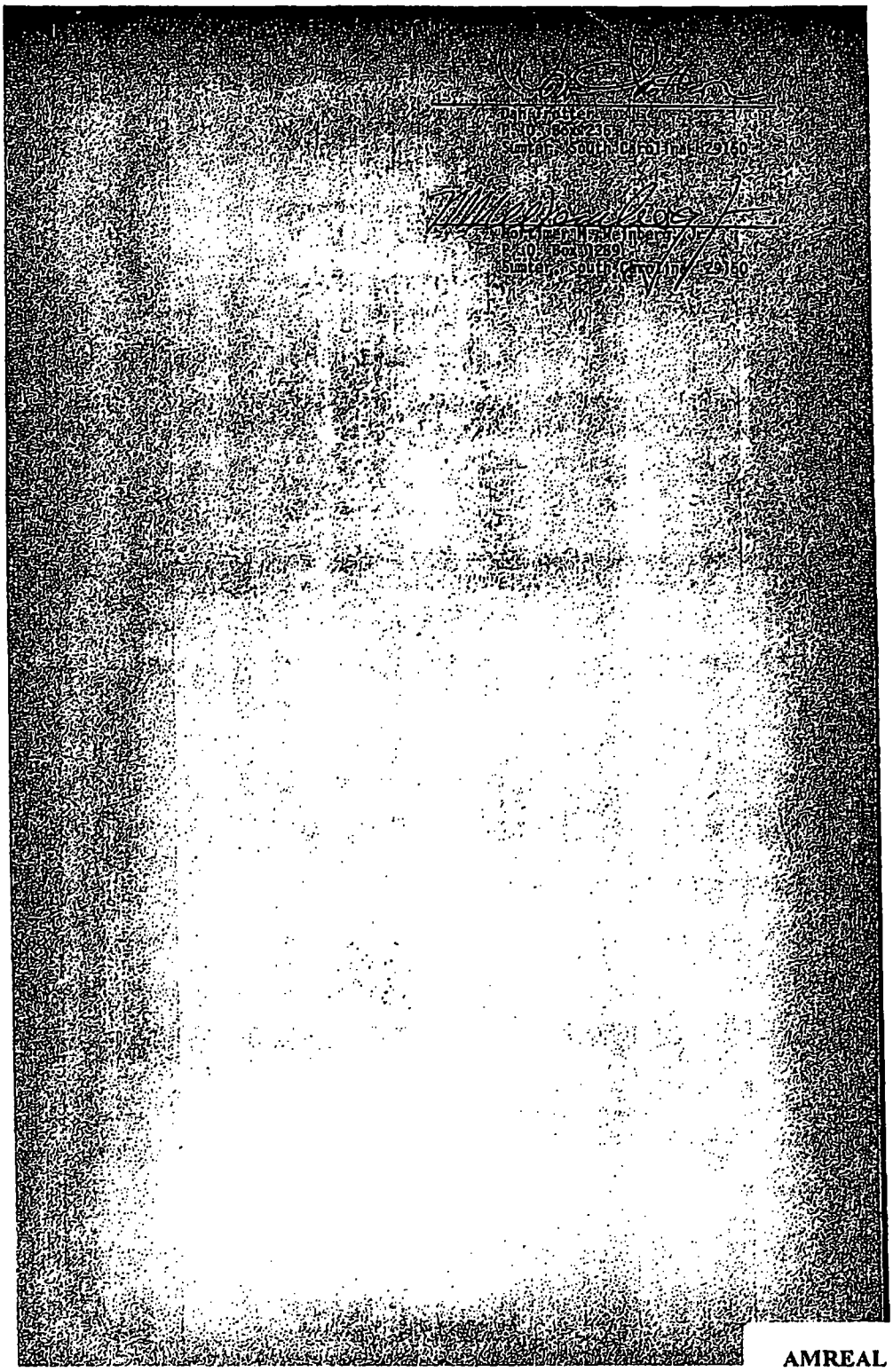
Larson R. Rentz
P. O. Box 1064
Beaufort, South Carolina 29902

_____

Laurance H. Davis, Jr.
P. O. Box 1064
Beaufort, South Carolina 29902

-5-

AMREAL 005864



AMREAL 005865

STATE OF SOUTH CAROLINA }
COUNTY OF Beaufort }

I, Michael A. Voyles, a Notary Public in and for the State and County aforesaid, whose commission expires on the 15 day of January, 1978, do hereby certify that HODGE LAND COMPANY, INC. by its President, signed and swore to the foregoing AMENDED CERTIFICATE AND AGREEMENT OF LIMITED PARTNERSHIP OF ROOSEVELT GARDENS, A LIMITED PARTNERSHIP.

Given under my hand and Notarial seal, this 25 day of July, 1975.

Notary Public for South Carolina
My Commission Expires: 1-15-78

STATE OF SOUTH CAROLINA }
COUNTY OF Beaufort }

I, Michael A. Voyles, a Notary Public in and for the State and County aforesaid, whose commission expires on the 15 day of January, 1978, do hereby certify that CARSON R. RENTZ signed and swore to the foregoing AMENDED CERTIFICATE AND AGREEMENT OF LIMITED PARTNERSHIP OF ROOSEVELT GARDENS, A LIMITED PARTNERSHIP.

Given under my Hand and Notarial seal, this 25 day of July, 1975.

Notary Public for South Carolina
My Commission Expires: 1-15-78

AMREAL 005866

STATE OF SOUTH CAROLINA)
COUNTY OF GREENVILLE)

I, Carol A Reams, a Notary Public in and for the State and County aforesaid, whose commission expires on the 20th day of March, 1984, do hereby certify U. S. SHELTER CORPORATION by its President and N. BARTON TUCK, JR., signed and swore to the foregoing AMENDED CERTIFICATE AND AGREEMENT OF LIMITED PARTNERSHIP OF ROOSEVELT GARDENS, A LIMITED PARTNERSHIP.

Given under my hand and Notarial seal, this 23rd day of July, 1975.

Carol A Reams
Notary Public for South Carolina
My Commission Expires: 3-20-84

STATE OF SOUTH CAROLINA)
COUNTY OF Beaufort)

I, Michael A Voytek, a Notary Public in and for the State and County aforesaid, whose commission expires on the 15 day of January, 19 78, do hereby certify that LAURANCE H. DAVIS, JR., signed and swore to the foregoing AMENDED CERTIFICATE AND AGREEMENT OF LIMITED PARTNERSHIP OF ROOSEVELT GARDENS, A LIMITED PARTNERSHIP.

Given under my hand and Notarial seal, this 25 day of July, 1975.

Michael A Voytek
Notary Public for South Carolina
My Commission Expires: 1-15-78

AMREAL 005867

STATE OF SOUTH CAROLINA }
COUNTY OF Sumter }

I, Ethel Praeger, a Notary Public for and in the State and County aforesaid, whose commission expires on the 20 day of October, 19 75, do hereby certify that DAN TROTTER, signed and swore to the foregoing AMENDED CERTIFICATE AND AGREEMENT OF LIMITED PARTNERSHIP OF ROOSEVELT GARDENS, A LIMITED PARTNERSHIP.

Given under my hand and Notarial seal, this 20 day of October, 1975.

Ethel Praeger
Notary Public for South Carolina
My Commission Expires: 2-1-80

STATE OF SOUTH CAROLINA }
COUNTY OF Sumter }

I, ETHEL PRAEGER, a Notary Public in and for the State and County aforesaid, whose commission expires on the 20 day of October, 19 75, do hereby certify that MORTIMER H. NEIDERS, JR., signed and swore to the foregoing AMENDED CERTIFICATE AND AGREEMENT OF LIMITED PARTNERSHIP OF ROOSEVELT GARDENS, A LIMITED PARTNERSHIP.

Given under my hand and Notarial seal, this 20 day of October, 1975.

Ethel Praeger
Notary Public for South Carolina
My Commission Expires: 2-1-80

AMREAL 005868

THIS AMENDED CERTIFICATE AND AGREEMENT made this [illegible] day of [illegible] 1975 by and among U. S. SHELTER CORPORATION, a South Carolina Corporation and H. BARTON TUCK, JR., (hereinafter called "General Partners") and the undersigned parties designated as Limited Partners (hereinafter called "Limited Partners").

W I T N E S S E T H :

WHEREAS, a Partnership known as Parkview Apartments was formed and organized under the laws of the State of South Carolina pursuant to a Partnership Agreement dated June 2, 1969, and

WHEREAS, the parties hereto desire to amend the Partnership Agreement for the purpose of, among other things, admitting U. S. Shelter Corporation and H. Barton Tuck, Jr. into the Partnership as General Partners and to amend the Partnership Agreement in certain other respects;

NOW THEREFORE, in and for the consideration of the mutual premises and covenants set forth herein, the parties hereto agree as follows:

1. Continuation.

A Partnership known as Parkview Apartments is hereby continued under the laws of the State of South Carolina as a Limited Partnership.

2. Name.

The name of the Partnership shall be Parkview Apartments, A Limited Partnership. The location of the office of the principal place of business shall be in Beaufort, Beaufort County, South Carolina.

3. Purpose.

The purpose of the Partnership shall be to own, operate and manage an apartment project known as Parkview Apartments located on Duke Street, Beaufort, South Carolina and designated as FHA Project Number 054-35038-LDP-SUP by the Department of Housing and Urban Development, Federal Housing Administration.

4. Term.

The term of the Partnership shall expire on December 31, 2009 unless sooner terminated by law or by any of the following:

EXHIBIT
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AMREAL 00711

Partner. If any such event occurs with respect to either General Partner, the remaining General Partner shall have the sole right to elect to continue the Partnership and the business of the Partnership, which election shall be made within ninety (90) days of the occurrence of any such event. If there is no remaining General Partner then, if all the obligation of the General Partners and under any FHA Regulatory Agreement applicable to the project are assumed by a Successor General Partner within such ninety (90) days period, approved in writing by all of the Limited Partners within ninety (90) days of receipt of written notice of such event, the Partnership shall not be dissolved, but shall continue to do business. Each Limited Partner hereby agrees that he will accept and consent without further action to the election of a Successor General Partner by 75% in interest of the Limited Partners. In such event the General Partners will be required to purchase the General Partner interest of the predecessor General Partner at a price equal to the then market price of such interest. In such event the relationship of the partners and of any person who has acquired an interest of a partner in the Partnership shall be governed by this Agreement which shall continue in full force and effect.

(b) Whenever partners owning 75% of the interest in the Partnership shall contemporaneously determine in writing that the Partnership shall be dissolved.

(c) The sale or condemnation of all or substantially all of the property of the Partnership; or the condemnation of a part of the property or the destruction of all or part of the property where the General Partners determine that no restoration is required or feasible.

In the event the Partnership is dissolved any group of Partners owning 75% of the total Partnership interest may reform the Partnership and continue in business under arrangements which make proper provisions for its liabilities.

5. Capital.

The capital contributions and the capital interest of the Partners are as follows:

AMREAL 00712

NAME	CONTRIBUTIONS	CAPITAL INTEREST
General Partners:		
U. S. Shelter Corporation		3%
H. Barton Tuck, Jr.		2%
Limited Partners:		
Laurance H. Davis, Jr.	$ 15,000	25%
Carson R. Rentz	15,000	20%
Edwin W. Pike, Jr.	15,000	25%
W. M. Hodge	15,000	25%

The net profits and losses and cash flow shall be distributed among the partners in accordance with their respective capital interest in the Partnership.

6. Powers of the General Partners.

Effective as of the date hereof, U. S. Shelter Corporation and H. Barton Tuck, Jr. shall be the General Partners of the Partnership. The General Partners shall use their best efforts to further the interest of the Partnership but this shall not be construed so as to prevent them from engaging in other business.

In addition to the powers given them by law, the General Partners shall have authority:

(a) To generally supervise the management of the Partnership property and the operations of the Partnership and to set up the management of the Partnership so as to provide for the efficient and economical operation of its business;

(b) To acquire, own, lease, mortgage, and manage the property;

(c) To negotiate, enter into and execute other contracts or leases or modifications thereof, and to incur obligations for and on behalf of the Partnership in connection with its business;

(d) To borrow money or issue evidences of indebtedness in furtherance of any of all of the objects of its business; to secure the same by a mortgage to be insured by the Federal Housing Authority, pledge or other lien;

(e) To execute notes, guarantees, endorsements, loan applications, instruments and agreements of any and every sort required or requested from time to time by any lending institution;

[redacted] Limited Partners [redacted] or extend any mortgage affecting the property and in connection therewith to execute for and on behalf of the Partnership any or all extensions, renewals, modifications of such mortgage, or to execute new mortgages on the property in lieu of any mortgage, and to execute instruments to carry out the intentions and the purposes thereof;

(g) With the written consent of 75% in interest of the Limited Partners, to sell the property or any interests therein, and to execute in the name of the Partnership any contract, deed or other documents necessary to effect such sale;

(h) To make tax accounting elections including depreciation methods;

(i) To enter into any kind of activity, and to perform and carry out contracts of any kind to, or in connection with, or incidental to the accomplishment of the purposes of the Partnership including the entering into of contracts of any kind necessary or appropriate to the accomplishment of the development of the project referred to herein, including a Regulatory Agreement and any other contract or contracts with the Federal Housing Commissioner which may be desirable or necessary to comply with the requirements of the Federal Housing Act, as amended, and the Administrative Rules and Regulations of the Federal Housing Commissioner thereunder, relating to the regulations of restriction of mortgagors, rents, sales, charges, capital structure, rate of return and methods of operations;

(j) To enter into agreements for lease or management of the property with other firms or corporations (including the General Partners and including one in which a General or a Limited Partner has an interest; and to pay such firm such amount for such services as is permitted under applicable FHA regulations;

(k) To do any and all things necessary and proper for the accomplishment of the objects herein enumerated or necessary or incident to the protection and benefit of the Partnership.

The General Partners shall not be liable, responsible or accountable in damages or otherwise to any Partner for any acts performed by them in good faith within the scope of the authority conferred on them by this Agreement.

AMREAL 00714

[redacted] interest in the Partnership. [redacted] General Partners may be removed provided that such removal shall be for good cause shown, including negligence, willful misconduct, or other similar acts but such General Partner or General Partners shall not be removed if they have faithfully performed their duties pursuant to this Agreement.

[redacted] Activities of the General Partners.

[redacted] shall take no part in the conduct or control of the business of the Partnership, shall have no right or authority to act for or bind the Partnership in connection with the business of the Partnership, except as expressly provided in this Agreement, and shall not be liable for any debts or losses of the Partnership beyond the amount of his contribution to the capital of the Partnership as set forth in his capital account.

5. Assignability of the Limited Partners' Rights and Interests.

The Limited Partners agree that they will not sell, transfer or assign, pledge, encumber, partake, or otherwise hypothecate the whole or any part of their interest in the Partnership without complying with the provisions of this paragraph:

(a) In the event that a Limited Partner shall desire to sell his interest in the Partnership, the such Limited Partner shall receive a bonafide written offer for the whole or any part of his interest in the Partnership, which offer is acceptable to such Partner, such Partner (herein referred to as the "Selling Party") may sell the whole or any part of such interest, as the case may be, after compliance with the following requirements and limitations:

(1) Such Selling Party shall extend to the General Partners a written offer to purchase the interest of the Selling Party at the same price as that contained in the bonafide written offer; provided, however, that the terms and conditions of the offer made to the General Partners need not be the same as the terms and conditions of the bonafide written offer. The General Partners (or their designees) shall have the right for a period of 15 days from the receipt of such written notice to purchase said interest

AMREAL 00715

[redacted] Party shall then extend such offer to the Limited Partners of the same price. If neither the Limited Partners nor their designees accept such offer within 15 days or receipt of written notice of such offer, the Selling Party may thereupon accept such bonafide written offer, but if for any reason the Selling Party does not consummate such sale, the interest of the Selling Party shall continue to be subject to the provisions hereof.

(b) In the event [redacted] Party agrees to purchase the same, the Selling Party shall be deemed free of the restrictions imposed by the provisions of this paragraph with respect to such interest or portion thereof.

(b) Notwithstanding the foregoing, the interest of a Limited Partner may be:

(i) Transferred or disposed of by [redacted] or testacy to or for the benefit of his immediate family.

(ii) Transferred during his lifetime, by gift or inter vivos trust to or for the benefit of his immediate family. For the purpose of this subparagraph, "immediate family" is defined as the husband, wife, adult child, father, mother or adult sister or adult brother of the Limited Partner.

(iii) Sold, transferred, assigned, pledged, encumbered or otherwise hypothecated to the Partnership or any other Partner herein.

(iv) Transferred or assigned to any Successor Corporation of a Limited Partner or to its stockholders in event of its dissolution.

(c) No conveyance of a Limited Partner's interest, or any part thereof, though otherwise permitted hereunder, shall be valid and effective, and the Partnership shall not recognize the same for the purposes of making payment of profits, income, return or contributions, or other distributions with respect to such interest or part thereof, until:

(i) The written consent of the General Partners in obtained with respect to the substitution of the Transferee as the new Limited Partner in place of the Transferor.

(ii) An appropriate instrument of conveyance or assignment is executed and filed with the General Partners, and

AMREAL 00716

[redacted]

(iv) If either the Transferor or the Transferee is a corporation, such corporation shall provide the General Partners with a certified copy of a corporate resolution authorizing the sale and/or purchase of such Partnership interest in accordance with the terms and conditions set forth herein.

(d) The Partnership shall, after recording any transfer pursuant to the provisions herein, thereafter pay all further distributions of income, profits and contributions on account of the interest transferred to the Transferee, regardless of whether such transfer as between the parties thereto, is or is intended to be by way of pledge, mortgage, encumbrance or other hypothecation, until such time as the interest transferred on its books in accordance with the provisions thereof.

9. Distribution on Dissolution.

Upon the dissolution and termination of the Partnership, the then General Partners shall proceed with the sale and liquidation of the Partnership assets on such terms as it may approve and the proceeds of such liquidation shall be applied and distributed as follows:

(a) To the payment of the debts and liabilities of the Partnership and the expenses of liquidation, including sales commission to the selling agent and any indebtedness to a Partner.

(b) To the setting up of any reserves which the then General Partners may deem reasonably necessary for any contingent or unforseen liability or obligations of the Partnership or of the then General Partners arising out of or in connection with the Partnership. Such reserves shall be paid over by the then General Partners to a bank or to an attorney at law as escrowee, to be held for the purposes of disbursing such reserves in payment of any of the aforementioned contingencies, and, at the expiration of such period as the then General Partners shall deem advisable, to distributed the balance thereafter remaining in the manner provided in this section in the order named. Such assets on hand after payment of all debts and liabilities is hereafter referred to as Distributable Net Worth.

AMREAL 00717

made and not repaid but only by payment of contributed capital to the Partnership.

(d) To the payment to all Partners, to the extent available, an amount equal to the product of their respective interests provided herein and the Distributable Net Worth.

(e) The balance of any monies or other assets shall then be divided among all the Partners in proportion to their respective Partnership interests as set out herein.

A reasonable time shall be allowed for the orderly liquidation of the assets of the Partnership and the discharge of liabilities to the creditors so as to enable the then General Partner to minimize the normal losses attendant upon liquidation. No Limited Partner shall have the right to demand and receive property other than cash in return for his capital contribution.

Each of the Partners shall be furnished with a statement prepared by the Partnership's then accountants, which shall set forth the assets and liabilities of the Partnership as at the date of complete liquidation and the manner in which the assets of the Partnership are to be distributed. Upon the then General Partners complying with the foregoing distribution plan (including payment over to the escrowee if there are sufficient funds therefor), the Libited Partners shall cease to be such, and the then General Partners shall execute, acknowledge and cause to be filed a Certificate of Cancellation of the Partnership.

Anything in this Agreement to the contrary notwithstanding, the then General Partners shall not be personally or individually liable for the return of any capital contributions of Limited Partners, or any portion thereof, it being expressly understood that any such return shall be made solely from Partnership assets; nor shall the General Partners be required to pay to the Partnership or the Limited Partners any advances or any deficit reflected in the Partnership capital account upon dissolution or otherwise.

10. Books, Records and Reports.

At all times during the continuance of the Partnership, the General Partners shall keep or cause to be kept true and full books of account, in which shall be entered fully and accurately the transactions of the Partnership; all of the books shall at all times be maintained at the principal office of the Partnership and shall be open to the inspection and examination of the Limited Partner or his representatives. The books and transactions of the Partnership shall be kept spearately from all other books and transactions

AMREAL 00718

fiscal year of the Partnership a statement of receipt and expenses as prepared by the Partnership's accountant, together with a statement showing the profit or losses of the Partnership for Federal Income Tax purposes and the distribution thereof to the Limited Partners.

11. Nothing in this Agreement shall be deemed to create any liability of any Limited Partner for any debts or obligations of the Partnership beyond the amount of his capital contribution and his liability for his share of profits of the Partnership.

Except as specifically amended hereby, the provisions of the Partnership Agreement dated June 1, 1969 shall remain unchanged and in full force and effect.

IN WITNESS WHEREOF, the parties hereto have set forth their hands and seals as of the date hereof.

GENERAL PARTNERS:

U.S. SHELTER CORPORATION

By: _____
[illegible] Vice President
P. O. Box [illegible]
Greenville, South Carolina 29606

_____
N. Barton Zeiler, Jr.
P. O. Box 6775

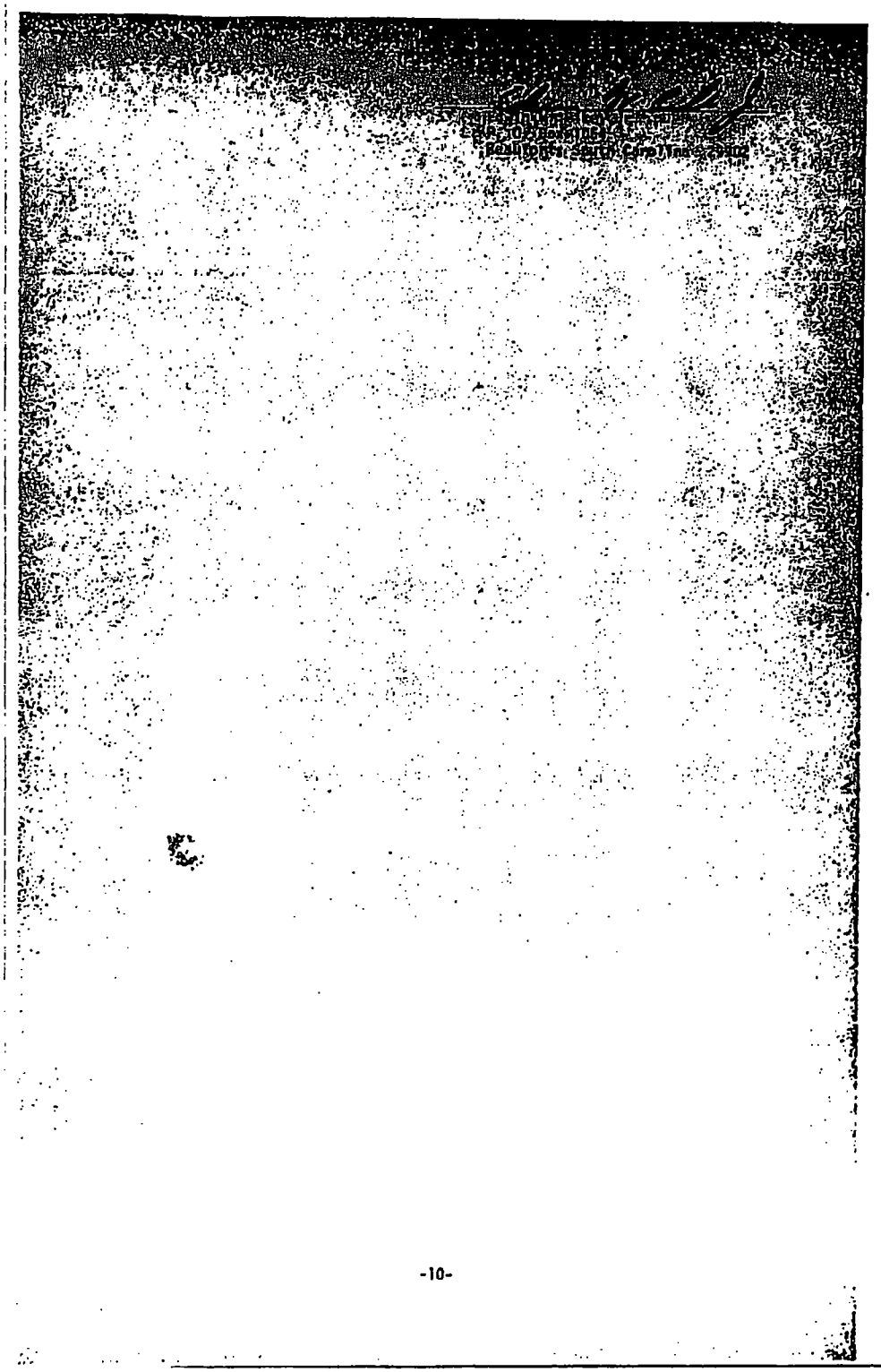
LIMITED PARTNERS:

_____
Laurence McKinley, Jr.
1203 Bladdery Street
Beaufort, South Carolina 29902

_____
Carson R. Rantin
P. O. Box 1064
Beaufort, South Carolina 29902

_____
W. N. Hodge
P. O. Box 636
Sumter, South Carolina 29150

AMREAL 00719



STATE OF SOUTH CAROLINA)
COUNTY OF)

I, Paul A. Kroupa, a Notary Public in and for the State and County aforesaid, whose commission expires on the 20th day of March, 1978, do hereby certify that H. S. SHELTER CORPORATION by its President and M. BARTON TUCK, JR., signed and swore to the foregoing AMENDED CERTIFICATE AND AGREEMENT OF LIMITED PARTNERSHIP FOR PARKVIEW APARTMENTS.

Given under my hand and Notarial seal, this 23rd day of July, 1975.

Paul A. Kroupa
Notary Public for South Carolina
My Commission Expires: 3-20-78

STATE OF SOUTH CAROLINA)
COUNTY OF Beaufort)

I, Michael H. Voyles, a Notary Public in and for the State and County aforesaid, whose commission expires on the 15 day of January, 1978, do hereby certify that LAURANCE H. DAVIS, JR., signed and swore to the foregoing AMENDED CERTIFICATE AND AGREEMENT OF LIMITED PARTNERSHIP FOR PARKVIEW APARTMENTS.

Given under my hand and Notarial seal, this 25 day of July, 1975.

Michael H. Voyles
Notary Public for South Carolina
My Commission Expires: 1-15-78

AMREAL 00721

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

I, Michael A. Voyles, a Notary Public in and for the State and County aforesaid, whose commission expires on the 25 day of January, 1978, do hereby certify that CARSON R. BELTZ, signed and swore to the foregoing AMENDED CERTIFICATE AND AGREEMENT OF LIMITED PARTNERSHIP FOR PARKVIEW APARTMENTS.

Given under my hand and Notarial seal, this 25 day of July, 1975.

Notary Public for South Carolina
My Commission Expires: 1-25-78

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

I, Michael A. Voyles, a Notary Public in and for the State and County aforesaid, whose commission expires on the 25 day of January, 1978, do hereby certify that V. N. HUDGE, signed and swore to the foregoing AMENDED CERTIFICATE AND AGREEMENT OF LIMITED PARTNERSHIP FOR PARKVIEW APARTMENTS.

Given under my hand and Notarial seal, this 25 day of July, 1975.

Notary Public for South Carolina
My Commission Expires: 1-25-78

AMREAL 00722

STATE OF SOUTH CAROLINA)
COUNTY OF Beaufort)

I, Michael A. Vatze a Notary Public in and for the State and County aforesaid, whose commission expires on the 1st day of February, 1978, do hereby certify that EDWIN W. PIKE, JR. signed and swore to the foregoing AMENDED CERTIFICATE AND AGREEMENT OF LIMITED PARTNERSHIP FOR PARKVIEW APARTMENTS.

Given under my hand and Notarial seal, this 25 day of July, 1978.

Michael A. Vatze
Notary Public for South Carolina
My Commission Expires 2-25-78

AMREAL 00723

STATE OF SOUTH CAROLINA)
COUNTY OF BEAUFORT)

AMENDED CERTIFICATE AND AGREEMENT OF LIMITED PARTNERSHIP OF PALMETTO APARTMENTS

FILED SEP 4 1975

THIS AMENDED CERTIFICATE AND AGREEMENT made this 1st day of June, 1975 between U. S. SHELTER CORPORATION, a South Carolina Corporation, and N. BARTON TUCK, JR. (hereinafter called "General Partners") and LAURANCE H. DAVIS, JR., JAMES W. IVEY, ERIN E. IVEY and MARVIN D. MCCARTHY (hereinafter called "Limited Partners").

W I T N E S S E T H :

WHEREAS, a Limited Partnership was formed and organized under the laws of the State of South Carolina pursuant to a Partnership Agreement dated May 15, 1970, which Partnership Agreement was amended by an Amendment to Limited Partnership Agreement dated April 1, 1972, and

WHEREAS, the parties hereto desire to amend the Limited Partnership Agreement, as amended, and the Certificate of Limited Partnership, as amended, for the purpose of, among other things, substituting U. S. Shelter Corporation and N. Barton Tuck, Jr. as the General Partners in place of Laurance H. Davis, Jr. who shall be deemed as withdrawn from the Partnership as General Partner as of the date hereof, and who shall be a Limited Partner in the Partnership from this date forward, and

WHEREAS, the parties hereto desire to further amend the Limited Partnership Agreement, as amended, and the Certificate of Limited Partnership, as amended, by combining both documents into the within Amended Certificate and Agreement of Limited Partnership of Palmetto Apartments;

NOW, THEREFORE, for and in consideration of the mutual premises and covenants set forth herein, it is hereby agreed among the parties as follows:

1. Continuation. A Partnership known as Palmetto Apartments, a Limited Partnership, is hereby continued under the laws of the State of South Carolina.

2. Name. The name of the Limited Partnership shall be Palmetto Apartments, a Limited Partnership. The principal office of the Partnership shall be located in Beaufort County, South Carolina.

EXHIBIT 18

AMREAL 005885

3. Purpose. The purpose of the Partnership shall be for the construction, owning, operating, and management of an apartment project known as Palmetto Apartments located in Beaufort County, South Carolina and designated as Project No. 054-44011-LDC by the Department of Housing and Urban Development Federal Housing Administration.

4. Term. The term of the Partnership shall terminate on December 31, 2012 unless sooner terminated in accordance with the terms and conditions of the Limited Partnership Agreement, as amended, or by law.

5. Capital. The capital interest of the parties hereto shall be as follows:

NAME	CAPITAL INTEREST
General Partners:	
U. S. Shelter Corporation	1.8%
N. Barton Tuck, Jr.	1.2%
Limited Partners:	
Laurance H. Davis, Jr.	7.0%
Erin E. Ivey	37.5%
James W. Ivey	37.5%
Marvin D. McCarthy	15.0%

The Partners shall share in the distribution of profits and losses in accordance with their respective capital interest. Effective as of the date hereof U. S. Shelter Corporation and N. Barton Tuck, Jr. shall be substituted as General Partners in place of Laurance H. Davis, Jr. who shall be deemed as withdrawn from the Partnership as General Partner as of the date hereof, and who shall continue in the Partnership as a Limited Partner from this date forward.

The Limited Partners shall take no part in the business of the Partnership.

6. Neither U. S. Shelter Corporation nor N. Barton Tuck, Jr. shall be deemed to assume personal liability for any obligations of the Partnership incurred prior to their admission to the Partnership and the liability for such obligations shall be satisfied only out of Partnership property.

EXCEPT AS SPECIFICALLY AMENDED HEREIN the provisions of the Limited Partnership Agreement, as amended, shall remain unchanged and in full force and effect.

AMREAL 005886

IN WITNESS WHEREOF, the parties hereto have set forth their hands and seals as of the date hereof.

FORMER GENERAL PARTNER:

Laurance H. Davis, Jr.
1203 Boundary Street
Beaufort, South Carolina 29902

GENERAL PARTNERS:

U. S. Shelter Corporation

By: N. Barton Tuck, Jr., President
P. O. Box 6725
Greenville, South Carolina 29606

N. Barton Tuck, Jr.
P. O. Box 6725
Greenville, South Carolina

LIMITED PARTNERS:

Laurance H. Davis, Jr.
1203 Boundary Street
Beaufort, South Carolina 29902

Erin E. Tyev
1128 Woodburn Road
Spartanburg, South Carolina

James W. Tyev
1128 Woodburn Road
Spartanburg, South Carolina

Marvin D. McCarthy
Boyer Street
Beaufort, South Carolina 29902

-3-

AMREAL 005887

STATE OF SOUTH CAROLINA }
COUNTY OF Beaufort }

I, C. P. Thomas, Jr., a Notary Public in and for the State and County aforesaid, whose commission expires on the 16 day of Dec., 1980, do hereby certify that LAURANCE H. DAVIS, JR. signed and swore to the foregoing AMENDMENT TO CERTIFICATE AND AGREEMENT OF LIMITED PARTNERSHIP OF PALMETTO APARTMENTS.

Given under my hand and Notarial seal, this 25 day of July, 1975.

C. P. Thomas, Jr.
Notary Public for South Carolina
My Commission Expires:

STATE OF SOUTH CAROLINA }
COUNTY OF GREENVILLE }

I, Carol S. Reaves, a Notary Public in and for the State and County aforesaid, whose commission expires on the 20th day of March, 1984, do hereby certify that U. S. SHELTER CORPORATION by its President and N. BARTON TUCK, JR., signed and swore to the foregoing AMENDMENT TO CERTIFICATE AND AGREEMENT OF LIMITED PARTNERSHIP OF PALMETTO APARTMENTS.

Given under my hand and Notarial seal, this 23rd day of July, 1975.

Carol S. Reaves
Notary Public for South Carolina
My Commission Expires: 3-20-84

AMREAL 005888

STATE OF SOUTH CAROLINA }
COUNTY OF }

I, J. Woffard Locke, a Notary Public in and for the State and County aforesaid, whose commission expires on the 16th day of August, 1978, do hereby certify that ERIN E. IVEY, signed and swore to the foregoing AMENDMENT TO CERTIFICATE AND AGREEMENT OF LIMITED PARTNERSHIP OF PALMETTO APARTMENTS.

Given under my hand and Notarial Seal, this 13th day of August, 1975.

J. Woffard Locke
Notary Public for South Carolina
My Commission Expires: 5/16/79

STATE OF SOUTH CAROLINA }
COUNTY OF }

I, J. Woffard Locke, a Notary Public in and for the State and County aforesaid, whose commission expires on the 16th day of August, 1978, do hereby certify that JAMES M. IVEY, signed and swore to the foregoing AMENDMENT TO CERTIFICATE AND AGREEMENT OF LIMITED PARTNERSHIP OF PALMETTO APARTMENTS.

Given under my hand and Notarial seal, this 13th day of August, 1975.

J. Woffard Locke
Notary Public for South Carolina
My Commission Expires: 5/16/79

AMREAL 005889

STATE OF SOUTH CAROLINA)
COUNTY OF Beaufort)

I, Lawrence H. Davis Jr, a Notary Public in and for the State and County aforesaid, whose commission expires on the 13 day of October, 1979, do hereby certify that HARVIN D. MCCARTHY signed and swore to the foregoing AMENDMENT TO CERTIFICATE AND AGREEMENT OF LIMITED PARTNERSHIP OF PALMETTO APARTMENTS.

Given under my hand and Notarial Seal, this 28 day of July, 1975.

Notary Public for South Carolina
My Commission Expires:

AMREAL 005890



October 25, 1999

Mr. Barton Tuck
C/O Golf South
P O Box 2324
Greenville, SC 29602

RE: Past Due Payments to Partnerships

Dear Barton:

Early this year I realized that we had interest in several partnerships that had notes which should be maturing. In reviewing what records I had as the first managing agent, I found notes suggesting maturity dates as early as March of this year, and I began locating partners in the seven partnerships remaining. As you know three partnerships accepted a token payment for their notes in 1997 or 1998. These were Manchester I and II in Savannah, Georgia and Dogwood Limited Partnership in Myrtle Beach.

The partners or agents that I have spoken with feel that they have been neglected and have not received reports and projections from management or the general partners that represent us.

There has been no pressure on me as the contact person; however, some are starting to plan their year-end taxes and have called me.

I have been to each project and taken pictures of the properties and find them in fair to good condition. In some cases I am satisfied that the land is more valuable than the notes in question.

I have proposed getting a meeting together with the fifteen individuals involved; however, we agree that you, as one of our general partners, should initiate a collection effort on those past due notes and establish a line of communication with the limited partners, before we do anything else. We all prefer that the note be paid as issued; however, we will consider accepting the real property if necessary.

EXHIBIT
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EXHIBIT
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BUNDY APPRAISAL & MANAGEMENT, INC.
P.O. Box 1225 Beaufort, SC 29901 Phone (843) 524-2207 Fax (843) 521-0743

P-000993

For your information I have enclosed a list of the fifteen individuals contacted and a list of the remaining seven partnerships.

I have also enclosed pictures and information on Pinewood Park Apartments and Roosevelt Gardens Apartments Phase I for your review. I have this information on the other projects and have spent a good bit of time while working a full schedule in property management here in Beaufort. We are prepared to provide management, if necessary, to any of the projects in our area.

I have no authority to represent any partner other than Mrs. Edwin W. Pike, Jr. (Mary Jane), Carson R. Rentz, Carolina Management Corp. and myself. I do not claim any agency relationship with them but I am willing to assist in getting the group together.

Looking forward to hearing from you, I remain

Sincerely,

Laurance H. Davis, Jr.

Cc: Partners

Tuck

P 000994

January 18, 2000

Mr. Laurance H. Davis, Jr.
Bundy Appraisal & Management, Inc.
Post Office Box 1225
Beaufort, South Carolina 29901

Dear Laurance:

The on-going saga of trying to find out the note balances that are due to the partnerships that you and your group are limited partners in continues to be extremely frustrating and difficult to trace. We are starting to make some progress, even though the news is not good.

As you may remember, these properties were sold about two years ago, along with others that we got pay-offs on, to a company called Boston Financial. They formed partnerships and resyndicated them. When they settled on some of the projects that were paid off two years ago, it was determined at that time that there was no value in the remaining properties. That was the reason they did not offer any payments on the remaining properties.

Boston Financial has been sold to Lend Lease Real Estate Investment. The person who I have now been able to talk with at Lend Lease is Ford von Weise. His address is 101 Arch Street, Boston, MA 02110-1106. His telephone number is 617-790-4734. While not helpful in solving the problems, Ford is quite familiar with these properties and is someone I think you may want to speak with.

Sometime in the early part of 1999, Ford and Lend Lease decided that the properties were not worth the first mortgage and consequently agreed to give the properties back to Insignia/AIMCO. While I do not have the person's name, Ford would have it. Insignia/AIMCO looked at the properties and came to the same conclusion – that there was no value to the partnership and the second mortgages. Enclosed is an evaluation by Berkley Capital Advisors out of Charlotte. This may be of some use to you.

In October of 1999, Lend Lease sold all of the properties for the mortgage and $1.00 to Hediger Enterprises here in Greenville. Gary used to run our property management arm and does a lot of HUD work-out and management throughout the country. Deeds were prepared and delivered, as I understand it, to Hediger Enterprises. He is in the process of trying to get HUD to approve the transfers. While I am not totally familiar with the current process he has to go through getting HUD to approve the transfers into whatever entity he is using for the purchase of these properties, as I understand it, HUD has not yet approved these and is holding up pending evaluations of the properties, including the

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www.golfsouth.com

EXHIBIT
tabbies
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P 001080

capital dollars that will be necessary to bring the projects up to HUD's requirements. Gary's address and phone number here in Greenville is: Hediger Enterprises, 301 North Main St, Suite 1901, Greenville, S.C. 29601 phone 864-370-0480 You are welcome to speak to Gary.

I do not know whether you are managing any HUD Properties but in speaking to Bill Jarrard, I understand that the subsidy contracts all expired at the end of twenty years and sometime during 1998 or 1999, all these properties were marked "to market" which I don't understand, but in speaking to Ford, he explained this reduced the rental income to a point where they would not sustain the underlying current mortgages.

Ford von Weise has sent me documents that show the different mortgages on Orleans Gardens. He says that all these documents are the same for each project and I am sure that is correct. I have also gotten him to send me some of the last HUD physical inspections of the project and have asked him to send us the audits on the projects for 1999 as soon as they are completed. I will forward this on to you.

I have been speaking to Pat Foye at AIMCO about this situation. I do not think that he was aware of what had transpired. He retained Doug Brown to try and see what was collectible, if anything, from these mortgages. Doug, not realizing that Gary Hediger had bought these, started down that track, but he also represents Gary Hediger and consequently has a conflict and cannot represent the partnerships against Gary.

While I know you think there was value in some of these properties, in speaking with everyone I have been able to talk to, no-one thinks there is any value over and above the underlying insured mortgage. I am not sure I know where to turn, other than Ford von Weise. He has agreed to come down and meet with your group to talk about these properties and why Lend Lease has agreed to sell these properties at $1.00 above the HUD mortgages. He is available on Saturday, February 26th He will be in South Carolina at that time doing some work on other projects they are involved in. You may want to read the HUD Reports, which I have enclosed, to see if that is a worthwhile venture. Again, I frankly do not know where else to turn and have no expertise today as to the valuation of any of these properties.

Why don't you give me a call on Friday and we can discuss this to see which way you think we should go.

Very truly yours,

N. Barton Tuck, Jr.

P 001081

THE SUPREME COURT OF SOUTH CAROLINA

Laurance H. Davis, Jr., Rhoda G. Rentz, Mortimer M. Weinberg, Jr., Hodge Land Co., Inc., and Anna Trotter, Individually and in their capacities as the Limited Partners of Roosevelt Gardens, a South Carolina Limited Partnership,	)	Transfer from Court of Appeals Case No. 2010180086
	)	Appellants,
vs.	)	
Roosevelt Gardens, a South Carolina Limited Partnership, Apartment Investment and Management Company a/k/a AIMCO; Insignia Financial Group, Inc.; AmReal Corporation a/k/a and f/k/a USS Corporation a/k/a and f/k/a U.S. Shelter Corporation; ISTC Corporation; N. Barton Tuck, Jr.; and John Doe, a generic designation for a party or parties whose true identity is unknown,	)	Respondents.

RECEIVED
AUG - 2 2011
S.C. Supreme Court

Carolina Management Corporation of Beaufort, James B. Jackson, Whaley R. Hinnant, Jr., Mary Gasser Rawl, and Rhoda Rentz, Individually and in their capacities as the Limited Partners of Pinewood Park Apartments, a South Carolina Limited Partnership,	)	Transfer from Court of Appeals Case No. 2010180088
	)	Appellants,
vs.	)	
Pinewood Park Apartments, a South Carolina Limited Partnership; Apartment Investment and Management Company a/k/a AIMCO; Insignia Financial Group, Inc.; AmReal Corporation a/k/a and f/k/a USS Corporation a/k/a and f/k/a U.S. Shelter Corporation; ISTC Corporation; N. Barton Tuck, Jr.; and John Doe, a generic designation for a party or parties whose true identity is unknown,	)	Respondents.

Laurance H. Davis, Jr.; Mary Jane R. Pike; Eva Marie Reynolds; and Rhoda G. Rentz, individually and in their capacities as the Limited Partners of Parkview Apartments, a South Carolina Limited Partnership,	)	Transfer from Court of Appeals Case No. 2010180666
	)	Appellants,
vs.	)	
Parkview Apartments, a South Carolina Limited Partnership; Apartment Investment and Management Company a/k/a AIMCO; Insignia Financial Group, Inc.; AmReal Corporation a/k/a and f/k/a USS Corporation a/k/a and f/k/a U.S. Shelter Corporation; ISTC Corporation; N. Barton Tuck, Jr.; and John Doe, a generic designation for a party or parties whose true identity is unknown,	)	Respondents.

Laurance H. Davis, Jr.; Marvin D. McCarthy; James W. Ivey; and Erin E. Ivey, Individually and in their capacities as the Limited Partners of Palmetto Apartments, a South Carolina Limited Partnership,	)	Transfer from Court of Appeals Case No. 2010180087
	)	Appellants,
vs.	)	
Palmetto Apartments, a South Carolina Limited Partnership, Apartment Investment and Management Company a/k/a AIMCO; Insignia Financial Group, Inc.; AmReal Corporation a/k/a and f/k/a USS Corporation a/k/a and f/k/a U.S. Shelter Corporation; ISTC Corporation; N. Barton Tuck, Jr.; and John Doe, a generic designation for a party or parties whose true identity is unknown;	)	Respondents.

Rhoda G. Rentz, Mary Jane Pike, Eva Marie Reynolds, and Joanne O. Mercy, Individually and in their capacities as the Limited Partners of Orleans Gardens, a South Carolina Limited Partnership,	)	Transfer from Court of Appeals Case No. 2010176826
	)	Appellants,
vs.	)	
Orleans Gardens, a South Carolina Limited Partnership; Apartment Investment and Management Company a/k/a AIMCO; Insignia Financial Group, Inc.; AmReal Corporation a/k/a and f/k/a USS Corporation a/k/a and f/k/a U.S. Shelter Corporation; ISTC Corporation; N. Barton Tuck, Jr.; and John Doe, a generic designation for a party or parties whose true identity is unknown,	)	Respondents.

PROOF OF SERVICE

The undersigned hereby certifies that on the date indicated below, he served counsel for the Appellants with a copy of *RESPONDENTS' REPLY IN SUPPORT OF THEIR MOTION TO STAY TIME LIMITS IMPOSED BY RULES 208(a)(2) AND 209(a), SCACR, UNTIL THE COURT RULES ON PENDING MOTIONS; MOTION TO DISMISS THE ABOVE-CAPTIONED APPEALS; OR, IN THE ALTERNATIVE, MOTION TO STRIKE APPELLANTS' INITIAL BRIEFS AND DESIGNATIONS AND REQUIRE APPELLANTS TO FILE AMENDED BRIEFS AND DESIGNATIONS* by mailing copies of the same by United States Mail with first class postage prepaid to the following addresses:

Thomas A. Pendarvis
Pendarvis Law Offices, P.C.
500 Carteret Street, Suite A
Beaufort, South Carolina 29902-5066

Joel D. Bailey
The Bailey Law Firm, P.A.
PO Box 1437
Beaufort, South Carolina 29901-1437

HAYNSWORTH SINKLER BOYD, P.A.

By: _____
Ellis M. Johnston, II

August 1, 2011
Greenville, South Carolina

THE SUPREME COURT OF SOUTH CAROLINA

Laurance H. Davis, Jr., Rhoda G. Rentz, Mortimer M. Weinberg, Jr., Hodge Land Co., Inc., and Anna Trotter, Individually and in their capacities as the Limited Partners of Roosevelt Gardens, a South Carolina Limited Partnership,

vs.

Roosevelt Gardens, a South Carolina Limited Partnership, Apartment Investment and Management Company a/k/a AIMCO; Insignia Financial Group, Inc.; AmReal Corporation a/k/a and f/k/a USS Corporation a/k/a and f/k/a U.S. Shelter Corporation; ISTC Corporation; N. Barton Tuck, Jr.; and John Doe, a generic designation for a party or parties whose true identity is unknown,

Transfer from Court of Appeals
Case No. 2010180086

Appellants,

Respondents.

RECEIVED
JUL 15 2011
S.C. Supreme Court

Carolina Management Corporation of Beaufort, James B. Jackson, Whaley R. Hinnant, Jr., Mary Gasser Rawl, and Rhoda Rentz, Individually and in their capacities as the Limited Partners of Pinewood Park Apartments, a South Carolina Limited Partnership,

vs.

Pinewood Park Apartments, a South Carolina Limited Partnership; Apartment Investment and Management Company a/k/a AIMCO; Insignia Financial Group, Inc.; AmReal Corporation a/k/a and f/k/a USS Corporation a/k/a and f/k/a U.S. Shelter Corporation; ISTC Corporation; N. Barton Tuck, Jr.; and John Doe, a generic designation for a party or parties whose true identity is unknown,

Transfer from Court of Appeals
Case No. 2010180088

Appellants,

Respondents.

Laurance H. Davis, Jr.; Mary Jane R. Pike; Eva Marie Reynolds; and Rhoda G. Rentz, individually and in their capacities as the Limited Partners of Parkview Apartments, a South Carolina Limited Partnership,

vs.

Parkview Apartments, a South Carolina Limited Partnership; Apartment Investment and Management Company a/k/a AIMCO; Insignia Financial Group, Inc.; AmReal Corporation a/k/a and f/k/a USS Corporation a/k/a and f/k/a U.S. Shelter Corporation; ISTC Corporation; N. Barton Tuck, Jr.; and John Doe, a generic designation for a party or parties whose true identity is unknown,

Transfer from Court of Appeals
Case No. 2010180666

Appellants,

Respondents.

Laurance H. Davis, Jr.; Marvin D. McCarthy; James W. Ivey; and Erin E. Ivey, Individually and in their capacities as the Limited Partners of Palmetto Apartments, a South Carolina Limited Partnership,

vs.

Palmetto Apartments, a South Carolina Limited Partnership, Apartment Investment and Management Company a/k/a AIMCO; Insignia Financial Group, Inc.; AmReal Corporation a/k/a and f/k/a USS Corporation a/k/a and f/k/a U.S. Shelter Corporation; ISTC Corporation; N. Barton Tuck, Jr.; and John Doe, a generic designation for a party or parties whose true identity is unknown;

Transfer from Court of Appeals
Case No. 2010180087

Appellants,

Respondents.

Rhoda G. Rentz, Mary Jane Pike, Eva Marie Reynolds, and Joanne O. Mercy, Individually and in their capacities as the Limited Partners of Orleans Gardens, a South Carolina Limited Partnership,

vs.

Orleans Gardens, a South Carolina Limited Partnership; Apartment Investment and Management Company a/k/a AIMCO; Insignia Financial Group, Inc.; AmReal Corporation a/k/a and f/k/a USS Corporation a/k/a and f/k/a U.S. Shelter Corporation; ISTC Corporation; N. Barton Tuck, Jr.; and John Doe, a generic designation for a party or parties whose true identity is unknown,

Transfer from Court of Appeals
Case No. 2010176826

Appellants,

Respondents.

RESPONDENTS' MOTION TO STAY TIME LIMITS IMPOSED BY RULES 208(a)(2) and 209(a), SCACR, UNTIL THE COURT RULES ON PENDING MOTIONS; MOTION TO DISMISS THE ABOVE-CAPTIONED APPEALS; OR, IN THE ALTERNATIVE, MOTION TO STRIKE APPELLANTS' INITIAL BRIEFS AND DESIGNATIONS AND REQUIRE APPELLANTS TO FILE AMENDED BRIEFS AND DESIGNATIONS

Ellis M. Johnston, II, SC Bar # 3065
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ATTORNEYS FOR RESPONDENTS

Respondents respectfully submit this motion and memorandum in each of the five (5) above-captioned appeals, pursuant to Rule 240, SCACR, seeking the following relief:

(1) Respondents move that the Court stay the time limits imposed by Rules 208(a)(2) (for the filing and service of their initial briefs) and 209(a) (for the filing and service of their Designations of Matter to be Included in the Record on Appeal), SCACR, pursuant to Rule 240(b), SCACR, until the Court rules on Respondents' Motion for Extension, Etc., which was filed on July 5, 2011, and the motions set forth herein;

(2) Respondents further move that the Court or the Clerk dismiss each of the five (5) above-captioned appeals, pursuant to Rule 260(a), SCACR, as a result of Appellants' failure to comply with the requirements of Rules 208(b)(4), 208(b)(8), 209(b), 210(c), and 267(c), SCACR;

(3) Or, as an alternative to dismissal of the appeals, Respondents move that the Court strike the Appellants' initial briefs and designations in each of the five (5) above-captioned appeals for failure to comply with the requirements of the Rules, strike the citations and designated materials within Appellants' initial briefs and designations that are in violation of Rules 208(b)(4), 209(b), and 210(c), SCACR, and require that Appellants file amended initial briefs and designations subject to the Court's ruling as to matters deemed stricken.

In support of their Motion, Respondents show the Court as follows:

RELEVANT FACTS

These five appeals,[1] which arise out of five related lawsuits, concern the appeal of thirteen (13) separate Orders. See e.g. Respondents' 7/5/11 Mot. for Ext.,[2] at Ex. 1 (Amended Notice of Appeal in the Parkview Appeal; an identical amended notice of appeal was filed in each of the five appeals). Appellants in the Orleans and Roosevelt Appeals served their initial briefs and Designations of Matter to be Included in the Record on Appeal ("Designations") on June 21, 2011, and Appellants in the Parkview, Palmetto and Pinewood Appeals served their initial briefs and Designations on June 22, 2011. Accordingly, unless the time limits for filing their initial briefs and Designations are stayed or extended, Respondents' deadlines for filing their initial briefs and Designations are July 21, 2011 (in two appeals) and July 22, 2011 (in 3 appeals).

In the Joint Motion for Extension, which the parties filed on May 16, 2011, Respondents and Appellants informed the Court that the "record in this case will be unusually voluminous..." See Respondents' 7/5/11 Mot. for Ext., at Ex. 3 (p. 4). The size of the *potential record relating to the 13 Orders on appeal* (not including portions of the lower court record that are unrelated to those 13 Orders) is approximately 10,000

---

[1] For the sake of brevity and clarity, Respondents refer to the five individual appeals as follows: Case No. 2010180086 is the "Roosevelt Appeal"; Case No. 2010180088 is the "Pinewood Appeal"; Case No. 2010180666 is the "Parkview Appeal"; Case No. 2010180087 is the "Palmetto Appeal"; and Case No. 2010176826 is the "Orleans Appeal." Respondents refer to the five appeals collectively as "the Appeals."

[2] References in this motion/memorandum to "Respondents' 7/5/11 Mot. for Ext." refer to *Respondents' Motion and Memorandum for Extension of Time to File Initial Brief, Permission to File One Consolidated Brief and One Consolidated Designation of Matter to be Included in the Record on Appeal in the Five Above-Captioned Appeals, and Permission to Exceed 50-Page Limit for Brief*, which Respondents filed and served in these five appeals on July 5, 2011, and which remains pending.

pages in length. See Respondents' 7/5/11 Mot. for Ext., at Ex. 10, ¶ 3. In short, the volume of documents related to these Appeals is immense, and it is incredibly time-consuming, overly burdensome, and in some cases impossible, to locate evidence cited by Appellants when their cites to the record are incomplete or inaccurate. The specific instances in which Appellants' initial briefs and Designations contain erroneous, inaccurate and/or incomplete citations to materials are discussed below.

Despite notice to Appellants of their failure to comply with the Rules, and Respondents' urgent plea that the errors be corrected, to date, Respondents remain in the dark eight (8) and nine (9) days before their initial briefs and Designations are due. See **Exhibit 1** hereto; Respondents' 7/5/11 Mot. for Ext., at pp. 11-12. Respondents should not have to *guess* as to what evidence Appellants rely upon in their briefs and Designations.

In addition, Appellants' initial briefs and Designations contain cites to materials that were not presented to the lower court and, therefore, should not be included in the Record on Appeal. Appellants' initial briefs also contain numerous large sections of argument that are single-spaced, in an obvious effort to circumvent the 50-page limit for each of their briefs. Again, the specific instances in which Appellants violated these Rules are discussed below.

ARGUMENT

I. Appellants' Failure to Comply with the Appellate Court Rules in Their Initial Briefs and Designations

A. Violation of Rule 209(b), SCACR – Failure to Clearly Identify Materials to be Included in Record

Rule 209(b), SCACR, provides, in part, "The Designation must clearly identify what the party desires to have included in the Record on Appeal..." Some of the materials cited by Appellants in their initial briefs and listed in their Designations do not appear to exist at all. Presumably, these citations misidentify the materials Appellants intended to cite, but Respondents have no way of knowing what Appellants' intentions were. As a result, understanding what purported evidence is cited in Appellants' briefs, and responding to Appellants' briefs, has been rendered even more time-consuming for Respondents, and in some instances impossible. The cited materials, which appear to be misidentified by Appellants, are described in each of their initial briefs and/or Designations as:

- "Order of Doyet A. Early, III dated 3-13-07" – listed in Designations for each of the five Appeals (Respondents can not locate an order of that date in the lower court record);
- "Appellants' Motion to Compel dated 10-5-07" – listed in Designations for each of the five Appeals, and cited in the Orleans Appeal initial brief at p. 8 (Respondents can not locate a motion of that date in the lower court record); and
- "Appellants' Answers to Interrogatories and Responses to Request for Production dated 7-14-05, with privilege log" - listed in Designations for each of the five Appeals (Respondents are aware of the referenced discovery responses, but there

were numerous privilege logs produced in the lawsuits, none of which were produced on 7/14/05, and Respondents need Appellants to clarify which privilege log is being designated and cited).

Respondents' counsel has requested that Appellants correct or clarify the cites to these materials, but have received no response from Appellants. See Respondents' counsel's June 30, 2011 and July 12, 2011 e-mails and letters, attached hereto as **Exhibit 1**. While the misidentification of the above materials was likely the result of inadvertent error, Respondents are still unable to fully respond to Appellants' briefs as a result of these errors, and Appellants have thus far refused to correct or clarify the errors.

B. Violation of Rules 209(b) and 210(c), SCACR – Attempts to Include Materials That Were Not Presented to the Lower Court

Rule 209(b), SCACR, also provides that the Designation "may only propose to include portions of the transcript, pleadings, orders, exhibits, or other materials which may be properly included in the Record on Appeal [See Rule 210(c)]." Rule 210(c), SCACR, provides, in part, "The **Record shall not**, however, **include matter which was not presented to the lower court** or tribunal." (emphasis added) Respondents' counsel and their staff have diligently reviewed the immense lower court record, but they have been unable to find any evidence that the following documents, which are included in each of Appellants' Designations, were presented to the lower court:

- "Transcript of Special Meeting of Limited Partnerships held on 9-14-00" – in addition to being included in the Designations for each of the Appeals, this document is also cited in each of the initial briefs at p. 5 (Parkview, Palmetto, Orleans, Roosevelt) or p. 6 (Pinewood) (while a few pages (pp. 1-3) of this 65-

page transcript were presented to the lower court, Appellants seek to include more than that portion of the transcript in the Record);

- "Transcript of Special Meeting of Limited Partnership held on 10-24-00" – in addition to being included in the Designations for each of the Appeals, this document is also cited in each of the initial briefs at p. 6 (again, while a few pages (pp. 1-2, 92) of this 172-page transcript were presented to the lower court, Appellants seek to include more than that portion of the transcript in the Record);
- "Appellants' Petition for Writ of Prohibition filed in the Supreme Court" – in addition to being included in the Designations for each of the Appeals, this document is also cited in each of the initial briefs at p. 20 (while a few pages (pp. 1, 6) of this 75-page document were presented to the lower court, Appellants seek to include more than that portion of the document in the Record);
- "Appellants' Answers to Interrogatories and Responses to Request for Production dated 7-14-05, with privilege log" – in addition to the Answers to Interrogatories and Responses to Request for Production being included in the Designations for each of the Appeals, they are also cited in each of the initial briefs at p. 24 (Respondents are unable to locate any evidence that these Answers to Interrogatories and Responses to Request for Production were ever presented to the lower court);
- "Memorandum of Ford Von Weise dated 8-31-99" – in addition to being included in the Designations for each of the Appeals, this document is also cited in initial briefs in the Parkview, Palmetto and Roosevelt Appeals at p. 8 (Respondents are

unable to locate any evidence that this document was ever presented to the lower court); and

- Documents identified in Section I-A of this Motion, above (for obvious reasons, Respondents can not confirm or deny that the documents Appellants *intended* to cite may be properly included in the Record).

To be clear, Respondents have diligently searched for, but have been unable to find, any evidence in the record, whatsoever, that would indicate that the above-described documents were ever presented to the lower court (in this case, the Beaufort, Charleston or Orangeburg Clerks of Court, or the Honorable Doyet A. Early, III, since these five cases have been specially assigned to him since March 2007). There is almost no case law in South Carolina to provide guidance in this matter, but the leading treatise on South Carolina appellate procedure outlines the proper procedure for challenging matters not presented to the lower court:

> [I]f opposing counsel designates matter not presented below, one should first attempt to resolve the problem by consulting opposing counsel; however, if this does not succeed, then the party compiling the record should not, and cannot, unilaterally refuse to include the matter in the record. Instead, the appropriate solution is to make a motion to strike. On appeal, it is sometimes difficult to determine whether the matter was actually presented to the lower court. This determination often requires a remand to the lower court to resolve the issue, which delays resolution of the appeal.

Jean Hoefer Toal et al., Appellate Practice in South Carolina 141 (2d ed. 2002).

In the treatise, Chief Justice Toal sets forth best practices for making a motion to strike under these circumstances:

> Rule 210(c), SCACR, provides that the **record on appeal must not include matter not presented to the lower court** or tribunal. Thus, if the opposing party includes matter not presented below, it would be **appropriate to make a motion to strike that matter** . . . . This motion

> often requires that the appellate court remand the case to the lower court to determine whether the particular matter was in fact presented. As such, there may be considerable delay in the resolution of the motion and appeal. **It may be prudent to file such a motion when the designations are received, before responding to the accompanying brief, inasmuch as the accompanying brief may have to be revised.** Further, if the motion is not made until the record is printed, there is an unnecessary waste of time and expense in having to amend the record on appeal.

Id. at 261 (emphasis added). In light of the above, Respondents are compelled to bring this motion to strike the citations and designations of the documents identified above. The matters identified should not be included in the Record on Appeal, should not be cited in Appellants' initial briefs, and this issue should be resolved before Respondents are required to file and serve their responsive briefs in these Appeals, which are due on July 21 and 22 absent a stay or extension.[3]

C. Violation of Rule 208(b)(4), SCRCP – Failure to include reference to relevant page(s) of materials cited

Making matters even more difficult (and at times impossible) for Respondents, Appellants frequently failed to comply with Rule 208(b)(4), SCACR, in citing to materials in their initial briefs.

> The **brief shall contain references to the transcript, pleadings, orders, exhibits, or other materials** which may be properly included in the Record on Appeal ... **to support the salient facts alleged**... In the initial

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[3] Respondents only recently completed their review of the voluminous lower court records to determine that the subject documents were not presented to the lower court. In light of Appellants' unwillingness to respond to concerns raised by Respondents about the content of Appellants' initial briefs and Designations (see Section I-A of this Motion regarding no response to Respondents' counsel's letters), and Appellants' recent unwillingness to cooperate with Respondents in any matter (see Respondents' 7/5/11 Mot. for Ext.; Respondents' 7/10/11 Mot. to Expedite Return to Mot. for Ext.), and in light of the importance of filing this motion before they are required to file their responsive briefs, Respondents have not consulted with Appellants' counsel on this specific matter prior to filing this motion, and do not have reason to believe it would be productive to do so.

> briefs, **these references should be** to the page and line number of the transcript prepared by the court reporter or **by the page of the material referenced; e.g., Answer p. 7, Motion for Judgment p. 2, Transcript p. 231.**

Rule 208(b)(4), SCACR (emphasis added).

Appellants routinely failed to comply with this critical rule. See e.g. Appellants' initial brief in Orleans Appeal: p. 1 (citing Answer but no page); p. 5 (citing Davis Aff. 4-7-10, which is 24 pages long, but no page or paragraph; citing Tr. 9-14-00, which is 65 pages long, but no pages or lines); p. 6 (citing Tr. 10-24-00, which is 172 pages long, but no page or lines); p. 19 (citing Rule 59 Motion but no page); pp. 22-23 (quoting from Sanctions/Dismissal Order, which is 28 pages long, but citing no page); p. 23 (quoting from Discovery Order but citing no page); pp. 23-24 (citing Pendarvis Aff., **which is a staggering 1,921 pages long including exhibits**, but no page or paragraph); p. 24 (citing Answers to interrogatories but no page); p. 26 and 27 (twice citing Third Supp. Response and a letter but no pages); p. 32 and 37 (twice citing Bailey Aff. 4-7-10, which is 14 pages long including exhibits, but no page or paragraph); p. 44 (citing Bailey Aff. 3/30/11, which is 20 pages long, but no page or paragraph; citing Respondents' Memo. but no page; citing a Motion to Recuse and nine (9) affidavits for which they provide no page or paragraph cites); p. 46 (citing Motion for Protective Order but no page); and p. 47 (citing two (2) separate Orders but no pages). There are at least as many omissions in Appellants' other four (4) initial briefs.

In several instances, Respondents could not possibly know what Appellants are referring to as their purported evidence. In others, Respondents *may* be able to locate the intended evidence, or make an educated *guess* as to what specifically is being referenced. However, even in the latter case, Appellants' failures to comply with the Rules

substantially and unnecessarily increase the burdens of Respondents in replying to the briefs. Moreover, the Rules were enacted for a reason, and one of those is surely so that a party would not have to *guess* at what evidence the other party relies upon.

D. Violation of Rules 208(b)(8) and 267(c), SCACR – Single-spacing of numerous large portions of Appellants' arguments

Rule 208(b)(8), SCACR, states that all briefs "shall comply with the requirements of Rule 267..." Rule 267(c) requires that briefs be "double spaced." This is a as simple as a Rule can get. Appellants obliterated these Rules in their initial briefs, clearly attempting to circumvent Rule 208(b)(5), SCACR, which limits the length of each of their briefs to fifty (50) pages. In Appellants' initial brief in the Orleans Appeal, for example, *ignoring* the single-spaced Statement of Issues on Appeal and lengthy single-spaced quotes within the brief, **more than fifteen (15) full pages of the argument in the Appellants' 50-page brief is single-spaced**! That is nearly *one-third* of Appellants' brief.[4] Appellants did virtually the same thing in each of their other four initial briefs.

II. Appellants' Numerous Violations of the Appellate Court Rules are Grounds for Dismissal of the Appeals

Respondents respectfully submit that, in light of Appellants' numerous flagrant violations of the Appellate Court Rules, each of the Appeals should be dismissed pursuant to Rule 260(a), SCACR, which states: "Whenever it appears that an appellant or a petitioner has failed to comply with the requirements of these Rules, the clerk **shall** issue an order of dismissal, which shall have the same force and effect as an order of the appellate court." (emphasis added) Appellants' pervasive violation of the Rules not only

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[4] Yet the Appellants were "not in a position to consent" to Respondents' motion to exceed the 50-page limit in their briefs. See Respondents' 7/5/11 Mot. for Ext., pp. 14-15 and Ex. 13.

shows a disregard for the Rules of this Court, it also shows a complete disregard for Respondents' right to a fair opportunity to respond to their arguments and, especially, the evidence of record upon which Appellants purport to rely. Appellants have not only made it much more difficult and time-consuming for Respondents to fully respond to their arguments, they have made it *impossible* in several respects.

III. In the Alternative to Dismissal, Appellants' Initial Briefs and Designations Should Be Stricken

As discussed above in Section I-B of this Motion, all of the matters cited in Appellants' initial briefs and Designations, which were not presented to the lower court, should be forever stricken. Further, Respondents submit that the cited materials, which were misidentified in Appellants' initial briefs and Designations (see Section I-A of this Motion), and which Appellants have refused to correct or clarify, should likewise be forever stricken. In addition, Appellants' citations to materials, which did not include citations to the pages of those materials as required by Rule 208(b)(4) (see Section I-C of this Motion), should be forever stricken. As a result of all of the above, as well as Appellants' blatant violation of Rules 208(b) and 267(c), SCACR (see Section I-D of this Motion), Appellants' initial briefs and Designations should be stricken, and Appellants should be required to file amended initial briefs and Designations, subject to the strikes made as to those matters addressed in Sections I-A, I-B and I-C of this Motion.

IV. Time Limits in Rules 208(a)(2) and 209(a), SCACR, Should Be Stayed

Respondents filed a Motion for Extension (and other relief) on July 5, 2011, based in part on their inability to respond fully to Appellants' briefs due to Appellants' failure to comply with Rule 208(b)(4), SCACR (cites to specific pages of materials omitted), and their failure to accurately identify materials cited and/or to correct or clarify the

erroneous cites upon request by Respondents. See Respondents' 7/5/11 Mot. for Ext., pp. 11-12 and Ex. 12. Respondents' 7/5/11 Motion for Extension (and other relief) remains pending. In light of the circumstances discussed above and in Respondents' 7/5/11 Motion for Extension, which make it impossible for Respondents to fully respond to Appellants' initial briefs and Designations at this time, Respondents request that the time limits for filing and serving Respondents' initial briefs and Designations be stayed until the Court rules on Respondents' 7/5/11 Motion for Extension (and other relief) and the relief requested in this Motion, with respect to dismissal of these Appeals or, in the alternative, to strike.

Respectfully Submitted,

HAYNSWORTH SINKLER BOYD, PA



Ellis M. Johnston, II, SC Bar # 3065
Calvin T. Vick, Jr., SC Bar #68187
Post Office Box 2048
Greenville, South Carolina 29602
(864) 240-3200

ATTORNEYS FOR RESPONDENTS

This 13th day of July, 2011
Greenville, South Carolina

GREENVILLE | CHARLESTON COLUMBIA FLORENCE

Haynsworth Sinkler Boyd, PA | ATTORNEYS AND COUNSELORS AT LAW

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CALVIN T. VICK, JR.
DIRECT DIAL NUMBER (864) 240-3324
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June 30, 2011

VIA FACSIMILE, E-MAIL and U.S. MAIL

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Beaufort, SC 29901-1437

Thomas A. Pendarvis, Esq.
Pendarvis Law Office, P.C.
500 Carteret Street, Suite A
Beaufort, SC 29902-5006

Re : **Laurance H. Davis, Jr., et al vs. Parkview Apartments, et al**
Laurance H. Davis, Jr., et al vs. Palmetto Apartments, et al
Carolina Management Corporation, et al vs. Pinewood Park Apartments
Laurance H. Davis, Jr., et al vs. Roosevelt Gardens, et al
Rhonda G. Rentz, et al vs. Orleans Gardens, et al

Dear Joel and Thomas:

We have received your designations regarding the above-referenced appeals. We need clarification on the following documents which you have designated:

- Order of Doyet A. Early, III dated 3-13-07 (we don't have an order of that date); and
- Appellants' Motion to Compel dated 10-5-07 (we don't have a motion of that date).

Please e-mail copies of these two documents to my attention so that we can confirm the exact document you are designating.

The following document designation includes a privilege log:

- Appellants' Answers to Interrogatories and Responses to Request for Production dated 7-14-05, with privilege log.

EXHIBIT
1

We show that this privilege log was forwarded on July 21, 2005. Please confirm that the privilege log forwarded to us on July 21, 2005 is the correct privilege log you are designating. If not, please e-mail a copy of the privilege log that you are designating.

If other questions or needs for clarification about matters cited in Appellants' materials arise, I will let you know as soon as possible. If you have any questions, please give me a call. Thank you for your cooperation.

Sincerely yours,



Calvin T. Vick, Jr.

CTVjr:hgc

GREENVILLE | CHARLESTON COLUMBIA FLORENCE

Haynsworth
Sinkler Boyd, P.A. | ATTORNEYS AND COUNSELORS AT LAW

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July 12, 2011

VIA FACSIMILE, E-MAIL and U.S. MAIL

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Beaufort, SC 29901-1437

Thomas A. Pendarvis, Esq.
Pendarvis Law Office, P.C.
500 Carteret Street, Suite A
Beaufort, SC 29902-5006

RE: *Laurance H. Davis, Jr., et al. v. Roosevelt Gardens, et al.*
Carolina Management Corp. of Beaufort, et al. v. Pinewood Park Apts., et al.
Laurance H. Davis, Jr., et al. v. Parkview Apts., et al.
Laurance H. Davis, Jr., et al. v. Palmetto Apts., et al.
Rhoda G. Rentz, et al., v. Orleans Gardens, et al.

Dear Joel and Thomas:

This letter is to follow-up on our letter to you dated June 30, 2011, which I have attached for your convenience. We urgently request that you respond regarding clarification of the Appellants' designations.

Thank you.

Very truly yours,

HAYNSWORTH SINKLER BOYD, P.A.

Calvin T. Vick, Jr.

CTVjr:hgc
Enclosure

GREENVILLE | CHARLESTON COLUMBIA FLORENCE

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June 30, 2011

VIA FACSIMILE, E-MAIL and U.S. MAIL

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Pendarvis Law Office, P.C.
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Re: Laurance H. Davis, Jr., et al vs. Parkview Apartments, et al
Laurance H. Davis, Jr., et al vs. Palmetto Apartments, et al
Carolina Management Corporation, et al vs. Pinewood Park Apartments
Laurance H. Davis, Jr., et al vs. Roosevelt Gardens, et al
Rhonda G. Rentz, et al vs. Orleans Gardens, et al

Dear Joel and Thomas:

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- Appellants' Motion to Compel dated 10-5-07 (we don't have a motion of that date).

Please e-mail copies of these two documents to my attention so that we can confirm the exact document you are designating.

The following document designation includes a privilege log:

- Appellants' Answers to Interrogatories and Responses to Request for Production dated 7-14-05, with privilege log.

We show that this privilege log was forwarded on July 21, 2005. Please confirm that the privilege log forwarded to us on July 21, 2005 is the correct privilege log you are designating. If not, please e-mail a copy of the privilege log that you are designating.

If other questions or needs for clarification about matters cited in Appellants' materials arise, I will let you know as soon as possible. If you have any questions, please give me a call. Thank you for your cooperation.

Sincerely yours,

Calvin T. Vick, Jr.

CTVjr:hgc

THE SUPREME COURT OF SOUTH CAROLINA

Laurance H. Davis, Jr., Rhoda G. Rentz, Mortimer M. Weinberg, Jr., Hodge Land Co., Inc., and Anna Trotter, Individually and in their capacities as the Limited Partners of Roosevelt Gardens, a South Carolina Limited Partnership,	)	Transfer from Court of Appeals Case No. 2010180086
	)	Appellants,
vs.	)	
Roosevelt Gardens, a South Carolina Limited Partnership, Apartment Investment and Management Company a/k/a AIMCO; Insignia Financial Group, Inc.; AmReal Corporation a/k/a and f/k/a USS Corporation a/k/a and f/k/a U.S. Shelter Corporation; ISTC Corporation; N. Barton Tuck, Jr.; and John Doe, a generic designation for a party or parties whose true identity is unknown,	)	Respondents.

Carolina Management Corporation of Beaufort, James B. Jackson, Whaley R. Hinnant, Jr., Mary Gasser Rawl, and Rhoda Rentz, Individually and in their capacities as the Limited Partners of Pinewood Park Apartments, a South Carolina Limited Partnership,	)	Transfer from Court of Appeals Case No. 2010180088
	)	Appellants,
vs.	)	
Pinewood Park Apartments, a South Carolina Limited Partnership; Apartment Investment and Management Company a/k/a AIMCO; Insignia Financial Group, Inc.; AmReal Corporation a/k/a and f/k/a USS Corporation a/k/a and f/k/a U.S. Shelter Corporation; ISTC Corporation; N. Barton Tuck, Jr.; and John Doe, a generic designation for a party or parties whose true identity is unknown,	)	Respondents.

Laurance H. Davis, Jr.; Mary Jane R. Pike; Eva Marie Reynolds; and Rhoda G. Rentz, individually and in their capacities as the Limited Partners of Parkview Apartments, a South Carolina Limited Partnership,	)	Transfer from Court of Appeals Case No. 2010180666
vs.	)	Appellants,
Parkview Apartments, a South Carolina Limited Partnership; Apartment Investment and Management Company a/k/a AIMCO; Insignia Financial Group, Inc.; AmReal Corporation a/k/a and f/k/a USS Corporation a/k/a and f/k/a U.S. Shelter Corporation; ISTC Corporation; N. Barton Tuck, Jr.; and John Doe, a generic designation for a party or parties whose true identity is unknown,	)	Respondents.
Laurance H. Davis, Jr.; Marvin D. McCarthy; James W. Ivey; and Erin E. Ivey, Individually and in their capacities as the Limited Partners of Palmetto Apartments, a South Carolina Limited Partnership,	)	Transfer from Court of Appeals Case No. 2010180087
vs.	)	Appellants,
Palmetto Apartments, a South Carolina Limited Partnership, Apartment Investment and Management Company a/k/a AIMCO; Insignia Financial Group, Inc.; AmReal Corporation a/k/a and f/k/a USS Corporation a/k/a and f/k/a U.S. Shelter Corporation; ISTC Corporation; N. Barton Tuck, Jr.; and John Doe, a generic designation for a party or parties whose true identity is unknown;	)	Respondents.

Rhoda G. Rentz, Mary Jane Pike, Eva Marie Reynolds, and Joanne O. Mercy, Individually and in their capacities as the Limited Partners of Orleans Gardens, a South Carolina Limited Partnership,	)	Transfer from Court of Appeals Case No. 2010176826
	)	Appellants,
vs.	)	
Orleans Gardens, a South Carolina Limited Partnership; Apartment Investment and Management Company a/k/a AIMCO; Insignia Financial Group, Inc.; AmReal Corporation a/k/a and f/k/a USS Corporation a/k/a and f/k/a U.S. Shelter Corporation; ISTC Corporation; N. Barton Tuck, Jr.; and John Doe, a generic designation for a party or parties whose true identity is unknown,	)	Respondents.

PROOF OF SERVICE

The undersigned hereby certifies that on the date indicated below, he served counsel for the Appellants with a copy of *RESPONDENTS' MOTION TO STAY TIME LIMITS IMPOSED BY RULES 208(a)(2) AND 209(a), SCACR, UNTIL THE COURT RULES ON PENDING MOTIONS; MOTION TO DISMISS THE ABOVE-CAPTIONED APPEALS; OR, IN THE ALTERNATIVE, MOTION TO STRIKE APPELLANTS' INITIAL BRIEFS AND DESIGNATIONS AND REQUIRE APPELLANTS TO FILE AMENDED BRIEFS AND DESIGNATIONS* by facsimile and by mailing copies of the same by United States Mail with first class postage prepaid to the following addresses:

Thomas A. Pendarvis
Pendarvis Law Offices, P.C.
500 Carteret Street, Suite A
Beaufort, South Carolina 29902-5066

Joel D. Bailey
The Bailey Law Firm, P.A.
PO Box 1437
Beaufort, South Carolina 29901-1437

HAYNSWORTH SINKLER BOYD, P.A.

By: _____
Calvin T. Vick, Jr.

July 13, 2011
Greenville, South Carolina