

ORIGINAL

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM HORRY COUNTY
Court of Common Pleas

Ralph P. Stroman, Special Referee

Case No. 2008-CP-26-6169

RECEIVED

AUG 19 2013

SC Court of Appeals

Joseph E. Mason, Jr.,

Appellant,

v.

Catherine L. Mason, Joseph E. Mason, Sr.,
Kathy St. Blanchard, and Mason Holding
Company, Inc., and Irwin Levine,

Respondents.

RECORD ON APPEAL
VOLUME II
PAGES 419 - 841

Robert Y. Knowlton
Elizabeth H. Black
Haynsworth Sinkler Boyd, P.A.
Post Office Box 11889
Columbia, South Carolina 29211-1889

J. Jackson Thomas
Emma Ruth Brittain, Esq.
Thomas & Brittain, P.A.
Post Office Box 1290
Myrtle Beach, South Carolina 29578

*Attorneys for Appellant Joseph E. Mason,
Jr.*

*Attorneys for Respondents Catherine L.
Mason, Joseph E. Mason, Sr., Kathy St.
Blanchard, and Mason Holding Company,
Inc.*

John M. Leiter, Esq.
Law Offices of John M. Leiter, PA.
1203 48th Avenue North, Suite 109
Myrtle Beach, South Carolina 29577
843.449.1451

Attorneys for Respondent Irwin Levine

RECORD ON APPEAL TABLE OF CONTENTS

Page

VOLUME I

I.	Pleadings, Orders and Judgments (State Court Case No. 2008-CP-26-6169)	
1.	Complaint, August 5, 2008	1
2.	Answer and Counterclaims of Mason Defendants, August 28, 2008	14
3.	Plaintiff's Answer to Counterclaims, September 23, 2008	25
4.	Consent Order to Amend Complaint, September 23, 2008	29
5.	Plaintiff's Amended Complaint, September 23, 2008	31
6.	Answer to Amended Complaint and Counterclaims of Mason Defendants, October 13, 2009	46
7.	Answer to Amended Complaint of Levine, November 23, 2009	59
8.	Motion for Order of Reference and for Scheduling Order, or in the alternative, Motion to Modify Prior Order Referring the Case and Scheduling Order, January 31, 2011	70
9.	Consent Order for Referral to Special Referee, February 11, 2011	79
10.	Consent Order for Referral to Special Referee, April 13, 2011	82
11.	Order of Special Referee, September 26, 2011	84
12.	Final Order as to Defendants, January 19, 2012	92
13.	Final Order as to Levine, January 19, 2012	118
14.	Plaintiff's Motion to Alter or Amend Pursuant to Rule 59(e), SCRCP, January 27, 2012	125
15.	Order Denying Plaintiff's Motion to Alter or Amend Pursuant to Rule 59(e), SCRCP, April 30, 2012	127
16.	Notice of Appeal, June 4, 2012	130
17.	Amended Notice of Appeal, June 11, 2012	162
18.	Second Amended Notice of Appeal, July 19, 2012	194
II.	Trial Transcript	
	November 14, 2011	233
	<u>Testimony of Joseph E. Mason, Jr.</u>	
	Direct Examination by Robert Y. Knowlton (p. 9)	236
	<u>Testimony of Steven Allison</u>	
	Direct Examination by Elizabeth H. Black (p. 127)	287
	Cross Examination by J. Jackson Thomas (p. 135)	295
	Cross Examination by Leeann Rice (p. 142)	299

<u>Continued Testimony of Joseph E. Mason, Jr.</u>	
Direct Examination by Robert Y. Knowlton (p. 150).....	300

Index	343

November 15, 2011	344

<u>Continued Testimony of Joseph E. Mason, Jr.</u>	
Cross Examination by J. Jackson Thomas (p. 4)	345
Cross Examination by John M. Leiter (p. 138).....	390
Redirect Examination by Robert Y. Knowlton (p. 212)	412

Index	418

VOLUME II

November 16, 2011	419

<u>Testimony of Dr. Perry Woodside</u>	
Direct Examination by Robert Y. Knowlton (p. 31).....	420
Cross Examination by J. Jackson Thomas (p. 93)	427

<u>Testimony of Laura M. DuRant, CPA</u>	
Direct Examination by J. Jackson Thomas (p. 138)	436
Cross Examination by Elizabeth H. Black (p. 148).....	446

<u>Testimony of Edward B. Bowers, Jr.</u>	
Direct Examination by J. Jackson Thomas (p. 164)	451
Cross Examination by Robert Y. Knowlton (p. 167).....	454
Recross Examination by Robert Y. Knowlton (p. 179).....	459

<u>Testimony of Irwin H. Levine</u>	
Direct Examination by Robert Y. Knowlton (p. 185).....	460

Index	516

November 17, 2011	518

<u>Testimony of Irwin H. Levine</u>	
Cross Examination by J. Jackson Thomas (p. 4)	519
Cross Examination by John M. Leiter (p. 30).....	544
Redirect Examination by Robert Y. Knowlton (p. 54)	560

Discussion with Court (p. 84).....	568

<u>Testimony of Gene Connell</u>	
Direct Examination by J. Jackson Thomas (p. 104)	571
<u>Testimony of Tim Duncan</u>	
Direct Examination by J. Jackson Thomas (p. 120)	577
Cross Examination by Robert Y. Knowlton (p. 129).....	586
Cross Examination by John M. Leiter (p. 138).....	593
<u>Testimony of Frankie Fisher</u>	
Direct Examination by Emma Ruth Brittain (p. 154).....	601
Cross Examination by Elizabeth H. Black (p. 183).....	603
<u>Testimony of Randy Barringer</u>	
Direct Examination by Emma Ruth Brittain (p. 197).....	604
Cross Examination by Elizabeth H. Black (p. 208).....	610
Cross Examination by Leeann Rice (p. 212)	614
<u>Testimony of John Nottestad</u>	
Cross Examination by Elizabeth H. Black (p. 226).....	615
<u>Testimony of Kathy St. Blanchard</u>	
Direct Examination by Emma Ruth Brittain (p. 230).....	618
Index	632
November 18, 2011.....	635
<u>Testimony of Kathy St. Blanchard</u>	
Cross Examination by Elizabeth H. Black (p. 10).....	636
Redirect Examination by Emma Ruth Brittain (p. 79)	658
<u>Testimony of Alise Taylor</u>	
Direct Examination by Emma Ruth Brittain (p. 99).....	661
Cross Examination by John M. Leiter (p. 106).....	662
<u>Testimony of Sherry Smith</u>	
Direct Examination by Emma Ruth Brittain (p. 127).....	665
Cross Examination by Robert Y. Knowlton (p. 137).....	667
Redirect Examination by Emma Ruth Brittain (p. 170)	686
Recross Examination by Robert Y. Knowlton (p. 171).....	687
<u>Testimony of Robert Keuhne</u>	
Direct Examination by Emma Ruth Brittain (p. 180).....	690

Testimony of Joseph E. Mason, Sr.

Direct Examination by J. Jackson Thomas (p. 187)	694
Cross Examination by Robert Y. Knowlton (p. 228)	729

Testimony of Catherine Mason

Direct Examination by J. Jackson Thomas (p. 260)	747
Cross Examination by Elizabeth H. Black (p. 262)	749

Index	754

III. Trial Exhibits

1. Plaintiff

1	Agreement between stockholders and Mason Holding	756
2	Levine business valuation for companies	779
3	Levine business valuation for Mason Tire	780
4	Minutes of Stockholder Meeting, May 21, 2001	781
5	Minutes of Stockholder Meeting, June 5, 2001	786
6	Minutes of Stockholder Meeting, August 7, 2001	789
7	Meeting reading 401(k), August 29, 2001	793
8	Unsigned Agreement	794
10	Letter regarding discussion with Levine	801
11	Evaluation for Mason Tire & Auto	802
12	Memorandum of telephone conference with Levine	804
13	Minutes of Stockholder Meeting, August 14, 2002	806
15	Letter discussing agreements prepared	808
16	Agreement (Mason Auto & Tire and Masons)	810
17	Letter discussing gift of stock	813
18	Lease Agreement (Catson, LLC and Mason Tire)	815
19	Note (Kathy St. Blanchard)	827
20	Note (Joseph Mason, Jr.)	828
21	Minutes of Stockholder Meeting, November 15, 2005	829
22	Deposition of Joseph Mason, Sr. (workers compensation)	831
23	Journal ticket for service parts	836
24	Levine's stock value for Mason Tire	837
25	Shareholder Management Agreement (Mason Holding)	838
26	Minutes of Stockholder Meeting, May 2007	841

VOLUME III

27	Employee Disciplinary Notice	842
29	Letter discussing breach of duties	844
30	Letter discussing issues facing shareholders	846
31	Letter discussing financial and tax accounting issues	848
32	Letter in response to September 17, 2007 letter	851
33	Email advising of checks to be paid	852

36	Email discussing reason for journal entry.....	853
38	Letter requesting acknowledgement of agreement	854
40	Waiver for shareholders' meeting of October 24, 2007	855
41	Shareholders' Meeting (various companies)	856
43	Letter requesting historical data on family companies	891
44	Letter of engagement and request for documents	892
46	Letter acknowledging use of Levine.....	894
47	Letter advising of changes in job duties	895
48	Notice of Stockholders' Meeting	896
49	Final reprimand from Mason, Sr. and response.....	897
50	Acknowledgement of Mason, Jr. for sale of interest	899
52	Email of February 2, 2009	900
55	Letter discussing problems at company.....	901
57	Letter advising of furnishing of information	902
58	Letter requesting information be sent to CPA	904
59	Letter of depreciation schedule for 2007	906
60	Notes regarding payment made	909
61	Tax Returns - Mason Tire & Auto, 2003.....	910
64	Tax Returns - Mason Tire & Auto, 2006.....	923
65	Draft Amended Tax Returns - Mason Tire & Auto, 2003	938
66	Draft Amended Tax Returns - Mason Tire & Auto, 2004.....	945
67	Draft Amended Tax Returns - Mason Tire & Auto, 2005	947
68	Draft Amended Tax Returns - Mason Tire & Auto, 2006.....	951
69	Draft Amended Tax Returns - Mason Tire & Auto, 2007	955
70	Draft Amended Tax Returns - Mason Tire & Auto, 2008	979
71	Tax Returns – Mason Holding Co., Inc., 2004	995
72	Tax Returns – Mason Holding Co., Inc., 2005	1019
73	Tax Returns – Mason Holding Co., Inc., 2006	1036
77	Valuation Report by Dixon Hughes, LLC	1058
78	Mason Tire Corporate Structure	1140
79	Supplemental Report of Business Valuation (Woodside)	1141
80	IBA Comparable (Woodside)	1149
81	BizComp Comparable (Woodside).....	1150
82	Revised Expert Report (Woodside)	1150A

2. Mason Defendants

1	Mason Tire & Auto Service Invoice, March 18, 2004	1151
2	Mason Tire & Auto Service Invoice, August 25, 2003	1152
3	Mason Tire & Auto Service Invoice, November 10, 2005	1153
5	Mason Tire & Auto Service Invoice, July 21, 2004	1154
7	Mason Tire & Auto Service Invoice, March 8, 2006	1155
8	Mason Tire & Auto Service Invoice, June 6, 2006.....	1156
9	Mason Tire & Auto Service Invoice, July 24, 2007	1157
12	Mason Tire & Auto Service Invoice, October 11, 2006	1158
13	Mason Tire & Auto Service Invoice, April 19, 2006	1159
14	Mason Tire & Auto Service Invoice, November 15, 2006	1160

15	Mason Tire & Auto Service Invoice, July 7, 2006	1161
16	Mason Tire & Auto Service Invoice, May 16, 2006.....	1162
18	Image of check to Turner Padget	1163
19	Image of check from Turner Padget to Mason Tire & Auto....	1164
20	Letter from Munford Scott.....	1165
22	Check Request Form to Surfside store.....	1166
23	Image of check signed by Mason, Jr.....	1167
38	Mason Tire & Auto Service cash receipt, May 27, 2005.....	1168
49	Tax Analysis Report (Webster Rogers)	1170
50	Email exchange, October 23, 2007	1190
55	Image of check to BCJ Tires.....	1195
57	Fair Market Value Analysis (Zephyr Financial Corp.).....	1196
58	Calculation Report (Smith).....	1204

IV. Additional Documents

1.	Excerpts of Deposition of Joseph E. Mason, Sr.....	1282

STATE OF SOUTH CAROLINA

COURT OF COMMON PLEAS

COUNTY OF HORRY

JOSEPH E. MASON, JR.,

Plaintiff,

vs. CASE NO. 2008-CP-26-6169

JOSEPH E. MASON, SR., CATHERINE L. MASON, KATHY
ST. BLANCHARD, MASON HOLDING COMPANY, INC., and
IRWIN LEVINE,

Defendants.

DATE: NOVEMBER 16, 2011

TIME: 9:02 a.m.

LOCATION: Horry County Courthouse
1301 Second Avenue
Courtroom 2D
Conway, SC

REPORTED BY: Rebecca A. Graziano, CSR, RPR

A. WILLIAM ROBERTS, JR., & ASSOCIATES

Fast, Accurate & Friendly

Charleston, SC	Hilton Head, SC	Myrtle Beach, SC
(843) 722-8414	(843) 785-3263	(843) 839-3376

Columbia, SC	Greenville, SC	Charlotte, NC
(803) 731-5224	(864) 234-7030	(704) 573-3919

1 by somebody who could do the same thing for
2 \$50,000?

3 A. Or whatever the number. That's
4 correct. That is the concept. Because what you're
5 trying to do is to determine the value that this
6 enterprise would be worth in the marketplace, so
7 you've got to evaluate compensation to determine
8 that which might be excess. And in some
9 cases -- in fact, one of the years in my projection
10 is the compensation that was paid was actually less
11 than what I think a normal level of compensation
12 was. So it can work both ways.

13 Q. If you would, take us through your
14 conclusions here.

15 A. All right. The value there on that
16 first exhibit of \$1,316,866 is the value of the
17 company's operations. And to that, I added the
18 value of the real estate owned by Mason Holding
19 Company. That real estate is leased to the Conway
20 store, and I separated that asset --

21 Q. By the holding company?

22 A. Yeah. It's owned by the holding
23 company. It's held in that entity. And what I did
24 was separate that real estate from the operations,
25 and then if there's a positive value, you add it.

1 If it's zero, it's zero. If it's a negative value,
2 you would subtract it. In this case, I assumed
3 that the real estate -- and that can be called a
4 nonoperating asset -- had a value of \$377,056, and
5 that was simply based on the cost less the mortgage
6 balance as of August -- around the first of August
7 of 2008. The building went into service I think
8 about nine months prior to that. It was in late
9 2007. I did not have an appraisal as of August of
10 2008.

11 Q. The date of the valuation?

12 A. The date of the valuation. So I just
13 have the original costs less the actual mortgage
14 balance on that date, and that nets the \$377,056.
15 In my original report --

16 Q. How long was that after the completion
17 of the construction?

18 A. I think it was about nine months or so.

19 Q. And that's how it was carried on the
20 books, as of nine months after it was built?

21 A. That's correct. So if you add the
22 \$377,000 to the \$1,300,000, you get a total of
23 \$1,694,000.

24 Q. And that appears at the bottom of
25 Page 2 of your report?

1 disagreement on whether there is nonoperating value
2 here, but conceptually you agree with that concept?

3 A. The methodology is the same.

4 Q. And that methodology is generally
5 accepted in the financial community?

6 A. Yes.

7 Q. The business valuation community?

8 A. Yes.

9 Q. Now, what was your ultimate valuation
10 conclusion based on your work in this case?

11 A. The ultimate conclusion was I relied on
12 the market approach. I didn't assign a weight to
13 the income approach. I mean, if there was any
14 assignment, it would be very, very small, and for
15 the reasons I talked about earlier. In the market
16 approach, it was basically a revenue based
17 approach. And then it's my understanding there's
18 probably more reliability on the revenues than the
19 other parts of the income statement.

20 Q. That's why you and Ms. Smith both
21 relied on the top line revenue as a much more
22 reliable number than the bottom line net profit and
23 the intervening expense items?

24 A. Correct.

25 Q. And is that why you used that method

1 A. Yes. That's the other major piece of
2 the calculation.

3 Q. It's simple math. You multiply
4 something by two, and you get a different number if
5 you multiply it by three?

6 A. Right, or if you divide it by a
7 different number.

8 Q. Fortunately, is it fair to say you both
9 came to a pretty fair conclusion on the cap rate?

10 A. Yes. I just carried mine to an
11 additional decimal point. Mine is 20.6. I think
12 her calculation was virtually the same. She
13 rounded it to 21.

14 Q. So rounding, you'd have the same
15 capitalization rate?

16 A. That's correct.

17 Q. So that helps us do away with analysis
18 about growth rates and all the inputs that you've
19 used to get to a cap rate, correct?

20 A. Correct. We both ended up at the same
21 place.

22 Q. Let's talk about your section here
23 about excess owner compensation. Tell us, if you
24 would, what your conclusions were and how you
25 reached them.

1 A. In any appraisal of a small business,
2 one of the questions that arises and needs to be
3 dealt with is the compensation paid to the
4 officers, owners of the business. As is generally
5 known, in a small business, compensation can be set
6 virtually at any level. And that's one of the
7 problems with using a lot of databases is that very
8 fact, but it's all we've got.

9 What you want to do in an appraisal is
10 to have compensation that is consistent with what
11 the market would require for compensation to get
12 the same level of performance, skill, experience,
13 whatever it happens to be. So what is the market
14 replacement for someone in these positions? As I
15 said, when you perform that analysis, a lot of
16 times you'll see that they're overcompensating.
17 But again you can see where they may be
18 undercompensated. But if I bought that business
19 and I want to look at it at sort of an arm's
20 length, standalone proposition, that adjustment
21 needs to be made.

22 Now, in this particular case, I had one
23 year where they were undercompensated, and then
24 other years where they were overcompensated. And
25 the way I determined the compensation level was I

1 went to the occupation employment statistics of the
2 Bureau of Labor Statistics, BLS as it's frequently
3 referred to, and looked at compensation levels for
4 chief executives in the Conway, North Myrtle Beach,
5 Myrtle Beach area, and then chief executives for
6 the tire store SIC designation. So I have one set
7 of data that was specific to the type of company,
8 and then another set of data that was specific to
9 the area.

10 Q. You had data that was specific to tire
11 store executives in the Myrtle Beach area?

12 A. No. I wish I had that. You can't go
13 quite as good as that. I had chief executives in
14 Myrtle Beach, and then I had tire store executives.
15 But that's about all I could do, to drill down.

16 Q. Trying to get the best comparable
17 information?

18 A. Right, and look at it from more than
19 one perspective. And those two numbers are not
20 significantly different. If you look at the chief
21 executive, for example, if you look at the tire
22 stores, you get a number that's not greatly
23 different from looking at chief executives in the
24 Myrtle Beach, North Myrtle Beach, Conway area. And
25 that's what the designation in the BLS data is.

1 Q. And that's the database you used for
2 normalizing compensation?

3 A. Correct.

4 Q. Did you do something similarly on rent
5 analysis?

6 A. Yes. And the only information I had
7 there was a real estate appraisal that actually
8 determined -- it was a little bit off on the
9 valuation date, but it's the only indication I
10 would have a reasonable value per square foot and
11 calculated the rent difference based on that.

12 Q. Now, you've got a section here on
13 Page 5 of your report marked as Exhibit 79 dealing
14 with nonoperating real estate?

15 A. Yes.

16 Q. Can you explain what you've discussed
17 here?

18 A. Yes. That is the add-back on both of
19 the income and the market approach. Ms. Smith
20 assumed that the value of the property was equal to
21 the mortgage debt, so you had no net positive
22 value. I used what I had, and that was just simply
23 the cost less the actual debt as of August of 2008,
24 and that yields the difference of \$377,056. Had
25 there been an appraisal as of that date for that

1 A. As of the valuation date. That cost
2 and that mortgage had those balances roughly at
3 that point in time. There was no appraisal at that
4 point in time.

5 Q. And you showed us a graph of
6 some -- attached to your amended complaint, a graph
7 of some nationwide statistics about commercial real
8 estate that showed that the big drop came after
9 2008. Is that right?

10 A. Correct.

11 Q. Nationwide?

12 A. Correct.

13 Q. But there was a substantial drop in
14 2008, wasn't there?

15 A. There was a decrease. We're talking
16 about commercial property?

17 Q. Yes.

18 A. We're talking about a decrease. But
19 the real fall off -- the real large precipitous
20 decline in values took place primarily in 2009. It
21 was interesting how that unfolded. And as I said
22 earlier, the commercial property values lagged
23 behind residential properties. It was sort of a
24 cascade that was going on.

25 Q. Have you made any study of commercial

1 properties in this area, how they fared and when
2 they started going down as opposed to properties
3 nationwide?

4 A. No, because I don't have access to the
5 data. Although, I do have access to someone who
6 knows an awful lot about commercial property values
7 in the Myrtle Beach area and what was going on
8 during this time period. That person is my wife,
9 and she manages about five or \$6 billion worth of
10 commercial real estate in the southeast.

11 Being a Ph.D. in finance, while all
12 this was going on, we had all kinds of
13 conversations. I talked with economists at the
14 bank. This was unfolding, and it was unprecedented
15 in my lifetime. And the point of all this is these
16 property values declined, but there was a little
17 bit of a hitch in there before they fell off the
18 cliff.

19 Q. Do you recall when the Lehman Brothers
20 went down?

21 A. September of 2008.

22 Q. Was it eight or seven?

23 A. It was eight I believe. Let me think
24 back.

25 Q. 2008 was when the election took place.

1 A. That's correct. The Lehman Brothers
2 had already gone down.

3 Q. They went in September of 2007?

4 A. Right.

5 Q. And after the Lehman Brothers went
6 down, the whole country started sliding down?

7 A. The market did. If we look at the
8 S & P 500, it would exhibit something a bit
9 different. But that's the way it unfolded.

10 Q. Would you agree with me, regardless of
11 how much it went down before August of '08, that if
12 you looked at it now, the property would probably
13 be worth less than the mortgage?

14 A. That I don't know, but it would be
15 worth a lot less than it was back in 2007 and
16 eight.

17 Q. And it would be worth a lot less than
18 the 347,000-some odd dollars that you reflect on
19 your assessment?

20 A. The current value could be. When it
21 declined in '09, it pretty much stayed there
22 throughout ten and to date in '11.

23 MR. KNOWLTON: Just for the record, let
24 me intersperse an objection about discussions of
25 anything of valuation issues post the valuation

1 A. Correct, at market rates. But they
2 were two related parties.

3 Q. And this excess rent shows as having
4 been paid for five years?

5 A. Correct.

6 Q. And then you have an officer
7 compensation adjustment?

8 A. Yes.

9 Q. Explain what that is.

10 A. That's the difference between what I
11 believe would be reasonable compensation for a
12 chief executive officer relative to what was
13 actually paid. It was based on that data that I
14 referred to earlier that had tire stores, and then
15 chief executives in the Myrtle Beach area.

16 Q. Now, this information relates solely to
17 the chief executive officer position. It doesn't
18 include any other management personnel?

19 A. I believe that's correct.

20 Q. You're pretty sure about that?

21 A. Yes.

22 Q. So it looks like if Mr. Mason, Jr., was
23 the chief executive officer until 2007, that he was
24 overpaid in 2004, overpaid in 2005, overpaid in
25 2006, and overpaid in 2007. Would that be an

1 accurate assessment?

2 A. Correct.

3 Q. And then if he was no longer the chief
4 executive officer in 2008, whoever held that title
5 was underpaid by \$103,161?

6 A. That's correct.

7 Q. And do you know who the chief executive
8 officer was in 2008?

9 A. I don't know who had the title. You
10 know, now that I'm thinking about it, this is
11 officer compensation. So it would have included
12 salaries paid to Ms. St. Blanchard.

13 Q. And your testimony then would be that
14 in 2008, the officers were actually compensated,
15 whether it was Catherine St. Blanchard or
16 Mr. Mason, were paid less than you think they
17 should have been paid?

18 A. Correct, based on the records I've got,
19 the payroll records.

20 Q. So any contention that management was
21 being overpaid in 2008, which is when this lawsuit
22 was originally filed, you would disagree with that?

23 A. That's correct, for that particular
24 time period.

25 Q. And after that time period, you've made

1 no judgment. Is that right?

2 A. Well, again, what I've done is I have
3 looked at a weighted average of these add-backs,
4 these net add-backs. So the negative number you
5 see in 2008 is factored in there and is assumed to
6 be there going forward.

7 Q. Sure. But viewed in your chart on
8 Page 29, you show officer compensation for 2008 to
9 have been \$103,000 less than market?

10 A. Correct.

11 Q. Now, let's look if we can, sir, at
12 Page 29 on the right side of the page, and let me
13 refer you -- this is under the cash -- Mason
14 Holding Company cash flow base here, end of
15 December 31. Do you see that?

16 A. Yes.

17 Q. Now, go down if you will to the lines
18 earnings before taxes. Do you see that?

19 A. Yes.

20 Q. And you've got 101, 199, 254, 14,169,
21 and then a big loss in 2008. Those represent
22 earnings before taxes based on the books?

23 A. Correct.

24 Q. And you were not satisfied with what
25 the book showed for earnings in those years,

1 particular company.

2 MR. LEITER: No further questions.

3 MR. KNOWLTON: I have just a few
4 questions, your Honor.

5 REDIRECT EXAMINATION

6 BY MR. KNOWLTON:

7 Q. Dr. Woodside, you mentioned you read
8 some of the depositions. Kathy St. Blanchard's is
9 one you mentioned?

10 A. Yes.

11 Q. Did you see anything in that deposition
12 that would indicate to you that the pay that she
13 was receiving for her services were within the
14 market for those services if they had to be
15 replaced by a third-party?

16 A. No. It would have been less than what
17 she was being paid.

18 Q. And can you elaborate? How did you
19 reach that conclusion?

20 A. Well, it's based on a description. You
21 have to read all of this to make a general
22 conclusion of it, but her function in the business
23 was an accounting function, a lower level
24 accounting function. And I think -- I don't have
25 the detail in front of me, but -- I don't remember

1 what the compensation level was, but it would
2 be -- you could hire somebody to replace her in the
3 marketplace that would be less than what she was
4 making at Mason.

5 Q. In the business valuation community, or
6 the financial community, is this normalization of
7 income an essential part of determining what the
8 value of the company is to a financial buyer or
9 third-party?

10 A. Sure it is. It is particularly true in
11 closely-held businesses. They're not in a public
12 market. You've got a lot more public scrutiny, and
13 the order of magnitude of those issues in large or
14 in any publicly held company is a lot different
15 than it is in a closely-held company.

16 Q. On the issue of Ms. St. Blanchard, you
17 saw the salary study relied upon by Ms. Smith?

18 A. Yes.

19 Q. Do you think Kathy St. Blanchard fits
20 within the comparables that she reviewed for I
21 believe the head of an accounting department or
22 something along those lines?

23 A. It was accounting director. And no, I
24 don't. The education and experience requirements
25 for someone in that position is vastly different

1 than this particular person.

2 Q. And did you see anything in her
3 testimony that would lead you to believe that her
4 services were equivalent to the database services
5 for an accounting director?

6 A. No.

7 MR. THOMAS: Your Honor, we object to
8 him leading his witness on redirect.

9 BY MR. KNOWLTON:

10 Q. Let me ask you a couple of questions
11 about the tax liability.

12 A. Yes.

13 Q. If you're conducting a valuation of
14 this business as of August of 2008, what is the
15 proper analysis as far as what the tax liability
16 would be?

17 A. At that point in time -- I'm trying to
18 think back what was known at that point in time.

19 Q. Let me ask it this way: What is the
20 relevant inquiry? Is it what the tax liability may
21 have been at that time, or is it what it is today?

22 A. Oh, it would be at that time. So the
23 passage of three years would make a difference on
24 the penalties and interest for sure.

25 Q. It would make a vast difference, would

1 it were added, it would increase the add-backs to
2 get to normalized income.

3 MR. KNOWLTON: Thank you. That's all I
4 have.

5 THE COURT: Thank you. We'll break for
6 lunch. Be back in about an hour.

7 (A luncheon recess transpired.)

8 MR. THOMAS: Your Honor, by agreement
9 with Mr. Knowlton, as you recall earlier, we had an
10 agreed -- an accountant to review some of the
11 accounting matters, Ms. Laura DuRant, and she's not
12 available Thursday or Friday. So by agreement,
13 Mr. Knowlton has kindly agreed to call her out of
14 order today.

15 MR. KNOWLTON: We have agreed with
16 that. We have not rested our case, but we have
17 agreed to allow this, if it's okay with your Honor.

18 THE COURT: It's fine.

19 LAURA M. DURANT, CPA
20 being first duly sworn, testified as follows:

21 DIRECT EXAMINATION

22 BY MR. THOMAS:

23 Q. Ms. DuRant, would you tell us your full
24 name and your occupation?

25 A. Yes. My name is Laura Malard DuRant,

1 and I'm a CPA.

2 Q. And are you Frank DuRant's better half?

3 A. Yes, sir, I am.

4 Q. What is your occupation?

5 A. I'm a CPA. I'm a partner with the firm
6 Webster Rogers.

7 Q. Would you tell us your qualifications
8 in the field of accountancy and experience too?

9 A. I've had 25 years plus practicing in
10 the Myrtle Beach area in the tax and auditing
11 field.

12 Q. And when did you obtain your
13 certification?

14 A. 1981 or '82. Just a few years ago.

15 Q. And how long have you been with Webster
16 Rogers?

17 A. I merged my practice in with Webster
18 Rogers nine and a half years ago. I was formally
19 with Cherry, Bekaert and Holland.

20 Q. And are you an equity owner or partner?

21 A. Yes, sir, I am.

22 Q. Of Webster Rogers?

23 A. Correct.

24 Q. And has that been your status ever
25 since you merged your practice with Webster Rogers?

1 A. Actually, I went in initially as an
2 income partner, and then several years ago I
3 stepped up to an equity partner.

4 Q. Ms. DuRant, have you been
5 retained -- did you receive a call from me?

6 A. Yes, sir.

7 Q. Asking you to do some work on behalf of
8 a company called Mason Tire and Auto Service?

9 A. I did..

10 Q. And as a result of that call, did you
11 agree to perform some services on behalf of Mason
12 Tire and Auto?

13 A. I did.

14 Q. And do you recall just generally the
15 nature of the services you were asked to perform?

16 A. You requested me on the behalf of the
17 corporation to review several years where there had
18 been some erroneous journal entries made, and to
19 give my opinion of what would be the best way to
20 correct those tax issues.

21 Q. And in conjunction with the work that
22 you did on behalf of Mason Tire, can you tell me
23 what information you looked at or had access to?

24 A. Well, initially I only had access to
25 just one of the entities that was involved. And

1 through correspondence with Mr. Levine and the
2 shareholders, I received all the data or the
3 majority of the data for the years in question,
4 general ledgers, tax returns, source documents.
5 Everything that I requested I received pretty much
6 if it was there.

7 Q. Now, after you had received the
8 documents and reviewed them and thought about them
9 for a while, did you prepare a report of your
10 findings and conclusions?

11 A. Yes, sir, I did.

12 Q. And I'll show you this document and ask
13 you: Is this the report that you prepared?

14 A. Yes, sir, it is.

15 MR. THOMAS: We'd offer that, if it's
16 not already in.

17 MS. BLACK: I don't think that's
18 already in, no. I don't think we've marked it yet.
19 No objection.

20 THE COURT: Any objection to the
21 documents being entered?

22 MS. BLACK: No objection.

23 THE COURT: Entered without objection.

24 MR. THOMAS: Defendants' 49, your
25 Honor.

1 BY MR. THOMAS:

2 Q. Ms. DuRant, this is the report that you
3 prepared and submitted as a result of the work you
4 did on behalf of Mason Tire?

5 A. Yes, sir.

6 Q. Rather than me trying to question,
7 could you just kind of walk through the report for
8 us please, ma'am, and tell us what you did, what
9 you found, and what you concluded?

10 A. Okay. As the report states, we had
11 received the tax returns and work papers for the
12 years 2003 through 2008. And as a result of our
13 review, we went back and did our analysis and
14 talked to the shareholders, as well as Mr. Levine,
15 and reviewed the documents, and we found two
16 adjustments which were our primary concern.

17 The first one occurred in the year 2003
18 for \$440,000, and the second occurred in 2006 for
19 \$300,000. They were adjustments made to the books
20 and records that increased inventory and created a
21 corresponding credit note payable to shareholders.

22 Q. Now, as near as you could determine,
23 did these changes have any basis in reality?

24 A. No, sir.

25 Q. Excuse me for interrupting. Go ahead

1 and tell us what you concluded.

2 A. The increases in the inventory amounts
3 were basically filtered through to the cost of
4 goods sold expense for the years in question by
5 year-end journal entries that were made to the
6 books. The effect on the income tax returns were
7 significant, both for federal and state.

8 Based on what we found after we traced
9 through those journal entries into the books and
10 records and then into the tax returns themselves,
11 then we prepared this memo to you and to the
12 shareholders to inform everybody as far as what
13 would be the best procedures, where to go, and to
14 correct those errors now.

15 Q. Go ahead.

16 A. You can see our computations below, if
17 everybody has it in front of them. Would you like
18 me to walk through that?

19 Q. Would you walk us through the
20 computation?

21 A. Sure. What we did basically -- I guess
22 I can get into the details of 2007 and 2008. When
23 we reviewed the tax returns and the data that was
24 received, we were also told at the same time that
25 there had been corrections made to the returns for

1 the years 2007 and 2008 where the fictitious
2 adjustments that were made were reversed in 2007
3 and 2008 to try to correct those erroneous
4 adjustments.

5 So when we took that into
6 consideration, we tried to trace those correcting
7 journal entries back through a multiple set of
8 books to see if a good faith effort was made to
9 make those adjustments. So when we did the memo,
10 then we prepared the tax and penalties and interest
11 that would be due for 2003 and 2006, and took into
12 consideration that the years 2007 and 2008 would
13 have a refund if we picked up the income in the
14 years that it should have been reported in, 2003
15 and 2008.

16 Q. And the overpayments in 2007 and 2008
17 were, in your judgment, due to intentional
18 overstatement of taxes?

19 A. Correct. Now, since the time that we
20 prepared this memo, the 2007 return is out of
21 statute. So normal statute of limitations runs
22 three years from the filing date of tax returns.
23 So the 2007 return would have been filed in 2008.
24 The latest that they could have filed that would be
25 September the 15th, and it would have expired.

1 So taking all of that into
2 consideration, we walked through -- the memo walks
3 through the tax that was incurred, as well as the
4 penalties and interest. The income tax due for
5 2003 would be \$161,350. For 2006, the tax would be
6 \$110,391. The regular interest -- now, the
7 interest and everything of course is computed
8 through the date of the memo, which is August
9 the 23rd, would be \$83,493 for 2003. 2006 would be
10 \$28,400.

11 Now, the penalty interest is based upon
12 interest on the penalties that would be assessed
13 for the late payment penalty and the fraud penalty.
14 So they would assess the penalties, and then there
15 would be interest from the date of the assessment,
16 which would go back to the filing of the return, to
17 the initial due date of the return. So that
18 interest was \$62,620. 2006 would be \$21,300. The
19 late payment penalty would be \$40,338 for 2003, and
20 \$27,598 for 2006.

21 The fraud penalty, which in my opinion
22 would be applicable in this situation, would be
23 \$121,013 in 2003, \$82,793 in 2006. The
24 overpayments of tax for 2007 and 2008 would be
25 \$57,448, and \$24,726 for 2007 and 2008. Now,

1 that's only the federal tax due.

2 Q. And did you do a similar computation
3 for the state tax due?

4 A. Yes, sir. The state, of course, has
5 their own rules and regulations as far as interest
6 and penalties. So it's a little bit different
7 computation, but the tax for 2003 would be \$22,000.
8 2006 would be \$15,000, and by the time you add in
9 all the interest and penalties for the state, it
10 would be a total for 2003 of \$67,907. 2006 would
11 be \$38,486. Refunds for 2007 would be \$9,513.
12 2008 would be \$8,170. Combined tax liabilities for
13 federal and state net of the refunds, if received,
14 would be \$745,832.

15 Q. Now, you mentioned net of the refunds
16 if received. Is there a problem with the refund
17 for the year 2007?

18 A. Correct.

19 Q. And the problem again is what?

20 A. It's out of statute.

21 Q. Now, have you outlined in your -- well,
22 let me back up.

23 If, in fact, that \$66,961 credit is not
24 available, would that then be computed to the
25 federal state tax liability?

1 A. Yes, sir.

2 Q. And have you also outlined in your
3 report the interest payable on both the state and
4 federal levels on the tax interest and penalties?

5 A. Yes, sir.

6 Q. Other than the potential penalties that
7 you've outlined in your report, are there any other
8 potential penalties which could be assessed by
9 either the state or the federal authorities?

10 A. Yes, sir.

11 Q. And would you tell the Court what those
12 are?

13 A. I believe that there could be criminal
14 implications, and those penalties for, if they
15 probe that it was a crime, the criminal intent,
16 then it can run up to a half million dollars, and
17 you could serve jail time for it.

18 Q. Those penalties, are those
19 assessed -- if assisted, would those be assessed
20 against both the corporation and the individual who
21 was charged criminally, or would that be only as to
22 the corporation?

23 A. I would assume that it could be charged
24 to the individual and the corporation.

25 Q. Thank you, Ms. DuRant.

1 CROSS-EXAMINATION

2 BY MS. BLACK:

3 Q. Good afternoon, Ms. DuRant.

4 A. Good afternoon.

5 Q. My name is Elizabeth Black. I'm here
6 on behalf of the plaintiff, Joe Mason, Jr.

7 Now, I see in your report on Page 3, it
8 states in bold letters down at the bottom: This
9 report was drafted August 23rd, 2011. All penalty
10 and interest calculations are accurate as of this
11 date.

12 Is it your contention that this number
13 that you have is -- represents the entire number up
14 through August 23rd, 2011?

15 A. Correct.

16 Q. Were you ever asked to compute any
17 calculations for any other date?

18 A. No.

19 Q. The total number that you have of
20 \$745,832, that's an unliquidated number at this
21 point. Is that correct?

22 A. What do you mean by unliquidated? Is
23 there liquid funds in the corporation to pay those
24 taxes?

25 Q. What I mean by that -- has any taxing

1 authority imposed a liability of \$745,832?

2 A. Not to my knowledge.

3 Q. So that's a speculative number at this
4 point?

5 A. Whether the number is correct or
6 whether it could be assessed?

7 Q. Whether there is any liability at this
8 point of that number.

9 A. In my opinion, the liability exists.

10 Q. But no taxing authority has made that
11 determination. Is that correct?

12 A. Correct.

13 Q. Are you aware of any taxing authority
14 that is presently -- has any knowledge of this
15 alleged liability?

16 A. No.

17 Q. Have you been asked or are you planning
18 to take the position that you've taken here with
19 the IRS for the South Carolina Department of
20 Revenue on behalf of Mason Holding?

21 A. Could you repeat the question?

22 Q. Have you been asked or are you planning
23 to take the positions that you've expressed today
24 with the IRS or the South Carolina Department of
25 Revenue on behalf of Mason Holding?

1 what -- my computations. But that is correct, it
2 hasn't been assessed.

3 Q. Why did you use the date of August
4 23rd, 2011, as the date through which to run
5 various interests and penalties and tax
6 computations?

7 A. I think that was just merely the date
8 that we finished our work. There was nothing
9 significant about that date.

10 Q. Taking your numbers as they are, I
11 believe you mentioned the interest and fraud
12 penalties, and those things grow over time. Would
13 it be fair to say that the basis of this liability
14 had this been brought to the attention of the IRS
15 or the state taxing authorities earlier that that
16 number would be lower?

17 A. Correct.

18 Q. So say in August of 2008, if we use
19 that as the cutoff date, you would cut off a decent
20 amount of interest, penalties, and that sort of
21 thing, correct?

22 A. It would cut off whether it's material
23 in relation to \$745,000. Yes, they accrue daily.

24 Q. And you have not done any calculations
25 to any other dates, so it would be hard to sit here

1 Q. Any place else that that's coming from?

2 A. No. I mean, I think it was a surprise
3 to them at the time.

4 Q. Just to be clear, what part do you feel
5 was a surprise to them: The tax liability
6 potentially associated with that course of action,
7 or the fact that that action was being taken?

8 A. Both.

9 Q. Ms. DuRant, as a CPA, someone with a
10 lot of experience in this area, if a person is
11 really receiving compensation for shares of stock,
12 wouldn't you have to pay capital gains taxes on
13 that compensation?

14 A. Were they receiving a salary, or
15 dividends?

16 Q. Payment.

17 A. You mean from the sale of the stock?

18 Q. For the sale of the stock.

19 A. Yes, you would.

20 Q. That would not be categorized as a
21 gift, would it?

22 A. Was the gift tax return filed?

23 Q. In what situations would it be
24 characterized as a gift?

25 A. I don't see how anybody could give you

1 cash and then say they gave you the stock too.

2 Q. That's not very compatible with a gift?

3 A. No.

4 Q. And you would agree with me that it is
5 unlawful to mischaracterize the nature of a payment
6 to avoid income taxes?

7 A. Yes, I would.

8 Q. And do you consider it competent
9 accounting advice to suggest fictitious promissory
10 notes as a way to handle accounting or inventory
11 issues?

12 A. Can you repeat it? Do I consider that
13 to be competent?

14 Q. Yes, ma'am.

15 MR. LEITER: Objection. Relevancy.

16 MS. BLACK: Your Honor, we've been
17 talking about these issues the entire time.

18 THE COURT: I'll note your objection.
19 I'm going to let her answer. Go ahead and answer
20 the question.

21 THE WITNESS: No, that's not competent
22 accounting advice.

23 MS. BLACK: Excuse me a moment.

24 (Off-the-record conference.)

25 BY MS. BLACK:

1 planning.

2 Q. Now, Mr. Bowers, have you been
3 contacted relative to doing some work for Mason
4 Tire?

5 A. I have.

6 Q. And who contacted you?

7 A. You did initially.

8 Q. And as a result of that contact, did
9 you have a meeting with some of the members of
10 Mason Tire Company?

11 A. I did.

12 Q. And were you given any information to
13 review prior to that meeting?

14 A. Yes, Laura DuRant's report.

15 Q. And have you had occasion to talk to
16 Ms. DuRant about her findings in her report?

17 A. I have, her and some of her office
18 people.

19 Q. And as a result of your review of her
20 report and your meeting with some of the members of
21 Mason Tire, have you formed any opinion as to what,
22 if any, action needs to be taken on behalf of Mason
23 Tire?

24 A. Yes, I have.

25 Q. Would you tell the Court what that

1 opinion is?

2 A. I recommended to the corporation that
3 they voluntarily report the inconsistencies to the
4 Internal Revenue Service and the South Carolina
5 Department of Revenue.

6 Q. Now, tell us, if you will, sir: You
7 used the term voluntary report. What does that
8 mean?

9 A. The Internal Revenue Service has a
10 manual procedure that hopefully avoids criminal
11 prosecution, and this is a disclosure under that
12 manual provision. And I have met with the
13 Department of Revenue -- the South Carolina
14 Department of Revenue and the IRS on the matter.

15 Q. Your meeting, was that authorized by
16 the corporation?

17 A. It was.

18 Q. And when was that meeting held?

19 A. I think it was this Monday.

20 Q. So in fact, the Internal Revenue -- did
21 you give them a copy of Ms. DuRant's opinion?

22 A. No, I did not.

23 Q. But you generally went over it?

24 A. I talked generally about
25 understatements and basically cost of goods sold,

1 and generally about the fact that there was a
2 dispute going on as far as stock ownership right
3 now, and discussed the procedures in the manual
4 with them and what was required under the manual
5 procedures.

6 Q. So that procedure is in process?

7 A. It is in process.

8 Q. What is the next step in that
9 procedure?

10 A. Well, the first step is to ensure that
11 it's a voluntary disclosure, and they requested the
12 numbers on all of the corporations, and social
13 security numbers and names of all of the
14 shareholders, officers, and directors. They will
15 go through that information and their files to try
16 to determine that there's no existing activity or
17 filing of any nature with respect to those
18 entities.

19 Q. Now, Mr. Bowers, have you arrived at
20 the point where you're able to give any judgment on
21 the potential -- the amount of the potential tax
22 liability as referenced in Ms. DuRant's report?

23 A. You know, I don't think the assessment
24 would be any different than that. Possibly in
25 settlement, we might reduce that. The next steps

1 of this procedure are to basically have a complete
2 disclosure as to the facts behind the adjustment
3 and to file amended returns that are proper. And
4 basically, the disclosures have to be totally
5 truthful, the returns have to be totally correct,
6 and there has to be a provision for repayment of
7 the taxes due.

8 Q. Now, when you file these amended
9 returns, when is that tax actually due and payable?

10 A. Well, it would not be due and payable
11 until it was finally assessed and had gone through
12 the appeals process. It would be due and payable
13 at that time, but I think at that time you could
14 probably negotiate a part payment agreement as a
15 part of this procedure.

16 Q. To pay it over time?

17 A. To pay it over time.

18 MR. THOMAS: You may examine.

19 CROSS-EXAMINATION

20 BY MR. KNOWLTON:

21 Q. Good afternoon, Mr. Bowers.

22 A. Good afternoon.

23 Q. Could you tell us when you were first
24 contacted about your -- the work you just
25 described?

1 A. I think approximately three weeks ago.

2 Q. Have you seen Mr. Byrd's letters
3 raising these issues dated in October of 2007?

4 A. I have seen those letters.

5 Q. Is it fair to say that whatever
6 penalties and interest and taxes assessed against
7 the company, they would have been a lot easier to
8 deal with and a lot lower if it had been properly
9 addressed in 2007 or 2008?

10 A. If proper amended returns had been
11 filed for 2003 and 2006, you would have reduced the
12 possible penalties by a great deal.

13 Q. In Ms. DuRant's report, there was a
14 reference to a fraud penalty. Do you see that?

15 A. Yes.

16 Q. In your dealings with the IRS and the
17 state taxing authorities -- well, let me put it to
18 you this way: Would it be fraud if an officer of a
19 company reasonably relied upon an accountant's
20 advice on how to handle a situation when he signed
21 the tax returns?

22 A. I think that's an argument against
23 fraud. And it might be an argument to abate -- to
24 reduce the penalty.

25 Q. So if you successfully argued that you

1 was a discussion between the two of them about
2 adjustments. And what resulted from that, I don't
3 know.

4 Q. He did not explain that it was his idea
5 to draft a note?

6 A. I'm not sure whose idea it was.

7 Q. Have you read his deposition?

8 A. No, I have not.

9 Q. Now, Ms. DuRant's report, that's not
10 something you submitted to the taxing authorities?

11 A. No.

12 Q. And that would not be the position you
13 would take as to what should be paid, would you?

14 A. No. You know, the questions may come
15 up as a part of the investigation. We have not
16 presented anything to them other than the fact that
17 there were some understatements and overstatements
18 really of cost of goods sold.

19 Q. And I guess my point is: In
20 negotiating with taxing authorities, you wouldn't
21 submit Ms. DuRant's report as the position of the
22 company with --

23 A. No. The only thing -- the next step
24 would be to have basically amended returns for all
25 the years, and they need to be proper.

1 Q. Is there any reason you can think of
2 why this couldn't have been done in 2007 and 2008?

3 A. No.

4 Q. Do you think there's any coincidence
5 that it's happening during the trial of this case
6 for the first time? I know you weren't involved.

7 A. I wasn't involved, so I don't know.
8 You know, the obvious reason is there would have
9 been a substantial amount of taxes due.

10 Q. I'm sorry. I couldn't understand you.

11 A. The obvious reason is probably there
12 would have been a substantial amount of taxes due.
13 The way that they were finally reported in the 2007
14 and 2008 year, they basically brought all of the
15 understatements back in the income in those two
16 years, which is not proper.

17 Q. It would be your opinion that that's an
18 incompetent fix to the problem?

19 A. I think it's not a good fix to the
20 problem.

21 Q. And that's your opinion as a tax
22 lawyer?

23 A. Obviously.

24 Q. Now, would you have advised the company
25 to have done that in 2007 and 2008?

1 A. Never.

2 Q. For these notes that I draw your
3 attention to in 2003, do you consider that
4 competent accounting advice to suggest those notes
5 would be a proper way to deal with the inventory
6 undervaluation issue?

7 A. I don't know who suggested it, but the
8 creation or execution of the notes would have been
9 something that I would have never approved.

10 Q. I understand you personally would not.
11 Would you consider that -- if an accountant advised
12 that, would you consider that incompetent
13 accounting?

14 MR. LEITER: Objection. Beyond the
15 pleadings.

16 THE COURT: I'll note your objection.
17 Go ahead and answer it.

18 THE WITNESS: I consider it fraud.

19 BY MR. KNOWLTON:

20 Q. Beyond incompetence? If that was
21 advice from an accountant --

22 A. I don't know if fraud is beyond
23 incompetence or not.

24 Q. It sounds worse to me. To your
25 knowledge, is Mr. Levine still serving as the

1 entity's returns.

2 Q. As I understand it, the proposed fix on
3 the amended returns wouldn't have worked. The fix
4 that was attempted on the '07 and '08 returns, that
5 didn't work either?

6 A. That's right. And the 2008 return
7 included amending one return that was not a member
8 of the brother/sister group. It was 48 percent
9 owned by Mason Tire Holdings, and it also had
10 substantial losses. So it kind of superficially
11 threw income where losses were.

12 Q. I think that's all. Thank you,
13 Mr. Bowers.

14 MR. KNOWLTON: Your Honor, I have a
15 couple follow-ups.

16 RECROSS-EXAMINATION

17 BY MR. KNOWLTON:

18 Q. Mr. Bowers, I'm a little confused as to
19 what amended tax returns you may have seen. If you
20 would -- in that same notebook, if you would turn
21 to Exhibit 65. Do you have that?

22 A. Yes.

23 Q. Is Plaintiff's Exhibit 65 one of the
24 draft amended tax returns that you saw?

25 A. You know, I don't recall seeing that.

1 Honor.

2 MR. THOMAS: Your Honor, he's still
3 under oath. If the Court has any questions, this
4 is your opportunity.

5 THE COURT: I'm afraid to ask. I
6 presume you're all going to excuse him and let him
7 go?

8 MR. THOMAS: Yes, your Honor.

9 THE COURT: You can leave or stay with
10 us.

11 MR. LEITER: Could we take a
12 five-minute break?

13 THE COURT: Sure.

14 (A recess transpired..)

15 MR. KNOWLTON: If it please the Court,
16 the plaintiff calls Mr. Irwin Levine.

17 IRWIN LEVINE
18 being first duly sworn, testified as follows:

19 DIRECT EXAMINATION

20 BY MR. KNOWLTON:

21 Q. Mr. Levine, please state your full name
22 for the record, please.

23 A. Irwin H. Levine.

24 Q. Mr. Levine, are you still a resident of
25 Miami?

1 A. My office is in Fort Lauderdale. My
2 home is Boca Raton, Florida.

3 Q. I apologize. You're still a citizen
4 and resident of Florida?

5 A. Yes.

6 Q. And you have been for -- well, how long
7 have you been a resident of Florida?

8 A. 40 years.

9 Q. My understanding is that you have known
10 the Masons for over 30 years?

11 A. That's correct.

12 Q. How long have you been doing accounting
13 work for one or more members of the Mason family?

14 A. Approximately 30 years.

15 Q. You first started doing accounting work
16 for Ms. Mason?

17 A. That's correct.

18 Q. And when you started doing accounting
19 work for one of the Mason families through the
20 present, has there ever been a time when you didn't
21 provide them accounting services?

22 A. I cannot think of any.

23 Q. How long have you been doing the
24 accounting work for Mason Tire?

25 A. I believe around 1990, 1989.

1 Q. Around 1989 or '90?

2 A. Yes.

3 Q. So it was in operation when you started
4 doing accounting work for that entity?

5 A. That's correct.

6 Q. So if my math is correct, it's now been
7 over 20 years?

8 A. That's correct.

9 Q. And we've mentioned this earlier in the
10 trial, but you're not a CPA, are you?

11 A. That's right.

12 Q. Let's just get it out there. You
13 failed the CPA exam?

14 A. I did.

15 Q. And you've never been a CPA?

16 A. No, I have not.

17 Q. You're something called a P.A. in
18 Florida. Is that correct?

19 A. That's correct.

20 Q. A public accountant?

21 A. A public accountant, yes.

22 Q. And you agree it would be unlawful for
23 you to hold yourself out as a CPA?

24 A. I have never held myself out.

25 Q. My question to you, sir, was: Do you

1 agree it would be unlawful for you to hold yourself
2 out as a CPA?

3 A. Yes.

4 Q. My understanding is you don't have a
5 license of any sort in South Carolina, do you?

6 A. That's right. I do not have a license.

7 Q. You don't have a license to practice
8 accountancy in South Carolina?

9 A. I do not.

10 Q. Have you advised the Mason family that
11 you have no license to practice accountancy in
12 South Carolina?

13 A. I have not.

14 Q. Mr. Levine, during your work for Mason
15 Tire, as I understood your discussion in your
16 deposition, you live full-time in Florida, and you
17 would provide advice over the phone on a regular
18 basis?

19 A. Could you qualify the regular basis?

20 Q. Well, maybe you can help quantify it
21 for us. But the point is: You don't live here,
22 you live down there, but you do correspond or give
23 advice over the phone while you're down there?

24 A. There have been times when they'd call
25 me to ask me certain accounting information and I

1 Q. Did you have a cordial relationship, at
2 least prior to 2008, with all of them?

3 A. Yes, I did.

4 Q. And you weren't just their friend
5 though. You were their accountant?

6 A. Yes, I was.

7 Q. You were the company accountant?

8 A. Yes, I am.

9 Q. And you served as their individual
10 accountant?

11 A. Yes, I am.

12 Q. And you prepared all of the company's
13 tax returns I believe that have been filed since
14 you started doing work for the company?

15 A. That's correct.

16 Q. So that would be from 1989 to the
17 present?

18 A. That's correct.

19 Q. Every one of them that's ever been
20 filed since that time?

21 A. As far as I know of, yes.

22 Q. Now, I assume when you met with the
23 members of the Mason family, you discussed some of
24 your findings and financial issues and accounting
25 issues that were ongoing with the company?

1 A. There would be conversations with them,
2 yes.

3 Q. Would you also on occasion attend
4 shareholder meetings of the family or the
5 shareholders, which included the family members?

6 A. If I was here, yes.

7 Q. And did you consider that part of your
8 job for Mason Tire when you were here to attend
9 those meetings?

10 A. They invited me to attend these
11 meetings. It would be classified as part of my
12 job.

13 Q. And you were there -- they would
14 schedule the meeting while you were there so you
15 could attend, correct?

16 A. Yes.

17 Q. And you would be there as the company
18 accountant?

19 A. Yes.

20 Q. Now, at the -- it also appears to
21 me -- I think you mentioned in your deposition that
22 another annual function you would serve for the
23 company was to prepare a valuation of the company?

24 A. That's correct.

25 Q. And you considered that part of your

1 similar to it as sort of the first ground of a
2 retirement package for Mr. Levine, Sr. (sic)?

3 A. Mr. Mason, Sr.?

4 Q. I'm sorry. I misstated it. Let me try
5 again. Do you recall seeing this document or
6 something substantially similar to it as the first
7 round of a retirement package for Mr. Joe
8 Mason, Sr.?

9 A. No, I didn't see this.

10 Q. You've never seen this before, or you
11 didn't see it --

12 A. I only knew about this particular thing
13 at our deposition. I did not see this before.

14 Q. You didn't see any draft stock purchase
15 agreement in that time frame?

16 A. No, sir.

17 Q. Let me ask you to take a look at
18 Exhibit 10. Now, that's a letter dated
19 February 18th, 2002, from Mr. Ed Kelaher. Do you
20 see that?

21 A. Yes, sir.

22 Q. And that first sentence says: I
23 received a telephone call from Irwin Levine, CPA,
24 who has reviewed my most recent draft of this stock
25 purchase agreement.

1 A. Yes, sir.

2 Q. Does that refresh your memory that you
3 saw the draft stock purchase agreement?

4 A. Based on this letter, I did see a stock
5 draft agreement.

6 Q. So what you said a few moments ago is
7 not correct. You did see it?

8 A. I'm not sure if this is the one that
9 Mr. Kelaher is talking about. There's no date
10 here.

11 Q. Is there another one you saw,
12 Mr. Levine? I asked you if you saw this or
13 something substantially similar.

14 A. It was similar to this. I may have
15 seen this.

16 Q. It could have been this one?

17 A. Yes, sir, it could have been this one.

18 Q. Did you represent to Mr. Kelaher that
19 you were a CPA, as he states in his letter?

20 A. I see that. No, I did not. I have
21 never put myself out or said I was a CPA.

22 Q. How do you think he came to that
23 understanding?

24 A. Pardon?

25 Q. Do you understand how Mr. Kelaher came

1 to the understanding that you were a CPA?

2 A. He knew I was an accountant, a public
3 accountant, and he just assumed I was a CPA.

4 Q. Now, let's review his letter for a
5 moment. He states that he, referring to you,
6 requested that some changes be made regarding the
7 treatment of interest in Paragraph 2A, talking
8 about the stock purchase agreement. Do you see
9 that?

10 A. Yes, sir.

11 Q. And it goes on to say: And regarding
12 the manner in which consulting fees would be paid.
13 Under Paragraph 5, do you see that?

14 A. Yes, sir.

15 Q. And did you, in fact, make those
16 request changes regarding those issues to
17 Mr. Kelaher?

18 A. Yes, sir.

19 Q. It goes on to state that he personally
20 requested that Mr. Mason, Sr., forward a copy of
21 the draft to you to make sure he completed the
22 changes according to your expectations. Do you see
23 that?

24 A. Yes, sir.

25 Q. Did that, in fact, happen?

1 A. I probably did receive it. I don't
2 recall it.

3 Q. In the next paragraph of his letter, he
4 suggests to the family members that they obtain
5 separate legal or accounting advice about this
6 proposed agreement. Do you see that?

7 A. Yes, sir.

8 Q. To your knowledge, was any other
9 accountant or attorney consulted with this
10 retirement package besides Mr. Kelaheer and you?

11 A. Can you repeat that, please?

12 Q. To your knowledge, was any attorney
13 besides Mr. Kelaheer or any accountant besides you
14 consulted regarding what Mr. Kelaheer is referring
15 to in here, this retirement package that we'll
16 continue to review?

17 A. To my knowledge, no.

18 Q. Take a look at what's been previously
19 marked as Exhibit 12, Plaintiff's Exhibit 12. Do
20 you have this document? It should be a memorandum
21 dated August 2nd, 2002, by Mr. Kelaheer.

22 A. I see it.

23 Q. And it starts off by saying: I spoke
24 to Irwin Levine today, who is the CPA for the
25 Masons. Do you see that?

1 A. Yes, sir.

2 Q. Did you talk with him that day?

3 A. It says I did. I don't recall it.

4 Q. Do you have any reason to refute that
5 you talked with Mr. Kelaheer that day?

6 A. I probably did.

7 Q. You know you had conversations with
8 him, you just don't recall exactly what day?

9 A. Yes.

10 Q. And you had conversations with him
11 about this retirement package, did you not?

12 A. Yes, I did.

13 Q. It states: Irwin explained to me that
14 he had some very particular concerns as to how the
15 transactions should be completed among the Mason
16 family as Joe, Sr., retires. Irwin's
17 objective -- that's you I suppose -- is to be smart
18 about tax issues, while still completing the
19 intentions of the parties. Is that what you
20 conveyed to Mr. Kelaheer?

21 A. Yes, sir.

22 Q. And did you have very particular
23 concerns about how to structure this transaction?

24 A. I probably did, but I can't recall them
25 now.

1 Q. Take a look at the second page of this
2 document at the paragraph numbered five. Do you
3 see where it states: Irwin specified that there
4 should be a separate employment agreement?

5 A. That's correct.

6 Q. Did you specify that?

7 A. Yes, sir.

8 Q. And the benefits under that
9 agreement -- let's take a look at what was
10 ultimately signed. Take a look at Exhibit 16.
11 Hold your place here, but turn to 16. Do you have
12 that?

13 A. Yes, sir.

14 Q. Take a look at the very last page of
15 that exhibit. Tell me when you have that.

16 A. The last page of the agreement?

17 Q. Yes, sir.

18 A. Yes.

19 Q. And if you would, look at the very last
20 page of Exhibit 8 and tell me whether you would
21 consider those substantially the same list of
22 benefits for Mr. Mason, Sr.

23 A. They do.

24 Q. And so what started off as a stock
25 purchase agreement with a consulting arrangement

1 within it, turns into -- this piece of it turns
2 into an employment agreement with that
3 substantially same exhibit?

4 A. Yes.

5 Q. And we can look, but the numbers are
6 the same. The \$866 a month is the same number we
7 pick up from the stock agreement that used to be
8 portrayed as -- characterized as interest, is it
9 not?

10 A. That's correct.

11 Q. And that's not coincidental. You're
12 just recharacterizing what it is?

13 A. The relationship is there.

14 Q. Now, Paragraph 6, you talk about your
15 strategy -- or I should say Mr. Kelaher said that
16 your strategy on dealing with this package was -- I
17 guess what you were looking at is dealing with
18 self-employment taxes, FICA, all these things that
19 they tax the employer for and the employee when you
20 get income?

21 A. Correct.

22 Q. So you were trying to minimize that,
23 correct, and the impact on social security income?

24 A. That's correct.

25 Q. So you recharacterized the nature of

1 not fully aware of this inventory problem. She was
2 not aware of it because I never made her aware of
3 it. This here, this meeting here, was probably
4 the -- maybe the first time -- it might be the
5 first time she was made aware of it. I certainly
6 did not bring it to her attention.

7 Q. Obviously you can't say when she first
8 knew about it, but these valuations are being
9 distributed among the family, are they not? And
10 you faxed one that states understated inventory to
11 her.

12 A. Kathy Mason -- Joe might have brought
13 it up to her, or she might have received it and
14 just signed off on it without realizing what the
15 full impact was.

16 Q. You don't know what she knew?

17 A. No, I don't.

18 Q. Now, let me ask you to take a look at
19 Exhibit 15. Do you have that?

20 A. Yes, sir.

21 Q. Now, this is a letter from Mr. Kelaher,
22 is it not?

23 A. Yes, sir.

24 Q. You've seen this letter before, haven't
25 you?

1 A. Yes, sir.

2 Q. And it states: There was a meeting
3 with Joe, Sr., Joe ,Jr., and Irwin Levine, CPA. Is
4 that correct? The very first sentence.

5 A. That's correct.

6 Q. Did you, in fact, have a meeting with
7 that group of people?

8 A. Yes, sir.

9 Q. And were directions given to
10 Mr. Kelaher at that document about the preparation
11 of Mr. Mason, Sr.'s retirement package?

12 A. Yes. Yes, sir.

13 Q. And there are three documents that were
14 prepared that are referenced in this letter, were
15 there not? There was the employment agreement that
16 we looked at a moment ago?

17 A. Yes.

18 Q. There was an extra lease on Pawleys
19 Island. Do you see that at the very bottom -- the
20 last paragraph on that page?

21 A. Yes, sir.

22 Q. And the third thing was this letter
23 agreement that's been marked as Exhibit 17. Do you
24 have Exhibit 17?

25 A. I have it.

1 Q. And that was the third document that
2 constituted Mr. Mason, Sr.'s retirement package.
3 Is that correct?

4 A. Yes, sir.

5 Q. Now, on the Pawleys Island
6 property -- I want to make sure I'm clear on this.
7 There was already a lease in place, was there not?
8 The building had been built, it was open and
9 running, but you just added another lease to the
10 premises so you could treat that income stream as
11 rent rather than salary?

12 A. That's correct.

13 Q. So he would still have to pay income
14 taxes on it, but not employment taxes, and it
15 wouldn't impact social security because it wouldn't
16 be earned income. It wouldn't be certain taxes at
17 the company level either because it's rent and not
18 income. Is that why you directed it to be
19 fashioned in that way?

20 A. This lease -- I can fully recall that I
21 was in my office in Florida, and Joe, Jr., called
22 me about it. He called me, and he said: Why don't
23 we make the retirement agreement? We'll call it
24 rent instead of salaries or consulting fees, and I
25 thought it was an excellent idea. But it was

1 Joe, Jr., who initialed the idea of having a rent.

2 Q. And he calls you as the company
3 accountant and says: Hey, how about if we call it
4 rent?

5 A. That's correct.

6 Q. And what did you tell him?

7 A. I thought it was a great idea.

8 Q. And you thought that would be
9 appropriate to characterize that income stream as
10 rent instead of compensation for shares or
11 something else because of the tax issues?

12 A. That's correct.

13 Q. Did you advise him that it was -- that
14 it would be improper to mischaracterize the nature
15 of the payments that Mr. Mason, Sr., would be
16 receiving?

17 A. No, sir.

18 Q. As the company accountant, does
19 your -- isn't it the professional's role,
20 especially as an accountant with these complex
21 issues, to tell the client what's lawful and what's
22 not?

23 A. In my opinion --

24 Q. Well, answer my question first.

25 MR. LEITER: Objection. He is

1 answering the question. Let him answer it.

2 BY MR. KNOWLTON:

3 Q. : Go ahead.

4 A. In my opinion, I thought the idea of
5 having a lease -- a second lease on the land at the
6 back of Pawleys Island was a good idea, and I
7 thought nothing wrong with it as long as we
8 recognized it on the books as an expense, and
9 Mason, Sr., recognized it as income on his personal
10 return.

11 Q. And you think it would be lawful to
12 recharacterize it that way?

13 A. It might be for the state of -- I'm
14 only -- I'm not a lawyer. But from an accounting
15 point of -- from a tax point of view, I saw nothing
16 wrong with this at all.

17 Q. So you directed that it be done in that
18 way because you thought it would be okay?

19 A. Yes, sir.

20 Q. And they relied on you to tell them
21 that, did they not?

22 A. Repeat that.

23 Q. The Mason family members were relying
24 on your discussions with them on accounting issues,
25 whether it's proper or not, were they not?

1 A. They relied on me on tax issues, yes,
2 sir.

3 Q. And accounting issues?

4 A. Yes, sir.

5 Q. Now, let me back up. I have a couple
6 questions to make sure we're clear on it. There
7 was already a lease in place for Pawleys Island,
8 and you added this second lease that's been marked
9 as Exhibit 18?

10 A. Yes, sir.

11 Q. Now, the consideration recited in the
12 letter agreement for the conveyance of the shares
13 is that Mr. Mason, Sr., and his wife get to
14 designate the company certified public accountant.
15 Do you see that?

16 A. Yes, sir.

17 Q. And was that part of these discussions?

18 A. I had no -- that area there. I had no
19 knowledge about.

20 Q. Are you saying that was not discussed?

21 A. No, sir.

22 Q. When the agreements were drafted?

23 A. It was included in the agreement, but I
24 was not aware of it.

25 Q. So that was totally news to you that

1 unknown tax and legal issues regarding this unusual
2 set of documents at that meeting?

3 A. Mr. Kelaher might have brought that up,
4 but I didn't think there was any problems at all
5 with it.

6 Q. And that was your advice as the company
7 accountant and Mr. Mason, Sr.'s accountant, that
8 there's no problem with recharacterizing these
9 payments?

10 A. I might have been silent on it, but I
11 had no problems with it.

12 Q. You were not silent about it, were you?
13 You were the one calling Mr. Kelaher with specific
14 directions, were you not?

15 A. I was in the meeting with Mr. Kelliher
16 going over certain items.

17 Q. Right, and we looked at two letters and
18 memos before that where you were the one calling
19 him giving him specific directions on what to
20 draft.

21 A. We discussed consulting our employment
22 probably, but there is certain items I did not
23 discuss with him.

24 Q. The structure of this transaction was
25 something you specifically requested and approved

1 on behalf of the Mason family and the Mason Holding
2 Company, did you not?

3 A. Repeat that, please.

4 Q. The general structure of this
5 retirement package constituting generally these
6 three agreements, the employment agreement, this
7 letter agreement, and the lease --

8 A. Yes, sir.

9 Q. And they relied on your advice in
10 connection with entering into these agreements?

11 A. That is correct, but there are certain
12 items in these agreements, as I said before, that I
13 don't recall discussing with them.

14 Q. Mr. Levine, let me ask you to take a
15 look at Exhibit 19.

16 A. I have it.

17 Q. Have you seen these documents before,
18 19 and 20? Those are the notes, \$220,000 a piece.

19 A. The first time I was aware of actually
20 seeing these notes was at the deposition I had with
21 you.

22 Q. You had not seen the notes before your
23 deposition in this case?

24 A. No, sir.

25 Q. Well, let me ask you this: You've

1 already acknowledged I guess by this point, June
2 of '03, you knew there was an understated inventory
3 problem for at least two and a half years?

4 A. That's correct.

5 Q. And did you not come up with the idea
6 of a way to resolve this problem was to draft notes
7 for a total of \$440,000 to Joe and his sister,
8 Kathy?

9 A. It was only part of our conversation.

10 Q. Was that your idea?

11 A. I mentioned the notes as part of a
12 conversation about the inventory.

13 Q. Let me be clear again. Whose original
14 idea was it that this would be a way to address the
15 problem by executing promissory notes and making
16 journal entries reflecting these?

17 A. This was not my original idea.

18 Q. Whose was it?

19 A. This is not my original idea.

20 Q. Whose was it?

21 A. My conversation with Joe, Jr., on
22 November of '02, which this is part of, was that we
23 sat down together, and we talked about -- in his
24 office in the afternoon, we talked about the
25 understated inventory, and I had -- talking with

1 Joe, I had suggested different options that he
2 could do, and one of the options -- the options
3 that I told him to do are we can do this the
4 correct way -- do it the correct way, or the other
5 option is to do it the way he's got it now, with
6 setting up his own account. And if you're
7 going -- if you do something like that -- if you do
8 something like that, then we need to have some
9 documents behind it. That was my full statement
10 with him -- conversation with him.

11 Q. You have to have documents behind it.
12 In other words, you have to have notes to document
13 the loan?

14 A. Notes. Aside from having -- you better
15 make sure that if you're going to do this, that
16 you've got to have parts as well, that you purchase
17 parts personally.

18 Q. And you advised Joe, Jr., that this
19 would be a proper way to do it, to handle it, did
20 you not?

21 A. Not a proper way. I had advised -- I
22 had given him the option. I did not tell him to go
23 ahead and do this. I had given him an option the
24 way -- either the correct way or this way, yes.

25 Q. Take a look at your deposition at

1 Page 64. Let me first draw your attention to 63,
2 and I'll read a passage, and then we'll discuss it,
3 okay?

4 A. Okay.

5 Q. I'm beginning at Line 21 on Page 63.

6 Question: And what was the purpose of the loans to
7 be on the books? Answer: If you go back to '02,
8 we have to go back. If you're bringing this up, we
9 have to go back to '02 when I was at a meeting with
10 Joe, Jr., and at that meeting we discussed that
11 downstairs in his office. We discussed the parts
12 inventory, which was in a negative, negative
13 figure. And Joseph, Jr., at that time, stated that
14 he did not want to pay additional. I had mentioned
15 that we -- with that -- we've got to do something
16 about the inventory. We have to do something about
17 the inventory. It was negative, and we had to
18 correct something. We have to do something.

19 And at that time, Joe, Jr., sat down
20 and said to me he didn't want to pay additional
21 taxes, additional corporate taxes. Which meant if
22 we had did it the proper way, we would have to
23 reflect it as income. I had mentioned I had
24 discussed with Junior the option -- you could do it
25 this way, Junior, and that way was to set up a loan

1 or a note on the books and to pick it up as
2 inventory. So was it your idea, or was it not?

3 A. It also says I discussed the option.
4 There was two options. I didn't properly elaborate
5 on this one, but there was two options, and I
6 recall it to either do it the correct way, or we
7 could set up a loan with a -- substantiated by the
8 note.

9 Q. And you told him that would be all
10 right, didn't you?

11 A. I never said it would be all right. I
12 only said it would be -- we would substantiate it
13 through a note.

14 Q. Take a look at Page 70 of your
15 deposition. Do you have that page, Mr. Levine?

16 A. Yes, I do.

17 Q. I'm going to start reading from Line 5.
18 Question: Well, the note was signed on June 1,
19 2003? Answer: Yes. So on that date they knew
20 about it? It's referring to the signatories of the
21 note. Answer: Yes. And was it explained to
22 them -- you're the company accountant. Did you
23 give them any explanation about what this was
24 about? Answer: They depend upon me. They
25 depended upon me basically to do -- you know, that

1 everything was running fine. And I had mentioned
2 to them that this would be -- this -- putting it on
3 the books would be okay. We -- it would be all
4 right.

5 Now, did you advise these family
6 members that this would be appropriate or not?

7 A. If we put it on the books, I had said
8 yes, it would be okay.

9 Q. Was that just the opposite of what you
10 said five minutes ago?

11 A. No, sir. I said I gave Junior the
12 option, and to do it either the right way or we
13 could do it the other way. Junior chose -- I knew
14 in early '03 when he made the entry, I knew it was
15 on the books for a loan. And then at the time I
16 came up -- I told the family it was okay.

17 Q. All right. That's the answer. You
18 told these family members, including Joe, Jr., that
19 this would be all right. Did you or did you not?
20 You knew that's what they were doing, right?

21 A. I knew it when I saw the entry that's
22 what he did, yes.

23 Q. You advised him to do the entry before
24 he did it?

25 A. I gave him an option. I didn't -- I

1 gave him an option to do it.

2 Q. And you advised all of these family
3 members that that would be all right, did you not?

4 A. After the fact, I said it was okay.

5 Q. After the fact?

6 A. Yes, sir. It was on the books.

7 Q. Yeah, it was on the books. And you
8 filed tax returns based on that, did you not?

9 A. That's correct.

10 Q. Let's take a look at them right now.
11 Take a look at Exhibit 61. Do you have that?

12 A. Yes, sir. Yes, I do.

13 Q. Is that a tax return you prepared and
14 signed on behalf of Mason Tire and Auto?

15 A. Yes, I did.

16 Q. And sir, is this tax return -- take a
17 look at the document at the bottom of the page
18 numbered 04, do you see that?

19 A. Yes, I do.

20 Q. Do you see where the mortgages, notes,
21 bonds payable go from \$57,000 to \$483,000?

22 A. I do.

23 Q. And is that a reflection of the fact
24 that you treated on these tax returns that as a
25 loan from Kathy and Joe -- I'm sorry. From the

1 company to Kathy and Joe?

2 A. That's right. It was on the books. It
3 was on the general ledger, and I picked it up that
4 way, yes.

5 Q. And you knew exactly how that was on
6 the books and why -- how it occurred and why it
7 occurred?

8 A. I knew exactly how it occurred, yes.

9 Q. And you told those family members that
10 that would be all right, and then you filed federal
11 and state tax returns based upon those journal
12 entries that you had directed?

13 A. I told the family it was okay.

14 Q. And then you --

15 A. And I filed the returns based on that,
16 yes.

17 Q. And you prepared them and you signed
18 them?

19 A. Yes, I did.

20 Q. Did you tell them they were fraudulent
21 tax returns?

22 A. No, I did not.

23 Q. In fact, you were representing that
24 they were okay, did you not?

25 A. I represented -- the tax return

1 represented what the general ledger reflected on
2 Mason Tire, yes.

3 Q. Now, Mr. Levine, are you kidding me?
4 Is that the role of an accountant, to accept
5 what -- you know the exact nature of the
6 transaction and say: Well, if it's on the general
7 ledger, I'm just going to file the tax returns that
8 way.

9 A. If you have a relationship -- a strong
10 relationship with the family. And he did it this
11 way -- I accepted it that way, yes, because it was
12 family. I accepted it the way it was done.

13 Q. Is there a provision of Internal
14 Revenue laws that say if it's family you can do
15 whatever you want?

16 A. Of course not.

17 Q. Is there an exception to the
18 professional rules of ethics that if it's somebody
19 you're friends with you can commit tax fraud?

20 A. I overruled that because -- I
21 disregarded that, because I had a relationship with
22 the family -- a strong, loveable relationship with
23 the family and I overruled it.

24 Q. You think you're doing them a favor by
25 telling them that this is appropriate and then

1 having them file tax returns based on that advice
2 without telling them that that's a problem?

3 A. Well, we can see there's a problem now.

4 Q. And you didn't tell them at the time,
5 did you?

6 A. No, I did not.

7 Q. And you told them just the opposite?
8 You told them it would be all right?

9 A. I told them it was okay.

10 Q. Mr. Levine, turn to Exhibit 21. Do you
11 have that?

12 A. I do.

13 Q. You'll see at the top it refers to you
14 as Irwin Levine, CPA. Is that your signature on
15 the second page?

16 A. It is.

17 Q. Is that a meeting you attended?

18 A. I did.

19 Q. At that meeting, was it
20 discussed -- look towards the bottom. You'll see a
21 paragraph that starts with the words: The
22 following will not be changed for Catherine
23 St. Blanchard.

24 A. I do.

25 Q. And to go back to the top. These are

1 minutes of a meeting held in November of 2005. Do
2 you see that?

3 A. Yes, sir.

4 Q. Now, at that meeting, one of the items
5 discussed was the interest on the promissory notes.
6 Do you see that under that bullet point we were
7 just looking at?

8 A. I do.

9 Q. Now, the only interest on the
10 promissory note payable to Kathy would have been
11 the notes we were just looking at, were they not?

12 A. That's correct.

13 Q. So this was discussed -- everybody knew
14 they were getting interest payments, and it was
15 reflected on the books and records, was it not?

16 A. That's correct.

17 Q. It wasn't a secret to anybody that
18 those notes exist. They all signed them and they
19 were receiving interest, weren't they?

20 A. Not at this time.

21 Q. Was it ever a secret to anybody?

22 A. It was a secret until -- the entry to
23 put this loan on the books, it was a secret from
24 them.

25 Q. Come on. A secret from who?

1 A. Again, I'll reiterate. Joseph, Jr.,
2 and I sat down in November of '02, and we discussed
3 this. I had no -- first of all, I had absolutely
4 no idea how much it was going to be, but we did
5 discuss that we had to do something about the
6 inventory. This inventory was put on the books in
7 early '03. They probably didn't realize it until
8 they -- the family probably did not realize it
9 until probably at the time I came up and I
10 discussed it with them. I said we put it on the
11 books and everything is okay. Prior to that time,
12 they had no inkling what we were doing.

13 Q. They had known for a couple years that
14 understated inventory was a problem, did they not?

15 A. In '05, they knew about it.

16 Q. No, no. I'm going to 2000, 2001, and
17 2002. Everybody knew there was a growing
18 understated inventory issue?

19 A. There was an understated -- whether
20 they knew or realized how bad it was, I'm not sure.

21 Q. Well, as the company accountant, you're
22 not going to bring that issue up when you meet with
23 them for two weeks?

24 A. Only with Junior I talked about it.
25 Again, I did not discuss it with the other members

1 of the family.

2 Q. I think we covered that before. I
3 don't want to rehash that. Let's move on to
4 another topic.

5 It discusses here: Extra money to be
6 divided equally-all. Do you see that under where
7 we were just looking for things not to be changed
8 for Kathy?

9 A. Yes.

10 Q. And you see there's also a reference to
11 money -- under the next bullet point paragraph, do
12 you see that? Money in the holding company will be
13 divided equally?

14 A. Yes.

15 Q. And then Joe and Kathy would be given
16 an extra amount that's indicated separately there.
17 Do you see that?

18 A. Yes, I do.

19 Q. And there's other references similar to
20 that on the next page, but at that time,
21 Mr. Mason, Sr.'s retirement package was enforced,
22 was it not?

23 A. Yes, sir.

24 Q. And he was receiving the various
25 payments characterized as rent and income and -- I

1 think I'm leaving something out. Is that it?

2 A. Maybe automobile expenses.

3 Q. Yeah, all the perks. Okay. Was the
4 agreement among the families that he would not be
5 sharing those additional profits at that point?
6 That was his full compensation?

7 A. Yes, it was.

8 Q. So was the arrangement among the family
9 that any extra profits or income of any sort would
10 be split equally by Joe and Kathy?

11 A. That's correct.

12 Q. And that doesn't -- salaries might not
13 be the same and bonuses might not be the same, but
14 the extra money or the profits above and beyond
15 that would be split equally by Joe and Kathy, but
16 not Mr. and Mrs. Mason, Sr.?

17 A. That's correct.

18 Q. There's a discussion at that meeting
19 where you were present about the worker's comp
20 claim. Do you see that on the second page?

21 A. I see it, yes.

22 Q. Was that discussion held at the
23 meeting, or did somebody simply say they wanted to
24 put something in the minutes about that?

25 A. Apparently it looks like it was held at

1 the meeting.

2 Q. I mean, I guess my question is: Do you
3 remember these discussions?

4 A. No, I don't.

5 Q. Do you recall whether Joe, Jr., had an
6 opposition to or had a feeling that that worker's
7 comp claim was problematic, shall we say?

8 A. A number of times that we met when
9 Ozzie was hurt, Joe always mentioned about the
10 workmen's comp when it came into affect. The
11 workmen's comp problem, yes.

12 Q. That was an issue within the family?

13 A. An issue -- it was an issue, yes, it
14 was.

15 Q. It was a source of friction between the
16 family members?

17 A. Yes, it was. I'd like -- to add
18 something to that, because I remember about this
19 workmen's comp.

20 Q. Go ahead.

21 A. We didn't discuss it before in our
22 deposition. Would it be okay with you?

23 Q. Well, your counsel will bring it up.
24 You said you weren't at the store during the time
25 of the --

1 A. It pertained to the workmen's comp
2 though.

3 Q. You were not at the store that day,
4 were you, when he had his accident?

5 A. No, I was not.

6 Q. You weren't in South Carolina at that
7 time, were you?

8 A. No.

9 Q. Let me ask you to take a look at
10 Exhibit 23.

11 A. I see it.

12 Q. Now, that is a standard journal ticket,
13 is it not, that adjusts for four different stores,
14 the inventory for service parts, and a
15 corresponding credit for notes to Joe Mason, Jr.,
16 and Kathy St. Blanchard. Do you see that?

17 A. Yes I do.

18 Q. For a total amount on each side of the
19 ledger for \$300,000?

20 A. That's correct.

21 Q. It states at the top: Per Irwin, notes
22 payable to Joe and Kathy. Do you see that?

23 A. I see that.

24 Q. And you'll see the Post-it on this
25 document that says: Parts per Irwin, and then it

1 mentioned held and divided up among the stores. Do
2 you see that on the Post-it note, or the --

3 A. Yes, I do.

4 MR. LEITER: What exhibit? I
5 apologize.

6 MR. KNOWLTON: 23.

7

8 BY MR. KNOWLTON:

9 Q. Is this something that you directed?

10 A. No, sir.

11 Q. What knowledge did you have about this
12 journal entry?

13 A. I had absolutely no idea that this
14 entry was made on 12/14/06.

15 Q. This is not something you discussed
16 with Joe Mason, Jr.?

17 A. Never discussed this at all.

18 Q. You were up here I believe in January
19 of '07, the following month, right?

20 A. January of '07?

21 Q. I thought that's what I understood you
22 to say in your deposition, but maybe -- you tell
23 me. When did you first know about this? Take a
24 look at --

25 A. I first knew about this in probably

1 all. I started on the books when I got in in
2 January of '08 -- '07.

3 Q. But you deny talking about it
4 contemporaneously to it being entered on the books?

5 A. I did not have anything to do with it
6 on the books.

7 Q. Well, when you came up here -- I guess
8 it was mailed to you and you saw it on the books in
9 January. Did you say: Hey, you can't do that?

10 A. No, I did not.

11 Q. And if I understood what you had said,
12 you thought it would be all right?

13 A. No, I did not. I just did not
14 answer -- or question it. I did not say it was all
15 right, and I did not say it was wrong. I did not
16 answer.

17 Q. Did you think it was all right?

18 A. I must have thought it was okay,
19 because I did not question it -- question it with
20 the family.

21 Q. I mean, it was --

22 A. That's an assumption I'm making.

23 Q. For a company this size, this is a
24 significant issue.

25 A. I saw it in the details.

1 up on that.

2 Q. Well, you knew exactly what was going
3 on.

4 A. Yes, I did.

5 Q. You had done it before?

6 A.. Yes.

7 Q. And you told them it would be all right
8 before?

9 A. No. The original, I said yes. This
10 one, I said -- I did not tell them it was okay.

11 Q. But you prepared the tax returns which
12 embraces what was reflected in that --

13 A. I prepared the tax return based on the
14 books -- on the general ledger, yes, I did.

15 Q. When you prepared these, did you
16 believe they were fraudulent, or did you believe
17 they were appropriate?

18 A. I believed they were -- when I prepared
19 that, when I saw that, I knew what it was.

20 Q. You knew what it was?

21 A. Yes, I did.

22 Q. Obviously that was an ongoing problem,
23 having \$300,000 of understated inventory?

24 A. This was a shock to me when this came
25 about in January of '07.

1 Q. So you say it was a shock to you when
2 you saw it, and then you did what?

3 A. I just let it go because it was family.
4 Again, it was family. I just let it go.

5 Q. Did you believe it was inappropriate?
6 I'm trying to get clear on that first. Did you
7 think, as a professional accountant --

8 A. Yes, it was. It was not accurate.
9 You're absolutely right. It was not an appropriate
10 thing. But since it was family, and the way I am,
11 that's fine. I let it go.

12 Q. And this is the exact same thing you
13 had told them would be all right in 2003?

14 A. I'm not questioning -- that's correct.

15 Q. And now you're telling this court that
16 it's inappropriate. Is that what your testimony
17 is? When you saw this journal entry you knew it
18 was inappropriate, yet you filed tax returns based
19 on that information?

20 MR. LEITER: Your Honor, he's becoming
21 argumentative. I rarely ever assert that as an
22 objection, but this is argumentative.

23 THE COURT: Yeah, I think you might be
24 right. Try to confine yourself and not argue with
25 him.

1 MR. KNOWLTON: I'm trying, but I think
2 we go in circles and it's getting frustrating.

3 THE COURT: I think he's answered your
4 question.

5 MR. LEITER: He's answered it more
6 than once, your Honor.

7

8 BY MR. KNOWLTON:

9 Q. Let me get your final answer on it. Is
10 it appropriate to treat this the way you treated it
11 on the tax returns in both 2003 and 2006 or not?

12 A. My answer again: It was because of
13 family. I closed my eyes, and I accepted it as it
14 was, appropriate or not. I accepted it because it
15 was family, and I went forward from there.

16 Q. You also prepared gift tax returns for
17 Mr. Mason, Sr., did you not?

18 A. That's correct.

19 Q. And in those gift tax returns, how did
20 you treat the consideration for the shares that he
21 was conveying to his children?

22 MR. THOMAS: Your Honor, I think maybe
23 he's getting into some evidence about this claim
24 that is not in the pleadings about
25 Mr. Mason, Jr., being entitled to more than the

1 stock which he holds. To the extent that's what
2 he's trying to do, we object to the relevance of
3 it.

4 THE COURT: You've got a continuing
5 objection to that, I believe.

6 MR. THOMAS: Thank you, your Honor.

7 BY MR. KNOWLTON:

8 Q. Do you need me to repeat the question,
9 Mr. Levine, or do you remember it?

10 A. No, I don't remember. Could you repeat
11 it?

12 Q. You prepared gift tax returns for
13 Mr. Mason, Sr., and his wife?

14 A. I did.

15 Q. In those gift tax returns, what
16 consideration did you recite having been given to
17 them for those shares?

18 A. The consideration was they gifted it to
19 the children. There was no consideration. It was
20 just a pure gift to the children.

21 Q. You treated it with zero consideration?

22 A. Zero consideration.

23 Q. They paid no gift taxes on those
24 amounts?

25 A. That's right.

1 Q. And since you treated it as a gift,
2 they paid no capital gains tax on receiving
3 compensation for those shares either, did they?

4 A. I don't understand that question.

5 Q. If you give a share away, maybe you
6 don't have a capital gain on it?

7 A. That's correct.

8 Q. If you sell it at a gain, you have to
9 pay a capital gains tax?

10 A. That's correct.

11 Q. So if it had been treated as a sale and
12 they had a gain on it, they would have had to pay
13 capital gains taxes?

14 A. If they sold it, yes. If they sold it
15 outright to a -- outside it, yes.

16 Q. It doesn't matter who they sell it to.
17 If they sell it for money and get consideration for
18 it, you reflect that --

19 A. There would be consideration for it,
20 yes.

21 MR. LEITER: Your Honor, it sounds like
22 we might be at a pause. Could we take a break?

23 THE COURT: How much longer do you
24 anticipate?

25 MR. KNOWLTON: I'll try to move it

1 one?

2 A. I did not see the other one.

3 Q. Now, in this letter, Mr. Levine,
4 Exhibit 31, suggests that there were financial and
5 tax accounting irregularities that you devised in
6 fashion, and he was questioning those, was he not?

7 A. He did.

8 Q. Did that make you angry?

9 A. Extremely.

10 Q. It upset you, did it not?

11 A. Upset me? Extremely.

12 Q. Let's take a look at Exhibit 32. Is
13 that a handwritten letter you sent to Mr. Byrd two
14 days later?

15 A. Correct.

16 Q. Now, in that letter, you state in that
17 first paragraph that -- you refer to reflecting
18 taxable income to be reported of \$100,000. Do you
19 see that?

20 A. I see that.

21 Q. Approximately \$100,000?

22 A. That's correct.

23 Q. And the next paragraph, it says: In
24 order to maintain the above figure, I close my eyes
25 knowing that the family would benefit in the long

1 run. Did I read that correctly?

2 A. That's correct.

3 Q. First of all, was that, in fact, what
4 the goal of the company was, is to end up with a
5 reported income of about \$100,000?

6 A. We strived around that figure, that's
7 correct.

8 Q. And so would you set administrative
9 fees, or prepay expenses, or take other actions to
10 achieve that desired result?

11 A. Joseph, Jr., would call me probably two
12 or three -- it could be two or three times in
13 December, because we're getting close to the year
14 end, and he would discuss with me how that combined
15 profit was running, and he would say: Well, we
16 could add -- we could do additional rent or
17 expenses. I had no problems. I said absolutely
18 that's fine. Fine with me, yes.

19 Q. Well, this target level of income was
20 discussed among the other family members, too,
21 while you were there?

22 A. No, it was not.

23 Q. The target level of income was never
24 discussed?

25 A. Never discussed with the other

1 Q. In fact, you were involved with a list
2 of benefits for Senior in his retirement package?

3 A. I knew about them, yes.

4 Q. And you had been the one preparing the
5 tax returns for all of these years, were you not?

6 A. That's correct.

7 Q. For them individually and for the
8 company?

9 A. Both ways, yes.

10 Q. Now, take a look at Exhibit Number 36.

11 A. Yes, sir. I have it.

12 Q. In this document, you state: Joe
13 Mason, Jr., and Kathy St. Blanchard's loans were
14 set up on a fraudulent basis. Is that your
15 statement? Did you draft this e-mail?

16 A. I did.

17 Q. And did you send this e-mail in October
18 of 2007?

19 A. My office did, yes.

20 Q. Did you approve the specific wording of
21 this e-mail?

22 A. I did.

23 Q. And it states that the loans were set
24 up on a fraudulent basis?

25 A. That word was extremely harsh, because

1 I was so upset with what had just transpired, and I
2 was emotionally --

3 Q. Mad at Joe?

4 A. Extremely angry for what -- based on
5 all the years we've been together, and this -- how
6 it happened, and I used a word that shouldn't -- it
7 was inappropriate, but I was extremely angry, and I
8 used this word there. Yes, I did based, on
9 emotion.

10 Q. At least for the '03 loans, you told
11 them it would be all right. You didn't tell them
12 they were fraudulent, did you?

13 A. No, I did not. But also bearing in
14 mind that Wayne Byrd used the first word of
15 fraudulent in his letter to me, I just
16 addressed -- also that was part of the address back
17 in reference to it.

18 Q. There was a meeting in October of 2007.
19 Are you aware of that, where the family members got
20 together? I don't believe you were there. If you
21 were, tell me, but I don't see you listed in
22 attendance.

23 A. What exhibit is that, please?

24 Q. If you would like to look at it, it's
25 Exhibit 41. It's a transcript of a meeting. I'm

1 of '07. Probably December of '07.

2 Q. Take a look at Exhibit 43. Do you see
3 Paragraph Number 4 of Mr. Duncan's letter to you?

4 A. Yes, sir.

5 Q. Asking about the sub S returns?

6 A. Yes, sir.

7 Q. And I don't want to -- well, we can
8 look at them if you'd like, but we have the S corp
9 returns of Mason Holding Company for several years
10 attached as exhibits here. Would you agree that
11 when the -- well, let's take a quick run through
12 them. Take a look at Exhibit 71. Do you see that?

13 A. Yes, sir.

14 Q. And that's a tax return you prepared
15 and signed, is it not?

16 A. That's correct.

17 Q. And this is for an S corp, right?

18 A. That's correct.

19 Q. And ordinary business income on the
20 first page, Line 21, is \$46,365?

21 A. That's correct.

22 Q. If you look at the bottom of the page,
23 Number 103, Mr. Mason, Sr., owns 23 and a half
24 percent, but was attributed to none of the income,
25 correct?

1 A. That's correct.

2 Q. And half of it was attributed to
3 Joe, Jr., correct?

4 A. That's correct.

5 Q. And you understood though that the
6 profits were essentially being split by Joe and
7 Kathy?

8 A. That's correct.

9 Q. And that was the understanding and
10 agreement among the family members?

11 A. That's correct.

12 Q. Do you now appreciate that the
13 S returns weren't proper in form, in that it's
14 attributed income based on shared ownership, not
15 the agreement?

16 A. That's correct.

17 Q. Have you amended these returns?

18 A. No, sir.

19 Q. Let's look at -- for the tax year 2007,
20 Exhibit 74, do you have that?

21 A. Yes, I do.

22 Q. In that year, the holding company
23 reported a loss of \$34,907?

24 A. That's correct.

25 Q. If you look over on Page 171 at the

1 bottom --

2 A. 171?

3 Q. Yes, sir.

4 A. Correct.

5 Q. Mr. Mason, Sr., owned, according to
6 this, 25 percent as of that date, and he did
7 receive a share of that loss on that year, did he
8 not?

9 A. Yes, he did.

10 Q. But for prior years where there was a
11 positive income, he did not receive a share of the
12 profits. Had you changed the procedure after
13 receiving Wayne Byrd's letter?

14 A. Yes, I did.

15 Q. You changed the procedure?

16 A. Yes, I did.

17 Q. During this time, was there ever an
18 occasion where you were advised that Mr. Duncan or
19 anybody else would be handling the company
20 accounting or amended tax returns? Let me restate
21 the question.

22 Was there ever a time where you were
23 told that you would be replaced as the company
24 accountant?

25 A. Not that I know of, no.

1 Q. Did you prepare proposed amended tax
2 returns for the company?

3 A. Yes, I did.

4 Q. Are those the returns that are marked
5 as -- I should say draft returns marked as
6 Exhibits 65, 66, 67, and 68?

7 A. That's correct.

8 Q. And you prepared and signed each of
9 those?

10 A. Yes, I did.

11 Q. And they're dated in November of 2007.
12 Is that correct?

13 A. That's correct.

14 Q. And you understand now at this point
15 that Joe Mason, Sr., was the president of the
16 company at that time?

17 A. Yes, he was.

18 Q. And did you present these to Joe
19 Mason, Sr.?

20 A. Yes, I did.

21 Q. And did he ever sign them?

22 A. No, he did not.

23 Q. Were they ever filed, to your
24 knowledge?

25 A. They were not filed.

1 Q. In your opinion, would these tax
2 returns have fixed the problem?

3 A. Yes, sir.

4 Q. In 2007 and 2008 -- let's look at
5 Exhibits 69 and 70.

6 A. Okay.

7 Q. Are those tax returns you prepared and
8 signed?

9 A. Yes, sir.

10 Q. And did Joe Mason, Sr., prepare and
11 sign them?

12 A. I believe he did, yes.

13 Q. And they've been filed?

14 A. Yes, sir.

15 Q. Now, look at in Exhibit 69, at the
16 bottom of it has 62.

17 A. I'm sorry. Exhibit what?

18 Q. It's Exhibit 69. You'll see the Bates
19 number at the bottom is 62.

20 A. Yes, sir.

21 Q. Now, there you have beginning year
22 loans of 747-some odd dollars, going down to
23 \$476,000?

24 A. That's correct.

25 Q. Is that where you, over the balance of

1 two years, were backing out these loans?

2 A. Backing out the first \$300,000, yes.

3 Q. And the next year, '08, you had a
4 similar treatment of the balance of the remaining
5 loans?

6 A. That's correct.

7 Q. And was it your opinion that that fixed
8 the problem?

9 A. Yes, it did.

10 Q. Now, let me just -- you've got loans
11 from shareholders as a blank indicating a zero.
12 Why wouldn't these be treated under loans for
13 shareholders? That's what they were, weren't they?
14 That's a standard journal ticket?

15 A. Basically the shareholder was Mason
16 Holding Company. These were officers, but Mason
17 Holding Company was the wholly owned -- they owned
18 this corporation, so there was nothing wrong with
19 the line that I put it on.

20 Q. You put it on Line 20, because it was
21 a -- you considered it a loan?

22 A. Mason Holding Company was the
23 shareholder. They owned 100 percent of the
24 operating companies, and I put this on because they
25 were just officers of the corporation I put it on

1 the other line, Line 20.

2 Q. Why were those draft amended returns
3 never filed?

4 A. On December 7th, as crystal clear as I
5 was sitting here, I remember our conversation. The
6 family was up there, and Joseph, Jr., was up there
7 to my left. He was sitting there to my left, and
8 when it came around to ask about mailing off these
9 amended returns, Joseph, Jr., quote, unquote, said:
10 We're not going to file these returns. The family
11 is going to go forward. Everything is going to be
12 the same. We'll just go forward.

13 Q. This is when everybody was mad at him
14 for having raised issues and when Senior was the
15 president?

16 A. Everybody might have been mad at him,
17 but we were trying to come back as a family, as a
18 group to run this thing, and work it going forward
19 as if everything was just fine.

20 Q. At that point, did you advise Mr. Joe
21 Mason, Sr., as president of the company, who signed
22 the 2007 and 2008 tax returns, that that was an
23 appropriate way to deal with the issue?

24 A. No, I didn't. I'm sorry. I discussed
25 it -- Joe and I at that time, when he said we're

1 prepared, did he? You sent them to Joe, Sr., did
2 you not?

3 A. I sent these returns to Joe, Sr., at
4 this time, yes.

5 Q. And did you represent to him that they
6 were fraudulent or that they were --

7 A. No, they were not.

8 Q. Did you represent to him that they
9 would be appropriate to file and deal with the
10 problem?

11 A. I thought so yes, they would be okay.

12 Q. And did you represent that to him?

13 A. I probably did.

14 Q. Let me ask you to take a look at
15 Exhibit 59.

16 A. Exhibit 59?

17 Q. Yes, sir. Is that a fax you sent to
18 Joe Mason, Jr., on February 26th of 2009? You can
19 see the fax transmittal thing at the top on the
20 second page a little bit better.

21 A. Yes, sir.

22 Q. And in that handwritten letter to
23 Mr. Mason, Jr., did you call him a bastard?

24 A. That's my writing, yes.

25 Q. And you were calling Joe Mason, Jr., a

1 bastard in this memo, were you not?

2 A. That's my -- yes, I did.

3 Q. Is that because you were mad at him?

4 A. Absolutely. Joe, Jr., created this
5 problem. Joseph, Jr., created this problem, and
6 because of my love for the family, I went along
7 with it. And now with Wayne Byrd's letter, it
8 basically destroyed my whole reputation. And of
9 course that's why I called him a bastard.

10 Q. Because you were embarrassed?

11 A. Embarrassed.

12 Q. Now, Joe, Jr., didn't cause this
13 problem, did he?

14 A. Yes, he did.

15 Q. You're the professional giving
16 accounting advice to this company, and you told
17 these individuals it would be all right the way you
18 advised them to handle it.

19 A. I gave him -- at that time,
20 November -- we're talking about November of '02. I
21 gave him an option. We discussed it. I gave him
22 an option to do it the right way, or we could do it
23 this way. I gave him the option.

24 Q. Did you tell the family it would be all
25 right in '03?

1	I N D E X	
2		Page
		WITN
3	WITNESS: DR. PERRY WOODSIDE	
4	DIRECT EXAMINATION	
5	by MR. KNOWLTON	3
6	CROSS-EXAMINATION	
7	by MR. THOMAS	73
8	CROSS-EXAMINATION	
9	by MR. LEITER	123
10	REDIRECT EXAMINATION	
11	by MR. KNOWLTON	128
12	RECROSS EXAMINATION	
13	by MR. THOMAS	134
14	REDIRECT EXAMINATION	
15	by MR. KNOWLTON	137
16	WITNESS: LAURA M. DURANT, CPA	
17	DIRECT EXAMINATION	
18	by MR. THOMAS	138
19	CROSS EXAMINATION	
20	by MS. BLACK	147
21	REDIRECT EXAMINATION	
22	by MR. THOMAS	161
23		
24		
25		

1	I N D E X	
2		Page
3	WITNESS: EDWARD B. BOWERS, JR.	
4	DIRECT EXAMINATION	
5	by MR. THOMAS	162
6	CROSS-EXAMINATION	
7	by MR. KNOWLTON	167
8	CROSS-EXAMINATION	
9	by MR. LEITER	176
10	REDIRECT EXAMINATION	
11	by MR. THOMAS	176
12	RECROSS-EXAMINATION	
13	by MR. KNOWLTON	179
14	RECROSS-EXAMINATION	
15	by MR. LEITER	183
16	WITNESS: IRWIN LEVINE	
17	DIRECT EXAMINATION	
18	by MR. KNOWLTON	185
19	Certificate of Reporter	277
20	(All exhibits were retained.)	
21		
22		
23		
24		
25		

1 STATE OF SOUTH CAROLINA

COURT OF COMMON PLEAS

2 COUNTY OF HORRY

3 JOSEPH E. MASON, JR.,

4 Plaintiff,

5 vs. CASE NO. 2008-CP-26-6169

6 JOSEPH E. MASON, SR., CATHERINE L. MASON, KATHY
7 ST. BLANCHARD, MASON HOLDING COMPANY, INC., and
8 IRWIN LEVINE,

9 Defendants.

10 DATE: NOVEMBER 17, 2011

11 TIME: 9:03 a.m.

12 LOCATION: Horry County Courthouse
13 1301 Second Avenue
14 Courtroom 2D
Conway, SC

15 REPORTED BY: Rebecca A. Graziano, CSR, RPR

16 A. WILLIAM ROBERTS, JR., & ASSOCIATES

17 Fast, Accurate & Friendly

18
19 Charleston, SC Hilton Head, SC Myrtle Beach, SC
(843) 722-8414 (843) 785-3263 (843) 839-3376

20 Columbia, SC Greenville, SC Charlotte, NC
21 (803) 731-5224 (864) 234-7030 (704) 573-3919

1 book up there?

2 A. I do.

3 Q. And would you turn to Exhibit 18? Did
4 I get the number right?

5 A. You have.

6 Q. Now, that agreement called for -- there
7 was already, as I understand it, a land lease in
8 place, and then this is what was termed a building
9 lease for some amount of money a year, \$90,000 a
10 year?

11 A. That's correct.

12 Q. Now, was that lease paid for a number
13 of years?

14 A. I believe so, yes.

15 Q. And did there come a time where those
16 payments were no longer made?

17 A. If this is the building lease, this is
18 continued. The land lease has ceased.

19 Q. The land lease is no longer -- so
20 there's only one lease being paid?

21 A. That's correct.

22 Q. At the Pawleys Island store?

23 A. That's correct.

24 Q. And Mr. Mason, Sr., to your knowledge,
25 is not retired. Is that true?

1 A. That's absolutely correct.

2 Q. So any benefits that Mr. Mason, Sr., is
3 receiving is not some form of retirement benefit.
4 It's a payment for his actual services being
5 rendered to the corporation on a current basis?

6 A. That's correct.

7 Q. Now, turn, if you will, to Exhibit 32.
8 Do you see that?

9 A. Yes, sir.

10 Q. Now, that's a letter that you wrote to
11 Wayne Byrd?

12 A. That's correct.

13 Q. And in the letter, if I may direct your
14 attention to the third paragraph, it says: Joe
15 Mason, Jr., stated that if the above was not
16 corrected, you had advised him he could be sent to
17 jail. Did Mr. Mason, Jr., tell you Mr. Byrd told
18 him he was going to go to jail -- or could go to
19 jail if those returns weren't corrected?

20 A. I don't know if Mr. Byrd instructed
21 Junior or said something to Junior about going to
22 jail. But in his letter, he said -- it stated that
23 something -- to me that he could possibly go to
24 jail.

25 Q. But as I understand it, your letter

1 says: Joe Mason, Jr., stated that if the above was
2 not corrected, you -- that is Mr. Byrd -- have
3 advised him he could be sent to jail. And my
4 question is: Whether he told him that or not, did
5 Mr. Mason, Jr., tell you that Mr. Byrd said he
6 could go to jail?

7 A. Could I read this again, sir?

8 Q. Sure.

9 A. Could you repeat the question again?

10 Q. Yes, sir. Your letter says that Junior
11 told you that Mr. Byrd told him that if the tax
12 returns weren't corrected, Junior could go to jail?

13 A. Yes, sir.

14 Q. And all I'm asking you is: Did Junior
15 tell you that?

16 A. Yes, he did.

17 Q. I want to move on to your knowledge of
18 Mr. Mason, Jr.'s function in the business during
19 the period of 2003 through the end of 2006. Now,
20 as I understand it, you would have telephone
21 conversations from time to time with someone from
22 Mason Tire regarding the business of Mason Tire?

23 A. That's correct.

24 Q. And who would that be?

25 A. Joseph Junior.

1 Q. And I understand that you would
2 consult, particularly at year end, and possibly
3 shortly after year end, about tax filings on behalf
4 of the Mason corporations. With whom would you
5 consult about those tax filings?

6 A. Every year, all those years, it was
7 Joseph Junior only.

8 Q. Now, there came a point in time in -- I
9 guess it was early 2004, late 2003, when we had to
10 start thinking about the filing of a 2003 tax
11 return.

12 A. That's correct.

13 Q. And you would have gone, you think, to
14 Surfside?

15 A. Yes, sir.

16 Q. And you would have sat down, and you
17 would have discussed with Mr. Mason, Jr., the
18 filing of the 2003 tax return?

19 A. That's correct.

20 Q. Now, would you normally do a draft of a
21 tax return and submit it to him for a review, or a
22 draft of -- maybe not on a tax return form, but
23 something that would show this is what kind of year
24 it looks like we had, and this is the taxes you're
25 going to owe?

1 A. On approximately December 31st of every
2 year, at the end of each year, Joseph, Jr., knew
3 approximately what the net profit was going to be,
4 yes.

5 Q. Now, I know everybody is sick about
6 listening to the 2003 tax return, but let's make
7 sure that I'm clear. Let's turn back to that one
8 more time, and that is Plaintiff's Exhibit 61.

9 A. I have it.

10 Q. Now, I'm not an accountant, so if I use
11 a wrong term or say something stupid, feel free to
12 correct me, okay?

13 A. Yes, sir.

14 Q. Now, up at the top, you have revenues
15 of two million -- and that's Line 1A, \$2,368,954.
16 Do you see that?

17 A. Yes, sir.

18 Q. Now, below that at Line 2, we see an
19 item called cost of goods sold, \$1,163,642. Do you
20 see that?

21 A. Yes, sir.

22 Q. And then below that, I see the gross
23 profit of \$1,205,312?

24 A. That's correct.

25 Q. So if I'm understanding it right, you

1 got your revenue, you got this thing called cost of
2 goods sold, and you subtract the cost of goods sold
3 from the revenue, and that gives you a gross
4 profit?

5 A. That's correct.

6 Q. And then after you arrive at your gross
7 profit and you have some other miscellaneous
8 deductions, depreciation, expenses and that kind of
9 thing, you deduct all of those off to get to the
10 bottom line, which is taxable income?

11 A. That's correct.

12 Q. Now, if the cost of goods sold goes up,
13 then the net -- excuse me. Let me use the right
14 term -- the gross profit goes down. Is that true?

15 A. That's correct.

16 Q. And the taxable income goes down?

17 A. That's correct.

18 Q. So if you manipulate the cost of goods
19 sold to increase it, you automatically decrease
20 your gross profit, and you decrease the taxes you
21 got to pay?

22 A. That's correct.

23 Q. So theoretically, if I had an income
24 of -- whatever income, I could just
25 increase -- make that number bigger, that cost of

1 goods sold bigger, and wipe out all my gross
2 profit?

3 A. You could do that.

4 Q. In fact, I could take it to zero?

5 A. Absolutely.

6 Q. Well, why would I not do that? Why
7 would I pay taxes if I could just make some
8 adjustment to cost of goods sold and automatically
9 reduce my taxes?

10 A. Because in order to do that, you would
11 have to maneuver the inventory, and it would be way
12 out of proportion.

13 Q. And when it gets out of proportion, the
14 Internal Revenue's ears may perk up?

15 A. Yes. When the Internal Revenue looks
16 at these, if you go to that same tax return on
17 Page 2, it gives you the detail of the cost of
18 goods sold. And they look at those figures, and
19 from an industry point of view, they make a
20 determination. If they look at this closely and
21 it's way out of whack, they'll come in to audit
22 you.

23 Q. So if it's out of whack, the computer
24 is going to kick it out and they'll come talk to
25 you?

1 A. Yes, they could.

2 Q. If it's in whack, the computer will
3 kick it out and nobody will say anything?

4 A. That's correct.

5 Q. Now, in 2003, you had a meeting with
6 Junior towards the end of the year?

7 A. 2003, yes.

8 Q. And you discussed the profits, the
9 revenues, the costs? You discussed all the
10 functions?

11 A. That's correct.

12 Q. And was it determined that wow, we had
13 a pretty good year, and we're going to owe a lot of
14 taxes?

15 A. That's correct.

16 MR. KNOWLTON: Your Honor, if
17 Mr. Thomas could let the witness do the testifying,
18 I would appreciate it.

19 MR. THOMAS: I think I'm on
20 cross-examination.

21 THE COURT: Go ahead.

22 MR. THOMAS: I forgot my question.

23 MR. KNOWLTON: I think you were
24 testifying about what happened at the meeting.

25

1 BY MR. THOMAS:

2 Q. So after it was determined that wow, we
3 had a good year this year and we made a lot of
4 profit, did Mr. Mason, Jr., have any comment to
5 make to you about gosh, we made a lot of profit,
6 and so the gross profit figure is going to be high,
7 which means our taxes are going to be high?

8 A. He might have made that comment.

9 Q. Did he ask you what, if anything, could
10 be done to keep from having to pay taxes -- to
11 minimize taxes or eliminate, for that matter,
12 income taxes in 2003 for Mason Tire?

13 A. No, he did not.

14 Q. You indicated in your testimony
15 yesterday that at some point, there was a
16 conversation you had with Mr. Mason, Jr., and you
17 gave him some options?

18 A. That's correct.

19 Q. And as I recall, you said the option
20 was you can pay the taxes. That's one option?

21 A. That's correct.

22 Q. Or you can do this other thing?

23 A. That's correct.

24 Q. Now, the option to pay the taxes, was
25 that based on the actual results that you were

1 sitting there looking at?

2 A. Excuse me. Let me correct you. That
3 option came in the year -- in November of 2002,
4 when we sat down and talked about the inventory
5 being so understated. That tax return was filed as
6 it was. The inventory was understated. It was
7 filed as it was. In 2003, in the early part of
8 2003, Junior went ahead and made that entry of
9 \$440,000, increasing the inventory loan.

10 So in effect, it was on the books. In
11 2002, we ended up with \$100,000, no change in the
12 inventory. In 2003, the early part of 2003, that
13 journal entry was made. So at the end of 2003, we
14 were still looking at -- even though the inventory
15 was made at the end, we were still looking at doing
16 around \$100,000.

17 Q. So I'm off on my timing?

18 A. Yes, sir.

19 Q. But was my analysis accurate?

20 A. Absolutely right.

21 Q. So at some point after you discussed
22 what was happening with Junior and problems with
23 the inventory, you suggested: Well, we can pay the
24 taxes, or we can do this other thing. And was one
25 of the things -- the main thing you suggested was:

1 Well, if inventory could somehow be higher, the
2 costs of goods sold would be higher, and the gross
3 profit would be lower, and taxes would be lower?

4 A. If we did it the correct way, the cost
5 of goods sold would be much lower, and therefore
6 creating a higher profit.

7 Q. Now, when you say the correct
8 way -- let me make sure I'm clear. When you say
9 the correct way, you're talking about a way that
10 the computer wouldn't kick out and cause an audit?

11 A. Right, right.

12 Q. So when the inventory number -- did it
13 go up in 2003?

14 A. The asset of the inventory went up.

15 Q. And did that increase your costs of
16 goods sold?

17 A. No, because that's an asset. The costs
18 of goods sold is a P and L item. I know they work
19 hand-in-hand together, but you can move from the
20 asset into the costs of goods sold, reducing on
21 your balance sheet the asset, and increasing your
22 costs of goods sold on your P and L. So there's a
23 close relationship.

24 Q. I understand. But when the inventory
25 goes up, costs of goods sold goes up and profits go

1 down?

2 A. The ending inventory. When the ending
3 inventory goes down, your cost of goods goes up.
4 Maybe I could elaborate a little more. I
5 understand --

6 Q. Well, let me ask you this: The cost of
7 goods sold that was reported in 2003, did that
8 number result from an artificial fictitious
9 adjustment? In other words, included in that cost
10 of goods sold, was there an artificial fictitious
11 adjustment that resulted in that cost of goods
12 sold?

13 A. Repeat that and let me think about
14 that.

15 Q. Let me ask it another way. What did
16 you do or what did Mr. Mason do to increase the
17 costs of goods sold, as reflected on the tax
18 returns?

19 A. He did not do anything to increase the
20 costs of goods sold.

21 Q. Well, what was the effect of the -- as
22 I understand it, there was a fictitious note
23 prepared?

24 A. That's correct.

25 Q. And all the note was was evidence of a

1 journal entry that said there's a debt owing from
2 Mason Tire or Mason Holding to Mr. Mason, Jr., and
3 to his sister?

4 A. That's correct.

5 Q. And that entry was entirely fictitious?

6 A. That's correct.

7 Q. And all the note did was provide some
8 evidence of a fictitious debt in the event anybody
9 cared to look?

10 A. That's correct.

11 Q. Such as the Internal Revenue?

12 A. That's correct.

13 Q. So the debt was already booked before
14 the note was prepared probably?

15 A. That's correct.

16 Q. And was that fictitious debt undertaken
17 for the purpose of reducing the taxes payable?

18 A. Absolutely.

19 Q. And was Mr. Mason, Jr., aware of that?

20 A. Absolutely.

21 Q. And was he aware that by creating this
22 fictitious debt, the result would be a decrease in
23 the taxes payable?

24 A. That's correct.

25 Q. So of the two options you gave him,

1 either pay the taxes or create a fictitious debt,
2 he elected to create the fictitious debt?

3 A. That's absolutely correct.

4 Q. Now, did anybody else participate in
5 your discussions or actions that you're aware of
6 that were taken to create this fictitious debt
7 originally?

8 A. There was nobody else.

9 Q. Did anybody else discuss with you the
10 effect -- other than Mr. Mason, Jr., the effect
11 that this fictitious debt and the note would have
12 on income taxes?

13 A. They wouldn't even understand it. No
14 way.

15 Q. But he understood it?

16 A. Absolutely.

17 Q. He was the president, and in the
18 business on a daily basis, and he was looking at
19 everything that was going on?

20 A. He knew exactly.

21 Q. He was paying attention?

22 A. Absolutely.

23 Q. Now, you testified yesterday -- also
24 there's a journal ticket -- look at Plaintiff's 23,
25 please, sir. Plaintiff's Exhibit 23 in that

1 notebook.

2 A. Yes, sir.

3 Q. Now, you see that's a journal -- are
4 you familiar with journal tickets of this nature?

5 A. Yes, sir.

6 Q. Now, were you aware of or did you
7 participate in the creation of this journal ticket
8 that is Plaintiff's Exhibit 23?

9 A. No, I wasn't.

10 Q. When did you first become aware of it?

11 A. When I got the detailed trial
12 balance -- a detailed general ledger in January
13 of '07, I became aware of this.

14 Q. So you didn't suggest to
15 Mr. Mason, Jr., in December of '06 that he create
16 another fictitious note, did you?

17 A. Absolutely not.

18 Q. And you didn't know about it?

19 A. I didn't even know anything about it.
20 In fact, I believe the inventory was -- the parts
21 inventory was not in a negative position at all,
22 but it was in a positive position.

23 Q. So the only reason to do it at this
24 time was simply to create a fictitious debt, reduce
25 the taxes payable?

1 A. That's correct.

2 Q. And it worked so good the first time he
3 thought he'd try it again?

4 A. That's correct.

5 Q. Now, it is true, is it not, that after
6 you found out about it, you did go ahead and
7 file -- prepare the returns and file them on that
8 basis?

9 A. That's correct.

10 Q. And does Plaintiff's Exhibit -- what
11 was that return again?

12 A. 61?

13 Q. Yes, 61. There's a statement on there:
14 Under penalty of perjury I, declare that I've
15 examined this return, including a company schedule
16 and statement, and to the best of my knowledge and
17 belief, it is true, correct, and complete. Do you
18 know -- did Mr. Mason, Jr., sign that return?

19 A. Yes, he did.

20 Q. Is the note reflected on this return?

21 A. The additional \$300,000?

22 Q. Yes, sir.

23 A. Not on '03.

24 Q. No, it wouldn't be the three. Would it
25 be the \$440,000?

1 A. It would be '06. It would show up on
2 the tax return for the year December 31st, '06.

3 Q. I guess my question is: Did
4 Mr. Mason, Jr., sign a return, whether it be 2003,
5 2004, 2005, or 2006, that the schedule reflected a
6 promissory note on there that he absolutely knew
7 was fictitious?

8 A. That's correct.

9 Q. Now, moving forward to 2007 -- well,
10 let me back up a minute. During the period 2003
11 through the middle of 2007, was Junior in command
12 or control of Mason Tire?

13 A. Absolutely.

14 Q. And was Mr. Mason around -- what was
15 his involvement in the business?

16 A. You have to understand I only came up
17 there about twice a year. But every time I was
18 there, Mr. Mason would be downstairs, come in and
19 say hello, and maybe go out and visit customers.
20 He had very little to do in that period of time.

21 Q. But if you had an accounting question
22 or a tax question, you never directed it to
23 Mr. Mason, Sr., at that time?

24 A. That's absolutely correct.

25 Q. How about Ms. Mason, Ms. Catherine

1 A. Okay. This is my conversation with
2 him.

3 Q. Don't tell us what Mr. Duncan told you.

4 A. Okay. I'm sorry.

5 Q. As a result of the conversation you had
6 with Mr. Duncan, did you make my changes or
7 modifications to the amended returns?

8 A. No, I did not.

9 Q. Now, did there come a point in time
10 where there was a meeting held of the Mason
11 stockholders for the purpose of signing the returns
12 and filing the returns?

13 A. Yes, sir.

14 Q. And you were there?

15 A. Yes, sir, I was.

16 Q. And that occurred when?

17 A. December 7th, '07.

18 Q. And as I recall your testimony
19 yesterday, you were very specific in your
20 recollection of what transpired at that meeting?

21 A. Yes, sir.

22 Q. And is there any question that
23 Mr. Mason, Jr., absolutely said to not file those
24 amended tax returns?

25 A. There's absolutely no question at all.

1 Q. Now, as a result of his insistence that
2 the amended tax returns not be filed, did the other
3 family members go along with that?

4 A. They did, but I could see on the
5 expression on their faces they were not happy with
6 it.

7 Q. They were unhappy with it, but they
8 went along because he insisted on it?

9 A. Because it was family.

10 Q. And Mr. Mason, Jr., testified that he
11 was doing a whole lot to try to maintain family
12 peace and harmony. From your observation, who were
13 the ones trying to maintain family peace and
14 harmony?

15 A. Kathy St. Blanchard, and Joseph
16 Mason, Sr., and the mother absolutely.

17 Q. And what was Mr. Mason, Jr., doing to
18 the peace and harmony of the family?

19 A. He was very -- in his comments to me,
20 he was very disruptive about the family.

21 Q. Was he critical of his father?

22 A. I would say -- I can't answer that. I
23 don't recall that.

24 Q. Was he critical of his mother?

25 A. I don't recall that either.

1 Q. Was he critical of his sister?

2 A. Absolutely.

3 Q. He didn't like his sister -- he
4 couldn't get along with his sister?

5 A. He couldn't get along with his sister.

6 Q. Now, as a result of determining not to
7 file the amended returns, did you determine to take
8 some -- to follow some other course of action?

9 A. Yes, sir. Joseph, Jr., and myself -- I
10 think the comment we made was to take steps to
11 correct this on a going forward basis.

12 Q. Now, this is Joseph, Jr.?

13 A. Junior, yes.

14 Q. Now, from your perspective, was
15 Joseph, Jr., still involved in the same capacity up
16 until the time he left?

17 A. Absolutely.

18 Q. So even after the meeting in 2011 that
19 you told us about where the amended returns were
20 not filed, who was it that you talked with about
21 filing the returns for 2007?

22 A. At that time, filing the tax return for
23 2007, I discussed that with -- I don't believe I
24 discussed that with Joseph, Jr., at that point in
25 2007, the return for 2007.

1 Q. These discussions would have been held
2 in early 2008?

3 A. That's correct.

4 Q. Now, did you do Mr. Mason, Jr.'s
5 personal tax returns in 2007?

6 A. Yes, I did.

7 Q. And you don't recall any conversations
8 about the 2007 Mason Tire returns?

9 A. I don't believe I did. I don't recall
10 it anyway. I don't recall it.

11 Q. Mr. Levine, let me ask you about a
12 document that's an attachment that I'm handing you.
13 Take a moment and look at that and tell me if
14 you've seen that document in the attachments
15 before.

16 A. I believe I saw it at the time of the
17 deposition.

18 MR. THOMAS: We'd offer that.

19 MR. KNOWLTON: No objection.

20 THE COURT: Without objection.

21 MR. THOMAS: Defendants' Exhibit 50,
22 your Honor.

23 BY MR. THOMAS:

24 Q. Now, Mr. Levine, Mr. Mason, as I
25 recall, testified he didn't really know too much

1 about debits and credits. Let me ask you about the
2 handwritten -- the last two pages of this exhibit,
3 where it stays journal entry. Do you recognize the
4 writing?

5 A. Yes, sir.

6 Q. Whose writing is that?

7 A. Joseph, Jr.'s.

8 Q. Does this journal entry direct the
9 certain debits and credits be made to the books of
10 the company?

11 A. Yes, sir. I might add, this is very
12 sophisticated accounting.

13 Q. So if he says he didn't understand
14 debits and credits, you wouldn't agree with that?

15 A. Absolutely not.

16 Q. There's no question this is his
17 handwriting?

18 A. There's no question about it.

19 Q. If I go back up the exhibits, is there
20 a journal ticket made consistent with his
21 handwriting notes?

22 A. Yes, sir.

23 Q. So we've got then the journal entry
24 written out in his handwriting that directs certain
25 debits and credits be made, a journal ticket made

1 consistent with his handwriting, and then look at
2 the first page. Do you understand that's an e-mail
3 from Joe, Jr., to his sister, Kathy?

4 A. I see that, yes, sir.

5 Q. Now, this was done October 23rd of
6 2007. Are you aware of any particular reason why
7 this journal entry was undertaken at this time?

8 A. No, sir.

9 Q. And it's not one that you directed?

10 A. No, sir.

11 Q. And it's one that, so far as you're
12 aware, came at the instance and direction of Joseph
13 Mason, Jr.?

14 A. Absolutely.

15 Q. Let me ask you about BCJ.

16 A. Yes, sir.

17 Q. Are you a part owner of BCJ?

18 A. Yes, I am.

19 Q. Were you originally?

20 A. Originally, no.

21 Q. Do you know where the funding to
22 establish BCJ came from?

23 A. Mason Tire's cash account. A money
24 market account. The operating company.

25 Q. So money from the Mason Tire operating

1 account was put into the company BCJ to start the
2 company?

3 A. That's correct.

4 Q. And do you recall the amount of money?

5 A. I believe it was \$93,000, or in that
6 neighborhood.

7 Q. Now, after the initial installment of
8 cash into BCJ, were there additional payments -- or
9 I guess would that be a loan from Mason Tire to
10 BCJ?

11 A. That money that was taken from Mason
12 Tire -- the money was offset against their loan
13 account, yes, giving them full credit for it.

14 Q. So Mason Tire was making loans to BCJ,
15 and Mason Tire had no ownership interest originally
16 in BCJ?

17 A. That's correct.

18 Q. And do you know who was -- were you a
19 part of the decision to establish BCJ?

20 A. No, I wasn't.

21 Q. Do you know whether or not
22 Mr. Mason, Sr., and Ms. Mason were a part of the
23 decision to establish BCJ and have them not be a
24 part of it?

25 A. No, I don't.

1 Q. All you know is there were loans that
2 were made?

3 A. Yes, sir.

4 Q. And during the operation of the
5 BCJ -- that's the 544 store?

6 A. That's correct.

7 Q. Has that been a profitable enterprise?

8 A. That's been a terrible drain on the
9 remaining companies, yes. A terrible drain insofar
10 as losses. Tremendous losses.

11 Q. Beginning with the opening of the store
12 in 2007 -- now, Mason Tire does hold an interest in
13 BCJ. Is that correct?

14 A. Yes. When Senior found out what
15 happened, then they worked out the -- Junior and
16 Kathy turned over their -- that ownership into
17 Mason Holding Company.

18 Q. So when Senior found out that the
19 owners were not Mason Tire, he said: Wait a
20 minute. Mason Tire is putting in the money. Mason
21 Tire is going to own the company.

22 A. He was extremely upset about this,
23 absolutely.

24 Q. And that operation, as I understand,
25 has been a loser so far from day one?

1 A. From day one.

2 MR. THOMAS: If the Court could indulge
3 me one moment.

4 (Off-the-record conference.)

5 MR. THOMAS: Thank you, Mr. Levine.

6 THE WITNESS: Could I -- you had asked
7 me a question about my -- it came back to me.

8 BY MR. THOMAS:

9 Q. Do you want to supplement one of your
10 answers?

11 A. I want to answer a little more because
12 now it came back to me. Did I discuss at the end
13 of '07 with Junior about the tax return being
14 prepared for that year? I did not, because at that
15 point, there was a terrible friction
16 between -- Junior was demoted as vice president,
17 and he was not involved with the financial end of
18 it. So it was left up to me, I felt, to do the
19 return and present it to Mr. Mason, Sr. I did not
20 discuss it with Junior.

21 Q. Okay. Thank you, Mr. Levine.

22 CROSS-EXAMINATION

23 BY MR. LEITER:

24 Q. Good morning.

25 A. Good morning.

1 changes you would like to have made in the
2 documents before execution, and I will deliver a
3 new draft or drafts to you. Do you see that?

4 A. Yes, sir.

5 Q. So he's offering to the Mason family
6 and Mason Tire that he will redraft the documents
7 in any way that they suggest or want. Is that what
8 he's doing there?

9 A. It appears that way, yes, sir.

10 Q. Let's move on a minute to the workers'
11 compensation. I believe yesterday you were asked
12 about a meeting that you may have attended where
13 workers' compensation was a topic. Do you remember
14 that?

15 A. Yes, sir.

16 Q. And yesterday you said you wanted to
17 add some to that?

18 A. Yes, sir.

19 Q. And Mr. Knowlton said: Well, your
20 lawyer can ask you what you wanted to add. So I
21 wanted to ask you: What was it you wanted to add?

22 A. During the meetings with Joseph, Jr.,
23 the topic of workmen's comp came up, and he tried
24 to convince me to try to convince Mr. Mason, Sr.,
25 that this was not right and it was going to create

1 a terrible hardship, and that it was going to
2 increase the insurance premiums. And I sat there
3 and told Joseph, Jr.: We don't know for a fact
4 that it's going to do that, because I know the
5 insurance companies usually set up a reserve for
6 these kind of things, and it does not have to make
7 the premiums go up.

8 In fact, I watch these insurance
9 premiums I'm pertaining to workmen's comp during
10 the following years, and in fact, they have gone
11 down. They have gone down, the premium costs.
12 They've not gone up, as he said. He tried to
13 convince me that was going to happen to him. That
14 was my comment.

15 Q. So what was it about Mr. Mason, Jr.'s
16 concern that he was talking about at these
17 meetings? Was it the premiums or the fact that
18 Ozzie wasn't working that day?

19 A. It was two items. Ozzie didn't deserve
20 the workmen's comp if he was going to get workmen's
21 comp and the premiums were going to go sky high.
22 And he felt if they told him the truth, he was not
23 involved, Senior should tell them he was not
24 involved, and it wouldn't have any effect on the
25 premiums. Basically it was the premiums he was so

1 concerned about that it was going to go sky high.
2 I didn't show him, but I said to him a number of
3 times that this may not happen. You can't sit here
4 and say it was going to happen. It was not going
5 to happen. In fact, it did not happen.

6 Q. Let's move on to the casings. You
7 heard a lot about the casings, or some when Junior
8 was on the stand. Do you remember that?

9 A. Yes, sir.

10 Q. And here we're talking about the
11 fictitious casing invoices that were created?

12 A. Yes, sir.

13 Q. Did you tell Junior how to write
14 fictitious invoices?

15 A. Absolutely not. I didn't even know how
16 it was handled in the first place. No, sir.

17 Q. Let me ask you this: We've talked
18 about and we're going to continue talking about the
19 under-reporting of inventory, and I think Mr. Mason
20 said that the problem with the shortage or the
21 under-reporting of inventory was with the parts
22 inventory and not the tire inventory?

23 A. That's correct.

24 Q. Casings, would they be part -- when
25 they were booked in, are they booked in under the

1 A. A bookkeeper, even a head bookkeeper,
2 could not do those kind of entries, make
3 the -- where to put the inventory, where to put the
4 debits and credits. A bookkeeper could not have
5 done it. Only somebody with extreme knowledge of
6 accounting could make something like that.

7 Q. Did you tell Mr. Mason, Jr., how to
8 make those handwritten notes? Did you tell him
9 where to credit it, where to debit it?

10 A. I never did.

11 Q. Now, let's go to understated inventory
12 for a second. And we will stipulate that it has
13 been painful for you to teach me accounting, will
14 we not? But in terms of the understated inventory,
15 what role did you have with the inventory being
16 understated on the financial records at all?

17 A. As an accountant, or as an outside
18 accountant, our job is to advise or discuss certain
19 accounting items or certain financial items. We
20 never touched the general ledger. That's the
21 management and the -- company's do that stuff, so I
22 had nothing to do with doing that.

23 I did discuss, over the years, going
24 back -- and you can see in some of my papers the
25 understating the inventory. But I think it became

1 really tremendously out of shape at the end of the
2 year 2002 when it was drastically over \$200,000 in
3 understated inventory. At that time, in November,
4 I really started to push Junior. We got to do
5 something about this -- not we. Sorry. You have
6 to do something about this. You have to do
7 something. We have to get this correct. You have
8 to get this corrected, because it's becoming way
9 out of proportion.

10 Q. Now, just to step back a second, in
11 terms of it becoming out of proportion, you didn't
12 direct any entries being made that would have
13 caused it to be out of proportion?

14 A. No, sir.

15 Q. So that's just purely a matter of
16 reporting from Mason Tire to the Goodyear reporting
17 system?

18 A. That's correct.

19 Q. But I believe you answered in response
20 to a question that Mr. Thomas asked you that the
21 IRS has certain industry standards that they look
22 at?

23 A. That's correct.

24 Q. To determine whether inventory and cost
25 of goods sold -- and we'll get into that in a

1 minute -- are within industry standards?

2 A. Yes, sir.

3 Q. And would it be accurate to say that a
4 negative inventory would not be within anybody's
5 industry standard?

6 A. Absolutely.

7 Q. And without question, there was
8 inventory on the shelves of all the Mason Tire
9 stores?

10 A. Absolutely right.

11 Q. So something was way off?

12 A. Yes, sir.

13 Q. So you're now concerned about that?

14 A. Absolutely.

15 Q. And you talked to Joe, Jr., about that?

16 A. Yes, I was.

17 Q. Now, tell us why an accountant is
18 concerned with that.

19 A. Well, when you end up with an asset as
20 a negative figure, any accountant or any kind of
21 reasonable -- when you're looking at it, the
22 accountant would look at that. That's not a normal
23 item. So of course we would say that -- we would
24 ask him -- we've got to get this corrected.

25 If it was something like a

1 prepaid -- some other item that was not fully -- or
2 mattered to the management, like prepaid insurance,
3 something minor, that would be up to me. If it was
4 a credit, I would have the bookkeeping corrected,
5 or something like that. But on the inventory items
6 like that, that was beyond my scope, and I asked
7 Junior: We have -- you have to do something about
8 this.

9 Q. Now we're going to go into accounting
10 101. Bear with me a second.

11 A. Yes, sir.

12 Q. I believe the way that questions have
13 been presented to you, some lawyers, maybe even
14 your own, try to directly connect inventory with
15 costs of goods sold?

16 A. Yes, sir.

17 Q. And there is no direct connection --
18 well, let me rephrase that. Inventory appears on
19 the balance sheets, correct?

20 A. That's correct.

21 Q. Costs of goods sold appears on the
22 profit and loss statements?

23 A. That's correct.

24 Q. But in order to determine costs of
25 goods sold, you have to go to your inventory in

1 order to determine that?

2 A. Absolutely.

3 Q. You have to start with your beginning
4 inventory, correct?

5 A. Yes.

6 Q. You have to look at all the purchases
7 of inventory made during the year?

8 A. Yes.

9 Q. And you have to look at your ending
10 inventory?

11 A. That's correct.

12 Q. And that's how you come up with the
13 costs of goods sold?

14 A. That's correct.

15 Q. So inventory -- what happens is
16 inventory filters down to cost of goods sold,
17 correct?

18 A. Absolutely.

19 Q. So here you are with Joe, Jr., and
20 you're saying the inventory is way out of whack,
21 correct?

22 A. That's correct.

23 Q. You have to do something about it?

24 A. Yes, sir.

25 Q. As I understand it, Joe says: Well,

1 what can we do about it?

2 A. He might have said that.

3 Q. Well, as I understand it, you presented
4 two options to Joe, Jr.?

5 A. Yes, I did.

6 Q. Let's talk about those options a
7 minute. Now, you said yesterday, I believe, one of
8 the options you presented was doing it the correct
9 way, or the right way. I forgot your exact words.

10 A. The correct way, yeah. The normal way.

11 Q. Tell us what the normal way is.

12 A. The normal way is to pick up -- correct
13 the inventory, picking up the inventory, reflecting
14 it in the balance sheet as I deposit it, and
15 reducing the costs of goods sold, because it
16 becomes a -- the offset would be reducing the costs
17 of goods sold, creating more of a profit.

18 Q. So if I understand it, if you do it the
19 correct way, your inventory line on the balance
20 sheet is going to increase?

21 A. Yes, sir.

22 Q. It goes from a negative to zero?

23 A. Right.

24 Q. And it goes from zero to a positive?

25 A. Absolutely.

1 Q. And it's going to be the correct or
2 accurate reflection of inventory held by Mason
3 Tire?

4 A. That's correct.

5 Q. Now, if nothing else is done, but
6 you've just increased your inventory --

7 A. The normal way?

8 Q. The normal way. Then you take that
9 number -- you take those inventory numbers, and you
10 apply it to Page 2 of the tax return?

11 A. Yes, sir.

12 Q. And that's going to show an increased
13 inventory on that, is it not?

14 A. Ending inventory.

15 Q. Ending inventory?

16 A. Yes, sir.

17 Q. And if you do nothing else, what does
18 that do to the cost of goods sold?

19 A. It reduces the costs of goods sold down
20 and creates a higher profit, gross profit.

21 Q. And it is the gross profit that is
22 taxed?

23 A. Yes, sir.

24 Q. So the more the gross profit, the more
25 the tax?

1 A. That's correct.

2 Q. So what was the other option?

3 A. The other option I had mentioned to him
4 was the -- we can book the inventory and offset it
5 with a loan account.

6 Q. So if you didn't have the offsetting
7 loan account there, then it was going to increase
8 the inventory?

9 A. That's correct.

10 Q. Decrease the costs of goods sold?

11 A. That's correct.

12 Q. And increase your tax at the end of
13 the -- when you go through all those lines?

14 A. That's correct. Yes, sir.

15 Q. Now, if you have that increased
16 inventory offset by a loan from shareholders, then
17 you don't increase your tax?

18 A. There's no flow at all to the P and L
19 statement or the tax return.

20 Q. Now, whose decision was it to go with
21 either doing it the correct way or -- I'm going to
22 call it hiding the increased inventory or the
23 decreased cost of goods sold on the tax returns.

24 MR. KNOWLTON: I do have an objection.
25 The way he described it was not a correct way, but

1 he said a normal way and the other way. I would
2 object to the mischaracterization of this witness'
3 testimony.

4 THE COURT: I'll note your objection.
5 Go ahead.

6 BY MR. LEITER:

7 Q. Is the normal way the correct way?

8 A. The normal way is the correct way.

9 Q. So let's say the normal way. Whose
10 decision was it to go either the normal way or this
11 other way using some method of hiding that taxable
12 income?

13 A. When I left in December -- I'm sorry.
14 In November, when I left my -- went down to
15 Florida, I had no idea exactly what he was going to
16 do. I did not have any idea. I first learned the
17 idea when he came in '03 when that entry was
18 booked. I knew that this is what his decision was.

19 Q. Had you discussed with Joe, Jr., that
20 the other way -- not the normal way, but the other
21 way of handling it would be booking it as a loan
22 from shareholders?

23 A. Yes, sir.

24 Q. So you had discussed that in your
25 November 2002 meeting?

1 A. Yes, sir.

2 Q. So it was not your decision to choose
3 that or the normal way. It was Joe, Jr.'s
4 decision?

5 A. Absolutely, sir.

6 Q. Was Joe, Jr., aware that if he did it
7 the normal way, it would increase taxes?

8 A. Of course. Well, let me back off on
9 that. In my opinion, Joseph, Jr., would have known
10 what would have transpired if we did it the normal
11 way.

12 Q. Did you discuss in your November
13 of 2002 meeting what would happen if you filed the
14 taxes the normal way?

15 A. Could you repeat that again, sir?

16 Q. You're sitting with Joe, Jr., in
17 November of 2002. You're saying we have
18 understated inventory. We even have negative
19 inventory showing up on the books, correct?

20 A. Yes, sir.

21 Q. And you said we can't show this -- I
22 mean, did you discuss what would happen if you
23 showed it on the tax returns?

24 A. No, sir, I did not. I only said that
25 we have to do something about this.

1 Q. And you told him what the normal way
2 was and the other options?

3 A. I gave him the options.

4 Q. And Joe, Jr., decided which of the two
5 options to choose?

6 A. In March of '03 he made the decision.
7 I believe it was March of '03.

8 Q. Now, at some point you received a
9 letter from Wayne Byrd, and we know it was sometime
10 in 2007. I think it's Exhibit 32. Now, that's
11 your letter in response. I don't really need to
12 direct you to his letter, but let me ask you this:
13 You received the letter from Wayne Byrd?

14 A. Yes, sir.

15 Q. And you responded to Mr. Wayne Byrd, as
16 evidenced by Plaintiff's Exhibit 32?

17 A. Yes, sir.

18 Q. Did you try to hide anything from
19 Mr. Byrd?

20 A. No, sir.

21 Q. Did you try to cooperate with Mr. Byrd?

22 A. Absolutely.

23 Q. In his letter either to you or to the
24 company, he said that amended tax returns should be
25 prepared and filed?

1 A. Absolutely.

2 Q. Did you prepare amended tax returns?

3 A. Immediately.

4 Q. And did you forward them on to whoever
5 wanted to see them?

6 A. Yes, sir.

7 Q. I believe at some point that Tim Duncan
8 saw them. Is that your understanding?

9 A. Yes, sir.

10 Q. And you spoke to Tim Duncan about those
11 amended tax returns that you had prepared?

12 A.. Yes, sir.

13 Q. And did you try to cooperate with
14 Mr. Duncan with any questions he might have had or
15 comments he may have had?

16 A. Fully.

17 Q. Did he make some suggestions to you on
18 how to change the amended tax returns?

19 A. No, sir. From our discussion, he was
20 satisfied with the amended returns.

21 Q. But you had prepared them?

22 A. Yes, sir.

23 Q. And we'll talk about that in a minute,
24 what happened to those tax returns.

25 MR. KNOWLTON: Your Honor, again, on

1 A. What actually happened during the year.

2 Q. And to report it accurately?

3 A. What happened during the year.

4 Q. Now, Mr. Thomas asked you a few
5 questions about the understated inventory?

6 A. Yes, sir.

7 Q. And so did Mr. Leiter. Now, the
8 understated inventory was the subject of a note
9 that you've discussed at length in 2003 and journal
10 entries that dealt with that. Is that correct?

11 A. The note was discussed in November
12 of 2002 between me and Joe, Jr.

13 Q. Correct. You had that discussion, and
14 you suggested the two ways to do it, and one of the
15 ways you suggested was the notes, correct?

16 A. The loan would be backed up with a
17 note, that's correct.

18 Q. And there's a real piece of paper,
19 right? We've looked at the actual notes that were
20 actually signed, right?

21 A. Yes, sir. Except Kathy St. Blanchard
22 did not sign it, but the notes were signed.

23 Q. She didn't sign it, but she was a
24 payee, correct?

25 A. That's correct.

1 Q. And she was aware -- her husband signed
2 it, correct?

3 A. That's correct.

4 Q. She was paid interest on that note for
5 several years, was she not?

6 A. That's correct.

7 Q. That was discussed at shareholders
8 meetings that you attended, was it not?

9 A. It was.

10 Q. And you told the family -- I think you
11 said -- and I don't want to go through it again,
12 but you told the family that this mechanism would
13 be all right?

14 A. Somewhere after this entry was put on
15 the books, that's correct.

16 Q. And is it now your testimony that it's
17 not all right, that it's unlawful?

18 A. Apparently, yes.

19 Q. At the time you told them it would be
20 all right though?

21 A. That's correct.

22 Q. Now, let's take a look at Exhibit
23 Number 2, Plaintiff's Exhibit Number 2 in the
24 notebook. Now, first of all, you testified, as I
25 understand it, that Mr. Tim Duncan was satisfied

1 Q. Now, you talked about the loan being an
2 adjustment to the balance sheet, correct?

3 A. That's correct.

4 Q. But as time goes on, for the year 2000,
5 for example, you would have reported a cost of
6 goods sold that was not accurate, is that correct,
7 on the income statement in the tax returns?

8 A. That's correct.

9 Q. So that would mean the tax returns for
10 the years 2001 -- I mean from the tax year 2000
11 were inaccurate with your knowledge for Mason Tire
12 for the North Myrtle Beach location, and the
13 Pawleys Island location. Is that correct?

14 A. Looking at this, the inventory was -- I
15 recorded here that the inventory parts were
16 understated. They might have been -- I can't
17 recall the total inventory that was booked on the
18 tax return for the year 2000. I'm not sure. But
19 based on this, the inventory was -- I recorded that
20 the inventory was understated.

21 Q. So at that time or earlier, there would
22 have been an incorrect tax return based on an
23 improper costs of goods sold?

24 MR. LEITER: Your Honor, I'm going to
25 object. He's asked and answered that. Mr. Levine

1 doesn't remember.

2 THE WITNESS: That's right.

3 THE COURT: If you don't remember, tell
4 him you don't remember. If you know the answer --

5 THE WITNESS: I don't recall. I don't
6 remember.

7 THE COURT: He doesn't recall.

8 BY MR. KNOWLTON:

9 Q. Maybe this will simplify it: Let's go
10 on to Exhibit 3. Let's compare Exhibit 2 to 3. On
11 Exhibit 2, look at the understated inventory amount
12 for the Surfside location. Do you see that? It
13 says \$25,000.

14 A. That's correct.

15 Q. Take a look at the understated
16 inventory for the Surfside location in your end of
17 year evaluation for 2001 at Line 28. Do you see
18 that?

19 A. I do.

20 Q. Understated inventory grew during that
21 year, based on your records, \$84,000?

22 A. That's correct.

23 Q. So during the year 2001, we know that
24 the Surfside location had a cost of goods sold that
25 was off by -- what's the math there, \$59,000?

1 Q. You were present?

2 A. I was.

3 Q. And first let me back up. You said you
4 were at the meeting in 2005 and other meetings
5 where the worker's comp problem arose -- where the
6 worker's comp issue was discussed?

7 A. I remember reading, yes.

8 Q. As I understood your testimony,
9 Joe, Jr. had two problems. One was it wasn't right
10 because he didn't think that it was a valid claim,
11 and the second problem was he knew that might have
12 some financial impact on the company.

13 A. I learned that, yes.

14 Q. And those discussions occurred within
15 the family and in your presence?

16 A. I'm sure it did.

17 Q. Let me ask you this: After that
18 meeting, you understood that it was your job to do
19 something about the tax situation, and you
20 undertook to draft returns for the year 2007 and
21 2008, correct?

22 A. That's correct.

23 Q. Now, you went back to Florida and you
24 prepared those returns, did you not?

25 A. I did.

1 Q. And who did you send them to?

2 A. Joe Mason, Sr.

3 Q. And did you deal with anybody other
4 than Joe Mason, Sr., on those tax returns?

5 A. No, I didn't.

6 Q. At that point, Joe Mason, Sr., was the
7 president of the company. Is that correct?

8 A. That's correct.

9 Q. And Joe Mason, Jr., had no financial
10 role with any of that, did he, at least to your
11 knowledge?

12 A. At least to my knowledge.

13 Q. And you signed those returns, and so
14 did Joe Mason, Sr. Is that correct?

15 A. As far as I know, yes.

16 Q. Did you ask advice of Mr. Duncan or any
17 other lawyer or accountant about the propriety of
18 those returns that you filed in '07 and '08?

19 A. No, sir. However, when I left,
20 Joseph, Jr., and myself in December, I had
21 mentioned to him -- we had mentioned we're going to
22 clean this up, so I thought this would be the best
23 way to clean it up and go forward. We would be --
24 everything would be clean, and we could go
25 forward -- they would go forward as a family and

1 A. Yes, sir.

2 Q. And so there wasn't some new land or
3 anything. That was just part of the retirement pay
4 for Joe Mason, Sr., correct?

5 A. Yes, sir.

6 Q. Now, at some point, was that amount
7 reduced to \$68,000?

8 A. That's correct.

9 Q. Now, after this situation -- you know,
10 when Mr. Byrd said everything you're doing is
11 inappropriate in September and October of 2007, the
12 rent payment became recharacterized as an income
13 payment to Joe Mason, Sr., did it not?

14 A. The rent payment, from the inception of
15 the retirement money when he got the payment on the
16 second, was income to Joe Mason, Sr.

17 Q. Well, I know. But on the books and
18 records it was originally treated as rent.

19 A. On the books it was rent, yes.

20 Q. Now, since Mr. Byrd raised these
21 issues, he subsequently received a salary of
22 \$68,000, did he not? I think it might have been
23 \$68,000 plus \$10,000 in the original employment
24 agreement.

25 A. Mr. Mason, Sr., received a salary at

1 the time Joe Mason, Jr., quit the company.

2 Q. Well, the payment stream to
3 Mr. Mason, Sr., didn't really change, it was just
4 recharacterized as how it was treated on the books.
5 Is that correct?

6 A. You could say that, yes. But the
7 function was quite different. He was employed, and
8 therefore he got a salary.

9 Q. Now, again, Mr. Byrd raised these
10 issues, and they were hotly discussed, in September
11 and October of 2007. Is that correct?

12 A. That's correct.

13 Q. Is there any reason proper amended
14 returns could not have been filed or someone could
15 have contacted the IRS and the state taxing
16 authorities before the first day of this trial?

17 A. I don't understand the question.
18 Repeat it, please.

19 Q. Mr. Joe Mason, Jr., has been -- was
20 removed as president in October of 2007, correct?

21 MR. THOMAS: Object to the form.

22 THE WITNESS: Correct.

23 BY MR. KNOWLTON:

24 Q. In August of 2008, he left employment
25 with the company and hasn't served in any capacity

1 going through objections and all of that, since
2 it's not a jury, what I have prepared is simply a
3 deposition where in yellow it will show you what we
4 had originally designated and it's got everything
5 in it too. So you can read it and you'll know who
6 designated what.

7 MR. THOMAS: And your Honor, we object
8 to that. We've got an original that they can hand
9 up, but we don't -- what we object to is handing up
10 a copy that's got portions highlighted.

11 THE COURT: Yeah, just give me the
12 original. I'll read it.

13 MR. LEITER: Your Honor, we originally
14 made an objection to some designations of it. I
15 know you took it -- you had allowed a standing
16 objection and that you would consider it all.

17 THE COURT: I will.

18 MR. LEITER: I believe we wrote out --

19 THE COURT: Do you want to hand that
20 up?

21 MR. LEITER: We have a handwritten
22 statement of what we've objected to.

23 THE COURT: Does everybody have it?

24 MR. LEITER: Yes, your Honor.

25 MR. KNOWLTON: And your Honor, with

1 that and our -- I don't know if you've dealt with
2 the 50 percent amendment or whatever you needed to
3 do --

4 THE COURT: Your pending motion, yes.

5 MR. KNOWLTON: But with that, the
6 plaintiff rests.

7 MS. RICE: And defendant Levine would
8 move under Rule 51 B that there's been no showing
9 by the plaintiff that's entitled to relief from
10 defendant Levine, and we would move to dismiss at
11 this time, based on the fact that there are not
12 sufficient facts in evidence, and the operative law
13 wouldn't suggest there's relief against Mr. Levine
14 entitled to the plaintiff.

15 MR. LEITER: And that is on the sole
16 cause of action that is asserted against
17 Mr. Levine, which is that he aided and abetted the
18 other Mason family defendants in breaching of
19 fiduciary duties. I believe that the evidence that
20 has come out is that -- at a minimum, as far as
21 Mr. Levine is concerned, everyone was part of this.
22 Now, they can complain about Mr. Levine all day
23 long in terms of accounting practices, but that's
24 simply not before the Court.

25 What is before the Court is did he aid

1 ago. I can't think of anything that would be more
2 detrimental to the company, and there was certainly
3 breaches of fiduciary duties by these individuals
4 who are running the company, and facilitated by
5 their accountant, Mr. Levine.

6 If you drive somebody out of the
7 business by undercutting them by acts of hostility,
8 acts of retaliation in front of others, that's
9 constructive discharge and I think it's
10 appropriate. One breach of contract would be the
11 letter agreement. Another breach of contract was
12 asserted as a breach of employment agreement, and
13 that would deal with whether it was a company
14 policy or not. And we'll be happy to drop that
15 claim, your Honor, as far as whether it violated a
16 company policy that rose to the level of an
17 employment agreement.

18 On the shareholder oppression, we've
19 got a long bullet point list of things that they
20 did that constitutes shareholder oppression under
21 this statute and under the case law of this state,
22 and virtually every other state. My client has
23 been deprived of every economic benefit of being a
24 shareholder of these companies. He's not received
25 one penny in dividends since he left the employment

1 testimony, I would like to talk with you in camera
2 about that.

3 THE COURT: Let's just take a break and
4 do that.

5 (A recess transpired.)

6 THE COURT: We're back on the record.
7 For Mr. Connell, and pursuant to his 1.6, I'm going
8 to order him to respond to your questions with
9 reference to the items he is concerned about.

10 MR. THOMAS: Thank you, your Honor.

11 BY MR. THOMAS:

12 Q. Mr. Connell, there has been some
13 testimony in this case that the workmen's
14 compensation you claim you handled on behalf of
15 Mr. St. Blanchard was somehow fraudulent. Tell me
16 what you know about the case and whether you're
17 aware of anything fraudulent on behalf of the case
18 you handled with Mr. St. Blanchard?

19 A. All right. Where do you want me to
20 start? The file lasted about five and a half
21 years. There was over 3,000 pages of documents,
22 depositions, appeals. Do you want to take it from
23 the beginning, or how do you want it?

24 Q. Well, let me ask you: I take it from
25 your comment that the case was vigorously defended?

1 A. Yes, sir.

2 Q. And who was the lawyer on the other
3 side?

4 A. There were a series of lawyers. Buster
5 Holland wound up in the end defending the case and
6 settling the case with us. It started out with
7 some other lawyers in his office. Let's see. It
8 really started out after Mr. St. Blanchard was
9 injured in a motorcycle wreck on December 18th,
10 2004.

11 Q. Mr. Holland, as I understand, he was a
12 former -- actually a commissioner of the workmen's
13 compensation Commission?

14 A. Yes, sir, that's correct.

15 Q. Would you consider him a capable and
16 worthy opponent?

17 A. He teaches seminars on worker's comp,
18 he is looked on for advice, and eventually he took
19 this case over. There were other people in his
20 office that started out with it, but he took it at
21 the end.

22 Q. I guess the key issue or the key
23 question that has been raised by counsel for the
24 plaintiff is whether the accident occurred while
25 Mr. St. Blanchard was acting within the course and

1 scope of his employment. Would you tell us what
2 you know about that?

3 A. Yes, sir. A hearing was held by
4 Commissioner Funderburk of the workers'
5 compensation commission at Mr. St. Blanchard's
6 bedside, because he was a quadriplegic. That
7 hearing lasted about two and a half days.
8 Commissioner Funderburk then issued an order
9 finding that the claim was compensable, and that
10 was based upon testimony of employees of Mason's
11 Goodyear. It was also based upon records.

12 It's been a long time ago, but my
13 memory is that Mr. Mason, Sr., testified at the
14 hearing, and I'm also remembering that there were
15 documents that showed that Mr. St. Blanchard was
16 acting in the course and scope as a marketing agent
17 at the time this incident occurred.

18 After the original commissioner found
19 the claim compensable, the insurance carrier
20 appealed it to the workers' compensation commission
21 in Columbia. An order was issued two to one
22 reversing the single commissioner. That order was
23 appealed. At that time, worker's compensation
24 cases were heard by the Circuit Court. Currently
25 they're heard by the Court of Appeals on a direct

1 appeal from the commission. At that point, it was
2 heard by the Circuit Court Judge Baxley. He took
3 it under advisement after an all-day hearing in
4 this courthouse.

5 And Mr. Holland then made an offer to
6 settle the case. The offer to settle the case was
7 basically an offer to pay Mr. St. Blanchard through
8 an annuity that would last through the rest of his
9 life, and would pay him on a semiannual basis, and
10 of course at the time of his death the annuity
11 would end. It was a medical set aside annuity.

12 Mr. St. Blanchard had enormous medical
13 costs. There was testimony and evidence that his
14 medical costs were in the millions of dollars. He
15 was in a nursing home for -- if memory serves me
16 right, he was in a nursing home for at least two
17 and a half years off and on for the treatment he
18 got. He was also at certain spinal institutions.
19 There was also a Blue Cross/Blue Shield lien,
20 health insurance lien, that was paid back through
21 worker's comp.

22 It was a somewhat complicated
23 settlement, but suffice it to say that really what
24 Mr. St. Blanchard got was not a potful of money.
25 He got money to pay for his ongoing medical

1 treatment and his living expenses, and eventually
2 after several years he was able to move out of the
3 nursing home and had around-the-clock caregivers
4 until he died.

5 Q. Thank you. Prior to the hearing, did
6 you have conversations with Mr. Mason, Sr., about
7 whether Mr. St. Blanchard was acting within the
8 course and scope of his employment?

9 A. No, sir. That would be unethical for
10 me to talk to Mr. Mason without his lawyer. His
11 deposition was taken, and in his deposition he
12 testified -- this is from my memory. I brought the
13 file because it's an extensive file.

14 My memory is that he testified that
15 Mr. St. Blanchard was the face of Mason's Goodyear,
16 and that he appeared on commercials, and that he
17 was a marketing agent and did all sorts of
18 advertising, and that it had been agreed that he
19 would attend this Toys for Tots run, if you will.
20 It was a motorcycle poker rally where they were
21 trying to collect toys and money for disadvantaged
22 children at Christmastime, as I remember. But his
23 testimony was that he was on the job, and that he
24 was in his uniform. I think I remember that. And
25 that he had done this before, and there were

1 corporate records to reflect that.

2 Q. And I believe you indicated, in
3 addition to his testimony, there was other evidence
4 regarding his being in the course and scope of his
5 employment?

6 A. Yes, sir. I'm thinking there was at
7 least three or four employees' depositions taken.
8 Not only employees who were past employees, but
9 present employees who testified that he was in the
10 course and scope of employment, and they were
11 actually at this poker Toys for Tots run, if you
12 will. Those people's testimony was offered at the
13 workers' compensation hearing, and their
14 depositions were taken.

15 MR. THOMAS: Thank you. You may
16 examine.

17 MR. KNOWLTON: May it please the Court.

18 CROSS-EXAMINATION

19 BY MR. KNOWLTON:

20 Q. Mr. Connell, how are you?

21 A. I'm fine.

22 Q. I'm Robert Knowlton, Bob Knowlton. I
23 represent Mr. Mason, Jr., in this lawsuit he has
24 ; against Mason Holding Company and other family
25 members and the company accountant. I have a few

1 Q. Mr. Duncan, thank you for coming today.

2 Would you state your full name for the record?

3 A. David Timothy Duncan.

4 Q. And what is your occupation?

5 A. I'm a certified public accountant.

6 Q. And how long have you been a certified
7 public accountant?

8 A. In excess of 30 years.

9 Q. And do you practice with a firm?

10 A. I practice with Duncan Farmer Munden
11 McIlrath and Cobb in Myrtle Beach.

12 Q. Mr. Duncan, have you ever been
13 contacted to perform any work on behalf of the
14 Mason Tire Company?

15 A. Well, work -- you mean actually prepare
16 returns or review amended returns?

17 Q. Well, to do any kind of work, first of
18 all.

19 A. Review amended returns, yes.

20 Q. And let me -- is there a black book in
21 front of you that says exhibits? If you'll turn to
22 Exhibit 43 -- I'll tell you what. It might make
23 more sense if instead of 43 you look first at 44.

24 A. Okay.

25 Q. Is that a letter that you wrote to

1 Mr. Joe Mason, Sr., in November of 2007?

2 A. Yes, it is.

3 Q. And the letter, of course, speaks for
4 itself, so we're not going to go -- I'm not going
5 to ask you to go through all that. Did the letter
6 result from any contact made to you by Mr. Mason or
7 anyone else?

8 A. Yes.

9 Q. And who contacted you?

10 A. Cliff Tall was the attorney involved.
11 At the time, Cliff called me and asked me to come
12 and meet with the Mason family.

13 Q. And did you meet with them?

14 A. We did.

15 Q. And did you meet at -- where did you
16 meet with them?

17 A. In Mr. Tall's office.

18 Q. And did this letter result from that
19 meeting?

20 A. Yes.

21 Q. Now, do you recall -- did that meeting
22 occur fairly contemporaneously with your letter to
23 Mr. Mason, that is on or about the 7th of November,
24 2007?

25 A. Yeah. A short period of time, I

1 recall.

2 Q. Now, also in connection with your
3 engagement, did you request that Mr. Irwin Levine
4 provide you with some information? And I'll refer
5 you to Plaintiff's Exhibit 43.

6 A. Yes, I did, in my letter of November
7 7th.

8 Q. Now, as originally conceived,
9 Mr. Duncan, were you going to file amended returns
10 on behalf of Mason Holding?

11 A. I considered it, but then I later
12 decided probably I didn't have enough background
13 information or enough detail about the amended
14 amounts to be the signer of that amended return, so
15 I suggested that Mr. Levine continued to amend
16 those returns and file them.

17 Q. And did Mr. Levine provide you with
18 some drafts of amended returns for a number of
19 years?

20 A. He did.

21 Q. And did you review those returns?

22 A. I did.

23 Q. And did you make any suggestions
24 regarding those returns?

25 A. We discussed a couple of small items on

1 there. There was -- I think the description of a
2 couple of the adjustments, but we didn't get into
3 the numbers -- how the numbers were arrived at or
4 anything.

5 Q. As a result of your -- did you get the
6 information that you had requested both from
7 Mr. Mason, Sr., and from Mr. Levine?

8 A. I did.

9 Q. And did you review, to some extent,
10 that information?

11 A. I did.

12 Q. And did you determine that there were
13 any problems with the previous filings of the Mason
14 Tire Company?

15 A. There were some issues, yes.

16 Q. And did you determine these would
17 be -- what might be termed serious and substantial
18 issues?

19 A. I thought they were significant enough
20 issues that I contacted Eddie Bowers, who was a tax
21 attorney with the Bellamy Law Firm, and we
22 discussed those items.

23 Q. Now, ultimately, as I understand it,
24 you determined that you would not be filing those
25 returns. You simply consulted on the filing of

1 those returns by Mr. Levine?

2 A. That's correct.

3 Q. And did you reach any conclusion -- and
4 let me -- did you provide an affidavit in this case
5 at my request?

6 A. Yes, I did.

7 Q. Did you make any conclusion as a result
8 of your review whether there were significant
9 amounts which may be due and owing to the taxing
10 authorities for Mason Tire?

11 A. I ran some numbers to just see what we
12 were talking about back at that time.

13 Q. And did you determine that there might
14 actually be some significant tax issues?

15 A. I'm just recalling it's something north
16 of \$400,000 in taxes.

17 Q. After you determined that you preferred
18 not to do the amended returns, did you make your
19 wishes known to anyone?

20 A. That I preferred not to do it?

21 Q. Yes, sir.

22 A. Yes.

23 Q. Did you convey that to Mr. Mason?

24 A. Probably verbally.

25 Q. And to Mr. Levine?

1 A. Verbally probably. I don't recall.

2 Q. Now, was your engagement with Mason
3 Tire subsequently ended? Did you --

4 A. Oh, yes.

5 Q. And do you recall when that was done?

6 A. I want to say the whole episode took
7 place within probably six weeks. I can't remember
8 the exact beginning and the exact end.

9 Q. Let me -- I should have done this
10 before. Let me call your attention to Plaintiff's
11 Exhibit 46.

12 A. Okay.

13 Q. And do you recall --

14 A. Yes, that's my letter.

15 Q. And that letter was received by you
16 after you had already informed Mr. Levine that you
17 were not going to be filing the amended returns?

18 A. Most likely.

19 Q. Now, during your inquiry into the
20 issues of Mason Tire, did you come to any
21 conclusion regarding the respective knowledge of
22 the shareholders of Mason Tire about these tax
23 issues?

24 A. I don't recall what discussions I had
25 with the family members specifically about the tax

1 issues. I'm sure I had made a comment maybe to
2 Joe, Sr., about there were some significant issues
3 that needed to be addressed.

4 Q. Did you make any conclusion about the
5 awareness of Joe Mason, Jr., about the
6 understatement of income in a number of years?

7 A. I don't recall talking about previous
8 years of issue. I just recall those years that
9 were being amended. There were some adjustments
10 that needed to be made.

11 Q. Do you recall a conversation with
12 Mr. Mason, Jr., where he asked you to manipulate
13 any inventory figures for a subsequent year?

14 A. I do recall a meeting -- which kind of
15 led me to believe that maybe I couldn't work with
16 the family or Joe -- when we had these issues of
17 the inventory adjustment. Joe and I were meeting
18 in my office -- I only remember one occasion -- and
19 we were talking about the year ending 2007, because
20 that return had not been prepared. And he brought
21 up some issue about inventory, and I remember my
22 comment was -- I said: Joe, we had just been
23 addressing this issue through amended returns. I
24 can't believe we're talking about this same thing
25 over again. I do recall that.

1 Q. And as a result of that -- and did you
2 refuse to take the action he was suggesting to you?

3 A. Had I been engaged to prepare the
4 returns --

5 MR. KNOWLTON: Objection to the form of
6 that question, your Honor. He didn't state that he
7 asked him to do anything. He said he asked him
8 questions.

9 THE COURT: Rephrase your question.
10 BY MR. THOMAS:

11 Q. Did Mr. Mason ask you to manipulate
12 inventory figures for a subsequent year similar to
13 what had been done in past years?

14 A. I'd have to say we discussed the
15 inventory valuation. I wasn't in a position at
16 that time. I wasn't engaged to prepare the returns
17 or anything. Honestly I think maybe he was
18 bouncing it off me at the time to see what my
19 reaction would be, and I had an unfavorable
20 reaction.

21 Q. That was something you didn't want to
22 be a party to?

23 A. That's correct.

24 Q. In fact, did you conclude that was a
25 large reason for the -- a large part of the problem

1 they already had?

2 A. I don't know. I can't say that for a
3 fact.

4 Q. And did Mr. Mason's comment --
5 Mr. Mason, Jr.'s comments to you play any
6 part -- any role in your decision that you really
7 would prefer not to get involved with Mason Tire's
8 accounting?

9 A. Well, there were a couple of issues.
10 One that I sensed, there were a lot of significant
11 tax issues. Joe, Jr., and I -- I think the
12 chemistry wasn't there to have a long-term
13 relationship. I didn't want to get involved in the
14 middle of what we were involved in now, and so I
15 thought -- I had other things to do that were more
16 important, and so I declined to accept him as a
17 client basically.

18 Q. And from that point forward, do you
19 know whether the amended returns were ever filed or
20 not?

21 A. No, I don't.

22 Q. Thank you, Mr. Duncan. That's all I
23 have.

24 CROSS-EXAMINATION

25 BY MR. KNOWLTON:

1 Q. Good afternoon, Mr. Duncan.

2 A. Good afternoon? It's morning.

3 Q. Sorry about that. I don't believe
4 we've met before. Have we, to your knowledge?

5 A. Not that I recall. What's your name?

6 Q. My name is Robert Knowlton and I'm with
7 Haynsworth Sinkler Boyd, and I represent Joe
8 Mason, Jr., in this lawsuit involving Mason Holding
9 Company, other family members, and the company
10 accountant. Does that refresh your memory whether
11 we've met at all?

12 A. I don't think we've met before.

13 Q. I don't think so either. There are a
14 few questions for you. First of all, did you ever
15 approve those draft amended tax returns? Did you
16 have the information to approve those draft amended
17 tax returns?

18 A. When you say approve, I looked at them
19 for presentation, and I thought the presentation
20 was okay.

21 Q. I guess there have been some serious
22 issues raised about the propriety of those amended
23 returns. I've been trying to protect you in your
24 absence, but I want to hear it from you. Let's
25 take a look at them. Let's start with this: Take

1 A. Yes.

2 Q. Take a look -- there's another one on
3 Line 18 for the Pawleys Island's entity, \$50,000.
4 And do you see on Line 28 the understated inventory
5 grew at the end of this year to \$84,000?

6 A. I see that.

7 Q. Did anybody explain to you that this
8 understated inventory was a continuing problem that
9 affected the cost of goods sold for several
10 entities for several different years prior to and
11 including 2003?

12 A. No.

13 Q. Would you consider it an appropriate
14 fix to tax returns that have been based upon an
15 improper costs of goods sold in 2000, 2001, and
16 2002, and 2003 to be amending the tax returns for
17 one entity for the entire amount?

18 A. No.

19 Q. Was that explained to you at the time?

20 A. No.

21 Q. You said you contacted Mr. Bowers back
22 in 2007 about this?

23 A. I contacted him about issues of
24 ownership. When I looked at the stock book to see
25 who owned the companies, I looked at the tax

1 returns to compare that ownership with the K-1s
2 that were issued for the tax returns, and then I
3 looked at those K-1s to see what income items were
4 allocated amongst the shareholders on those K-1s.
5 That's what I contacted Mr. Bowers about.

6 Q. Well, there was another issue you
7 raised one of your letters to Mr. Levine. Well,
8 let's look at both those letters briefly. Exhibit
9 Number 43.

10 A. Yes.

11 Q. Your Item Number 4, you raise the issue
12 about allocating the sub S income in those
13 entities, right?

14 A. That's correct.

15 Q. And you had observed, I assume, that
16 for the holding company, even though different
17 people own different percentages, they didn't
18 attribute the income based on those percentages?

19 A. That's correct.

20 Q. And would you -- as an account, would
21 you agree that's completely inappropriate for a tax
22 return?

23 A. Yes, I would agree.

24 Q. You talked to Mr. Bowers, and I assume
25 he agreed with that?

1 A. Pardon?

2 Q. Did you talk to Mr. Bowers about that?

3 A. Yes, I did.

4 Q. And I assume he agreed with that?

5 A. He did.

6 Q. Did you suggest that the holding
7 company returns be amended based upon that
8 impropriety?

9 A. I may have verbally. I don't recall.

10 Q. Did you ever see him draft amended
11 returns for the holding company?

12 A. I don't recall which returns were
13 amended, quite honestly.

14 Q. You never knew what got filed, right?

15 A. Right.

16 Q. Now, let's look at your letter dated
17 November 7th. It's marked as Exhibit 44.

18 A. Okay.

19 Q. And that's a letter you drafted to Joe
20 Mason, Sr., as president of Mason Tire and Auto
21 Service?

22 A. Correct.

23 Q. And since he was the president, I
24 assume he's retaining you on behalf of the company.
25 Is that correct?

1 A. That was my impression.

2 Q. And is that who you reported to and
3 worked with on these issues, along with the company
4 accountant?

5 A. I didn't do too much with Mr. Levine.
6 I had my conversations with Joe, Sr., probably.

7 Q. And was he the one in charge of this
8 effort?

9 A. Well, quite frankly I didn't know who
10 was in charge of this effort.

11 Q. Who's the person you dealt with
12 primarily at the company?

13 A. Well, I dealt a little bit with Joe. I
14 might have had some conversation with Kathy and
15 Joe, Sr. It was a little bit of everybody.

16 Q. But you understood the president was
17 Joe, Sr., so that's who you understood to be in
18 charge of the company?

19 A. Correct.

20 Q. Now, one of the things you mentioned
21 here in your Item 2 is that there may be an issue
22 about gift tax returns?

23 A. Correct.

24 Q. Do you agree that it would be
25 inappropriate to reflect something as an absolute

1 gift if consideration was given for that item?

2 A. Say that again real slow.

3 Q. Let's be a little bit more specific and
4 a little less hypothetical. Would you agree that
5 if someone was given shares in a company for
6 valuable consideration, and a gift tax was returned
7 that reflected zero consideration, would you
8 consider that to be an inappropriate gift tax
9 return?

10 A. Well, I'd have to see the underlying
11 valuations. I couldn't just say zero. It could be
12 negative. It could be something you don't want.
13 But anyway, I was asking the question because I had
14 seen the change in the ownership, and so I wanted
15 to see if there had been gift tax returns filed.

16 Q. And did you look at gift tax returns?

17 A. I don't think I received any gift tax
18 return.

19 Q. But generally, as a concept, would you
20 agree that if you received valuable consideration
21 for shares, it would be inappropriate to file a
22 gift tax return that reflects that you got zero
23 consideration?

24 A. If there was value in the gift, there
25 should have been value on the gift tax returns.

1 Q. Now, take a look at Exhibit 46 again.
2 This is only about three weeks later. You're done,
3 and that was the last effort you served for the
4 company?

5 A. That's correct, that I recall.

6 Q. And let me make sure I'm clear. You
7 never signed or ratified or approved those draft
8 amended tax returns, did you?

9 A. No.

10 Q. And you never saw what was filed?

11 A. That's correct.

12 Q. And based on my understanding, if you
13 had known the information that I just reviewed with
14 you, would you agree that those would be an
15 inappropriate fix to the problem?

16 A. I probably would have. Had I been
17 engaged, had I found that information out, I
18 probably would have insisted those prior year
19 returns be amended, not just one return amended.

20 Q. So those draft amended returns are not
21 an appropriate fix to the problem?

22 A. I would not have deemed them something
23 I would have wanted to have signed as the preparer.

24 Q. But you weren't provided that
25 information, and you didn't get -- you didn't have

1 the information or do the analysis to ever get to
2 the point of approving those returns?

3 A. That's correct.

4 MR. KNOWLTON: Thank you. That's all I
5 have, your Honor.

6 CROSS-EXAMINATION

7 BY MR. LEITER:

8 Q. A few questions, Mr. Duncan. I hope a
9 few questions. Just briefly, let's go back to
10 Exhibit 2 and 3 real quick -- or let's say
11 Exhibit 2. At the top of the page, does it say
12 business valuation?

13 A. Business valuation.

14 Q. So this is what this is dealing with,
15 right, this form?

16 A. I would suppose. How does an
17 accountant find out whether inventory is -- well,
18 how does an accountant find out what the inventory
19 of an on-going business is? Where do they look?

20 A. You ask the client to provide that
21 information, unless it's an audit.

22 Q. But if it's not an audit, you ask the
23 client?

24 A. You ask the client to provide that
25 information.

1 Q. The client provides it in whatever
2 condition he keeps it in?

3 A. Well, you have a smell test. If you've
4 been in the place of business, and it's full, and
5 they tell you zero, I doubt if I would agree with
6 the client when they told me they had zero
7 inventory. So without verification, you have some
8 perimeters.

9 Q. In your letter of November 7th, I
10 believe you asked Mr. Mason, Sr., to send you some
11 tax returns. Is that correct? You asked for
12 different kinds of returns. Some were gift tax?

13 A. That's correct.

14 Q. Some were the tax returns for the
15 subsidiaries?

16 A. That's correct.

17 Q. And between November 7th and
18 November 27th, do you remember if you received
19 those or not?

20 A. I'm sure I did.

21 Q. So they were providing -- you requested
22 them and they were provided to you?

23 A. Timely.

24 Q. I believe you said you talked to
25 Mr. Levine just briefly once or -- I don't know how

1 many times, but --

2 A. I only recall one telephone
3 conversation I had with him.

4 Q. Was he cooperative?

5 A. Yeah.

6 Q. Answered your questions?

7 A. Yes.

8 Q. As best he could?

9 A. Yes.

10 Q. I need to ask you about -- I need to
11 drill down a little bit into your conversation with
12 Joe, Jr., because I can't say I quite understood
13 what you were saying there. He came -- at least
14 there was one time that you were talking to him
15 about Mason Tire?

16 A. Correct.

17 Q. He came to your office?

18 A. That's correct.

19 Q. We'll get to the inventory in a minute,
20 but what else did you all talk about, if you
21 remember?

22 A. I don't recall.

23 Q. Did you talk about his bonuses or his
24 salary?

25 A. You know, that did come up. I do have

1 a recollection of that, his compensation and
2 Kathy's compensation.

3 Q. He had a concern about that?

4 A. Did I have a concern?

5 Q. No, no. Did he have a concern? How
6 did it come up?

7 A. I don't recall. He probably brought it
8 up because I probably wasn't aware of the numbers
9 at the time.

10 Q. But it also is clear that inventory
11 came up as a subject of discussion?

12 A. Only the one we were discussing coming
13 up for year-end 2007. I don't recall discussing
14 with Joe, Jr., those amended return inventory
15 amounts.

16 Q. Understood. But we're just talking
17 about the preparation of the '07 return?

18 A. Correct.

19 Q. And at that time, were you being talked
20 to as maybe the person who would take over the
21 preparation of those returns going forward?

22 A. Yes.

23 Q. And this was now in November of '07, so
24 it was a timely discussion to be having about how
25 to do the returns?

1 A. Yes.

2 Q. And obviously the whole reason that you
3 were consulted to begin with was how to handle the
4 understatement of inventory to begin with in those
5 previous years, 2003, 2004, 2005, 2006?

6 A. Well, I thought I was being engaged
7 because they were switching accountants.

8 Q. Was a big issue in that engagement what
9 to do with past returns with reference to the
10 understatement of inventory?

11 A. That was one of the issues.

12 Q. So that was also one of the issues that
13 Mr. Mason, Jr., discussed with you when he was in
14 your office about going forward with the '07
15 return?

16 A. We probably discussed inventory
17 valuation and that we felt like it needed to be as
18 correct as possible.

19 Q. As I understand your testimony today,
20 you said you cannot believe that you were
21 discussing the same thing over again?

22 A. That's the comment I made to Joe.

23 Q. And that's where I need help. What was
24 it that you could not believe?

25 A. Well, it was an inventory valuation

1 item for year ending '07. I don't recall what it
2 was he had on hand at year end, and the issue came
3 up should we include that in the inventory, and
4 that's when I made the comment obviously it needed
5 to be included in inventory. After what we've been
6 through already, I can't believe we're having this
7 discussion again.

8 Q. You were understanding that discussion
9 to be or the suggestion to be let's not include
10 that inventory?

11 MR. KNOWLTON: Objection, your Honor.
12 He's recharacterizing what he just said. He just
13 said he asked a question.

14 MR. LEITER: I'm asking a question.

15 THE WITNESS: I'm not sure Joe said
16 let's not include that inventory. I think it might
17 have been along the lines of that I have this on
18 hand at year end and should I include that in
19 inventory. I'd like to -- that's what my comment
20 was. I'd like to put it in inventory, is what I
21 said. It needs to be in inventory. It's there.

22 BY MR. LEITER:

23 Q. Let me refresh your memory. You
24 provided an affidavit for submission to the Court
25 in discovery?

1 A. That's correct.

2 Q. So I'm going to ask you to look at that
3 a minute.

4 A. 40-something?

5 Q. No, this is an affidavit.

6 A. Oh, this is my affidavit.

7 Q. And that's your signature?

8 A. Yes, it is.

9 Q. It was notarized on September 20th?

10 A. Yeah, recently.

11 Q. So if you'll look at Paragraph 3, and
12 what I'm trying to get clarification on is the
13 sentence that says: During one conversation with
14 me and prior to terminating my engagement, Joe
15 Mason, Jr., asked me to manipulate the inventory
16 figures for a subsequent year, similar to what had
17 been done in prior years. Is that correct?

18 A. That's right.

19 Q. That's what the conversation was about?

20 A. That's correct.

21 Q. And that's what you told us that you
22 couldn't believe he was bringing up?

23 A. That's correct.

24 Q. And you say in here that you absolutely
25 refused?

1 A. Correct.

2 Q. And I think you were explaining this to
3 me, and I probably didn't understand, but:
4 Inventory manipulation is a large part of what
5 created the problem with the prior years returns,
6 and to suggest continued manipulation of those
7 figures was not something I was willing to be a
8 party to.

9 A. That's correct.

10 MR. LEITER: No further questions.

11 MR. KNOWLTON: Very briefly, your
12 Honor.

13 RECROSS-EXAMINATION

14 BY MR. KNOWLTON:

15 Q. Mr. Duncan, first of all, who drafted
16 that affidavit?

17 A. I think I was sent a draft, and then I
18 made corrections to it. Mr. Thomas.

19 Q. Jack Thomas, counsel for the company?

20 A. Yes.

21 Q. Now, tell us as best you recall the
22 conversation, if you haven't already. You
23 indicated that there was a brief meeting in your
24 office I think with you and Joe, Jr.?

25 A. Between Joe and I, yes.

1 Q. He was training you?

2 A. Yes.

3 Q. Okay. Now, explain what you did in
4 conjunction with what Joe Mason, Jr., was doing at
5 the time you were hired and his supervisory
6 authority over your work. Could he tell you what
7 to do, or side duties?

8 A. Yes. We knew he was the man to go to
9 if we needed anything. It's always been that way
10 pretty well. But I pretty much had an office in
11 the back and kept a lot to myself, unless they got
12 busy up front. Then I would go help them, because
13 we had a lot of trucks going in and out and that's
14 pretty much where I concentrated the area we were
15 working with.

16 Q. Now, it's my understanding that Joe
17 Mason, Jr., left the company in July of 2008. Is
18 that consistent with your understanding?

19 A. July, yes.

20 Q. And while you were working at Mason
21 Tire until July of 2008, who was running the
22 company?

23 A. Joe, Jr.

24 Q. Were there any times that Joe, Jr.,
25 that you're aware of just quit or didn't come in to

1 work for unexplained periods of time?

2 A. We heard -- yes, there was times that
3 we didn't know why or whatever. We didn't get into
4 that. But yes, there was times that happened.

5 Q. Do you know how many times that
6 happened, that you personally were there when it
7 happened?

8 A. It was several.

9 Q. Several times?

10 A. Yes.

11 Q. And each time was he allowed to come
12 back in and pick back up the reigns of running the
13 company?

14 A. Yes. Of course I don't ask questions,
15 but yes.

16 Q. How would you describe your working
17 relationship with Joe Mason, Jr.?

18 A. Okay. I mean, for years everything was
19 fine. I mean, we've never had problems. We're
20 like any other employees. We've had disputes. But
21 as far as anything unfortunate -- maybe I'm using
22 the wrong word. But everything seemed to be okay.

23 Q. Now, how would you describe Joe, Jr.'s
24 management style? Was it clear he was the boss?

25 A. Absolutely.

1 be 95 percent and five percent maybe. I did most
2 of the invoices.

3 Q. But he was around the commercial side
4 of the business when he was around. Is that right?

5 A. Yeah. He was in -- yes.

6 Q. I believe we talked about that
7 Mr. Mason, Sr., was the guy who trained you, as far,
8 as the commercial side goes, for Mason. Is it your
9 knowledge that he also trained Joe, Jr., in the
10 commercial aspect of the business?

11 A. I have no knowledge of that.

12 Q. Is it your understanding that
13 Mr. Mason, Jr., didn't really have a background in
14 the commercial side of the business and that that
15 was Mr. Mason, Sr.'s big background area?

16 A. Yes. It was his background area, yes.

17 Q. And that Mr. Mason, Jr., didn't have
18 that background?

19 A. I don't know previous years before I
20 worked there.

21 Q. Fair enough.

22 A. I couldn't tell you that.

23 Q. In the process of creating invoices in
24 the system, that system -- that computer system is
25 not password protected. Is that correct?

1 A. Retail.

2 Q. Now, when you went to work at Mason
3 Tire, who was in charge of the company? Who was
4 running the company?

5 A. Mr. Mason, Sr., was pretty much running
6 the company when I first started.

7 Q. And that was when?

8 A. 1990.

9 Q. And did that change?

10 A. Over a period of time it did. At that
11 time when I started, Joe, Jr., was managing the
12 store in Surfside. And as Senior retired,
13 Joe, Jr., went to more of a supervisory position.

14 Q. And did he assume the leadership
15 position -- and by he I mean Mr. Mason, Jr. -- in
16 running the company?

17 A. Yes.

18 Q. Now, did you ever have any concerns or
19 issues relating to casing credits in the company?

20 A. Well, we just saw some of the invoices
21 and noticed that the money was gone and the invoice
22 was in the computer when we were doing end-of-day
23 cutoffs.

24 Q. And in which store are we talking
25 about?

1 A. The Surfside store.

2 Q. In what time period are we talking
3 about?

4 A. 2003 to 2007. Somewhere in that
5 neighborhood.

6 Q. And you noticed the casing credits. Is
7 that correct?

8 A. Yes.

9 Q. You noticed that the cash was gone out
10 of the drawer?

11 A. Yes.

12 Q. Where were the casings?

13 A. There were no casings.

14 Q. There were no casings?

15 A. No.

16 Q. So these were fictitious invoices. Is
17 that correct?

18 A. Yes.

19 Q. And they were used to draw cash out of
20 the drawer and do something with it. Is that
21 correct?

22 A. Correct.

23 Q. Were you given any accounting or
24 P and Ls that would have shown you what was going
25 on here?

1 A. Not me, no. I would not have seen
2 that. The store manager at the store would have
3 seen that, the P and L.

4 Q. Did you ever ask anyone what was going
5 on?

6 A. I did not ask -- Bob was the store
7 manager at that time, and we talked about it, but I
8 didn't really ask him where it was going or what
9 was going on.

10 Q. And is that Bob --

11 A. Bob Cooney.

12 Q. Did Bob have any explanation for you as
13 to what was going on?

14 A. No.

15 Q. Did you ever go to Joe Mason, Jr., and
16 ask him about it?

17 A. No.

18 Q. And why not?

19 A. He was the top of the line, and we knew
20 where the money was going, so I just didn't feel
21 like -- I felt it was his business and he could do
22 what he wanted to.

23 Q. So where was the money going?

24 A. Joe was taking it.

25 Q. Joe, Jr.?

1 A. Yes.

2 Q. Did you ever personally witness Mr. Joe
3 Mason, Jr., taking cash out of the drawer and
4 pocket it?

5 A. I did.

6 Q. Could you tell the Court, please, what
7 you saw?

8 A. I just saw him take cash out of the
9 drawer. I did not see the invoices at the time,
10 but I wouldn't notice them on the audit trail at
11 the end of the day.

12 Q. And how often did this occur that
13 you're aware of?

14 A. Every couple months or so.

15 Q. And how much would you find would be
16 missing?

17 A. It just depended on how much cash was
18 in the drawer at the end of the day, cash sales.
19 It varied.

20 Q. Could it be as much as \$900?

21 A. Yes.

22 Q. Could it have been as much as \$2,000 in
23 a day?

24 A. It could be.

25 Q. Did you actually look at the cash sales

1 and experience amounts in that range missing from
2 the cash drawer?

3 A. I don't know the range, but we noticed
4 when the cash was -- he had a large amount of cash
5 during the day and gone at the end of the day.

6 Q. Did this impact your compensation?

7 A. No.

8 Q. Did it impact your supervisor's
9 compensation?

10 A. Yes.

11 Q. Is there a function in the computer
12 that's known as display audit trail?

13 A. Yes.

14 Q. And what does display audit trail show
15 you?

16 A. It displays a list of transactions for
17 the day, whether it be a check written to pay
18 somebody's account, or an invoice written during
19 the day, or any kind of journal ticket or anything
20 like that shows up on the audit trail.

21 Q. And does it help you determine how much
22 cash has come into your store on any particular
23 day?

24 A. If you look at that, yes.

25 Q. Did Mr. Mason, Jr., ever tell you on

1 Q. Did you feel like this was something
2 you could ask Mr. Mason, Jr., about?

3 A. Not comfortably ask him, no.

4 Q. Do you recall the day in July of 2008
5 that Mr. Mason, Jr., quit?

6 A. Not exactly the day. The period of
7 time though surrounding it.

8 Q. And right before he left, who was
9 running the company?

10 A. Joe, Jr.

11 Q. He was calling the shots?

12 A. Yes.

13 Q. No question in your mind about that?

14 A. Not at all.

15 Q. How are things running now?

16 A. Fine.

17 Q. Any issues or problems with the
18 P and Ls?

19 A. I don't see the P and Ls, so I couldn't
20 answer that.

21 Q. How about with cash missing in the
22 drawers?

23 A. No.

24 Q. So that problem has gone away?

25 A. Yes.

1 A. No knowledge of that.

2 Q. You worked with, for lack of a better
3 term, Little Ozzie. Is that correct?

4 A. Yes.

5 Q. And it's my impression that Little
6 Ozzie had a lot of vehicles over a span of a few
7 years. Is that correct?

8 A. I would consider it a lot, yes.

9 Q. Do you have a ballpark figure of how
10 many vehicles we're talking about?

11 A. He buys and sells quite often.

12 Q. So there was kind of a steady stream of
13 vehicles that he would have?

14 A. More in the last few years than early
15 years, but he's always had vehicles.

16 Q. Is that a practice that's still
17 continuing? When you say the last few years,
18 what's the time frame we're talking about?

19 A. Probably the last five years or so.
20 Four or five years. To my knowledge, he gets a
21 vehicle, fixes it up, sells it, and gets another
22 one.

23 Q. And that has happened -- I mean, this
24 is 2011. Has it happened within the last year?

25 A. I would say yes.

1 Q. And in the course of fixing up those
2 vehicles, he's purchased tires, wheels, a variety
3 of parts or various things for those vehicles,
4 right?

5 A. Yes.

6 Q. And those have come from Mason Tire,
7 right?

8 A. Well, he orders them through Mason
9 Tire, yes.

10 Q. So they flow through Mason Tire in some
11 capacity, right?

12 A. Yes.

13 Q. Do you have any information about how
14 those tires and wheels have been paid for
15 throughout the course of Little Ozzie's development
16 of these vehicles?

17 A. I don't have any information on that,
18 no. I don't know how he paid for them.

19 Q. Did you work -- I understand that
20 Little Ozzie worked for the company for some time?

21 A. He has, yes. He still does.

22 Q. Oh, he still does. Okay. How long has
23 he been employed with the company most recently?

24 A. Well, I'm not exactly sure when he
25 started, but he's been on and off ever since he

1 started.

2 Q. And he started several years ago?

3 A. Yes.

4 Q. When he was still in high school?

5 A. Or right after high school I think. He
6 may have worked in the shop during his high school
7 years, but in the office or sales more since he got
8 out of high school.

9 Q. Have you had any supervisory
10 responsibility over Little Ozzie?

11 A. Not really supervisory, no. I've
12 worked with him.

13 Q. What's his current title, if you know?

14 A. I don't know. I know he works at the
15 10th Avenue store on the counter.

16 Q. So he works in the Myrtle Beach store?

17 A. Yes.

18 Q. And you're still at Surfside?

19 A. Surfside, yes.

20 Q. Did Little Ozzie have any attendance
21 issues when you work with him?

22 A. He has, yes.

23 Q. Any other issues that you're aware of?

24 A. As far as what? I'm not sure what
25 you're talking about.

1 Q. As far as attendance or things that
2 would affect his employment.

3 A. Mostly attendance would be the big
4 problem.

5 Q. Were there other smaller problems?

6 A. Sometimes sales weren't at the gross
7 profit that you would need them to be. But as far
8 as anything else, I'm not aware of it.

9 Q. But he's up in Myrtle Beach and you're
10 in Surfside?

11 A. Yes.

12 Q. Mr. Barringer, the defendants are your
13 employers, correct?

14 A. Yes.

15 Q. And you rely on them and Mason Tire to
16 earn your living, right?

17 A. Yes.

18 MS. BLACK: Just a moment, your Honor.

19 (Off-the-record conference.)

20 BY MS BLACK:

21 Q. Mr. Barringer, hopefully one more
22 question. When we were talking about Little
23 Ozzie's parts that would come through Mason Tire to
24 put on his various vehicles, do you know if he paid
25 for those parts?

1 A. I don't know.

2 Q. You don't know anything about --

3 A. I don't know whether he paid for them,
4 Kathy paid for them, or who paid for them.

5 Q. You just don't know about the payment?

6 A. I don't know.

7 MS. BLACK: That's all I have right
8 now, your Honor.

9 CROSS-EXAMINATION

10 BY MS. RICE:

11 Q. Just a few questions, Mr. Barringer.
12 And again, I'm Leann Rice. I'm here for Irwin
13 Levine. Now, I know you worked in the Surfside
14 store and still do, right?

15 A. Yes.

16 Q. So you would see Mr. Levine when he
17 would come from Florida on those couple weeks a
18 year trips, correct?

19 A. Yes.

20 Q. When you would see him, you would I
21 guess observe him go work upstairs with Sandra and
22 Kathy or whoever was in the bookkeeping department
23 at the time, right?

24 A. Yes.

25 Q. And then would there be sometimes when

1 A. No.

2 Q. So you wouldn't have any knowledge of
3 Mr. Levine directing that actions be taken in a
4 certain way?

5 A. Absolutely not.

6 Q. I believe you also testified that you
7 saw Mr. Mason, Jr., take money or cash out of the
8 cash drawer before. Do you have any knowledge of
9 Mr. Mason, Jr., splitting that with his sister in
10 any capacity?

11 A. No.

12 Q. Were you privy to or have any knowledge
13 of arrangements between Mr. Mason, Jr., and his
14 sister regarding splitting things equally between
15 them?

16 A. No.

17 Q. Did you ever work with young Ozzie
18 St. Blanchard?

19 A. Yes.

20 Q. Little Ozzie?

21 A. Yes.

22 Q. Where did you work with him?

23 A. He was at the sales counter at the
24 Surfside store.

25 Q. And that was when -- and were you at

1 Surfside at the same time he was on the sales
2 counter?

3 A. Yes.

4 Q. Did you have any supervisory
5 responsibility over him?

6 A. Yes.

7 Q. We've heard testimony about attendance
8 issues that Little Ozzie had. Do you recall
9 attendance issues?

10 A. Yes.

11 Q. What types of attendance issues?

12 A. Being late, calling in sick. Normal.

13 Q. Did that impact your impression of him
14 as an employee?

15 A. No.

16 Q. And do you recall Little Ozzie having a
17 lot of vehicles over the years?

18 A. Yes.

19 Q. And that practice is still continuing,
20 to your knowledge?

21 A. Yes.

22 Q. And he would have parts, various
23 wheels, tires, all kinds of things that he would
24 put on these vehicles. And is it your
25 understanding that those parts and everything would

1 come through Mason Tire?

2 A. Yes.

3 Q. Do you have any knowledge about how
4 those items were paid for?

5 A. I was told that Kathy was taking care
6 of it. She paid for the stuff. When I questioned
7 it, that's what I was told. As a store manager, I
8 had to know where the money was coming from to pay
9 for the bills.

10 Q. Do you know if Kathy actually gave
11 money to pay for those items?

12 A. No.

13 Q. You just had heard that she was taking
14 care of it?

15 A. Yes.

16 Q. But you don't know in what capacity
17 that was taken care of?

18 A. I didn't see it, yeah.

19 MS. BLACK: That's all I have. Thank
20 you.

21 MS. RICE: No questions, your Honor.

22 MS. BRITTAIN: No further questions,
23 your Honor.

24 THE COURT: You can come down. Thank
25 you for coming.

1 be an exhibit.

2 MR. THOMAS: Well, we just marked it as
3 an exhibit. Is it okay if I hand it? While it
4 does not say so on its face, your Honor, that is a
5 transcript portion of the deposition of plaintiff,
6 Joe Mason, Jr., given in this case.

7 MS. BRITTAIN: Your Honor, at this time
8 we would call Kathy St. Blanchard to the stand.

9 KATHY ST. BLANCHARD
10 being first duly sworn, testified as follows:

11 BY MS. BRITTAIN:

12 Q. Good afternoon, Ms. St. Blanchard.

13 A. Hi.

14 Q. Would you state your full name?

15 A. Catherine Judith St. Blanchard.

16 Q. And what is your address?

17 A. 1306 Royal Devon Drive, Myrtle Beach,
18 South Carolina.

19 Q. And where are you employed;
20 Ms. St. Blanchard?

21 A. Mason Tire.

22 Q. And what is your position?

23 A. Secretary/treasurer.

24 Q. And how long have you had that
25 position?

1 A. '84 or '85 I believe.

2 Q. And what are your duties currently for
3 the company?

4 A. Currently I am still
5 secretary/treasurer. I am in charge of all the
6 accounting and the financial end of the business.
7 I do all the insurance from garage, health,
8 worker's comp. I do all the advertising, budgeting
9 of advertising, scripting of advertising, meeting
10 with different advertising firms. I meet with
11 vendors, purchasers, hiring and firing of
12 employees, manager meetings. A little bit of
13 everything.

14 Q. And how many hours a week would you say
15 that you work?

16 A. Approximately between 40 and 50.

17 Q. And do you have an ownership interest?

18 A. Yes, I do.

19 Q. And what is your ownership interest?

20 A. 30 percent shares.

21 Q. Now, would you trace your -- give us a
22 brief overview of your background -- the background
23 of your involvement with the business, just
24 beginning when you first went to work with the
25 business and just briefly bring us up-to-date to

1 where you are now.

2 A. In approximately '84, my father had the
3 idea of starting a business in the Myrtle Beach
4 area. My brother and myself wanted to be involved
5 in it. We each had to invest \$10,000 to get
6 involved in that. I moved up here approximately
7 two months before the opening of the Surfside
8 location.

9 Q. Do you recall when that was?

10 A. We opened in '84 or '85. I came up
11 approximately two months before. I used to go down
12 to a company that was called Fraiser Tire so I
13 could start learning the accounting end of it. My
14 father sent my brother and myself to school in
15 Atlanta before the opening of the location so we
16 both had some knowledge.

17 Q. What kind of school did you attend?

18 A. It was a Goodyear-held school for
19 management. I began working full-time when the
20 doors opened. I did all accounting and retail
21 sales for the company. I worked until --
22 approximately full-time in '89 when my
23 parents -- '89 or '90 when my parents moved up
24 here. My mom opened a medical supply company. I
25 worked with her for a short period of time, became

1 pregnant, took a little bit of a leave of absence.
2 I believe my brother and my father came to me and
3 asked if I'd come back to work at Mason Tire
4 part-time. At that time, I was in charge of all
5 the Goodyear accounting as far as statements,
6 K docs, national accounts. It was quite a lengthy
7 task.

8 Then in '85 (sic) approximately, I
9 started working more hours after my husband had his
10 accident. I'd say towards the end of '80 -- I'm
11 sorry. '05. I apologize. Towards the end of '05,
12 I started working more full-time, and from that
13 point I worked full-time.

14 Q. And when did Mr. St. Blanchard's
15 accident occur?

16 A. His accident was December 18th, 2004.

17 Q. And did Mr. St. Blanchard also work for
18 the company?

19 A. Yes.

20 Q. And what was his role with the company
21 or his duties?

22 A. He was vice president of the company.
23 He was -- Ozzie was a very people person. Every
24 time a new store would open, my father would have
25 him open it. He did advertising with my brother.

1 I feel he was the face of Goodyear.

2 Q. When did Mr. Levine become involved
3 with the company?

4 A. We had an accountant in the beginning.
5 I believe her name was Lynn Medlin out of Surfside.
6 My brother wasn't very happy with her to the effect
7 that I think everybody kind of knew our business in
8 a small town, and then Irwin became involved.

9 Q. So the accountant that you had, Joe
10 Mason, Jr., was not happy with her and wanted to
11 move on to another accountant?

12 A. Correct.

13 Q. Now, could you tell us about the role
14 of your mom and dad in the company?

15 A. If it wasn't for my mom and dad, this
16 company wouldn't have started. It was my father
17 and mother's idea from the very beginning, and
18 they've always been involved in the company.

19 Q. Did they finance the beginning of the
20 company?

21 A. Yes.

22 Q. And at that particular time, your
23 father was working in Miami?

24 A. Correct.

25 Q. And was your mother also still working

1 at that time?

2 A. In Miami, correct.

3 Q. And how much involvement did your
4 parents have in the store? It's my understanding
5 you had moved here?

6 A. Correct.

7 Q. But they stayed in Miami for a while?

8 A. Correct.

9 Q. So what did they do?

10 A. My father would fly up frequently, and
11 they were on the phone with us constantly.

12 Q. And then when did they move to
13 Surfside?

14 A. I believe it was approximately '89.

15 Q. Did your mother assume a role with the
16 company when they relocated to South Carolina?

17 A. To the best of my knowledge, I'd say
18 she was involved in a little bit in the beginning,
19 but then she wanted to pursue the family medical
20 again. She was involved in medical.

21 Q. And your father, what did he do?

22 A. He was involved in the company.

23 Q. And we've had some testimony about him
24 opening a commercial section. Is that consistent
25 with your memory?

1 that's, I believe, the month that Joe walked out
2 for a full month.

3 Q. Now, did Joe Mason, Jr., occasionally
4 give you money?

5 A. Yes.

6 Q. How often did that occur?

7 A. Whenever he wanted to.

8 Q. Was it weekly or monthly or just
9 sporadically?

10 A. Sporadically. If it was the holidays,
11 maybe I'd get \$100 or two. My mother and myself
12 followed the ambulance to the Spinal Cord Institute
13 after Oz's accident. He gave me money for that
14 trip. Here and there.

15 Q. Here and there?

16 A. Yes, ma'am.

17 Q. Where did you think the money was
18 coming from?

19 A. I didn't ask.

20 Q. Did you know where it was coming from?

21 A. No.

22 Q. Did you think it was a gift from
23 Joe, Jr.?

24 A. Yes.

25 Q. Let's talk about the amended tax

1 returns for a minute. When did you become aware of
2 the issue relating to the need to amend tax returns
3 for the company?

4 A. I didn't know there was any problems
5 with anything until that letter from Wayne Byrd.

6 Q. And were you involved in a meeting
7 pertaining to amendment of the tax returns?

8 A. I was.

9 Q. Were you involved in any meetings with
10 Tim Duncan?

11 A. Yes.

12 Q. Do you recall when that was?

13 A. I don't recall the date.

14 Q. But it was after Wayne Byrd's letter?

15 A. Yes.

16 Q. In fact, do you know if Mr. Byrd had
17 any input into the selection of Mr. Duncan as an
18 appropriate person to review those tax returns?

19 A. I don't recall.

20 Q. Tell me about the meeting that you do
21 remember about the amended tax returns.

22 A. That would have been in late of '07.
23 We were all in attendance; my mom, my dad, my
24 brother, Irwin, and myself. It was a meeting
25 upstairs at the Surfside office. It was a very

1 informal meeting. Actually, it was a very -- it
2 was the first nice family meeting we had in a long
3 time. We talked. My brother talked. We all did.
4 Irwin, I believe, had the amended tax returns ready
5 to go. My father was ready to let them go. My
6 brother voiced the opinion that if we did these, it
7 would put a hardship on the company, and he felt
8 between him and Irwin they could do it a different
9 way.

10 Q. Why did he feel like it would create a
11 hardship for the company?

12 A. I believe -- I didn't see them, but I
13 believe it was going to cost the company a lot of
14 money.

15 Q. What happened after he said that?

16 A. My brother basically said we were going
17 to get back to business. We were going to
18 stop -- he was going to stop all the attorneys. We
19 were going to try to get back together as a family,
20 which we wanted, and go on from there, which we did
21 for awhile.

22 Q. Had your family had periods of
23 divisiveness before but come together for periods
24 of time? I mean, was it unusual to have a
25 disagreement and then try to work together again?

1 A. When my brother would walk out, that
2 would be the times that there was friction within
3 the family, but we'd always pull back together.

4 Q. Now, when Joe Mason, Jr., said -- you
5 said he said something like he and Mr. Levine had a
6 way to correct it?

7 A. Correct.

8 Q. Did they explain what they were going
9 to do?

10 A. No.

11 Q. Was there a decision perceived with
12 whatever that method was to correct it?

13 A. My father wasn't real happy about it.
14 I think my father was a little scared about not
15 doing it and having this trust again, and Irwin I
16 believe took the taxes home with him. That's all I
17 know.

18 Q. Is it fair to say that to the best of
19 your knowledge, the tax issue was being handled?

20 A. I thought everything was cleared up at
21 that point, or after that point they were cleaning
22 it up.

23 Q. And then did you later learn that it
24 had not been fixed or satisfied?

25 A. I thought it was fixed and satisfied,

1 but obviously it wasn't.

2 Q. And Mr. Levine was at the meeting and
3 took place in that discussion?

4 A. Yes.

5 Q. Were you present at the meeting when a
6 vote was held to reelect officers of the
7 corporation in 2007?

8 A. I believe that was the Cliff Tall
9 office, if I'm not mistaken.

10 Q. And were you there?

11 A. Yes. I was present, yes.

12 Q. Would you tell the Court what happened
13 in that meeting?

14 A. We reelected officers.

15 Q. Was this in the fall of 2007, this
16 meeting?

17 A. I think it was about October.

18 Q. About October of 2007?

19 A. I believe so.

20 Q. Had there been an incident in August
21 of 2007 where your brother had walked out again
22 with no explanation?

23 A. Yes. I was on vacation with my mother
24 and my son and his girlfriend, and when I got back
25 my father told me he had walked off the job.

1 Q. So he had abandoned the company?

2 A. That's correct.

3 Q. And then later he came back?

4 A. The end of the month.

5 Q. And even though there had been this
6 letter from Wayne Byrd, he was allowed to come back
7 into the same position. Is that correct?

8 A. I believe, if I've got my dates right,
9 he left for the whole month of August. He came
10 back, I believe, August 31st of '07. That same
11 day, I received an e-mail from Jonah Buck talking
12 about all these horrible things. My brother came
13 back into the office, put everything back into his
14 office as if he was coming back to work, and
15 everything was good. My father came up into my
16 office and said your brother is back, to call Ed
17 Kelaher and see if there's anything we can do, or
18 what should we do.

19 Q. Were you concerned about him at that
20 time because of his actions?

21 A. I was very concerned about my brother
22 at that time. My father went back downstairs. My
23 father came back up and said: Your brother's gone
24 after he had put everything back in his office.
25 And I'd say approximately an hour or two later is

1 A. Yes.

2 Q. Did you ever complain about his sons
3 working in the business?

4 A. No.

5 Q. There was also a comment made about you
6 driving a Cadillac. Is this true?

7 A. There's a story behind the Cadillac.

8 Q. Is it a new Cadillac?

9 A. It's a 2010.

10 Q. Did you buy it new or used?

11 A. I did not buy it.

12 Q. Tell us about the Cadillac.

13 A. My brother had a program where every
14 four years one of the officers would get a new car.
15 We'd get rid of one of the old ones, and the next
16 in line would get a new car, or a pretty new car.

17 Well, after Joe, Jr., had left the
18 company, I believe our oldest vehicle was a 2000
19 Yukon that I was driving, and it was having issues,
20 and my father decided it was time to turn it in
21 now -- trade it in and get something else. So I
22 was getting the next old car in line, which was
23 another Yukon, which I think is maybe a 2006. I'm
24 not sure. And he went out and looked for a new
25 vehicle, and I told my father make sure it's what

1 you like, and he went out and bought an SRX, a
2 Cadillac SRX. I was driving the Yukon. I was very
3 happy with it. He came in my office one day and
4 handed me the keys and said: I hate it. I want
5 the Yukon back.

6 Q. So you traded cars?

7 A. Yeah. Now I'm stuck with the tiny SRX.

8 Q. And it was your father's car?

9 A. Correct.

10 Q. Let me ask you this: When Joe, Jr.,
11 left, did y'all implement some changes in the way
12 the managers were involved with the financial
13 records and training them and providing the
14 P and Ls to them?

15 A. Absolutely.

16 Q. Briefly tell the Court the changes that
17 you implemented.

18 A. We found out basically our managers
19 didn't know how to read their P and Ls, and I
20 didn't know how to read P and Ls because I wasn't
21 allowed to open mail or look at financial
22 statements. I wasn't allowed to do anything, so I
23 was in the learning process, too, along with them.
24 And in order to manage a company and manage it well
25 and make it profitable, you have to know on a daily

1	I N D E X	
2		Page
3	WITNESS: IRWIN LEVINE	
4	CROSS-EXAMINATION	
5	by MR. THOMAS	3
6	CROSS-EXAMINATION	
7	by MR. LEITER	30
8	REDIRECT EXAMINATION	
9	by MR. KNOWLTON	53
10	RECROSS-EXAMINATION	
11	by MR. LEITER	78
12	REDIRECT EXAMINATION	
13	by MR. KNOWLTON	79
14	RECROSS-EXAMINATION	
15	by MR. LEITER	82
16	REDIRECT EXAMINATION	
17	by MR. KNOWLTON	83
18	WITNESS: GENE CONNELL	
19	DIRECT EXAMINATION	
20	by MR. THOMAS	102
21	CROSS-EXAMINATION	
22	by MR. KNOWLTON	109
23	CROSS-EXAMINATION	
24	by MR. LEITER	119
25		

1	I N D E X	
2		Page
3	WITNESS: TIM DUNCAN	
4	DIRECT EXAMINATION	
5	by MR. THOMAS	119
6	CROSS-EXAMINATION	
7	by MR. KNOWLTON	128
8	CROSS-EXAMINATION	
9	by MR. LEITER	138
10	RECROSS-EXAMINATION	
11	by MR. KNOWLTON	145
12	WITNESS: FRANKIE FISHER	
13	DIRECT EXAMINATION	
14	by MS. BRITTAIN	150
15	CROSS-EXAMINATION	
16	by MS. BLACK	178
17	CROSS-EXAMINATION	
18	by MS. RICE	189
19	WITNESS: RANDY BARRINGER	
20	DIRECT EXAMINATION	
21	by MS. BRITTAIN	194
22	CROSS-EXAMINATION	
23	by MS. BLACK	203
24	CROSS-EXAMINATION	
25	by MS. RICE	212

1	I N D E X	
2		Page
3	WITNESS: JOHN NOTTESTAD	
4	DIRECT EXAMINATION	
5	by MS. BRITTAIN	213
6	CROSS-EXAMINATION	
7	by MS. BLACK	223
8	WITNESS: KATHY ST. BLANCHARD	
9	DIRECT EXAMINATION	
10	by MS. BRITTAIN	230
11	Certificate of Reporter	267
12		
13		
14		
15		
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		

STATE OF SOUTH CAROLINA

COURT OF COMMON PLEAS

COUNTY OF HORRY

JOSEPH E. MASON, JR.,

Plaintiff,

vs. CASE NO. 2008-CP-26-6169

JOSEPH E. MASON, SR., CATHERINE L. MASON, KATHY
ST. BLANCHARD, MASON HOLDING COMPANY, INC., and
IRWIN LEVINE,

Defendants.

DATE: NOVEMBER 18, 2011

TIME: 9:06 a.m.

LOCATION: Horry County Courthouse
1301 Second Avenue
Courtroom 2D
Conway, SC

REPORTED BY: Rebecca A. Graziano, CSR, RPR

A. WILLIAM ROBERTS, JR., & ASSOCIATES

Fast, Accurate & Friendly

Charleston, SC	Hilton Head, SC	Myrtle Beach, SC
(843) 722-8414	(843) 785-3263	(843) 839-3376

Columbia, SC	Greenville, SC	Charlotte, NC
(803) 731-5224	(864) 234-7030	(704) 573-3919

1 Mr. Byrd's letters and at the time you saw

2 Mr. Byrd's letters, correct?

3 A. That is correct.

4 Q. Did you ever question Mr. Levine about
5 his credentials upon learning these new things
6 about his licensure and about the allegations that
7 Mr. Byrd was making?

8 A. No, I did not.

9 Q. Did you ever discuss with anyone,
10 including your parents or either of them, whether
11 it was prudent to keep Mr. Levine as the company
12 accountant?

13 A. When we had that family meeting in late
14 of '07, we all felt Irwin was going to clean up all
15 these taxes along with Joe, Jr. However they were
16 going to do it, I don't know. Irwin continued to
17 do all our personal taxes, so the family agreed to
18 keep him on.

19 Q. Has Mr. Levine continued to do the
20 personal taxes for you and your parents, to your
21 knowledge?

22 A. To my knowledge, he's done mine. I
23 believe he's done theirs.

24 Q. And that would be from 2007 to the
25 present?

1 A. That is correct.

2 Q. Why is Mr. Levine still the company
3 accountant?

4 A. We felt -- or I felt that Mr. Levine
5 was cleaning up these issues. I still believe he
6 cleaned them up to the best of his knowledge. I
7 felt Joe, Jr., and Mr. Levine had a way to fix
8 them, and I trusted them.

9 Q. Mr. Mason, Jr., has had no input with
10 the company since the time he left in 2008 in any
11 capacity, correct?

12 A. That is correct.

13 Q. And your father has signed all of the
14 tax returns for the company from 2007 forward,
15 correct?

16 A. That is correct.

17 Q. As the CFO of Mason Tire, did you ever
18 ask Mr. Levine for any details about his fix?

19 A. No, I did not.

20 Q. Do you know if Mr. Levine had advice or
21 assistance from any CPA or tax lawyer or any other
22 professional in the preparation of tax returns from
23 2007 forward?

24 A. After we had the meeting with the
25 judge -- and it took awhile to get Laura DuRant's

1 corporate -- of personal expenses that the
2 corporation has paid for, correct?

3 A. That's correct.

4 Q. And it states in the middle paragraph:
5 Upon completion of the various personal expenses
6 incurred by the above, they agree that they will
7 repay the corporation the amount owed. Do you see
8 that?

9 A. Yes, I do.

10 Q. And that never happened, correct?

11 A. I have not paid.

12 Q. Ms. St. Blanchard, your highest level
13 of education is a high school diploma. Is that
14 correct?

15 A. That's correct.

16 Q. I believe you attended a few classes at
17 community college at one point?

18 A. That's correct.

19 Q. What did you study then?

20 A. Medical.

21 Q. So you don't have any business or
22 accounting courses at any time. Is that correct?

23 A. I went to a school with the Goodyear
24 Tire and Rubber Company my father sent us to.

25 Q. But that was not specifically a

1 business or accounting curriculum, correct?

2 A. Correct.

3 Q. What are your qualifications for being
4 CFO of Mason Tire?

5 A. Hands-on.

6 Q. But no educational background that
7 would support that?

8 A. No.

9 Q. One of your duties as
10 secretary/treasurer of Mason Tire is to record and
11 keep minutes of meetings, right?

12 A. Repeat that.

13 Q. One of your duties as
14 secretary/treasurer of Mason Tire is to record and
15 keep minutes of meetings, right?

16 A. Yes, I did, along with my mother.

17 Q. You said you did it with your mother as
18 well. This may be an approximation, but would you
19 say you did it 90 percent of the time, 80 percent
20 of the time? Do you know what that broke down to?

21 A. I couldn't give you an exact.

22 Q. There are a lot of various minutes that
23 we've looked at over the course of the week. Is it
24 a safe assumption that those are your work product,
25 or would you be able to tell from looking at the

1 A. Right.

2 Q. But that is your signature on the
3 second line of the second page, right?

4 A. That's correct.

5 Q. So you were at this meeting and you
6 reviewed these minutes and signed them, right?

7 A. As far as reviewing them, I can't
8 honestly say I actually sat down and reviewed them.
9 But yes, I did see them, and yes, I did sign them.

10 Q. At the very bottom of the first page,
11 the very last line of the first page, it says:
12 Junior took the floor again and spoke about the
13 parts inventory, how Irwin would like us to bring
14 it down. Does that refresh your recollection on
15 whether you knew about parts inventory problems in
16 August of 2002?

17 A. I did not know anything about parts
18 inventory.

19 Q. Even though it was discussed at this
20 meeting?

21 A. Yes. It could have been discussed, but
22 I wouldn't even know what they were talking about.

23 Q. So is it just something you didn't pay
24 attention to apparently?

25 A. I wasn't involved in the financial end

1 of it. I didn't know about the parts inventory.

2 Q. This indicates that Mr. Levine, or
3 Irwin, was playing a role in whatever issues were
4 going on with parts inventory at that time,
5 correct?

6 A. It says Irwin, yes.

7 Q. So whatever was going on, Mr. Levine
8 was involved with it?

9 A. That's what it says.

10 Q. And it's your understanding that
11 Mr. Levine prepared valuations -- annual valuations
12 of the company that showed the accumulating
13 understated inventory. Is that right?

14 A. Could you repeat that again?

15 Q. Is it your understanding that
16 Mr. Levine prepared annual valuations of the
17 company?

18 A. It's my understanding now that he did.
19 But back then, I never saw them.

20 Q. And is it your understanding that those
21 annual valuations included items about understated
22 inventory?

23 A. Repeat it again. I'm sorry.

24 Q. You said that it's now your
25 understanding that Mr. Levine prepared annual

1 valuations of Mason Tire?

2 A. Okay.

3 Q. Is it also your understanding that
4 those valuations included consideration of
5 understated inventory?

6 A. From what I've heard during court this
7 week.

8 Q. You were not aware of that before this
9 week?

10 A. I don't recall seeing valuations that
11 Irwin did. And if I did, I probably just threw
12 them in a drawer. They didn't mean anything to me.

13 Q. Could you please turn to Plaintiff's
14 Exhibit 11? And this is -- the first page is a fax
15 cover sheet from Irwin addressed to Kathy?

16 A. That is correct.

17 Q. Is it a document you received?

18 A. My name is spelled with a K, and I've
19 never seen a fax cover sheet from Irwin's office.

20 Q. Who would be the Kathy that this would
21 be going to if it wasn't going to you?

22 A. I'm the only Kathy in the office other
23 than my mother, and my mother spells her name with
24 a C.

25 Q. So you think this could have gone to

1 your mother?

2 A. She wouldn't have known what it was,
3 but it's possible. It goes upstairs into the
4 accounting office.

5 Q. Was your mother working at the company
6 at the time of this fax on 3/26/02?

7 A. In '02, she was working part-time there
8 along with myself, and I believe in '02 it was
9 possibly Sally Fisher, and maybe Linda Jones
10 full-time. Two full-timers.

11 Q. But this is addressed to Kathy?

12 A. That is correct, but I've never seen a
13 fax sheet from Irwin's office.

14 Q. But this fax sheet arrived at Mason
15 Tire, correct? That's Mason Tire's fax number on
16 it?

17 A. Well, that's our fax number, but it
18 doesn't show anywhere -- normally a fax will show
19 on the top where it's been transmitted to, but I
20 don't see that.

21 Q. But there is a fax header on this
22 sheet, right?

23 A. Strictly a date.

24 Q. The second page of this exhibit is the
25 end of your evaluation for 2001, and there are two

1 signatures at the bottom. Are those the signatures
2 of Joe Mason, Jr., and your husband, Ozzie
3 St. Blanchard?

4 A. It looks to be.

5 Q. So this was certainly seen by your
6 husband in addition to Mr. Mason, Jr., right?

7 A. You'd have to ask if he's seen this.

8 Q. He signed it, right?

9 A. It's his signature.

10 Q. So he would sign something that he saw,
11 right?

12 A. I would assume he would.

13 Q. It's your testimony that you never
14 reviewed Mr. Levine's end-of-year valuations of
15 Mason Tire?

16 A. That's correct.

17 Q. You and your husband at this time, the
18 early 2000s, between you, you all owned 160 shares
19 in Mason Tire, right?

20 A. Back when?

21 Q. The 2001 time frame, before your
22 father's retirement package went into effect.

23 A. 170 shares.

24 Q. 160 maybe. At any rate, you all owned
25 a decent chunk of Mason Tire?

1 A. My brother and ourselves owned an equal
2 amount, whatever it was at that time.

3 Q. But you and your husband combined owned
4 the same amount as Joe, Jr., right?

5 A. Possibly at one time I could have owned
6 a little more, but I don't recall. But it was the
7 same amount.

8 Q. But you and your husband owned stock in
9 Mason Tire at this time, right?

10 A. That's correct.

11 Q. So did you ever have any desire or
12 question to find out what this company that you had
13 this ownership stake in was worth?

14 A. No. It was the family business. I was
15 happy.

16 Q. So you didn't care what the business
17 was worth?

18 A. I don't want to say I didn't care. I
19 was very comfortable. I was happy with the family
20 business. I wasn't involved in the financial end
21 of it. It didn't mean anything to me at the time.

22 Q. Now, we've talked some about a
23 promissory note that was executed in June of 2003,
24 right? And that's at Tab 19, Plaintiff's 19.

25 A. I see it.

1 Q. And that's a note payable to you signed
2 by Mr. Mason, Jr., Ozzie St. Blanchard, and your
3 parents, right?

4 A. There's just one in here.

5 Q. I know it's very hard to read. The
6 notes are at 19 and 20. 19 is you, and 20 is
7 Joe, Jr.

8 A. Oh, the next one too? Oh, his is
9 nicer.

10 Q. The copy quality is pretty bad.

11 A. No, mine went through a fire. That's
12 why.

13 Q. But can you make out Katherine J.
14 St. Blanchard up towards the top? I know it's
15 really hard to read.

16 A. Yeah, I can make it out. Yes.

17 Q. And that's for \$220,000?

18 A. Yes, ma'am.

19 Q. Did you have any questions when you saw
20 this?

21 A. I believe at the time my husband handed
22 me the note, and we put it in our safe, and he told
23 me we were making interest on this note yearly, and
24 I was very excited over that.

25 Q. Did you ever wonder why Mason Tire was

1 signing a note to you saying that you loaned it
2 \$220,000?

3 A. I didn't question it. It was something
4 my brother had done, and I trusted him and trusted
5 the family.

6 Q. And your brother, your husband, and
7 your parents signed this, correct?

8 A. That's correct.

9 Q. So you never asked anybody any
10 questions about why this note was in existence?

11 A. Not to my knowledge. I wasn't involved
12 in the financial end it.

13 Q. And you knew that you didn't loan the
14 company the money, right?

15 A. I knew I didn't. I hope Ozzie didn't,
16 but I knew I did not.

17 Q. But you're the only name on this note,
18 right?

19 A. Correct.

20 Q. Ozzie signed it but, it's not -- Ozzie
21 is not responsible for paying it, right?

22 A. I apologize. Yes.

23 Q. And I think you said you benefited from
24 the promissory note because you got interest
25 payments, right?

1 September -- I mean, lawn would be on there because
2 the whole family had lawn. And I don't know why a
3 phone bill would be on there, because we had cell
4 phones.

5 Q. But is this your handwriting?

6 A. Yes, it is.

7 Q. So at some point, you knew what this
8 was and what this stood for, and it served a
9 purpose in figuring out who was responsible for
10 what, right?

11 A. I can't honestly say.

12 Q. Isn't it true that you and Joe, Jr.,
13 would count up personal expenses or cash and split
14 it 50/50?

15 A. Repeat the question.

16 Q. Isn't it true that you and Joe, Jr.,
17 would count up personal expenses or cash and split
18 it 50/50?

19 A. No, that's not true.

20 Q. In your testimony yesterday, you
21 mentioned an e-mail from Jonah, Jonah Buck. Is
22 that right?

23 A. Correct.

24 Q. A former employee, that you received at
25 the end of August 2007, and this e-mail referred

1 Q. Is it your -- are you aware that during
2 August 2007 there was a lot going on with the 544
3 store in Conway, that there was a lot of stuff
4 underway with that at that time period?

5 A. Extremely.

6 Q. And are you aware that Mr. Mason, Jr.,
7 was often working from home and also spending a
8 great deal of time up at the Conway store dealing
9 with all the issues that were involved with that at
10 the time?

11 A. I do not believe that.

12 Q. Mr. Mason, Jr., was never out of touch
13 with the office, right?

14 A. He was totally out of touch for that
15 amount of time for August.

16 Q. Out of touch with you or out of touch
17 generally?

18 A. Out of touch with my father, myself,
19 the builder, the bankers.

20 Q. But there was a lot going on at the
21 Conway store, right? And it's your understanding
22 he wasn't there. Who was dealing with it if he
23 wasn't there?

24 A. My father and myself.

25 Q. You mentioned tension yesterday about

1 it's stayed the same since she's been back?

2 A. That's correct.

3 Q. And now you're responsible for payroll
4 and knowing what people make and that sort of
5 thing, right? All the financial aspects?

6 A. I oversee it. There's quite a bit.

7 Q. Before the summer of 2008, did Sandra
8 have any discipline problems?

9 A. Before what year? I'm sorry.

10 Q. The summer of 2008. Are you aware of
11 any discipline problems with Sandra?

12 A. I don't recall when the Aflac problem
13 was, but nothing before that that I'm aware of.

14 Q. Can you turn to Exhibit 26, please? In
15 the middle of the page, there's a paragraph that
16 starts: The meeting quickly shifted.

17 A. I see that.

18 Q. Just to back up, these are May
19 2007 minutes that you signed, correct?

20 A. I did.

21 Q. Do you recall if you were the one that
22 typed up these minutes?

23 A. I could have. Mom or myself.

24 Q. The paragraph we were just referencing
25 says: The meeting quickly shifted towards Sandra

1 and her attitude in the workplace. Catherine Mason
2 St. Blanchard said she would try and work on this.
3 So does this refresh your recollection about some
4 issues with Sandra that were going on prior to
5 2008?

6 A. Sandra is a wonderful bookkeeper.
7 She's organized, she's great at her job, but she
8 does not have people skills.

9 Q. Do you recall that that was a source of
10 tension or problem in the workplace?

11 A. No. I said that I would help her on
12 it, and I did. I got her on antidepressants, and
13 actually sent her doctor a thank-you note for it.

14 Q. But it was an issue that was discussed
15 in 2007?

16 A. We discussed it.

17 Q. And if you'll take a look at
18 Exhibit 27, these appear to be employee
19 disciplinary notices for Sandra Adams dated
20 July 12th of '07, and then there's some additional
21 information on Page 2 about incidents on June 6th
22 and July 10th of '07. Are you familiar with this
23 document?

24 A. No, I've never seen this document. I
25 don't believe I've seen this document, no.

1 Q. Were you familiar with the events that
2 are described here?

3 A. No, I'm not familiar with the events.
4 I'm familiar with the people. And in fact,
5 Jonah -- this letter was written 7/12 of '07, and
6 Jonah, who she had a problem with, wrote this
7 e-mail on eight of '07 when he was discharged. So
8 he was fired just after this.

9 Q. But these -- I realize Jonah is
10 discussed in this, but this is Sandra's
11 disciplinary notice, right?

12 A. This is true.

13 Q. Would you agree with me that the
14 decision -- fast-forward to 2008, December of 2008.
15 Do you agree that the decision to rehire Sandra,
16 however that decision was made, overruled
17 Joe, Jr.'s actions that were taken the day before?

18 A. It wasn't my decision, and I wasn't
19 involved in the firing of Sandra. I wasn't there
20 when she was fired.

21 Q. But it was your understanding that
22 Joe, Jr., terminated Sandra or had that discussion
23 with Sandra the day before she was rehired, right?

24 A. I'm not sure I recall who told me who
25 fired her, whether it was my father or my brother.

1 A. No. In '07 I was becoming much more
2 active in it, because once I heard that things were
3 not being run correctly, I was taking a much more
4 active role, as I was being allowed to.

5 Q. What is your current salary?

6 A. Approximately \$90,000.

7 Q. And how long has that been your current
8 salary?

9 A. Approximately the last three years,
10 counting this year.

11 Q. What were you making in 2005, if you
12 can recall?

13 A. \$50,000.

14 Q. About \$50,000?

15 A. Approximately.

16 Q. And was it approximately \$60,000 in
17 2006?

18 A. Approximately.

19 Q. Sure. I realize we're talking about --

20 A. I don't have anything in front of me.

21 Q. Approximately \$70,000 in 2007?

22 A. Approximately.

23 Q. Approximately \$80,000 in 2008?

24 A. Approximately.

25 Q. And then I guess approximately \$90,000

1 from 2009 to present?

2 A. That's correct.

3 Q. So since 2007, your salary has gone up
4 over \$20,000 about?

5 A. Correct.

6 Q. And you've gotten some bonuses since
7 that time, right, since 2007?

8 A. I received one bonus, I believe.

9 Q. And you have a company car?

10 A. That's correct.

11 Q. The 2010 Cadillac that we talked about
12 yesterday?

13 A. That I don't want.

14 Q. But you have it?

15 A. It was handed to me.

16 Q. Did the company pay for that?

17 A. It's financed.

18 Q. Through the company?

19 A. Through the company, yes, ma'am.

20 Q. And the company is making the payments
21 on that?

22 A. Yes, ma'am.

23 Q. How has your business been doing since
24 2007?

25 A. Since 2007, we're pretty much -- with

1 the recession, we're paying our bills, keeping our
2 head above water. We're pretty much staying level.
3 We'd be doing probably much better if we didn't
4 have extra attorney fees. Sorry.

5 MR. LEITER: We'll stipulate to that.

6 BY MS. BLACK:

7 Q. Has Mason Tire called a shareholder
8 meeting since December of 2008?

9 A. We did not.

10 Q. How did the shareholders go about
11 making decisions and that sort of thing if you're
12 not having shareholder meetings?

13 A. Our shareholder meetings all along have
14 been very sporadic. It's a family. They'd be
15 verbal meetings, casual meetings, sometimes minute
16 meetings. Presently we are so busy they're verbal
17 meetings with my father and myself. There really
18 hasn't been any major change, so there really
19 hasn't been any shareholder meetings.

20 Q. No annual meetings then?

21 A. No.

22 Q. Can you flip to Exhibit 25, please?
23 This is the shareholder management agreement for
24 Mason Holding Company, Inc. Is that right?

25 A. Yes.

1 says in Paragraph 6, amendments. It's just before
2 the signature block. It says: This agreement may
3 be amended by vote of the holders of the majority
4 of the shares of the issued and common shares of
5 the corporation. Has there been any vote taken to
6 amend this agreement?

7 A. Not that I'm aware of. I didn't even
8 know what this was all about when he brought it to
9 us all and signed it.

10 Q. But you signed it?

11 A. Yeah. I trusted my brother. I signed
12 whatever he handed me, except that promissory note.

13 Q. I think you indicated -- and correct me
14 if I'm wrong -- that any meetings of the
15 shareholders since the summer of 2008 have been
16 informal, they've been in the form of
17 conversations, that sort of thing. There have been
18 no formal noticed meetings of the shareholders. Is
19 that right?

20 A. That's correct. There's been no
21 meetings of the shareholders.

22 Q. And Joe, Jr., has not participated, nor
23 has he been invited to participate, or notified of
24 any opportunity to participate in anything dealing
25 with the shareholders of this corporation, right,

1 since 2008?

2 A. Correct. The last meeting I believe
3 was the one we had as a family.

4 Q. Are you referring to the December
5 of 2007 meeting?

6 A. That's correct.

7 Q. Mr. Mason, Jr., is still a shareholder
8 in Mason Tire, right?

9 A. Correct.

10 Q. To your knowledge, has he received any
11 monetary value for being a shareholder of Mason's
12 since the summer of 2007?

13 A. No shareholder has received any
14 monetary value. You mean dividends or things like
15 that? Nothing.

16 Q. Anything of value from the company.

17 A. When he quit, he got two weeks' paid
18 vacation.

19 Q. But he has not received a penny of
20 monetary value as owner of the company?

21 A. None of us have, no.

22 Q. Including Joe, Jr.?

23 A. Including Joe, Jr.

24 MS. BLACK: I think that's all I have,
25 your Honor. Thank you.

1 MR. LEITER: No further questions, your
2 Honor. You may have some more from Ms. Brittain.

3 REDIRECT EXAMINATION

4 BY MS. BRITTAIN:

5 Q. Ms. St. Blanchard, going back to the
6 meeting that Mr. Leiter was just asking you about,
7 in that meeting, did anyone object to the filing of
8 the amended tax returns other than Junior?

9 A. No.

10 Q. Now, going back to a question you were
11 asked earlier about whether you had paid back
12 certain expenses, such as lawn care, back to Mason
13 Tire, have you agreed to pay expenses of that
14 nature back to the company?

15 A. I did agree.

16 Q. Has your father agreed to pay back
17 expenses to the company?

18 A. He did agree.

19 Q. Has your mother agreed to pay back
20 expenses to the company?

21 A. She did agree.

22 Q. Has Joe, Jr., agreed to pay back
23 expenses to the company?

24 A. He did not agree. He did not sign the
25 letter.

1 right?

2 A. In 2008? That is what I'm talking
3 about.

4 Q. And 2008 as well. At the time that
5 Joe, Jr., was with Mason Tire, he was not just the
6 head of accounting, correct? He was running the
7 show, right?

8 A. Joe was in control of everything.

9 Q. So your job responsibilities -- your
10 current job responsibilities are different from
11 what Joe, Jr.'s job responsibilities were when he
12 was running everything, in your words?

13 A. I would say my job responsibilities are
14 the same now that they were for Joe, Jr., except I
15 have a different way of handling my job
16 responsibilities when it comes to my employees, if
17 that makes sense.

18 Q. I see that you are not the president of
19 the company though, right?

20 A. I am not the president of the company.

21 Q. And you're head of accounting CFO,
22 right?

23 A. Correct, but I handle the insurance,
24 the garage insurance, advertising. I handle all
25 that, but I do report to my father.

1 Q. Would you say that you're running the
2 show at Mason Tire now?

3 A. I would say along with my father we are
4 running the show.

5 Q. But Joe was running the show --
6 Joe, Jr., was running the show himself when he was
7 president, right?

8 A. Joe had total control.

9 Q. And finally, you know now that the
10 draft amended returns from 2007 that were done in
11 the fall of 2007, those are incorrect, right?

12 MR. LEITER: Objection.

13 THE COURT: Go ahead.

14 BY MS. BLACK:

15 Q. You can answer.

16 A. Again, after we had that meeting with
17 the judge and he instructed us to get to the bottom
18 of this, Laura DuRant did that report.

19 Q. And so today presently you know that
20 the amended returns that were drafted in 2007 are
21 incorrect, right?

22 A. Today I do.

23 MS. BLACK: That's all I have, your
24 Honor.

25 MR. LEITER: Nothing further, your

1 they bought tires from our company, and the
2 relationship just went from there.

3 Q. And approximately how many years have
4 you interacted with or worked with Mr. Mason, Jr.?

5 A. Since '96.

6 Q. And were you still in contact with
7 anyone working with him when he left the company in
8 July of 2008?

9 A. Correct.

10 Q. Let me ask you this: If you were
11 involved in working on a business issue with Mason
12 Tire, who would you go to for business purposes for
13 that transaction?

14 A. I always went to Junior.

15 Q. Was he in charge of the business?

16 A. Yes, ma'am.

17 Q. Was that the case even up until the
18 time he left in July of 2008?

19 A. Yes, ma'am.

20 Q. Did everything go through Joe, Jr., up
21 until July of 2008 that you were involved with?

22 A. Everything as far as the decisions if
23 we were trying to sell the company something or we
24 tried to get them on a program, everything went
25 through Joe. If there was invoice issues or credit.

1 his ability to track it?

2 A. He seemed to know everything very well.

3 Q. Did he have any problems with the
4 system in place to track inventory and how to do
5 it, from what you could tell?

6 A. Not from the way I could tell, no.

7 Q. You related some comments about
8 Junior's attitude towards his sister, Kathy. Let
9 me ask you a couple questions about Joe, Jr., and
10 Mr. Mason, Sr. Do you know Mr. Mason, Sr.?

11 A. Yes, sir.

12 Q. You have worked with him over the
13 years?

14 A. Oh, yes.

15 Q. Did Joe, Jr., ever tell you that he
16 felt that his father stuck his nose into
17 everything?

18 A. Yes, he did.

19 Q. That was a comment that he made to you?

20 A. That was a comment he made to me, yes,
21 in a meeting we had.

22 Q. And how did that come up?

23 A. I was working at American Tire at that
24 time. The Masons had signed on as an alliance
25 dealer with us, which means they purchase all of

1 their Michelin, BFG, and Uniroyal products through
2 our company. Michelin has a website that every
3 dealer who's an associate dealer can go on and
4 track their purchases. It lets them know how many
5 units they've bought, how much money they've
6 accumulated, and that sort of stuff.

7 I set up a meeting with Joe, Jr., to
8 train them how to use the system. I went to the
9 office at Surfside, and I went in his office and
10 Senior was in there. He wanted to be present. And
11 sometimes he was present at our meetings, sometimes
12 he wasn't. If it wasn't any big issue or anything,
13 he wasn't there and I'd just relay the messages and
14 then Joe would relay it to Senior.

15 But anyway, we had a meeting. Senior
16 was in the office, and I was sitting across from
17 him, and we were all just talking, and Senior was
18 standing next to Joe's desk. And so I said: Well,
19 let me show you how to use the system so he can get
20 on there and track his own numbers and how much
21 money he was making.

22 Q. And you're saying this to Senior?

23 A. To Junior.

24 Q. Junior. I apologize.

25 A. So I went to go around his desk, and

1 Senior kind of moved to the side of me, and Joe
2 looked at him and he said: All right,
3 Mr. President. Get over here and learn how to do
4 this. And just the look on Senior's face was like:
5 I can't believe you just said that in front of
6 Alise. And he said: No, no, no. Y'all go ahead.
7 You've got it. You can handle it. He said: No,
8 no. You want to stick your nose in everything and
9 know everything about what we're doing, sit here
10 and learn it. And I said: Come on, I'll just show
11 you how to do it and then you can teach him or
12 whatever.

13 And he dismissed himself, Senior did.
14 I think he was embarrassed. I was embarrassed for
15 him, and I believe it humiliated him just for Joe
16 to talk to him in that tone of voice in front of
17 not as much as a stranger, but somebody that is not
18 related to him. So Senior dismissed himself, and I
19 proceeded to tell Joe how to do it, and he said he
20 always wants to stick his nose in everything and
21 know everything about the business, but yet he
22 won't sit down here and learn it. I mean, come on.
23 The man is almost 80 years old at that time.

24 Q. Thank you, Ms. Taylor. I have no
25 further questions.

1 Q. That we should pay special attention
2 to?

3 A. Well, everything except the exhibits
4 that I changed in my revised report would all
5 stand. All the previous years' financial
6 information, the research I did with the institute
7 of business appraisers, the normalization of the
8 balance sheet and the income statement. Everything
9 in there is still valid.

10 Q. And we had testimony from Dr. Woodside
11 about the differences. Would you address the major
12 differences between your opinion and his opinions
13 and explain the basis for why you took the approach
14 that you did in those areas of differences? I
15 think there were maybe about three major areas.

16 A. Yes. In fact, when he and I met, we
17 agreed that there were four major differences, and
18 then I would add this tax liability question as the
19 fifth major difference. We really employed about
20 the same procedures. And I know our numbers are
21 different, but a lot of the decisions we made in
22 the process we decided the same.

23 But the four major differences to ours
24 is the standard of value, that I was hired to do a
25 fair market value appraisal considering appropriate

1 discounts, and he was hired to do an appraisal
2 without discounts. That's a legal question. So if
3 that question were decided and you asked us to
4 value the company on that basis, we would use the
5 same standard.

6 The second major difference -- and this
7 is where all the dollars are -- is the decision
8 about the real estate and whether there's any value
9 beyond the amount of the debt. He took the
10 position that there was I think \$377,000. It was
11 almost \$400,000 that he added to the value of the
12 business because of the real estate.

13 The income approach, he threw it out
14 completely because he didn't have confidence in it.
15 So he gave that zero weight, and I gave it
16 40 percent weight. And then the market approach,
17 we used a different multiple. I used the .35
18 multiple, and he used a .59 multiple -- .54. And
19 then the fifth thing is the tax liabilities. I
20 think it's appropriate to subtract them, and he
21 doesn't think it's appropriate to subtract them.

22 Q. Now, I believe that one of your -- as
23 part of the analysis, there was a sample
24 difference?

25 A. Yes.

1 A. That's right.

2 Q. And so the case law drives the answer
3 to that question, not some appraisal standard that
4 you would find in a finance textbook?

5 A. Exactly.

6 Q. And that's exactly what Pratt says in
7 his textbook, is it not?

8 A. That's right.

9 Q. Go ask the lawyers and get legal
10 guidance for what that means, right?

11 A. That's right.

12 Q. And the legal guidance you got here was
13 simply to use fair market value?

14 A. That's right.

15 Q. Now, the valuation date, in your
16 original report, you use May of 2009?

17 A. That's right.

18 Q. In your revised report, you have the
19 same valuation date, do you not, of August the 5th
20 of 2008?

21 A. That's right.

22 Q. And that's the standard of value that
23 applies to your opinion today?

24 A. Yes.

25 Q. The date of value. I may have

1 misstated that.

2 A. The effective date.

3 Q. The effective date. Now, is it fair to
4 say that in the -- for an appraisal expert, when
5 you have a valuation date such as August 5th, 2008,
6 the only thing that's appropriate to consider is
7 information known or knowable as of that date?

8 A. That's true.

9 Q. And would you also agree that all of
10 your efforts should be to value the company as of
11 that date in all aspects of its value?

12 A. Yes.. Knowable though is a concept that
13 you need to take into consideration.

14 Q. No, I understand that. But the whole
15 assignment is to determine what it was worth on
16 that day?

17 A. Right.

18 Q. Not today?

19 A. Right.

20 Q. Now, in your first report, you
21 specifically stated at Page 3 -- and this I think
22 is marked as Exhibit 57, your original report.

23 A. Okay.

24 Q. At Page 3, I believe you stated that
25 you were told you could rely on the tax returns and

1 other financial documents from the company for the
2 purposes of your report?

3 A. Yes.

4 Q. And that's based on the meetings with
5 counsel and with the Mason family in connection
6 with this assignment?

7 A. I didn't undertake a forensic
8 accounting assignment where I was looking beyond
9 the numbers.

10 Q. I understand. But you were told you
11 could rely on that information?

12 A. Yes.

13 Q. And you subsequently learned that that
14 information was not reliable?

15 A. That's right.

16 Q. And that's why you abandoned your
17 original income approach method that was based on
18 those tax returns, for example?

19 A. That's correct.

20 Q. And as I understand your testimony, the
21 original income approach that you had in that
22 report, you've now abandoned that entirely,
23 correct?

24 A. Yes. I lost confidence in it.

25 Q. Now, while we've got the original

1 report before us, I want to ask you quickly about
2 one thing, because I think it dovetails back into
3 your new report on some of these items. On Page 16
4 of your original report, you have a reference here
5 to the various leases that you were provided?

6 A. Right.

7 Q. And you refer there to the Pawleys
8 Island location. Do you see that?

9 A. Yes.

10 Q. And you indicate there's one lease
11 there for \$7,500 a month?

12 A. Yes.

13 Q. I notice also that if you look over to
14 your schedules or internal exhibits that begin
15 appearing at Page 22 -- why don't we take a look at
16 the one that's on Page 24.

17 A. Okay.

18 Q. If you look for the year 2008 for the
19 Pawleys Island location, the rent there is not the
20 \$90,000, as would have been indicated in what you
21 were given, but it's \$158,000?

22 A. Right.

23 Q. Does that change your view as to
24 whether or not there was an excessive rent paid on
25 that location?

1 A. If I can elaborate a little bit, we can
2 talk about that. And yes, that's a lot more than
3 \$90,000 a year. Dr. Woodside did some work on
4 normalizing the rent, and I considered it too in my
5 original report. But we could spend a lot of time
6 talking about what's fair market rent at each of
7 the locations, because most of them are with
8 affiliated parties. But he threw out his whole
9 income approach, and then my income approach is
10 based on industry average after tax, so it doesn't
11 really -- it doesn't affect my opinion.

12 Q. Well, I appreciate you explaining that,
13 because I know there's some remnants of balance
14 sheet adjustments. But this is an expert
15 adjustment, so we can just disregard this?

16 A. It has no impact on my opinion.

17 Q. Let's move on then. Good. I thought
18 that was the case, but I was concerned there may be
19 some remnants of what's still in consideration of
20 your earlier report and what's not.

21 You indicated that you and Dr. Woodside
22 had different comparable company or transaction
23 analysis?

24 A. Yes.

25 Q. And I believe they appear at Page 39

1 to compare it to a mom and pop company, you just
2 lose the reliability because there are so many
3 adjustments and other factors?

4 A. That's true.

5 Q. Now, would you agree with the same
6 thing for a company that only had \$122,000 in sales
7 to try to extrapolate that to a company that has
8 six and a half million dollars in sales?

9 A. That's a judgment that the appraiser
10 sometimes makes to narrow the data.

11 Q. And wouldn't you agree that you have a
12 number of comparable companies in here that have
13 sales that are -- I guess most of them have sales
14 that are -- almost all of them have sales that
15 are -- well, I wouldn't say almost all of them, but
16 the majority have sales of under \$1 million?

17 A. Here we're dealing with several stores,
18 or five stores, and the sales are about \$1 million
19 a piece. So I think -- I didn't really look at it
20 as an aggregate chain.

21 Q. You didn't look at the synergies of the
22 five store operations?

23 A. I think you can look at each store
24 individually, too, and the math works the same.
25 You apply the multiple and add them together.

1 Q. If you only had one store, you'd have
2 to have all the CEO and bookkeeping and all that.
3 Wouldn't you have more? Isn't that kind of a
4 general reason to buy more companies, so you'll
5 achieve synergies?

6 A. I think that's true to a degree.

7 Q. And that's true in most industries, is
8 it not? I mean, a lot of these mergers you will
9 see announced synergies for the deal, would you
10 not?

11 A. Sure, that's true. In this case, they
12 have a store manager at each store, they have the
13 people that work there -- what are they called that
14 do the work, the people that change the tires and
15 do the lube jobs and all that sort of thing? They
16 have those at each store. They have one CEO and
17 one head of accounting and one overall general
18 manager. But otherwise, the stores are staffed
19 pretty much the same.

20 Q. Well, but I'm talking about the
21 overhead guys, the bookkeeping.

22 A. Let me just say I think there are three
23 overhead guys, so I don't think it makes that big
24 of a difference.

25 Q. Now, let me ask you about -- and you

1 both -- both you and Dr. Woodside both used a price
2 to sales multiple?

3 A. Yes.

4 Q. And that's because you had relative
5 confidence in the revenue line, but not the expense
6 items underneath it?

7 A. That's true.

8 Q. Now, if I understand what you did, you
9 then, in your new report, instead of abandoning the
10 income method all together, in your Exhibit 58, you
11 went to an entirely different method, did you not?

12 A. I used an income approach based off the
13 industry average after tax income.

14 Q. And to make sure I'm following this, on
15 Page 3 of that exhibit, do you have that?

16 A. Yes.

17 Q. First of all, in that second paragraph
18 there you said -- well, in the first paragraph you
19 say -- well, let me just move to the second
20 paragraph.

21 You say that based on the factors you
22 discuss above about the unreliability of tax
23 returns and so forth, we do not believe that an
24 income approach based on reported or corrected
25 income is reliable.

1 A. Right.

2 Q. And that's why you rejected what you
3 had done earlier?

4 A. Yes.

5 Q. And then you turn to -- if I understood
6 it correctly, you turn to some data published by
7 First Research Industry?

8 A. Yes, First Research.

9 Q. I'm not sure that I've seen whatever
10 that is. Is it in your report, or is it --

11 A. The research report?

12 Q. Right.

13 A. No, I just quoted from it.

14 Q. Now, what you did is you took -- is
15 this a Dun and Bradstreet kind of thing? You just
16 get private company information that they have?

17 A. It's a reference source used by
18 business appraisers. It's very similar to
19 IBISWorld. Have you seen that one? I gave
20 Dr. Woodside a copy of this First Research report,
21 too, so he would have access to the same
22 information I had.

23 Q. Now, what you did is you jumped from
24 the top line revenue all the way down to the net
25 income after tax margin?

1 A. Yes. And the beauty of doing that is
2 it gets us past all these questions about is
3 compensation too much this year, or too little this
4 year, is rent fair, is Pawleys Island rent
5 accurate. We just skip beyond all those questions
6 where so much judgment comes into play and we don't
7 have real estate appraisals, and this gets us down
8 to the bottom line of after tax net income.

9 Q. So this number is really not based on
10 the operative reality of Mason Holding Company at
11 all, it's just an industry average number?

12 A. It's an industry average number. But I
13 did look back to see how that played against their
14 history, and they had been -- in the last two
15 years, they had been reporting two percent net
16 income after tax. But then what I found out from
17 the tax memorandum is that they had been
18 overstating their income in the last two years to
19 try to fix the tax problems, so that held -- that
20 kind of confirmed what I was finding, that if they
21 were reporting two percent, and that was
22 overstated, and the industry average is one
23 percent, I felt good about that one percent.

24 Q. Well, there are all sorts of problems
25 of what happened between -- I mean, you just didn't

1 go through the exercise of what you would have to
2 do to normalize the expenses and so forth at Mason
3 Tire to reach a normalized net income to apply to
4 an industry average multiple, did you?

5 A. Not in the revised report I didn't.

6 Q. And that's because you didn't have
7 reliable data to do that?

8 A. Right.

9 Q. So the bottom line is what you did is
10 simply used industry average data, not something
11 that was based on the operative reality of Mason
12 Holding Company?

13 A. I tried to put myself in the shoes of
14 an interested buyer. So if Mason Tire is for sale
15 and someone is interested in buying it, I don't
16 think they're just going to rely on a business
17 broker to tell them what the multiple would be. I
18 think they're going to say: Well, what were your
19 revenues? Because the buyer knows what they can
20 earn from those revenues. So I think the buyer
21 will say: Oh, your revenues are \$6.5 million.
22 Well, I know I can get about one percent after tax
23 on that. And that's what I was trying to recreate
24 with my income approach.

25 Q. Well, here's my next concern: Not only

1 is that not a Mason Holding normalized number, but
2 you're taking numbers from other companies that you
3 have the information from which to normalize the
4 operations of those companies. For example, was
5 there excess comp paid? Was there excess rent paid
6 to affiliates and other things that you would need
7 to do as a business appraisal professional to
8 normalize the data for those companies?

9 A. No, I didn't have that information, and
10 no business appraiser would have had it.

11 Q. Wouldn't that -- I mean, that's a very
12 common thing in a private company, is it not? As
13 one of the privileges of ownership, at least when
14 everybody is the owner, to pay yourself a higher
15 salary than you might command in the marketplace
16 otherwise, or to pay yourself an affiliated owned
17 real estate higher rent than the market. Things of
18 that nature you would have to normalize, would you
19 not?

20 A. That's something we routinely look at
21 when we are appraising and operating companies. We
22 look at any transactions between the owners and the
23 company.

24 Q. And comparing yourself to another
25 company on that basis, you'd have to also normalize

1 the data from those other companies, but you didn't
2 have that information?

3 A. I don't have that information on what
4 was in First Research's database.

5 Q. Now, the two numbers that you ended up
6 with here in the final page of your report before
7 discounts -- I'm looking at the value indicated
8 number.

9 A. Yes.

10 Q. You've got a \$500,000 number?

11 A. Yes.

12 Q. And your other method indicated a
13 \$1.9 million figure?

14 A. Yes.

15 Q. Doesn't that give you some concern that
16 something is wrong with one of the methods when the
17 difference is that far off?

18 A. I would look at it. I would try to
19 figure out why there was a difference. And of
20 course, the income -- it was hard to know.

21 Q. And that's what you're trained in the
22 business valuation industry, is it not?

23 A. Yes.

24 Q. If your numbers are giving you widely
25 different indications of value, maybe something is

1 a little off about one of the methods?

2 A. Maybe not off, but there's usually an
3 explanation for why.

4 Q. Now, let's talk about the market
5 approach. And I guess that's where we have the
6 remnant from the earlier report for adjustments on
7 the balance sheet.

8 A. Yes.

9 Q. Let's take a look -- if we could, show
10 me what adjustments you made to the balance sheet.

11 A. It's in the revised report. Are you
12 wanting to ask me about the market approach after I
13 applied the multiple -- what adjustments I had to
14 make to get to the price?

15 Q. I'm jumping around a little bit, but
16 you and Dr. Woodside both looked at balance sheet
17 adjustments, correct?

18 A. Yes.

19 Q. And then add-back, I guess, as you
20 explained, things that might not -- assets that
21 might not be embraced within the approach
22 otherwise. You both agreed methodically that you
23 need to then go back and make adjustments from the
24 balance sheet?

25 A. Correct.

1 Q. And that's what -- I'm trying to get
2 you to explain that.

3 A. All right. That's the balance sheet
4 adjustments to the direct market data method. It
5 shows up on Page 6 of my revised report. I applied
6 the .35 multiple to the 2008 sales, and then I
7 added back the assets that the seller would be
8 expected to keep, the cash, the accounts
9 receivable, and the other current assets, and then
10 I subtracted all the liabilities, except for the
11 real estate mortgage, because I had already netted
12 that against the value of the real estate and
13 called it a zero.

14 Q. Now, in your original report, it looks
15 like at Page 50 -- do you have that?

16 A. Yes.

17 Q. It looks like you had total adjustments
18 there to compare to this chart of a positive
19 \$537,000-some odd dollars?

20 A. Yes. That's purely a function of the
21 different dates.

22 Q. And in the 8/08 final report, you have
23 a negative adjustment of 239 -- almost \$240,000?

24 A. Yes.

25 Q. So that's a swing of about \$777,000?

1 A. Right. That's because the company's
2 balance sheet changed between the time of August
3 of -- the August 5th appraisal was based on the
4 July 31 of 2008 balance sheet, and then this
5 in -- my original report was based on May 31st, I
6 believe, the May 31st of 2009 balance sheet. So
7 the company's balance sheet changed.

8 Q. Did you investigate why there would be
9 such a big swing in a balance sheet adjustment
10 between those two days?

11 A. Well, we can look. The company had
12 \$277,000 more in cash in 2009 than it had in 2008.
13 The accounts receivable were pretty close to the
14 same. Other current assets, it had more -- about
15 \$400,000 more in 2008 than it had in 2009. And
16 then the liabilities were much higher in 2008.

17 I was careful in doing this -- in this
18 revised report to make sure that all the
19 intercompany lending was captured. I made sure
20 that all the receivables that the companies held
21 between themselves were captured or in current
22 assets, and that all the lending -- the liabilities
23 that the companies owed to each other were captured
24 in there to make sure I netted them out.

25 Q. In your report, I've also seen that

1 Q. Since you changed your method and you
2 abandoned that and changed your method, you don't
3 need to look at that?

4 A. That's correct.

5 Q. Now, one of the issues that you
6 identified where there's a difference between you
7 is this real estate is a nonoperating asset?

8 A. Yes.

9 Q. And as I understood your testimony, you
10 agreed with Dr. Woodside from the conceptual
11 standpoint that if there's value there in the real
12 estate over and above the debt, it would be
13 appropriate to add that back to the value?

14 A. That's correct.

15 Q. Now, you concluded there wasn't any
16 value there to add back. Is that my understanding?

17 A. I didn't believe there was, based on
18 what I could find.

19 Q. Now, the two things you relied upon was
20 one, something your husband told you I think?

21 A. That's right.

22 Q. And he's asking you what could you sell
23 it for today?

24 A. That's what I asked him. And I asked
25 him to take the broker in charge, who's a CCIM with

1 him, too, so it wouldn't just be his word.

2 Q. What about the other -- Beckham. That
3 was not an appraisal. You agree with that, right?

4 A. I agree it was not an appraisal, that's
5 right.

6 Q. And he says it's not worth as much
7 today as the debt. Is that what he stated?

8 A. Yes, and he said considerably less. If
9 that had been in a form of an appraisal, I would
10 have subtracted.

11 Q. Both of those opinions are based on
12 current values, are they not? You didn't ask them
13 to see what it was worth in August of 2008, did
14 you?

15 A. When I asked my husband to look, it was
16 in the spring of 2009, so that was a little closer
17 to the date. But no, I didn't ask him to think
18 about what it would have been worth in August
19 of 2008.

20 Q. And the Beckham letter doesn't deal
21 with that either, does it?

22 A. I don't think so.

23 Q. In August of '08, that store had only
24 been open about nine months, and it was carried on
25 the books at the value that Dr. Woodside indicated?

1 A. The cost, yes.

2 Q. And you haven't seen an appraisal back
3 in that time frame either, have you?

4 A. No.

5 Q. I think you agreed you both had a
6 similar cap rate?

7 A. Yes.

8 Q. So we don't have to get into the ways
9 of how you get there.

10 A. Thank goodness.

11 Q. In your original report -- and tell me
12 if we're dealing with something that's no longer
13 relevant to your report, because I will admit some
14 confusion there.

15 A. Okay.

16 Q. You had some adjustments to tangible
17 equity at Page 34.

18 A. Yes. I was adjusting the balance sheet
19 to a market value basis. This is an important
20 exercise to do when you're appraising an operating
21 company, because you want to be sure that the value
22 you come up with is more than the value at
23 liquidation, and that this normalized balance sheet
24 would show you pretty much what the value of the
25 liquidation would be.

1 I knew that would be subject to interpretation. So
2 the report calculates these numbers based on the
3 lowest performance. So if I had inputted high
4 performance ratings, it would have given higher
5 numbers.

6 Q. And what do you understand
7 Ms. St. Blanchard's actual compensation to be?

8 A. \$92,000, just a little under the median
9 reported in the report, and that she had access to
10 a company car, gas, cell phone, and health
11 insurance.

12 Q. And did you consider Ms. Mason?

13 A. Yes. I didn't purchase as thorough a
14 report. I used the free information that's
15 available on Salary.com. It had information for
16 accounting clerk one in Myrtle Beach, a high school
17 education, and it predicted base pay of \$25,989 for
18 a full-time position with the 401(k) match,
19 disability and healthcare insurance, and pension.
20 So the median total cash compensation is \$26,472.
21 I understand she works half time and is paid
22 \$15,000 and has health insurance.

23 Q. Thank you very much. Ms. Smith, what
24 is your opinion of the appropriateness of the
25 compensation paid to Mr. and Mrs. Mason and

1 Ms. Saint Blanchard?

2 MR. KNOWLTON: Objection to the form,
3 your Honor. It's beyond the scope of what she's
4 qualified as an expert to do and beyond the scope
5 of her opinions in this case.

6 THE COURT: Go ahead and answer it,
7 please.

8 THE WITNESS: It appears to me that
9 Ms. Mason is a part-time accounting clerk, is paid
10 about as you would expect. Ms. St. Blanchard, as
11 head of accounting, is paid about what you would
12 expect. But Mr. Mason, Sr., as CEO of a company
13 with six and a half million dollars in revenues, is
14 well underpaid.

15 MS. BRITTAIN: Thank you.

16 RECROSS-EXAMINATION

17 BY MR. KNOWLTON:

18 Q. Ms. Smith, did I understand you
19 correctly in your earlier testimony that this
20 salary study was not ultimately a relevant part of
21 your analysis?

22 A. It doesn't affect my value opinion.

23 Q. In this study, you're looking also at
24 current data. Is that correct? In other words,
25 it's not '08 information, is it?

1 A. Accounting director.

2 Q. And wouldn't almost everybody in a
3 database have at least a bachelor's degree in
4 relevant discipline?

5 A. I'm not certain. When I inputted the
6 parameters of the search, I inputted no education,
7 and that was the output it gave me.

8 Q. You've been working with accountants
9 and accounting departments throughout your career,
10 have you not?

11 A. Yes.

12 Q. Wouldn't you understand that almost
13 every head of a bookkeeping department has at least
14 a bachelor's and probably a master's in relevant
15 discipline?

16 A. No, I don't think so. I was working
17 yesterday with a lady who's a head of the Wall
18 family accounting, and she's got a high school
19 degree, but she's been doing it for 40 years.

20 Q. Do you know what the average
21 educational background is for the database that you
22 drew?

23 A. I know that I inputted that there was
24 no special education.

25 Q. You didn't input a required level of

1 education. You just said everybody who's head of a
2 bookkeeping department?

3 A. No, I didn't specify any education
4 background. So if I had put a college degree, it
5 would have given me the salary for someone with a
6 college degree.

7 Q. And if you had put a high school
8 diploma, you would have gotten that information?

9 A. It didn't ask for that. It just asked
10 for above high school.

11 Q. And you understand that
12 Ms. St. Blanchard does not have an education above
13 the high school level?

14 A. Right. I understand she's got high
15 school.

16 Q. So the analysis there is if there's a
17 bookkeeper, for example, who's being paid \$25,000
18 or \$30,000 a year and she's doing the same thing,
19 and a market analysis for business valuation
20 purpose, that's how you'd value whether she's
21 receiving excess compensation is what you could
22 replace those services for in the marketplace?

23 A. Yes.

24 Q. And do you understand that a large
25 component of how the Mason Tire bookkeeping

1 adjustments?

2 A. In my opinion, they were fictitious.

3 Q. So the effect was to take money off the
4 bottom line of your profitability. Is that
5 correct?

6 A. That would happen, yes.

7 Q. Did you ever see Joe Mason, Jr., do
8 anything unusual with the cash, like go into the
9 cash drawer?

10 A. I'd seen him take cash out of the
11 drawer from time to time.

12 Q. And when he took the cash out of the
13 drawer, what would he do with it?

14 A. He would just take it with him and I
15 guess go back to his office or something.

16 Q. Would he stick it in his pocket?

17 A. Yes, he would.

18 Q. Did he ever offer any explanation?

19 A. Nope. I never asked.

20 Q. Did he ever make an adjustment that
21 would explain what he was doing with it?

22 A. Well, yeah. Every time he did it,
23 there would usually be on the retread line a big
24 minus for a significant amount of cash.

25 Q. And that would be with the casings and

1 the inventory adjustment?

2 A. Yes.

3 Q. And you'll have to respond verbally for
4 the court reporter.

5 A. Yes. I apologize.

6 Q. How often would you see Joe, Jr., take
7 cash out of the drawer and put it in his pocket?

8 A. Sometimes as often as once a week.
9 Sometimes every other week.

10 Q. And do you have any -- do you recall
11 how much money would be taken from time to time?

12 A. You're talking for each incident?

13 Q. Right.

14 A. Anywhere from \$900 to maybe \$2,000.

15 Q. Of cash from the drawer?

16 A. Yes.

17 Q. Was Mr. Mason, Jr., able to tell when
18 you were having a good cash day?

19 A. Well, he has -- in his office, he had
20 access to the store's database. He could look up
21 sales figures during the day at any time he wanted
22 to. Basically what we used downstairs he had
23 upstairs.

24 Q. Did he seem to have a day he favored
25 over other days, in terms of choosing that day to

1 take out the cash, or was it random?

2 A. Pretty much random. Whenever he had a
3 big cash day.

4 Q. Did he ever -- was there an incident
5 involving \$2,100 being put in an envelope and in
6 the safe?

7 A. A set of wheels to go on a mustang.

8 Q. Tell us about that one.

9 A. Well, what I remember was we had put a
10 set of wheels on a mustang. It was an acquaintance
11 that Joe Mason, Jr., knew, and I was instructed to
12 put the money from the sale into the safe.

13 Q. And how much money was it?

14 A. That was anywhere between \$2,100 and
15 \$2,500, somewhere right in that area. But I
16 remember when I came into work the next morning,
17 Mr. Mason walked into one of the bay doors right
18 into my office, went into the safe, took the cash,
19 and went right upstairs.

20 Q. Did the money ever show up on your
21 profit and loss sheet?

22 A. No, it did not.

23 Q. So you did not get credit for that?

24 A. No, I did not.

25 Q. And you never saw where that \$2,100

1 went?

2 A. I never saw.

3 Q. But it never showed up in any
4 accounting record of the company?

5 A. Not that I can recall.

6 Q. And you left Mason Tire when?

7 A. April of '07.

8 Q. And Mr. Mason, Jr., was still there at
9 that time?

10 A. He was, yes.

11 Q. And he was in charge of the company?

12 A. Yes, he was at the time.

13 Q. Was there any question about that?

14 A. None at all.

15 Q. Those are all the questions I have,
16 Mr. Kuehne. Thank you very much. Please answer
17 any questions that opposing counsel have.

18 CROSS-EXAMINATION

19 BY MS. BLACK:

20 Q. Good afternoon, Mr. Kuehne.

21 A. Good afternoon.

22 Q. You left in April of 2007?

23 A. Correct.

24 Q. So you would have no knowledge or
25 familiarity with anything that happened at Mason

1 will cost you \$10,000. And she couldn't believe I
2 said that, but it wasn't that I wanted the money,
3 it was just that I wanted to make sure if they were
4 going to join me, they weren't going to leave me
5 because they had \$10,000 invested, and that's the
6 way it went.

7 Q. Now, as originally conceived, did Mason
8 Tire include -- it included you, your wife,
9 Catherine, your son, and your daughter. Was anyone
10 else a shareholder in the original Mason Tire?

11 A. No, there was not. Well, I take that
12 back.

13 Q. What about your sister-in-law and your
14 brother-in-law?

15 A. Well, they were in the building of the
16 land, and they eventually got into the corporation,
17 yes. They put up \$35,000, if I remember right, and
18 they got into it, and their daughter got into it.
19 She had ten percent and they had 25 percent, so
20 they were into the corporation.

21 Q. And then after they went for a while,
22 did they get out?

23 A. Yes, they did.

24 Q. They were bought out?

25 A. I bought them out for \$100,000.

1 Q. And so at that point, your family, the
2 Joseph Mason, Sr., family, is in the tire business?

3 A. That's correct.

4 Q. And during the period -- as I
5 understand it, you moved here in 1989?

6 A. That's correct.

7 Q. And prior to the time you moved here,
8 were you overseeing your investment on a frequent
9 basis? Let me ask that differently.

10 How did you look out for your
11 investment prior to the time you moved up here?

12 A. Well, prior to that, Junior was running
13 the corporation along with my daughter.

14 Q. Would you consult with him on any type
15 of regular basis?

16 A. I consulted with him on numerous times,
17 either by phone, or I would drive up on the
18 weekend, or I would fly up. His wife was -- I was
19 going to stay stewardess, but they don't like that
20 word anymore. But anyway, she was with the
21 airlines, and she would get me a pass and come up.
22 So I would go back and forth two or three times a
23 month at least.

24 Q. So they were young people, and you were
25 keeping an eye on them?

1 A. Absolutely.

2 Q. In fact, whose money was -- other than
3 the \$10,000, whose big money was at risk?

4 A. It was my wife and I.

5 Q. Now, did there come a time when you
6 moved to Myrtle Beach?

7 A. Yes, I did. I called Joe, Jr., and
8 this is when my partner finally agreed to buy me
9 out, because I was a partner in Miami with three
10 other partners, and my partner agreed to buy me
11 out, and I called Joe, Jr., and I said: Junior, go
12 in the back and build a two-bay facility in the
13 back of our store. Build me a room for an office,
14 because I'm coming up. I said: But don't get
15 excited. I said: I'm coming up to do the
16 commercial end of the business, which we've never
17 been in, and you'll continue to run the retail.

18 Q. And you did move to Myrtle Beach?

19 A. Absolutely.

20 Q. And you did involve Mason Tire in the
21 commercial side of the business?

22 A. Heavily in the commercial side, yes.

23 Q. And is that something you handled
24 pretty much on your own to start with?

25 A. That was my niche. And I knew that

1 Junior didn't know the commercial end of the
2 business, and I never told him to get into it while
3 he was running the store, because I was saving that
4 until I came up. And when I got up there, knowing
5 that I knew that end of the business, I got into it
6 heavily and secured a number of accounts for the
7 store. Which then we had an offer -- we were not
8 only doing commercial, but we had customers doing
9 retail with us.

10 Q. Mr. Mason, even after you moved to
11 Horry County, did your son remain in charge of the
12 business? Was he the president still?

13 A. Yes, he was.

14 Q. And did he continue in that capacity
15 until sometime in late 2007?

16 A. Absolutely.

17 Q. And during the time that he was
18 president, was he the one who was in charge
19 specifically of arranging for and filing the tax
20 returns?

21 A. Correct.

22 Q. Now, there's been some testimony
23 previously about improper tax returns, state and
24 federal, filed in 2003 and 2007. I ask you, sir:
25 At the time those were filed, did you have any

1 knowledge or awareness of any impropriety in the
2 filing of those tax returns?

3 A. I did not.

4 Q. Upon whom did you rely as far as the
5 corporation -- as a corporate officer was concerned
6 to make sure those tax returns were filed
7 appropriately?

8 A. That was Joe, Jr., and Mr. Levine.

9 Q. Now, was Joe compensated fairly for his
10 work as a president?

11 A. Oh, yes.

12 Q. In fact, was he compensated generously
13 for his work as a president?

14 A. I would say so.

15 Q. Because he was, after all, your son?

16 A. Correct.

17 Q. Now, when is the first time that you
18 became aware that the 2003 and 2007 federal tax
19 returns were filed --

20 MR. KNOWLTON: Counsel, I think you
21 misstated. Are you talking about 2006?

22 MR. THOMAS: I'm sorry. 2006.

23 BY MR. THOMAS:

24 Q. The 2003 and 2006 tax returns were
25 filed containing inappropriate and possibly

1 fraudulent information. When did you first become
2 aware of that?

3 A. I became aware of it when I received
4 the first letter from Mr. Byrd saying that
5 Joe, Jr., was in the process of suing me.

6 Q. Now, while -- let me go back a minute
7 to your arrival in Myrtle Beach in 1989. Prior to
8 the time you arrived, did you ever have any contact
9 or conversations with your son with his
10 satisfaction or lack of satisfaction with his
11 sister?

12 A. This was an ongoing battle. It really
13 never ended. It was constant. Every conversation
14 we ever had there was brought up. And I used to
15 ask Joe, Jr., many times: Why? Why are you so mad
16 at her? And he would look at me and he wouldn't
17 really tell me. He would just say: I just don't
18 want her. He would get violent over it. And I
19 even told him one day, I said: Son, let's you and
20 I go to the psychiatrist, because I can't answer
21 you. I don't know why you don't like her. And he
22 almost agreed to go with me one day, but it didn't
23 happen.

24 Q. After you moved to Myrtle Beach in
25 1989, and while Mr. Mason was -- while

1 Mr. Mason, Jr., was operating as the president, did
2 you ever have occasions when Mr. Mason, Jr., your
3 son, would simply leave the business, throw up his
4 hands, and quit?

5 A. Yes, a number of times. I can't really
6 answer to when. I'd say at least once every five
7 years he would take off for a week, maybe two
8 weeks. But I would always go to his house and say:
9 Son, why? What's the reason? Come on back. We
10 need you. And after a while, he would come back.

11 And this went on for, like I say, five
12 years, until this last year, which was the sixth
13 year, and I was talking to him out in front of the
14 store, and I said: Why are you leaving? And he
15 said: I can't take it. I said: You can't take
16 what? I can't take Kathy. I said: Junior, I
17 don't know what to say to you anymore. I've lost
18 my words to try and talk to you to bring you back.
19 I said: I don't know what to say. You'll have to
20 do what you have to do, and he did.

21 Q. Mr. Mason, let me show you a document
22 and ask if you can identify this document.

23 MR. KNOWLTON: Let me go ahead and
24 object. This is a document that was not produced
25 in discovery, so we would object to it.

1 THE COURT: What is it?

2 MR. THOMAS: Minutes of an emergency
3 meeting of shareholders dated April 26th, 2001.

4 THE COURT: And your objection is?

5 BY MR. THOMAS:

6 Q. Let me just -- rather than offer it,
7 let me just ask you, sir, to look at that and
8 refresh your memory.

9 MR. KNOWLTON: I think that's
10 inappropriate, too, your Honor. This is a document
11 we've never seen before, and he's letting the
12 witness essentially read from it on the witness
13 stand instead of introducing it as an exhibit.

14 THE COURT: Well, don't let him read
15 from it. He can read it, but don't let him read it
16 into the record. Does that cure your problem?

17 MR. KNOWLTON: Well, it's better.

18 BY MR. THOMAS:

19 Q. Read it to yourself, and then I want to
20 ask you some questions.

21 A. I recognize it.

22 Q. Now, Mr. Mason, I've asked you were
23 there occasions when your son would simply leave
24 and nobody would know where he was and leave the
25 business while he was president?

1 A. That's correct.

2 Q. And do you recall whether or not one of
3 those occasions was sometime in April of 2001?

4 A. I don't recall. I don't recall the
5 dates. I'm sorry.

6 Q. Do you recall ever having to convene an
7 emergency meeting of shareholders?

8 A. Yes.

9 Q. To deal with his absence?

10 A. Yes, I do.

11 Q. And do you recall whether that happened
12 reasonably soon after -- how many times that
13 happened?

14 A. I don't know how many times -- that
15 particular one happened once, but it happened a
16 number of times before that, which prompted me to
17 do what I did.

18 Q. Now, during the -- when your son would
19 leave like this, did he ever tell you what it would
20 take or what he was looking for to make him happy?
21 Specifically, did he ever tell you what it would
22 take to make him happy?

23 A. Only one thing every time. Get rid of
24 Kathy.

25 Q. Did he ever express a desire as to

1 whether or not he wanted to be bought out if you
2 didn't get rid of Kathy?

3 A. He did. I can't tell you too much
4 about it, but he did.

5 Q. There are some minutes -- Mr. Mason,
6 turn to Exhibit Number 44, please -- I'm sorry,
7 four.

8 A. Okay.

9 Q. If you will, turn to page -- do you see
10 those minutes dated May 21st, 2001?

11 A. Yes, I do.

12 Q. And do you see about halfway down the
13 first page, do you see some reference to:
14 Catherine thought possibly going to a family
15 counselor would help. She suggested asking Vest,
16 M.D., for his opinion on a counselor.

17 A. Yes, I do.

18 Q. Do you recall why, at this meeting in
19 May of 2001, the stockholders were discussing the
20 need for going to see a family counselor?

21 A. If I recall, this was because of many
22 problems that we were having as a family, and it
23 was something we had to find a reason or a way to
24 handle it. We couldn't do it by ourselves, so we
25 sought legal advice or special advice.

1 Q. And did you, as a family, seek that
2 help?

3 A. Yes, we did.

4 Q. And did it work for a time?

5 A. For a time. Then we had to go do it
6 again.

7 Q. And was the source of the disagreement
8 among the family members -- or the family problems,
9 was it different things, or was it pretty much the
10 same thing every time?

11 A. I would say it was basically the same.
12 It was a family problem that just lingered on and
13 on and on and never got resolved.

14 Q. Let me get back to the tax returns.
15 After you got Mr. Byrd's letter, did you make
16 arrangements to hire Mr. Duncan to file some
17 amended returns?

18 A. Yes, I did.

19 Q. And, to your knowledge, did Mr. Duncan
20 prepare those returns?

21 A. Well, I saw in my deposition that I
22 said he prepared them, but he did not. Irwin
23 Levine prepared them. I took them to Tim Duncan to
24 check them and make sure that it was done
25 correctly.

1 Q. And then was there a meeting held by
2 the shareholders of Mason Tire for the purpose of
3 signing and filing those returns?

4 A. Oh, yes.

5 Q. And do you recall that meeting?

6 A. Oh, yes.

7 Q. And do you recall where that meeting
8 happened?

9 A. It happened on the single floor of the
10 Mason Tire Company in Surfside.

11 Q. And do you recall who was present at
12 the meeting?

13 A. Yes. It was myself, Irwin Levine, Joe
14 Mason, Jr., Kathy St. Blanchard, and Catherine
15 Mason.

16 Q. And was the subject of filing the
17 amended returns discussed?

18 A. It finally came up and was discussed,
19 yes.

20 Q. Would you tell us about the discussion
21 that ensued regarding the filing of the amended
22 returns?

23 A. Well, I had the amended returns with me
24 and told everyone that I was going to file them,
25 and Joe, Jr., said: No, I wouldn't do that. He

1 says: Irwin Levine and I have come up with another
2 way to handle it that won't cost you as much money.
3 I thought about it, and of course if I could file
4 the returns without spending as much money as it
5 showed I had to spend, I was all for it.

6 Q. Was there anybody at the meeting,
7 Mr. Mason, who expressed any reservations about
8 filing amended returns other than Joe, Jr.?

9 A. Say that one more time.

10 Q. Did anybody object to the filing of the
11 amended returns other than Joe, Jr.?

12 A. No.

13 Q. Now, once it was determined at the
14 meeting that the amended returns were not to be
15 filed and that some other arrangements were to be
16 made for taking care of the problem, was there any
17 other discussion about the problems that were
18 besetting the family?

19 A. The only remark that was made at that
20 time, if this is what you're referring to, was that
21 Joe, Jr., told me that if you don't file, or if you
22 don't -- let me rephrase that. He said: If you
23 let Irwin amend them this new way -- I have to use
24 that phrase -- that he would stay with the company
25 and do the things that were expected out of him.

1 And I said: Okay, that sounds good.

2 Q. And Mr. Mason, let me ask you: Was
3 that something you really wanted with all your
4 heart?

5 A. Oh, absolutely. Joe, Jr., is my son
6 and I would do nothing to hurt him.

7 Q. I want to ask you a little bit about
8 BCJ Tires, and I'll show you -- do you have
9 Exhibit 55 there? Let me just show you -- that's a
10 check that's Defendants' Exhibit 55.

11 MR. THOMAS: Am I right about the
12 number, Defendants' Exhibit 55, the BCJ check?

13 MR. KNOWLTON: Oh, defendants? You're
14 correct, counsel.

15 BY MR. KNOWLTON:

16 Q. That's Defendants' Exhibit 55. Can you
17 identify that as a check written on the Mason Tire
18 account to BCJ Tires?

19 A. Yes, it is.

20 Q. And what is the amount on that check?

21 A. \$93,500.

22 Q. \$93,500. And who is this check payable
23 to?

24 A. BCJ Tires.

25 Q. And what is the date on the check?

1 A. 8/3 of '07.

2 Q. August 3rd of '07. Who signed that
3 check?

4 A. Joe Mason, Jr.

5 Q. Mr. Mason, did your son tell you at the
6 time that check was written that he was taking
7 \$93,500 out of the business and putting it into a
8 new business that you had no interest in?

9 A. He did not.

10 Q. When did you find out that your son had
11 taken \$93,500 out of the corporation's checking
12 account and put it into a new business that you had
13 no interest in?

14 A. I really don't remember the time. I
15 just know it was done. I don't know. I can't
16 answer that.

17 Q. Let me ask you this: After you found
18 out what your son had done, what did you do?

19 A. Well, after blowing my stack, I believe
20 I got with my wife and we decided that we're going
21 to have to do something about this. He's using our
22 corporate money now to finance 544, which is not
23 right. And it was hashed around until finally we
24 decided that he and Kathy were either going to pay
25 back this money, because it just says it was signed

1 by Joe, Jr., to BCJ, but I think it was for both of
2 them. Both of them had a percentage in there, and
3 this was their percentage, and that they would have
4 to pay it back. And they had a choice. They could
5 either pay it back, or the corporation was going to
6 own that part of the business, which is the holding
7 company.

8 Q. Now, once they were confronted or once
9 Mr. Mason, Jr., was confronted with the issue of
10 you either pay the money you took back or you can
11 put the interest into Mason Holding Company, from
12 where the money came, what did he decide to do?
13 Did he decide to pay the money back?

14 A. No. He decided to let the holding
15 company buy that -- we bought the \$93,000.

16 Q. You took the interest in the 544 stock
17 back for BCJ Tires?

18 A. That's correct.

19 Q. So that's how Mason Holding acquired
20 its interest in BCJ Tires?

21 A. In BCJ, that's correct.

22 Q. Now, tell me how did you feel when you
23 found out your son had taken \$93,500 of corporate
24 money and done something that you hadn't
25 authorized?

1 A. I was just sick over it. I couldn't
2 believe this was happening, because I didn't think
3 that this is the way he was going to control this
4 new venture of his and Kathy's. I thought it was
5 going to be his and Kathy's venture. Then all of a
6 sudden I'm involved in it, because he's taking
7 money out of our corporation to get his corporation
8 going, and we were not supposed to have anything to
9 do with BCJ.

10 Q. Mr. Mason, when did you find out about
11 the casings issue? Are you aware that there was an
12 issue with fictitious casing invoices that were --

13 A. I knew about it. I think it was first
14 brought up when that ex-employee wrote that letter
15 or wrote that e-mail or whatever it was, and that's
16 when I first found out about it.

17 Q. So that would have been about the end
18 of August of 2007?

19 A. Somewhere in that time frame.

20 Q. Now, when you found out about that, did
21 you do any investigation? Did you have any
22 investigation done by any family member?

23 A. Yes.

24 Q. And did your wife do any investigation
25 into the casing issue?

1 A. Oh, she got in it quite heavily and
2 very thoroughly. Yes, she checked every invoice
3 she could find going back to -- I think it was 2005
4 or four. I had thrown out three I think, because
5 my time limit was up to hold them, so I couldn't go
6 back any further than that, but she did. She went
7 through every invoice and wrote down every invoice
8 number and how much was taken.

9 Q. Did the fact that there was a casing
10 scheme being utilized to get cash out of the
11 company, did that come as a surprise to you?

12 A. Yes, it did.

13 Q. And then -- so you found out about the
14 \$93,500. It went to BCJ Tires. You found out
15 about the casings, and then the next thing, in the
16 middle of September, you get Mr. Byrd's letter.
17 Would that be a fairly accurate chronology of
18 events?

19 A. I guess that's fairly accurate. I'm
20 short on time.

21 Q. Now, as a result of all these three
22 things, was it determined that there needed to be
23 some changes and some controls on Mr. Mason, Jr.'s
24 control and access to corporate funds?

25 A. Oh, absolutely.

1 Q. And did you determine that that could
2 best be done by electing you as president and him
3 as vice president?

4 A. That is correct.

5 Q. Because you wanted to keep him working
6 in the capacity of general manager. Would that be
7 correct? He was doing a good job?

8 A. He was doing an excellent job. I had
9 no problem with his performance.

10 Q. But he just needed to get his hands
11 away from the money?

12 A. That's correct.

13 Q. So at the meeting, did you have a
14 meeting and did you elect -- did the shareholders
15 elect you as president?

16 A. Yes, they did.

17 Q. And did they elect your son as vice
18 president?

19 A. That's correct.

20 Q. And your wife also as vice president,
21 and your daughter as secretary/treasurer?

22 A. That's correct.

23 Q. And after that meeting, was there
24 anything about Mr. Mason, Jr.'s job, his day-to-day
25 job and work, that changed other than he no longer

1 had the keys of the money?

2 A. Absolutely not. I told him over and
3 over -- and I told him at that meeting when
4 Mr. Byrd asked me. I said: No, the only thing I
5 wanted to do was take away the money end and his
6 ability to move it. I said: I want him to do the
7 same things he's been doing. He's been doing an
8 excellent job. I have no problem with it, but this
9 is the way it was.

10 Q. Now, as a result of what he's done, and
11 other than removing his access to the corporate
12 money, did you lower his salary?

13 A. No, sir.

14 Q. Did you take his car away?

15 A. No, sir.

16 Q. Did you take his credit card away?

17 A. No, sir.

18 Q. Did you take his insurance away?

19 A. No, sir.

20 Q. Did you take any of the -- the word I
21 think is perquisites, but I'm not comfortable with
22 it -- but any of the benefits of his employment
23 away from him, other than his access to the cash?

24 A. No, sir. He had it all. Actually, I
25 didn't want anyone to know that he was no longer

1 president. I wanted him to continue functioning as
2 a president would, because I didn't want him to be
3 embarrassed.

4 Q. Did he, in fact, continue to function
5 as the general manager and overseer of the business
6 until he left in August?

7 A. Absolutely.

8 Q. Now, I'll go back in a minute, but for
9 a moment let's talk about when he left. Do you
10 recall an incident involving Sandra Adams?

11 A. Yes, I do.

12 Q. Tell me what you recall about the
13 incident involving Ms. Adams.

14 A. Well, I'll be vague on it, but I'll
15 have all the pertinent parts of it. I believe
16 Junior called Kathy and I into his office. He
17 stated that Sandra was stealing, and I was kind of
18 shook up at that. He says: I'm going to fire her
19 right now. Kathy made a comment about: Do you
20 have to do it right now? I got payables to do,
21 this to do, that to do. He said: No, I'm going to
22 do it right now.

23 So I believe he told her to go upstairs
24 and send Sandra down. While she went upstairs to
25 get Sandra, I talked with Junior for a moment, and

1 I said: Junior, don't you think we ought to give
2 Kathy the opportunity to find someone else first?
3 Because she can't do all this herself. Nope, I'm
4 going to do it now. I said okay. I said: I'm
5 behind you, but I don't like it.

6 Sandra came down. Junior said: I
7 caught you stealing. Sandra denied it and said she
8 didn't really know anything about it. That wasn't
9 the way it was, or something to that affect, and
10 Junior said: Well, you go upstairs, take your
11 stuff, and you're finished. She left and went
12 upstairs. After a few moments, I went up -- no, I
13 think Junior told me to go upstairs and see if she
14 took all her things. I said: I'll go upstairs.

15 I went upstairs and Sandra was gone.
16 Kathy was up to her ears in paperwork, so I turned
17 to Kathy and I said: Can I help you? She kind of
18 laughed at me and said: Yeah, get those folders
19 from up top there from ATD Tire Company and match
20 them up, and blah-blah-blah. I said okay, so I
21 pulled them out on the desk and I went through them
22 best I could, and we finished the day.

23 I went home, I thought about it, and I
24 said: You know, this just isn't right. We need to
25 know more about what happened, and not just fire a

1 girl because someone says that she was stealing.
2 So I believe the next day I was upstairs in the
3 office, and Junior was up there, and we both
4 started to go downstairs from the upstairs office,
5 and I said: Junior, I'm thinking of rehiring
6 Sandra if she'll come back. And he turned to me
7 and he said: Senior, if you rehire her, I'll bury
8 you. And we had some other talk, I guess. That
9 was it. But I went out and met with Sandra, told
10 her I was going to put her on probation, and if she
11 would come back to work for us. She did. And then
12 there's more to it, but that's enough for that.
13 That's how it happened.

14 Q. Was that a business judgment you made
15 as the president of the corporation not to fire
16 her?

17 A. I made it because I felt she was good
18 for the corporation, even though she had her
19 idiosyncrasies, like most good accountant people
20 have. They don't like to be disturbed when they're
21 in the middle of something. You can't just go in
22 there and ask a question and expect them to answer
23 it because they won't do it. But other than that,
24 she did a good job, and I wanted to know if she
25 really was stealing. If she was stealing, then she

1 was gone. But that was not proved.

2 Q. And is she still employed by the
3 company?

4 A. She's still employed by the company.

5 Q. And what was it -- your son said to you
6 if you hired her back, he said he'd do what?

7 A. He said he'd bury me.

8 Q. Now, did your son keep his office
9 locked?

10 A. Yes, he did.

11 Q. And after you took the keys to the cash
12 away, or access to the cash away from him, did you
13 ask him for a key to his office?

14 A. Yes, I did. A number of times.

15 Q. And how many times did you have to ask
16 your son for a key to his office?

17 A. I don't know exactly, but there was a
18 number of times. It wasn't just once. I told him:
19 Look, sometimes I got to get into it. Sometimes
20 Kathy has to get into it. We need to get into it.
21 All the papers of the company are in your office.
22 There's a lot of things we need, and if you're not
23 here I can't get in.

24 So I think he finally gave it to me
25 either that day or the next day or whatever. I

1 can't remember. But the only thing he said is:
 2 Just don't give it to Kathy. Of course I said I
 3 wouldn't. So Kathy came up one day and she needed
 4 something, and I said: Here's the key. Go in and
 5 get it. Junior wasn't there. Boy, I never heard
 6 the end of that from him.

7 Q. Now, your son has testified that you
 8 went to him, and you asked him to lie with regard
 9 to the workmen's comp claim by your son-in-law.
 10 Did you hear that testimony?

11 A. I heard it.

12 Q. Did you ever ask your son to lie in
 13 connection with Mr. St. Blanchard's workers'
 14 compensation claim?

15 A. I did not.

16 Q. Have you ever lied in connection with
 17 that workmen's compensation?

18 A. I have not.

19 Q. So far as you know, was he working
 20 within the course and scope of his employment at
 21 the time of his injury?

22 A. He was.

23 Q. And that was your testimony then?

24 A. He wasn't physically working that day,
 25 but he was working, yes.

1 Q. Did he have a lot to do with
2 advertising for Mason Tire?

3 A. Ozzie was Ozzie. He was Mason Tire.
4 Everybody knew him. He was just a likeable guy.
5 Oh, there's Ozzie. How's Mr. Goodyear? Or how's
6 Mr. Wizard? They called him the Wizard of Oz
7 because he was Oz, and so they used that
8 terminology of: Hey, there goes the Wizard. But
9 they knew he was Goodyear. They knew he was Mason
10 Tire.

11 Q. In fact, was he the Wizard of Oz in
12 some TV advertising that Mason Tire did?

13 A. Oh, yeah. Yes, he was.

14 Q. Let me ask you about this \$3 million
15 deal that Mr. Allison testified about. Do you
16 remember ever being told by your son that
17 Mr. Allison had an interest in buying Mason Tire?

18 A. Yes, I do.

19 Q. Do you know whether Mr. Allison ever
20 got any financial information from Mason Tire?

21 A. As far as I know, he never did.

22 Q. Did you get a call or did you call
23 Mr. Allison about his offer?

24 A. I was told by Joe, Jr., that Steve
25 Allison made an offer of \$3 million to buy the

1 company, but he had to have an answer right away
2 because he had other things to do with his money.
3 And I can't remember at the time whether Junior
4 gave me his phone number or I got it later on, but
5 I waited a few days, because this just didn't make
6 sense to me. Nobody just walks up and says: Hey,
7 I'll give \$3 million when he doesn't know anything
8 about the company and how much we have in it and
9 what our business is like and what have you.

10 So as far as I was concerned, it was
11 really a joke. But I went along with it, and
12 Junior caught me a few days later, and he said:
13 Did you get with Mr. Allison, or Steve? And I
14 said: No, but I will. Give me his phone number.
15 And he gave me his cell number. I said: Steve,
16 Joe Mason. I understand you're offering me
17 \$3 million for my company. And to be honest with
18 you, I don't even know what he said, but I said:
19 I'm really not interested at this time, and that
20 was it.

21 Q. Did you ever consider that conversation
22 to be a serious offer to buy the company?

23 A. No, not when I looked at my P and L at
24 the end of the year. I had more than \$3 million
25 between cash and receivables, so to me it was a

1 joke.

2 Q. Did you have any desire to sell your
3 company at that time?

4 A. No, not really.

5 Q. Now, you've testified that your son had
6 problems -- relationship problems with your
7 daughter. Did he have any problems with having his
8 mother, Ms. Mason, around the business?

9 A. Yes, he did.

10 Q. And did he, as a result of those
11 problems with having your mother around, ask you to
12 take any action?

13 A. Did he ask what? I'm sorry.

14 Q. Did he ask you to do anything about
15 Ms. Mason working in the business?

16 A. Yes, he did. He asked me: Can't you
17 get mom not to come in anymore? I don't think he
18 used the words can't you fire her, but he just
19 said: Can't you get her not to come in anymore?
20 And Ms. Mason is a little tough when it comes to
21 invoices. She wanted to see every T crossed, every
22 I dotted. And if it wasn't, she would come running
23 after the person that didn't do it and want them to
24 sign an invoice.

25 Well, Junior didn't like that. He gave

1 her a bloody fit. He said: If I did it, you don't
2 have to worry about it. She used to get mad, but
3 she said: Huh-uh, you did it, you sign it. Well,
4 that happened just so long, and then finally I came
5 home and I told my wife: Look, why don't you quit
6 going in? It's not good for everybody.

7 Q. In addition to the problems with his
8 sister and his mother, did he have any problems
9 with his brother-in-law, Ozzie?

10 A. It's terrible and I hate to keep saying
11 it, but he had trouble with the whole family. Yes,
12 he had problems with Ozzie, yes. And Little Ozzie.

13 Q. Young Ozzie?

14 A. Yes.

15 Q. Mr. Mason, we've heard a lot of
16 testimony about these tax problems and what
17 Mr. Bowers is doing on behalf of the company. Have
18 you, on the part of the company, retained
19 Mr. Bowers to handle all those tax issues?

20 A. Yes, I have.

21 Q. And is he providing instruction to you
22 on how these are to be handled?

23 A. Yes, he has.

24 Q. And has he made any recommendation to
25 you in terms of retaining the services of

1 Mr. Levine for a period of time?

2 A. Yes.

3 Q. Go ahead.

4 A. Yes. He told me to just not do
5 anything until he gets with the IRS, and he'll get
6 involved in that and tell me how to handle it.

7 Q. There's a reference in one of the
8 exhibits to a discussion in a corporate
9 meeting -- actually, it's that same meeting held on
10 May 21st, 2001, where it says -- in the minutes of
11 that meeting, it says: Junior talked about the
12 possibility of offshore accounts. Have you got any
13 idea why he was interested in the possibility of
14 offshore accounts in May of 2001?

15 A. No. I never even heard the expression
16 before, to be honest with you. I just don't know.

17 Q. Mr. Mason, I want to walk you through
18 some of the things that your son is saying that he
19 wants. You understand that your son is suing you
20 and his mother and his sister and the corporation;
21 all of you?

22 A. That's correct.

23 Q. And you understand that he's asking for
24 actual punitive damages to be awarded against you
25 and his mother, his sister, and the corporation?

1 A. That's what I understand.

2 Q. And he's saying that you somehow
3 contracted with him for him to be permanently
4 employed by the corporation. Is that true?

5 A. You said that I contracted with him?

6 Q. Did you ever tell him he's got a job
7 for as long as he wants to work at the corporation?

8 A. No.

9 Q. And if he's not working at the
10 corporation today, who can he look to to blame for
11 his not working?

12 A. Himself.

13 Q. And if he's not being paid for working
14 in the corporation since he left, who does he have
15 to look to to blame for that?

16 A. Also himself.

17 Q. Have you got any idea why he's looking
18 to you and Ms. Mason and Kathy and the corporation
19 to pay him for not working since he's left?

20 A. No. Junior had one word that was his
21 standard word, and that was entitlement. If I
22 heard it once, I heard it forever. I am entitled.
23 I'm entitled. I'm entitled. I'd say: Jay, what
24 are you entitled to? Because you're the president
25 of the company you're entitled to all these things?

1 I said: You've got a sister that works here, I
2 work there, your mother works there. You think you
3 did it all by yourself? Entitlement has nothing to
4 do with it. But what could I say?

5 Q. Mr. Mason, originally there was some
6 talk about a second lease on the Pawleys Island
7 property, a building lease and a land lease. Do
8 you recall that?

9 A. Yes, there was.

10 Q. Are you receiving rent on both of those
11 leases now?

12 A. No, I'm not now. I did at one time.

13 Q. But that quit after he left?

14 A. Yes, it did.

15 Q. So how much are you receiving on rent
16 for the Pawleys Island property?

17 A. I believe I received \$90,000 rent here.

18 Q. And that's on one lease?

19 A. That's correct, one lease.

20 Q. Now, there's some talk about retirement
21 benefits that were the subject of some documents in
22 the record. Let me ask you, Mr. Mason: How are
23 you enjoying your retirement?

24 A. Excuse me?

25 Q. Are you retired?

1 A. Well, I thought I was, and I thought I
2 was going to be retired. But no, I actually am
3 working full-time.

4 Q. Are you earning your keep?

5 A. I hope so.

6 Q. Is Kathy earning her keep?

7 A. That's debatable.

8 Q. Do you think she'd win that debate?

9 A. I won't win. She'll win it though.

10 Q. Are you okay, Mr. Mason? Do you need a
11 break?

12 A. No, I don't need a break. I'm fine.

13 Q. Now, your son says you're wasting
14 corporate assets. Do you know of any corporate
15 assets you're wasting?

16 A. No. I don't know what he's referring
17 to.

18 Q. Up until the time that Ms. DuRant filed
19 her report, do you recall that? Do you recall
20 seeing Ms. DuRant's report?

21 A. Yes, I have.

22 Q. Up until the time you got that, you
23 were under the impression that whatever Irwin had
24 done in 2007 and 2008 had fixed the problem?

25 A. Yes, I was. Even though I hadn't gone

1 in, I felt that whatever he did, because I believed
2 him, he told me he did and that we had corrected
3 it.

4 Q. And after you got Ms. DuRant's report
5 back, is that when you hired Mr. Bowers?

6 A. That's correct.

7 Q. Your son says he has been persecuted
8 and subjected to retaliatory action by you and
9 Ms. Mason and his sister, and he says -- he
10 testified that you all yelled at him because of the
11 tax problems that had been predicted. Were you
12 upset with him when you found out about the tax
13 problems?

14 A. Was I upset with him when I found out
15 about the tax problems?

16 Q. Yes, sir.

17 A. I was upset that we had the tax
18 problems. I might have been a little upset that he
19 didn't know something about it, so that made me
20 upset.

21 Q. Did you feel like that was his job as
22 president, to know something about that?

23 A. Yes.

24 Q. Here's what your son says in the
25 complaint: He said that you and your wife and his

1 sister orchestrated his wrongful termination and
2 expulsion so that you, that is you and your wife
3 and your daughter, would enjoy the financial fruits
4 and rewards of the enterprise, that is the company,
5 to your son's exclusion. Have you tried to do
6 anything to harm your son?

7 A. Nothing whatsoever.

8 Q. Do you still love your son?

9 A. I love him deeply.

10 Q. Do you like your son?

11 A. I like my son. I'm just sorry that
12 this has happened the way it has. There was no
13 call for it, but it's happened. We're in it. Now
14 we got to work our way out of it.

15 Q. Have you been made aware, Mr. Mason,
16 that one of the things you're going to have to work
17 your way out of is the tax problems with the state
18 and the federal government?

19 A. Yes, I am, and that's a huge problem.

20 MR. THOMAS: If the Court will indulge
21 me one moment.

22 (Off-the-record conference.)

23 MR. THOMAS: That's all we have. You
24 may examine.

25 MR. LEITER: Your Honor, could we take

1 occasions before Joe left the company where you
2 told him that he was doing an excellent job making
3 the company money, that he was doing an excellent
4 job as the president of the company and operating
5 the company. Is that correct?

6 A. That's correct.

7 Q. And did you believe that?

8 A. Yes, I did.

9 Q. And I think you said today you still
10 believe that he did an excellent job running the
11 company?

12 A. I believe he did.

13 Q. One thing that I want to ask you a
14 question about: Let's take a look at Exhibit 13,
15 and that's where there's a discussion at the bottom
16 of that page going into the second page about the
17 parts inventory. Do you see that?

18 A. I see it.

19 Q. And this is at that time when I think
20 you still owned -- you and your wife still owned
21 65 percent of the company?

22 A. Correct.

23 Q. And were you aware during this time
24 frame that there was a problem with an
25 understatement of the inventory?

1 A. I had heard there was a problem, yes.

2 Q. And one of the ways you heard was at
3 this meeting, was it not?

4 A. It could have been one of them, but it
5 wasn't brought out to any big degree.

6 Q. But you remember hearing about it --

7 A. Other than the fact of hey, we got an
8 inventory problem.

9 Q. And you knew it needed to be addressed
10 in some fashion?

11 A. Yes.

12 Q. And you signed these minutes, did you
13 not?

14 A. Yes, I did.

15 Q. So you know it was at least discussed
16 in some fashion during that meeting. Take a look,
17 if you would, at Exhibits 19 and 20.

18 A. I see it.

19 Q. Now, do you recognize that as your
20 signature on both of these notes?

21 A. Yes, I do.

22 Q. And you understood that Joe and Kathy
23 weren't really loaning the company money at that
24 time, don't you?

25 A. Well, I understood it would be done in

1 paper.

2 Q. Right. I mean, it's a real piece of
3 paper. But did you understand that they weren't
4 giving the company \$440,000 of new money?

5 A. No, they did not. That's correct.

6 Q. And did you understand that this was
7 something Irwin Levine suggested would be okay?

8 A. I didn't know whose idea it was, but I
9 knew it was them because when I heard about it, I
10 heard about it, again, from both of them at the
11 same time almost. So am I to say: Well, Irwin,
12 you're the one that did this; or Junior, you're the
13 one that did this? I can't answer that.

14 Q. I appreciate you making it clear what
15 you have personal knowledge of and what you don't.
16 So you don't know whose original idea it was, but
17 Mr. Levine did tell you it would be appropriate and
18 was involved in the process before you signed this?

19 A. Yes.

20 Q. Now, what was your understanding as to
21 what was going on?

22 A. Nothing other than to say that it was a
23 fix of the inventory problem.

24 Q. And in part, did you rely upon
25 Mr. Levine as the company accountant for that

1 advice?

2 A. Yes.

3 Q. After that time, you understood both
4 Joé and Kathy were being paid interest on these
5 notes, did you not?

6 A. I did.

7 Q. Let me ask you to take a look at
8 Exhibit 21. Do you have that, sir?

9 A. Yes, I do.

10 Q. Now, at this point -- and I don't think
11 we need to go -- I think it's covered in your
12 deposition. But at this point, your retirement
13 package was in place, was it not? This was in
14 2005. And if you want to look at the documents,
15 you can.

16 A. It's very hard for me to figure out
17 when my retirement came into affect, because I
18 never really retired. So when you ask me a figure
19 like that or a date, I don't know what to say. If
20 you say that's when I retired, that's when I
21 retired.

22 Q. I'm talking about your retirement
23 package.

24 A. Package, same thing.

25 Q. Take a look back, for example, at

1 Q. Let me ask you to turn back to -- well,
2 I really just wanted to point out the date of this.
3 So this is early 2003, correct? And beginning
4 then, you were paid the payments you were to
5 receive under these three agreements. Is that
6 correct?

7 A. Yes.

8 Q. Let's turn back to Exhibit 21. Now,
9 after that point, there's a discussion in these
10 minutes about -- you'll see the bullet point that
11 begins with: The following will not be changed.
12 Do you see that bullet point?

13 A. Yes, I do.

14 Q. And there's a reference down there for
15 your daughter, Kathy, that extra money to be
16 divided equally-all. Do you see that?

17 A. Yes, I do.

18 Q. And the next bullet point, there's a
19 reference to money in the holding company. The
20 things that will change is money in the holding
21 company will be divided equally, and then I will
22 give Junior an extra -- it ends up \$50,000, and
23 Kathy \$30,000. Do you see that?

24 A. Yes, I do.

25 Q. At this point, were you and your wife

1 sharing any other profits out of the business other
2 than what you were receiving as your retirement
3 package?

4 A. No.

5 Q. Is it fair to say that anything else in
6 the business is being divided equally by Joe and
7 Kathy?

8 A. I don't think it's equally, because
9 they made different salaries.

10 Q. Good point. So they had their own
11 salaries based on --

12 A. Yeah. They each got a phone, they each
13 got a car, yes.

14 Q. And I should have been referring to the
15 profits in the business. Anything over and above
16 the salary and expenses, they were shared equally?

17 A. The profits in the business they did.
18 My wife and I did not share in it.

19 Q. And that's what led to the problems, I
20 guess, in holding company tax returns, is that you
21 had instructed Levine and others -- the family
22 understanding was that from then on, since you had
23 your retirement plan, Joe and Kathy were to split
24 the profits over and above all the expenses?

25 A. I guess I could say that. My

1 retirement plan was just my same salary and
2 everything that I had when I retired. I wanted the
3 same thing I was getting. I would continue
4 working. Maybe not as hard as I was, but I'd
5 continue working. But my salary wouldn't change
6 until I gave them all my shares. Then the business
7 was theirs.

8 Q. And that was the schedule under one of
9 the agreements, is you would give an installment of
10 shares each year? And as I understood your
11 testimony at your deposition, you quit doing that
12 because Joe sued you?

13 A. Correct.

14 Q. Now, let's take a look at the second
15 page of this exhibit, Exhibit 21. Do you have it?

16 A. Yes, I do.

17 Q. Do you have the second page of it?

18 A. When you say second page --

19 Q. The second page of Exhibit 21.

20 MR. LEITER: The one with your
21 signature.

22 THE WITNESS: Oh, Exhibit 21. I'm
23 sorry. Second page, yes, I do.

24 BY MR. KNOWLTON:

25 Q. Is that your signature on these

1 minutes?

2 A. Yes, it is.

3 Q. Now, is there a paragraph next to the
4 last paragraph that discusses the worker's comp
5 issue?

6 A. Yes, it does.

7 Q. Now, is the worker's comp issue
8 something that caused a lot of heated discussion
9 between you and your son and between your son and
10 the other family members?

11 A. We had a few discussions, yes. But it
12 wasn't heated and didn't last long.

13 Q. Was there a source of friction?

14 A. To a degree, yes.

15 Q. Would you agree that your son expressed
16 the view that he didn't think this was a valid
17 worker's comp claim?

18 A. No. He agreed it was going to cost us
19 a lot of money.

20 Q. I understand that issue was expressed.
21 Did he also express his opinion that he didn't
22 think it was an appropriate claim?

23 A. No.

24 Q. You never had that discussion with him?

25 A. Not that I recall.

1 Q. Mr. Mason, were these minutes -- do you
2 know whether these minutes were prepared and
3 submitted in support of that claim?

4 A. In support of that claim?

5 Q. Were these minutes given to the lawyers
6 in the worker's comp case to consider as evidence
7 in this claim?

8 A. I don't know.

9 Q. Let me ask you this: I understood from
10 your deposition you did not work the Saturday
11 Mr. St. Blanchard was injured, did you?

12 A. I don't recall.

13 Q. You don't recall whether you worked
14 that day?

15 A. I don't recall whether I worked that
16 day. I know I was home when he had the accident.

17 Q. Well, let me ask you another question.
18 You personally did not see him come to a Mason Tire
19 facility that day, did you?

20 A. Not that I recall. I think I was told
21 he was there.

22 Q. And let me take you to -- let me show
23 you your deposition.

24 MR. KNOWLTON: Your Honor, since I gave
25 him -- I gave you the original. He just has a

1 copy, one of those highlighted versions.

2 THE COURT: That's fine.

3

4 BY MR. KNOWLTON:

5 Q. Mr. Mason, let me ask you, if you
6 would, please turn to your deposition at Page 63.

7 A. I see it.

8 Q. Let me read to you beginning at Line 12
9 on Page 63. Do you see that?

10 A. Yes, I do.

11 Q. And we were talking about that Saturday
12 morning. Question: Did he -- that was on a
13 weekend? Answer: I believe so. Question: Did he
14 come to the office on the day of the accident?
15 Answer: I believe so. Question: And do
16 you -- you say you believe so -- did you see him?
17 Answer: Well, I did not see him, but... Question:
18 What makes you believe that? Answer: Because
19 people told me this. Who told you that? Answer:
20 It seems like one of the workers. I can't think of
21 his name now. I'll think of it shortly. But one
22 of the workers told me that he was there. Oh, yes,
23 and he was there because he said he went and got
24 the free oil changes and things that morning. But
25 to be clear, you personally didn't -- this is the

1 question: But to be clear, you personally did not
2 see him that day? Answer: Personally, I did not.

3 Does that refresh your memory as to
4 whether you personally saw him that day visit the
5 shop?

6 A. Again, this happened some time ago.
7 And I'm a little short on memory, but I don't think
8 I saw him. I think someone told me. Whether I was
9 there or not, I don't recall.

10 Q. I mean, this was a big event in your
11 family, was it not, when this man was in a tragic
12 accident that day?

13 A. Oh, yeah. Absolutely.

14 Q. And this is the subject of your
15 deposition in the worker's comp case and all that,
16 right?

17 A. Correct.

18 Q. So you thought long and hard about
19 whether you saw him that day, did you not?

20 A. You're asking me at my deposition or am
21 I saying it now? It's been awhile, and I don't
22 recall.

23 Q. Let me -- in your deposition in this
24 case, you said you personally did not see him. Is
25 that correct?

1 A. Okay. That's what it says.

2 Q. Let me take you to these minutes that
3 we were just reviewing that you have before you,
4 Exhibit 21.

5 A. 21?

6 Q. Yes, sir. Exhibit 21. I'm sorry.
7 You're looking in your deposition. I'm referring
8 you back to the notebook of exhibits.

9 Now, at the end of that paragraph on
10 the second page that we were looking at a moment
11 ago, do you have that?

12 A. Yes, I do.

13 Q. Let me publish that for the record. It
14 says: J.E. Mason, along with others at Goodyear,
15 did see him come into work on Saturday for business
16 cards and free oil changes. Do you see that?

17 A. Sorry, I missed it. Do it again.

18 Q. At the end of that paragraph about the
19 worker's comp, do you see the last sentence?

20 A. Oh, yes I do. Okay.

21 Q. J.E. Mason, along with others at
22 Goodyear, did see him come into work on Saturday
23 for business cards and free oil changes. Is that
24 correct?

25 A. That's what it says.

1 Q. Is that your signature on that
2 document?

3 A. Yes, it is.

4 Q. And again, you don't recall any
5 troubling conversations with your son whatsoever
6 about that worker's comp claim?

7 A. Other than the fact it was going to
8 cost us a lot of money, no.

9 Q. Take a look, just for the time
10 reference, to Exhibit Number 30 in that same
11 notebook. Do you see that? Are these the Wayne
12 Byrd letters you talked about?

13 A. Correct.

14 Q. So this is when you say it first came
15 to your attention that there were problems with the
16 tax returns of the company?

17 A. Correct.

18 Q. Now, then we have the meeting in
19 October of 2007 where the lawyers are present and
20 the court reporter was present. Do you remember
21 that?

22 A. Go ahead.

23 Q. Do you remember the meeting?

24 A. No. Refresh my memory.

25 Q. Yes, sir. You can take a look at

1 A. Correct.

2 Q. Now, you also mentioned the fact that
3 you had retained Mr. Duncan?

4 A. Correct.

5 Q. Now, you're the one who dealt with him,
6 did you not? I mean, you were dealing with these
7 tax returns. Is that correct?

8 A. I did.

9 Q. And I think I understood. I think you
10 may have clarified something from your deposition,
11 but Mr. Levine prepared draft amended tax returns?

12 A. Yes, he did.

13 Q. Now, Mr. Duncan never said those
14 returns would be satisfactory, did he?

15 A. I don't recall. The only thing I
16 recall is that I gave them to him. He was going to
17 look them over. He called me and said that they
18 were -- I believe he said they were correct, and
19 there was a certain amount of money -- tabs put on
20 each folder for me to meet with the IRS and handle
21 it.

22 Q. So Mr. Levine drafted the documents,
23 sent them to you, and you sent them to Mr. Duncan?

24 A. I'm not aware. I know Mr. Levine got
25 them to me, yes.

1 Q. That's where you got them from is
2 Mr. Levine?

3 A. I got them from Mr. Levine, correct.

4 Q. Now, was there ever a time where you
5 reviewed them with your son or gave them to your
6 son?

7 A. I did not.

8 Q. Did you review or show them to any
9 other lawyer or accountant besides Mr. Levine and
10 Mr. Duncan, who you mentioned?

11 A. Not that I'm aware of.

12 Q. Take a look at Exhibit 44.

13 A. Okay.

14 Q. That's a letter early on, I guess in
15 Mr. Duncan's engagement, that's addressed to you.
16 Do you see that?

17 A. Yes, I do.

18 Q. Now, take a look at Exhibit 46. Do you
19 see that?

20 A. Yes, I do.

21 Q. And that's a letter about three weeks
22 later where he's advising you that his
23 understanding is that Mr. Levine is going to
24 prepare the tax returns for 2007?

25 A. Yes, it does.

1 Q. You had a lawyer there, didn't you?

2 A. Yes, I did.

3 Q. In fact, before that, the letter that
4 Mr. Byrd wrote was addressed to Mr. Jack Thomas,
5 who is representing you today, correct?

6 A. Okay.

7 Q. Between the time of the meeting in
8 October forward, to the time you filed the tax
9 returns in the beginning of '08, did you have a
10 lawyer?

11 A. Yes.

12 Q. And who was that?

13 A. Jack Thomas, I believe.

14 Q. Well, let me ask you this --

15 A. He was my only lawyer other than Cliff
16 Tall.

17 Q. And whatever meetings you had with the
18 family, there was a discussion about filing the
19 amended tax returns that you mentioned, correct, at
20 some point?

21 A. Correct.

22 Q. Now, Joe, Jr., had never seen the
23 proposed amended returns. Is that correct?

24 A. That's correct.

25 Q. And you had been handling the process

1 with Mr. Levine and Mr. Duncan. Is that correct?

2 A. That's correct.

3 Q. So a decision was made not to file
4 those draft amended returns?

5 A. That's correct.

6 Q. Now, after that time, as I understood
7 it from Mr. Levine, he went back to Florida and
8 drafted -- I guess it was just -- he just did
9 returns the following year for the end of 2007.

10 A. Okay.

11 Q. Do you recall that?

12 A. No, but I will as you go along
13 probably.

14 Q. Well, let me just ask you this: After
15 that October 24th, 2007, meeting where you were
16 elected president of the company, have you signed
17 every tax return that's been filed by the company?

18 A. To the best of my knowledge.

19 Q. And were they all prepared by
20 Mr. Levine?

21 A. Yes, they were.

22 Q. And no amended returns were filed?

23 A. No, they were not.

24 Q. Now, as president of the company, what
25 is your understanding of what Mr. Levine did to

1 Q. If you were going to sell it, it wasn't
2 enough at the time?

3 A. It wasn't a question of not being
4 enough. It was just a question of he's offering me
5 \$3 million, and I got \$3 million to give him, so it
6 didn't make sense to me. It wasn't a question of
7 not enough.

8 Q. Mr. Mason, when was the last time you
9 spent time with your grandchildren, who are Joe's
10 sons?

11 A. When is the last time that I spent time
12 with them?

13 Q. Yes, sir.

14 A. Now you're hitting me with dates. I
15 don't recall. The last time I talked to Joe, Jr.,
16 his son, he was in college, and I called him up and
17 congratulated him about some NASCAR job he had or
18 something like that.

19 Q. Is that several years ago?

20 A. Oh, yeah.

21 MR. KNOWLTON: If I could beg the
22 Court's indulgence.

23 (Off-the-record conference.)

24 MR. KNOWLTON: That's all I have, your
25 Honor. Thank you.

1 A. I wasn't involved there. I was just
2 under the impression that it was going to be their
3 company.

4 Q. Did you ever become involved in the
5 investigation of the casings issue?

6 A. When we got that e-mail -- I read that
7 e-mail from a gentleman named Jonah, plus the
8 letters from Wayne Byrd, I was extremely upset with
9 the language in those letters.

10 Q. And that's understandable. Did you
11 undertake any investigation of the casings and the
12 casing invoices?

13 A. Yes.

14 Q. And are you the one who actually went
15 into the company and started looking into the
16 casing invoices?

17 A. Absolutely. And I'm the one that went
18 up in the attic that wasn't air conditioned and
19 stayed there until I almost went through
20 everything.

21 Q. And tell us what did you find as a
22 result of your investigation of the casing
23 invoices?

24 A. Heartbreak.

25 Q. I'm sorry?

1 A. Heartbreak.

2 Q. Ms. Mason, do you love your son?

3 A. Very much.

4 Q. Has it been your intention to do
5 anything either intentionally or unintentionally to
6 harm him?

7 A. No. I want him to get help.

8 Q. What kind of help? Let me withdraw
9 that question.

10 Do you understand that your son is
11 suing you and your husband for actual and punitive
12 damages?

13 A. Yes, sir.

14 Q. Are you aware that anything you, and/or
15 your husband for that matter, have done anything to
16 warrant the imposition of actual or punitive
17 damages?

18 A. Except being too good.

19 Q. Have you attempted to retaliate against
20 your son because he walked off the job?

21 A. No.

22 Q. When Mr. Mason, Jr., your son, says
23 that he was yelled at by family members when the
24 tax problems were discovered, did you ever express
25 any displeasure to him with the condition that the

1 company found itself in with regard to taxes?

2 A. We weren't speaking. I don't believe I
3 did at all personally, no. I haven't spoken to him
4 in four years, I don't believe.

5 Q. That's since the lawsuit was filed?

6 A. That's correct. Or my grandsons or my
7 daughter-in-law.

8 Q. None of them have ever called you?

9 A. No.

10 MR. THOMAS: Would the Court indulge me
11 one moment?

12 (Off-the-record conference.)

13 MR. THOMAS: That's all we have. Thank
14 you.

15 MS. BLACK: Can we have one minute to
16 discuss, your Honor?

17 THE COURT: Sure.

18 (Off-the-record conference.)

19 MS. BLACK: Very briefly, your Honor.

20 CROSS-EXAMINATION

21 BY MS. BLACK:

22 Q. Good afternoon, Ms. Mason.

23 A. Hello.

24 Q. You mentioned that you haven't spoken
25 with your son and his wife and your two grandsons?

1 A. Correct.

2 Q. Since this lawsuit was filed?

3 A. Correct.

4 Q. Have you reached out to -- have you
5 called them?

6 A. I've e-mailed them.

7 Q. Have you called them?

8 A. No, I have not.

9 MS. BLACK: I believe that's all we
10 have, your Honor.

11 MR. LEITER: No questions, your Honor.

12 THE COURT: You may come down.

13 MR. THOMAS: That's our defense, your
14 Honor, and our case on our counterclaim.

15 THE COURT: All right. Let me just
16 make a couple comments. First of all, I will thank
17 the attorneys involved. They were all well
18 prepared and did an excellent job, and did a formal
19 job on the presentation of the evidence, which
20 is -- you've got a pile on both sides. If you
21 haven't been in these things before, it's a real
22 chore to get some intelligent, logical,
23 chronological order, and I compliment you for doing
24 that. Also for doing a good job with the
25 witnesses, being on time and the research and the

1 hard work that went into it.

2 I will need to see how much time you
3 need to produce the proposed orders, taking in mind
4 that they have Thanksgiving coming up and going
5 into the Christmas holidays. What about if we can
6 agree on a date that everybody will try to have the
7 proposed orders in? Maybe the last week in
8 December. Will that work? That would be the 26th,
9 7th, 8th, somewhere in there.

10 MR. LEITER: So the Friday of -- the
11 last Friday in --

12 THE COURT: The last Friday would be
13 the 30th.

14 MR. LEITER: Okay.

15 THE COURT: Is that enough time?

16 MR. KNOWLTON: Whatever you say, your
17 Honor. I think that will be ample time.

18 MR. THOMAS: Yes.

19 THE COURT: We'll say on or before
20 December 30th. And please copy each other with
21 your proposed orders. And I will say to the
22 plaintiff and defendant that I will not hold you
23 up. This needs to be finished, and I will try to
24 decide within a couple two or three weeks after I
25 get it, which will be -- you'll start the year off

1 new.

2 I will also tell you that I will give
3 it my best effort, and I will promise you that
4 nobody will be happy with what I do. In these type
5 of cases, they seldom are. There's just no perfect
6 solution to it, but I will do the very best I can.
7 The guy I practiced with for years was a standing
8 master in equity from Horry County, and he used to
9 say he always wanted to do the right thing if he
10 could figure out what the hell it was, and I think
11 that's one of the things I've found. I've heard
12 maybe 3,500 mortgage foreclosures in the last two
13 years, and you just -- you do the best you can with
14 what you hear and make a call. But thank God we
15 got appellate courts to talk to.

16 So that's -- I appreciate all of you
17 testifying and being polite to each other and all
18 that. It's been a long week. If you have any
19 problems with time, let me know. But otherwise,
20 I'll be looking for the orders, and we'll take it
21 from there. Thank you very much.

22

23

24

25

1	I N D E X	
2		Page
3	WITNESS: KATHY ST. BLANCHARD	
4	CROSS-EXAMINATION	
5	by MS. BLACK	3
6	CROSS-EXAMINATION	
7	by MR. LEITER	62
8	REDIRECT EXAMINATION	
9	by MS. BRITTAIN	79
10	RECROSS-EXAMINATION	
11	by MS. BLACK	82
12	WITNESS: MARK MYERS	
13	DIRECT EXAMINATION	
14	by MS. BRITTAIN	87
15	CROSS-EXAMINATION	
16	by MS. BLACK	93
17	REDIRECT EXAMINATION	
18	by Ms. BRITTAIN	96
19	WITNESS: ALISE TAYLOR	
20	DIRECT EXAMINATION	
21	by MS. BRITTAIN	97
22	CROSS-EXAMINATION	
23	by MS. BLACK	102
24	CROSS-EXAMINATION	
25	by MR. LEITER	105

I N D E X

	Page
1	
2	
3 WITNESS: ALISE TAYLOR	
4 RECROSS-EXAMINATION	
5 by MS. BLACK	109
6 WITNESS: SHERRY SMITH	
7 DIRECT EXAMINATION	
8 by MS. BRITTAIN	110
9 CROSS-EXAMINATION	
10 by MR. KNOWLTON	132
11 REDIRECT EXAMINATION	
12 by MS. BRITTAIN	167
13 RECROSS-EXAMINATION	
14 by MR. KNOWLTON	171
15 WITNESS: ROBERT KUEHNE	
16 DIRECT EXAMINATION	
17 by MS. BRITTAIN	176
18 CROSS-EXAMINATION	
19 by MS. BLACK	183
20 WITNESS: JOSEPH MASON, SR.	
21 DIRECT EXAMINATION	
22 by MR. THOMAS	185
23 CROSS-EXAMINATION	
24 by MR. KNOWLTON	222
25	

I N D E X

Page

WITNESS: CATHERINE MASON

DIRECT EXAMINATION

by MR. THOMAS

256

CROSS-EXAMINATION

by MS. BLACK

262

Certificate of Reporter

266

THIS AGREEMENT CONTAINS A BINDING, IRREVOCABLE
AGREEMENT TO ARBITRATE BUT IS NOT SUBJECT TO ARBITRATION
PURSUANT TO TITLE 15, CHAPTER 48 (UNIFORM ARBITRATION ACT)
OF THE CODE OF LAWS OF SOUTH CAROLINA

STATE OF SOUTH CAROLINA)
COUNTY OF HORRY) STOCKHOLDER AGREEMENT

THIS AGREEMENT, made this ____ day of _____, 1998,
by and between Joseph E. Mason, Sr., Catherine L. Mason, Joseph E.
Mason, Jr., Oswaldo J. St. Blanchard, and Catherine J. St.
Blanchard, hereinafter called the "Stockholders", and Mason Holding
Co., Inc., hereinafter called the "Corporation".

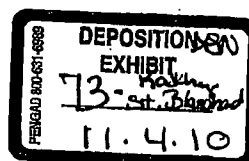
WHEREAS, the Stockholders are presently active in the
management of the Corporation and own the following stock interests
in it:

Joseph E. Mason, Sr.	<u>520</u> shares--Certificate No. <u>(1)</u>
Catherine L. Mason	<u>160</u> shares--Certificate No. <u>(2)</u>
Joseph E. Mason, Jr.	<u>160</u> shares--Certificate No. <u>(3)</u>
Catherine J. St. Blanchard	<u>90</u> shares--Certificate No. <u>(4)</u>
Oswaldo J. St. Blanchard	<u>70</u> shares--Certificate No. <u>(5)</u>

and,

WHEREAS, the Stockholders believe it to be in their best
interests and in the best interest of the Corporation to provide
for continuity and harmony in management of the Corporation's,
business; and

WHEREAS, the parties hereto believe that in order to
protect their interests that ownership of stock in the Corporation
remain in and be restricted to the parties hereto as provided



PLT 590315

hereinbelow; and

WHEREAS, it is the Stockholders' and the Corporation's purpose to provide for the purchase of a deceased Stockholder's stock, to provide for the purchase of a withdrawing Stockholder's stock, to provide for the purchase of a disabled Stockholder's stock if elected, and to provide the funds necessary to finance such purchase subject to the provisions hereinbelow;

NOW, THEREFORE, for valuable consideration, receipt of which is acknowledged by each party to the other, it is mutually agreed that:

1. Purchase at Death: Upon the death of a Stockholder, the personal representative of the deceased Stockholder shall offer to sell to the Corporation all of the stock in the Corporation owned by the deceased Stockholder at the time of his death at the price and under the terms and conditions hereinafter provided. Excepted from such mandatory offer to sell the stock of a deceased shareholder to the Corporation shall be the stock of Joseph E. Mason, Sr. and Catherine L. Mason, all as provided in Paragraph 4 hereinbelow. Also excepted from such mandatory offer to sell the stock of a deceased shareholder to the Corporation shall be the stock of Oswald J. St. Blanchard which shall be transferred to and conveyed over to Catherine J. St. Blanchard, should she survive him, immediately upon his death. Should Catherine J. St. Blanchard predecease Oswald J. St. Blanchard, the stock held by Oswald J. St. Blanchard at the time of his death shall be subject to the provisions of this Paragraph 1.

The Corporation shall have the right to purchase all or any part of the stock in the Corporation offered for sale to the Corporation by the personal representative of the deceased Stockholder at the price and under the terms and conditions hereinafter provided. The Corporation shall, within 30 days of the offer to buy the deceased Stockholder's stock, notify the personal representative of the deceased Stockholder in writing as to whether or not it shall exercise its right to purchase such stock. In the event that the Corporation shall elect to purchase such stock, it shall complete such purchase within 60 days of its written notification to the personal representative of the deceased Stockholder.

In the event the Corporation does not exercise its right to purchase all or any part of the stock offered by the personal representative of the deceased Stockholder, then the surviving Stockholders shall have the right to purchase, in proportionate amounts, all or any part of such stock at the price and under the terms and conditions hereinafter provided. The surviving Stockholders shall, within 30 days of the offer to the Stockholders to buy the deceased Stockholder's stock, notify the personal representative of the deceased stockholder in writing as to whether or not they shall exercise their right to purchase such stock. In the event that the surviving Stockholders shall elect to purchase said stock, they shall complete such purchase within 30 days of their written notification to the personal representative of the deceased Stockholder.

Any stock of the deceased Stockholder which is not purchased after the surviving Stockholders exercise their right to purchase all or any part of such stock shall be purchased by the Corporation at the price and under the terms and conditions hereinafter provided.

If the Corporation is unable to make such purchase required of it because of the provisions of its charter, its by-laws, or any applicable state or federal law, the Corporation and Stockholders agree to take such action as may be necessary to permit the Corporation to make such purchase.

2. Valuation: Unless altered as herein provided, for purposes of determining the purchase price to be paid for the stock of a Stockholder, the book value of each share of stock, based upon such values as may appear in the formal financial records of the corporation, shall be used unless values are otherwise indicated in Schedule "A" attached hereto and incorporated herein.

In the event that the shareholders unanimously adopt a value in Schedule "A" (other than the book value) as referred to hereinabove, the Corporation and the Stockholders shall redetermine the value of the stock within 120 days following the end of each fiscal year. Such redetermination shall be recorded on Schedule "A" attached hereto and made a part hereof. If the Corporation and the Stockholders fail to make the required annual redetermination of value for a particular year, the last previously recorded value shall control, provided, however, that if no revaluation has been agreed upon for a period of three years before a Stockholder's

death, the value of the deceased Stockholder's shares shall be the book value thereof.

The book value as referenced hereinabove shall be determined by the calendar year end financial determinations of the certified public accountant of the corporation with each such book value, or other value as may be inserted on Schedule "A" by the unanimous agreement of the shareholders, to be effected by April 30 of the year following the year for which the certified public accountant last completed information necessary to calculate the book value.

3. Payment of Purchase Price: The purchase price shall be paid in 60 equal monthly installments, with interest at a rate equal to Nationsbank prime rate plus 2%, adjusted annually from the date of the closing of any such sale, with only 75% of the purchase price to be so financed and the remaining 25% to be made as a down payment upon the closing of any sale. There shall be no prepayment penalties of any type or kind relative to said financing. If it/they elect(s) to pay any part of its/their obligation in installments, it/they shall give to the disabled Stockholder, if applicable, or to the personal representative of the deceased Stockholder its/their promissory note for the balance so payable, said note to be payable as set forth hereinabove. Said note shall provide for the acceleration of the due dates of all unpaid installments on the default in the payment of any one installment within 10 days after receipt of written notice of delinquency, or refusal of such notice, via certified or registered mail, return

receipt requested. Upon transfer and proper recordation on the Corporation's books, the shares of stock shall be delivered to the disabled Stockholder or a deceased stockholder's Personal Representative, as the case may be, to be held as collateral security for the unpaid balance of the purchase price with all necessary collateral endorsements made thereon by the purchaser thereof. Upon payment of the last installment of the purchase price, all of the shares so held as collateral shall be returned to the Corporation.

4. Joseph E. Mason, Sr. and Catherine L. Mason: In the event of the death of either Joseph E. Mason, Sr. or Catherine L. Mason, the survivor shall have the right to elect to retain the stock either individually or jointly owned by each or to accept the book value therefor, or such other value as may be set forth in Schedule "A" by the unanimous agreement of the shareholders, and/or any insurance proceeds on the life of either which may be due the corporation as a result of any policy purchased by the corporation, all at the sole and exclusive election of Joseph E. Mason, Sr. or Catherine L. Mason. The provisions contained in this paragraph shall apply to Joseph E. Mason, Sr. and Catherine L. Mason only, it being specifically agreed between and among the parties hereto that the remaining shareholders shall not have the elections provided to Joseph E. Mason, Sr. and Catherine L. Mason in this paragraph, nor can any other party to this agreement pass his or her stock to a spouse, heir or other individual upon death, disability or lifetime sale unless unanimously approved by the remaining shareholders or

unless otherwise set forth herein.

5. Lifetime Sale: In the event that a Stockholder desires to sell, assign, encumber, pledge or otherwise dispose of any of his stock during his lifetime, he shall first give written notice thereof to the Corporation which shall have an option for a period of 30 days from the receipt of such notice to purchase such stock at the price determined by Article 2. The option may be exercised by the Corporation only as to all of such offered stock and by its delivery of written notice thereof to the Stockholder before the expiration of such 30-day period.

If the Corporation does not exercise its option, the Stockholder desiring to sell shall offer it at the same price and terms to the remaining Stockholders each of whom shall have an option, exercisable within 30 days, to purchase that portion of the stock offered for sale as the number of shares owned by each bears to the total number of shares owned by all of the Stockholders, excluding that of the selling Stockholder, provided, however, that if a Stockholder does not purchase his proportionate share of the stock, such share of the stock may be purchased by the other Stockholders. If any stock is not purchased by the Corporation or the remaining Stockholders, the selling Stockholder may seek another purchaser but shall not sell it at a price or on terms more favorable than those offered to the Corporation or other Stockholders unless the Corporation and other Stockholders are first given an offer to purchase at such favorable price and terms.

6. Optional Life Insurance Provision : For purposes of

this Agreement, life insurance has been or may be purchased on each Stockholder, at the sole option of the Corporation, and shall be recorded on Schedule "B" attached hereto and made a part hereof. The Corporation will be the owner and beneficiary of each policy. This Agreement shall extend to and include any additional policies procured hereunder and they shall be set forth on such Schedule "B".

All premiums due on the life insurance purchased on the lives of the Stockholders shall be paid by the Corporation. If the Corporation should fail to pay any premium within 25 days after the due date, the Stockholder on whom the policy is issued may pay such premium, in which event he shall have a right to reimbursement from the Corporation within 10 days.

If no life insurance is purchased or elected to be purchased, provisions contained in this agreement for life insurance circumstances shall be inoperative, null, void and of no force or effect.

The proceeds of any life insurance policy acquired pursuant to this Paragraph 6 shall be paid to the Corporation, except that any proceeds of any policy upon the life or lives of Joseph E. Mason, Sr. and/or Catherine L. Mason shall be paid to the survivor of said Joseph E. Mason, Sr. and Catherine L. Mason or to their named beneficiaries, if any, or to the estate of the second of them to die if no beneficiary is named.

7. Optional Disability Provision: In furtherance of the purposes of this Agreement, disability buy out insurance may be

elected to be purchased by the majority vote of the Stockholders on each Stockholder from such insurance company as may be voted upon by a majority of Stockholders. If no disability insurance is purchased or elected to be purchased, the provisions contained in this agreement for disability circumstances shall be inoperative, null, void and of no force or effect.

If disability insurance shall be so purchased, it shall be recorded in Schedule "C" attached hereto in the format set forth therein.

The Corporation shall be the owner and beneficiary of the policy applied for by each Stockholder on his or her life for disability purposes. This Agreement shall include and contain all additional disability buy out or income policies as may be needed pursuant hereto, and such additional policies shall also be recorded on attached Schedule "C".

All premiums due on the disability buy out policies purchased on the lives of the Stockholders as herein provided shall be paid by the Corporation. If the Corporation shall fail to pay any premium within 25 days after the due date, the Stockholder on whose life the policy is issued may pay such premium in which event he or she shall have a right to reimbursement from the Corporation within 10 days.

In the event that a Stockholder shall become totally and permanently disabled as defined in the disability insurance policies referred to herein and such disability is continuous for the period specified in the policies, the Corporation shall

purchase and the disabled Stockholder shall sell to the Corporation all the shares in the Corporation then owned by the disabled Stockholder at the price determined in accordance with Article 2 as of the day the Stockholder became disabled. In no event shall the purchase price be less than the amount of insurance proceeds realized by the Corporation due to such disability.

The purchase price shall be paid to the disabled selling Stockholder as set forth in Article 3 hereinabove entitled "Payment of Purchase Price."

A disabled Stockholder shall retain the right to vote the stock owned by him and to receive all dividends thereon prior to the date on which the down payment is made in accordance with this Article.

Upon such transfer and proper recordation on the Corporation's books, the shares of stock shall be delivered to the disabled Stockholder or his Personal Representative, as the case may be, to be held as collateral security for the unpaid balance of the purchase price. Upon payment of the last installment of the purchase price, all of the shares so held as collateral shall be returned to the Corporation.

In the event of the death of the disabled selling Stockholder after the down payment has been made but before all payments have been completed, the Corporation shall complete payment pursuant to the provisions of this Agreement, but only with respect to the balance of the purchase price due for such shares. Should the Corporation receive any life insurance proceeds pursuant

to any such post-down payment death, the same shall belong to the Corporation.

In the event that a Stockholder shall withdraw and sell his stock during his lifetime as provided herein, the disability buy out insurance policy(ies) purchased on his life shall be surrendered by the Corporation and all provisions of this Agreement with respect to such disability buy out or income policy(ies) and the purchase of said Stockholder's stock shall be of no effect.

8. Disposition of Policies: In the event that a Stockholder should sell his stock during his lifetime as provided herein, or in the event of the termination of this Agreement, the withdrawing Stockholder and the remaining Stockholders, as the case may be, shall have the option, exercisable within 30 days, to purchase any life insurance or disability policies on his own life subject to this Agreement. A stockholder shall give written notice of his intention to buy such policy(ies) to the Corporation. The purchase price for any such policy shall be its interpolated terminal reserve and any dividend credits outstanding as of the date of purchase, plus the proportionate part of the premium last paid before the date of purchase which covers the period extending beyond that date, and minus any indebtedness outstanding. If the option is not exercised within said 30-day period, the policy shall no longer be subject to this Agreement.

9. Endorsement of Certificates: The certificate or certificates of stock subject to this Agreement shall not be assigned or otherwise disposed of during the continuance of this

Agreement except as herein provided.

The stock certificates shall be endorsed as follows:

"This certificate and any disposition of it are subject to the terms of an Agreement executed _____, 19__, between the Stockholder whose name appears on the face hereof, Mason Holding Co., Inc., and the other Stockholders, _____ and _____."

The certificates so endorsed shall be delivered to the Treasurer of the Corporation to be held by that officer or his successor subject to the terms and condition of this Agreement.

10. Termination: This Agreement shall terminate upon:

a. The written agreement of the Stockholders and the Corporation;

b. The bankruptcy, receivership, or dissolution of the Corporation or a Stockholder; or

c. The death of all Stockholders within a period of 30 days.

11. Involuntary Transfers: Whenever any Stockholder has any notice or knowledge of any attempted, impending or consummated involuntary transfer of or lien or charge upon any of his shares, whether by operation of law or otherwise, he will give immediate written notice thereof to the Corporation. Whenever the Corporation has any other notice or knowledge of any such attempted, impending or consummated involuntary transfer, lien or charge, it will give written notice thereof to the Stockholder. In either case, Stockholder agrees to disclose forthwith to the Corporation all pertinent information in his possession relating

thereto. If any shares are subjected to any such involuntary transfer, lien or charge, the Corporation and its designated purchasers will at all times have the immediate and continuing option to purchase such shares upon notice by the Corporation to the Stockholder or other record holder, at the purchase price, and shares so purchased will in every case be free and clear of such transfer, lien or charge.

12. Compensation. Any Stockholder who is a full time employee of the Corporation (i.e., one who works 40 hours per week on a regular basis) shall be entitled to reasonable compensation for such work.

13. Severability: The invalidity or unenforceability of any provision in the Agreement will not in any way affect the validity or enforceability of any other provision and this Agreement will be construed in all respects as if such invalid or unenforceable provision had never been in the Agreement.

14. Notices: Any and all offers, acceptances, consents, waivers and other notices required by this Agreement will be deemed to be sent or delivered when personally delivered to the recipient or when mailed by certified or registered mail with proper first class postage attached thereto, to the parties hereto as follows: in the case of the Corporation, at 750 U.S. Highway 17 North, South Carolina 29575, and in the case of the Stockholders or their heirs or successors in interest, at each Stockholder's address at as follows:

Joseph E. Mason, Sr. and/or
Catherine L. Mason

Joseph E. Mason, Jr.

Catherine J. St. Blanchard and/or
Oswaldo J. St. Blanchard

or at such other address as may be designated by the Stockholder (or his successor in interest). Any notice required to be made within a stated period of time will be considered timely mailed if deposited before midnight of the last day of the stated period.

15. Amendment: This Agreement may be altered, amended, or modified at any time by written agreement signed by all the Stockholders and the Corporation.

16. Binding Effect: This Agreement shall be binding not only upon the parties hereto but also upon their heirs, personal representatives, successors and assigns, and the parties hereto agree for themselves and their heirs, personal representatives, successors and assigns to execute any instruments in writing which may be necessary or proper in carrying out the purposes of this Agreement.

17. Interpretation: Where appropriate in this Agreement, words used in the singular shall include the plural and words used in the masculine shall include the feminine. The law of the State of South Carolina shall govern this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day and year first hereinabove written.

Schedule "A"

(Valuation)

Valuation as of date of Agreement: Book Value

re

Valuation Per Share

Signature of
Each Party

PLT 000331

PLT700333

I

Schedule "B"
(Life Insurance Policies)

Insured
Amount

Policy Number

Face

Schedule "C"

(Disability Insurance)

<u>Insured Amount</u>	<u>Policy Number</u>	<u>Face Amount</u>	<u>Insured Party</u>

Schedule "B"
(Life Insurance Policies)

<u>Insured Amount</u>	<u>Policy Number</u>	<u>Face</u>
J.E.M. SR 50,000	01549184	
J.E.M. SR 50,000	01549189	
C.L.M. 25,000	01549185	
J.E.M. SR 25,000	01549187	
J.E.M. SR 25,000	01549188	
C.J. ST.B. 25,000	01549186	
C. ST.B. 25,000	01549190	

BUSINESS VALUATION

12-31-00

© WILSON JONES

07203 GREEN

7203 BUFF

Prepared By	Initials	Date
Approved By		

	1	2	3
MASON TIRE - SUPERIOR			
BOOK VALUE 12-31-00		247700	
ADD GOODWILL		40000	
ADD UNDEVELOPED DIVIDENDS PART	41500	25000-	
ADD INVENTORY PART	25000	35000-	
ADD NET INCOME C/Y	416000-	250000	
ADD PARTS PART	22800		
ADD 10 TIMES PROFIT	64408		
10 TIMES PROFIT		644000	
			960000-
NORTH MYATLE BEACH			
BOOK VALUE 12-31-00		143800	
ADD GOODWILL		15000	
ADD UNDEVELOPED DIVIDENDS PART		20000	
ADD NET INCOME	8200		
ADD PARTS	10000		
	18200		
10 TIMES		182000	
			360000-
PAWLEN BEACH			
BOOK VALUE 12-31-00		42500	
UNDEVELOPED DIVIDENDS - PARTS		30000	
ADD NET INCOME	3350		
ADD INVENTORY PARTS	87000		
	20350		
		203500	
			276000
MYATLE BEACH			
BOOK VALUE 12-31-00		42000	
ADD NET INCOME	- 400		
			42000
WILSON HOLDING CO			
NET INCOME	118784		
ADD INVENTORY	448		
10 TIMES	119232		
			1193300
			2200000-

DEPOSITION
EXHIBIT

103-Levine

17-3-10

2000-000-0000

	1	2	3
<u>MYRTLE GROVE</u>			
BOOK VALUE 12-31-01	4200 -	4200 -	
NET INCOME 10,300	10300		
10 TIMES	103000	103000	
			107200 -
<u>NORTH MYRTLE GROVE</u>			
BOOK VALUE 12-31-01		158500 -	
ADD: GRANTS - UNRECORDED		25000 -	
ADD NET PROFIT	9250 -		
ADD PARTS -	10000		
	10000		
X	10	100000 -	
			378800 -
<u>PAWLEYS ISLAND</u>			
BOOK VALUE 12-31-01		50500	
UNRECORDED - PARTS		50000 -	
NET PROFIT	13800 -		
ADD PARTS	10000		
	10000		
		208000	
			304500 -
<u>SURFIDE</u>			
BOOK VALUE		207125	
ADD GOODWILL		40000	
ADD UNRECORDED - TRANSFERRED	25000	25000	
ADD INVENTORY PARTS	50000	2500	
NET PROFIT	53600		
ADD PARTS	25000		
	78600		
		376000	
<u>REASON LEONARD CO</u>			1160800
NET INCOME	100500		
ADD INVENTORY	250		
	100700	100700	
	10		
			1017000 -
			780 -

MASON TIRE & AUTO SERVICE, INC.

STOCKHOLDERS MONTHLY MEETING HELD MAY 21ST, 2001 AT 6:00 PM AT MASON
TIRE & AUTO SURFSIDE LOCATION.

STOCKHOLDERS IN ATTENDANCE:

J.E. MASON SR
CATHERINE L MASON
J.E. MASON JR
CATHERINE J ST. BLANCHARD
OZ J. ST. BLANCHARD

OPENING DISCUSSION HELD BY JE MASON SR REGARDING HOW HE HAS MADE
MISTAKES FROM DAY ONE RUNNING THIS CORPORATION. HE SHOULD HAVE BEEN
STRONGER IN HIS DECISION MAKING. FEELS EVERYONE HAS TAKEN ADVANTAGE
OF THIS AND FEELS IT IS TIME TO CHANGE. HE CONTINUED TO SAY HE FEELS THIS
NEEDS TO BE RUN MORE LIKE A FAMILY CORPORATION. CONTINUED TO SAY
STARTING THE MONTH OF JUNE WE WILL HAVE A STOCKHOLDER/BOARD OF
DIRECTORS MEETING EVERY FIRST TUESDAY OF THE MONTH AT 6:00.

OZ SPOKE ABOUT TWO ROADS TO TAKE AFTER ALL THESE YEARS. THE RODE TO
DIRECT SELLING OF THE CORPORATION OR A ROAD TO TRY AND LAY OUT ALL THE
ISSUES AND SEE IF WE CAN GET BEYOND THEM.

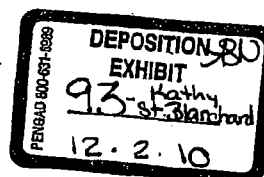
CATHERINE THOUGHT POSSIBLY GOING TO A FAMILY COUNSELOR WOULD HELP.
SHE SUGGESTED ASKING VEST, M.D., FOR HIS OPINION ON A COUNSELOR.

ALL VOTED TO ASK VEST FOR HIS OPINION, MAKE AN APPOINTMENT FOR THE
COUNSELOR AND THE CORPORATION WOULD TAKE ON THE EXPENSE. WE WOULD
SEEK A COUNSELOR ON THE BLUE CROSS PLAN. 4 IN FAVOR, 1 AGAINST, PASSED.

CATHERINE TO HANDLE THIS.

MASON JR., SPOKE ABOUT THE MAN TO COME IN TOMORROW CONCERNING A
MEETING ABOUT SELLING THE CORPORATION. ALL AGREED TO LISTEN TO THE
MAN FOR IDEAS BUT HOLD UP SIGNING ANY CONTRACT WITH HIS COMPANY. JR.,
ALSO WENT ON TO SAY HE WAS INTERESTED IN ATTENDING A SCHOOL TO LEARN
HOW TO SELL THE COMPANY. SR., SAID THAT WE WOULD ONLY GO THROUGH
WITH THE APPRAISAL DISCUSSION AND TO HOLD OFF FROM THE SCHOOL DURING
THE EXTREMELY BUSY SUMMER MONTHS.

OZ THAN ASKED IF WE SHOULD CONTINUE OUR EFFORTS IN SELLING THE



CORPORATION AS HE HAS A MONEY MAN VERY INTERESTED IN IT. SR., SAID EVERYTHING WILL BE PUT ON HOLD.

THE FLOOR WENT BACK TO SENIOR FOR BUSINESS DISCUSSION.

HE PRECEDED TO HAND OUT COPIES FROM A BOOK HE IS READING TITLED "GETTING ALONG IN FAMILY BUSINESS." HE WOULD LIKE TO SEE ALL STOCKHOLDERS READ THIS BOOK. THE COPIES HANDED OUT WERE COPIES OF THE IMPORTANCE OF THE PRESIDENT IN A FAMILY BUSINESS AND THE JOB DUTIES OF ALL OFFICERS.

JR., THAN DISCUSSED THAT IN JULY WE SHOULD BEGIN THE FOUR COMPANIES ON THE 401K PLAN. THIS WOULD BE A PROFIT SHARING PROGRAM FOR OUR EMPLOYEES. ALSO WE WOULD BE MOVING OZ INTO THE HOLDING COMPANY AS THERE WILL BE A 401K SAFE HARBOR ACT FOR THE OFFICERS. THIS PROGRAM WOULD ELIMINATE THE CHRISTMAS BONUSES. NEW IDEAS AND PLANS ARE STILL COMING INTO PLAY AND HE SHOULD KNOW MORE IN A WEEK OR SO. MORE DISCUSSION PLANNED FOR THE NEXT MEETING.

JR., TALKED ABOUT THE POSSIBILITY OF OFF SHORE ACCOUNTS, MUTUAL FUNDS BUT ALL WAS SCRATCHED AND AGREED TO KEEP IN MONEY MARKET ACCOUNTS DUE TO CLOSE INTEREST RATES.

SR., ASKED WHERE WE WERE ON FRANKIE. A LETTER WAS WRITTEN TO SEE IF AND WHEN HE COULD DO LIGHT DUTY. AS OF 5-11-01 THERE WAS NO RESPONSE TO THIS LETTER. JR., WOULD CALL AGAIN. ALSO JR., IS TRYING TO GET FRANKIE TO CALL.

SR., BROUGHT UP A FLOATER. HE WILL PUT AN AD IN THE PAPER TO SEE IF WE CAN DRAW SOMEONE WITH EXPERIENCE.

SR., ASKED ABOUT THE OIL SPILL. OZ SAID THEY PUT A COVER OVER IT AND ENVIRO SCAN WILL COVER ALL EXPENSES TO FIX THE PROBLEM.

TALKED ABOUT PURCHASING NEW ALIGNMENTS RACKS APPROXIMATE PRICE \$4850.00 EACH, NEEDS THEM FOR TWO STORES. SR ASKED WHAT OZ FELT, HE SAID THEY NEED THEM, JR., AGREES. ALL AGREED TO PURCHASE THEM BOTH.

CATHERINE ASKED ABOUT WHERE WE WERE ON THE LOAN FOR THE GOODYEAR TIRES. LOAN IS STILL OPEN FOR \$25,000 HOPE TO FINISH PAYING THIS OFF NEXT MONTH.

CATHERINE ALSO SPOKE ABOUT WHAT IRWIN FOUND WITH THE \$45,000 IN

QUESTION TO GOODYEAR. IT LOOKS AS IF WE DO OWE IT. IRWIN IS STILL
LOOKING INTO ONE OTHER SPOT FOR THE MONEY. IF WE DO OWE IT WE WILL TRY
TO NEGOTIATE THE PRICE AND TERMS OF PAYMENT. CATHERINE SPOKE ABOUT
TRYING TO LET THIS GO OVER EASY WITH SALLY AND LINDA BECAUSE THEY FEEL
AWFUL ABOUT NOT CATCHING IT.

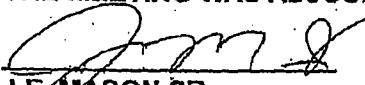
OZ WANTED TO KNOW IF SR. IS GOING TO CONTINUE TO OPEN EVERY MORNING.
THEY CAME UP WITH EVERYONE TAKING A WEEK, THIS WILL BE SENIORS WEEK
AND THEN JUNIOR AND THEN OZ.

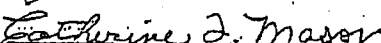
SENIOR WANTED TO KNOW FOR SURE ABOUT OZZIES VACATION PLANS AND
DAYS. HE WILL BE LEAVING FOR THE LAKE BUT WILL BE BACK TO WORK ON
MEMORIAL DAY TO COVER FOR OZZIE THAT WEEK.

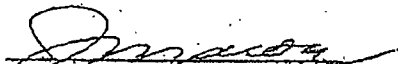
SENIOR ALSO MENTIONED BROOKLYN, STILL ISN'T 100% SURE OF HIS PLANS.

NMB STORE GOING TO CLOSE SATURDAY BEFORE BIKE WEEK DUE TO THE TRAFFIC
PROBLEMS.

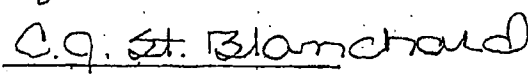
THE MEETING WAS ADJOURNED.


J.E. MASON SR


CATHERINE L MASON


J.E. MASON JR


OSWALDO J. ST. BLANCHARD


CATHERINE J. ST. BLANCHARD

CONSOLIDATED

NOV STORE PERFORMANCE 1000 VS 2000 2002 2003

	MONTH		YTD		DIF
	1999 2001-	2000 2003	1999 2001-	2000 2003	
VOLUME	420,636	469,038	548,057	568,880	+ 19,823
TOTAL \$ TIRES	153,597	185,414	212,808	233,699	+ 14,991
MECHANICS	212,451	226,450	269,099	267,182	- 2,267
L-O-F	20,899	24,464	36,440	38,003	+ 1,563
GROSS %	54.6	54.0	55.0	53.7	- 1.30
PASSENGER UNITS	1093	1170	14703	14924	+ 231
SMALL TRUCK	387	517	5649	5807	+ 158
LARGE TRUCK	110	140	1866	1763	+ 197
SALES EXPENSE	37294	35412	382,699	393,426	+ 10,727
SERVICE EXPENSE	114,196	112,805	1,358,873	1,283,310	- 75,563
GENERAL EXPENSE	103,995	113,220	1,158,634	1,201,329	+ 42,695
TOTAL EXPENSE	255,486	261,437	2,900,206	2,878,066	- 13,142
GROSS PROFIT	229,725				
SALES EXPENSE	301	250,757	301,7156	3053199	+ 36,043
PROFIT OR LOSS	-25761	-18,181	+116,948	+125,132	+ 58,184

COMMENTS

CONSOLIDATED

Nov STORE PERFORMANCE 1999 VS 2000 2002 2003

	MONTH		YTD		DIF
	1999 2002	2000 2003	1999 2002	2000 2003	
VOLUME	420,636	469,038	5484057	5680860	+ 191,823
TOTAL \$ TIRES	152,597	185414	2128808	2326299	+ 147,991
MECHANICS	212,451	226450	2695099	2671,832	- 23,267
L-O-F	20,899	84469	362440	383,003	+ 19,563
GROSS %	54.6	54.0	55.0	53.2	- 1.80
PASSENGER UNITS	1093	1170	14703	14924	+ 231
SMALL TRUCK	387	517	5649	5807	+ 158
LARGE TRUCK	110	140	1866	1763	+ 197
SALES EXPENSE	37294	35412	382699	393426	+ 10727
SERVICE EXPENSE	114,196	112805	1,358873	1,283310	- 75563
GENERAL EXPENSE	103,995	113220	1,158,634	1,201,329	+ 42,695
TOTAL EXPENSE	255,486	261437	2,900,208	2878066	- 13,142
GROSS PROFIT	229,725				
SALES EXPENSE	201	250,751	301,7156	3053199	+ 36,043
PROFIT OR LOSS	-25761	-10,681	+116,948	+175,132	+ 58,184

COMMENTS

MASON TIRE & AUTO SERVICE, INC.

STOCKHOLDERS MONTHLY MEETING HELD JUNE 5TH, 2001 AT 6:00 PM AT MASON
TIRE & AUTO SURFSIDE LOCATION.

STOCKHOLDERS IN ATTENDANCE:

J.E. MASON SR
CATHERINE L MASON
J.E. MASON JR
CATHERINE J ST. BLANCHARD
OZ J. ST. BLANCHARD

SENIOR OPENED THE MEETING SAYING THAT HE REALLY DOESN'T WANT TO BE INVOLVED IN THE EVERYDAY OPERATIONS STILL HIS THOUGHTS ARE WITH RETIRING. HE WANTS TO KNOW ANY POLICY CHANGES AND IF ANYTHING CHANGES WITH THE BUSINESS AS IT STANDS NOW HE WANTS TO KNOW. FEELS THE BUSINESS IS RUNNING GOOD. WANTS US ALL TO BE ABLE TO WORK TOGETHER. IF WE CAN'T HE WILL AND CAN REPLACE ANYONE OF US. THESE MEETINGS ARE TO BE ON THE POSITIVE SIDE WITH OUT THE NEGATIVITY FOUND SO MUCH WITHIN THIS FAMILY.

SENIOR THEN WENT ON ABOUT HIS CONCERNS ABOUT THE FORD TIRE RECALL. JUNIOR AND OZ BOTH AGREED EVERYTHING IS UNDER CONTROL AND THIS MADE SENIOR FEEL BETTER.

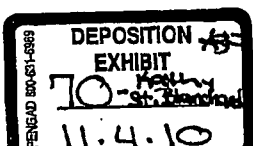
ASKED ABOUT FRANKIE, HE SHOULD BE RELEASED AND BACK TO WORK ON LIGHT DUTY AS OF THE 11TH. SPOKE TO FRANKIE AND SAID HE IS READY TO GO BACK.

TALKED ABOUT CONSIDERING A SALESMAN HE HAS BEEN TALKING WITH, SEEMS ENERGETIC, JUST DOESN'T HAVE THE BACKGROUND OF TIRES. OZ WILL LOOK INTO HIS REFERENCES A LITTLE MORE AND THEN MAYBE PUT HIM ON THE FLOOR TO SEE HOW FAST HE CAN CATCH ON. ALL DISCUSSED DURING THE SUMMER MONTHS IT IS DIFFICULT TO HIRE UNEXPERIENCED SALES PEOPLE.

SENIOR TOLD ALL THE PRICES ON STEELMARK IN ON THE WINDOW IN FRANKIES OFFICE, IF ANYONE HAS A QUESTION.

TALKED ABOUT THE CITY OF MYRTLE BEACH MEETING. SENIOR FELT HE WILL NOT GO TO THIS MEETING. SENIOR FEELS IT SHOULD ONLY BE JUNIOR AND WILL FROM MYRTLE BEACH TO ATTEND.

STILL HAS CONCERNS ABOUT MORE WAREHOUSE SPACE, WILL KEEP THIS ON THE



PLTF-000159
786

BACK BURNER.

SENIOR ASKED ABOUT PAWLEYS AND THE GENE SITUATION. JUNIOR EXPLAINED TO OZ WHAT HAD HAPPENED ABOUT CATCHING GENE STEALING. NOT SURE WHAT IS GOING TO HAPPEN WITH JEFF AND HAMM, FEEL IF JEFF LEAVES HAMM WILL FILL THAT POSITION.

KATHY JR., TOOK THE FLOOR NEXT. SPOKE ABOUT HER SUMMER HOURS THAT SHE IS GOING TO TRY AND KEEP THE SAME. STILL DO SAMS ONCE EVERY TWO WEEKS. JUST LIKE LAST SUMMER SHE WILL DO WHAT EVER IT TAKES TO GET THE JOB DONE.

DISCUSSED THE CAROLINA FIRST LOAN PAYMENT FOR THE GOODYEAR TIRES. THIS WILL BE PAID OFF THIS MONTH. SPOKE ABOUT THE \$45,000.00 OWED TO GOODYEAR, IRWIN TO SPEAK TO THEM ABOUT NEGOTIATING ON THE PRICE AND PAYMENTS.

SPOKE A LITTLE BIT ABOUT WILL HOLDING K-DOCS TOO LONG. THE GIRLS ARE HAVING A PROBLEM WITH HIM HOLDING CREDITS AND INVOICES TOO LONG. JUNIOR TO LOOK INTO THIS.

FOUND OUT THAT THE TRIP FOR NEXT YEAR IS CABO SAN LUCAS AND MOM AND DAD WOULD BE IN LINE FOR THIS ONE IF WE WIN.

OZ SPOKE NEXT ABOUT NICK. FEELS THINGS ARE GOING BETTER. SPOKE TO HIS WIFE AND HE IS ATTENDING HIS MEETINGS.

OZ WILL CALL THE REFERENCES ABOUT THE FLOATER AND POSSIBLY PUTTING HIM ON THE FLOOR.

OZ SPOKE ABOUT THE VACATIONS ARE BEING OVER LAPPED BY JUNIOR AND SENIOR IN JULY. IF FRANKIE GETS BACK THIS SHOULDN'T BE A PROBLEM.

OZ SPOKE OF TIME WARNER.

CATHERINE MASON TOOK THE FLOOR AND WENT OVER THE POSITIVES AGAIN THAT SENIOR HAD STARTED WITH. THAT WE SHOULD BE ABLE TO GO FORWARD AND LOOK AT THE POSITIVES. WORK TOGETHER TO DO OUR JOBS.

CATHERINE MASON WOULD LIKE IF POSSIBLE A QUARTERLY REPORT ON THE PROFIT OR LOSS OF THE COMPANY DURING THE CORPORATE MEETING. JUNIOR SAID THIS WOULD NOT BE A PROBLEM.

JUNIOR TOOK THE FLOOR AND SPOKE ABOUT GOING AHEAD AND PURCHASING THE UPGRADE KITS FOR THE ALIGNMENTS RACKS AS DISCUSSED IN LAST MONTHS MEETING. HE ALSO ELECTED TO PURCHASE ALL NEW CPU'S FOR THE RACKS AT A ROUGH COST OF \$1000.00

SENIORS TRUCK PAID OFF. IF HE WANTS TO START LOOKING FOR A NEW ONE.

CONSIDERING IN MYRTLE BEACH CLOSING IN THE AREA WHERE THE DUMPSTER WAS FOR MORE TIRE SPACE. FEELS IT COULD BE DONE FOR LESS THAN \$200.00

WANTS A RIM AND TIRE FOR HIS BOAT ALL AGREED TO TAKE IT.

BROUGHT UP VACATION TIME INCREASE TO THREE WEEKS, ALL AGREED AS LONG AS IT WASN'T DURING THE SUMMER AND TO USE OUR GOOD JUDGMENT AND TO BE FAIR TO ALL.

TALKED ABOUT THE GOODYEAR DEALER CONFERENCE IN VEGAS FOR ONE DAY. ALL AGREED IT SOUNDED LIKE A WASTE OF TIME.

GETTING WILCO GAS CARDS AS WE SAVE 2 CENTS PER GALLON. SAMS DID NOT HAVE JUST A GAS CARD.

JUNIOR SAID THAT THE EMPLOYEES ARE STILL USING PREMIUM GAS DONNIE, CECIL AND OZ.

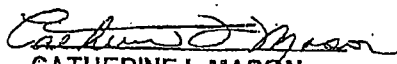
HOW TO HANDLE THE ALARM CALLS. ALL AGREED TO HANDLE IT TO THE BEST OF THEIR ABILITY DEPENDING ON THE ALARM SITUATION.

CATHERINE EXCUSED HERSELF FROM THE MEETING BUT LEFT THE RECORDER ON.

WHEN I WENT TO FINISH TYPING THE MINUTES THE RECORDER HAD BEEN TURNED OFF AFTER THE ALARM DISCUSSION.

THE MEETING WAS ADJOURNED.


J.E. MASON SR


CATHERINE L MASON

MASON TIRE & AUTO SERVICE, INC.

STOCKHOLDERS MONTHLY MEETING HELD AUGUST 7TH, 2001 AT 6:00 PM AT
MASON TIRE & AUTO SURFSIDE LOCATION.

STOCKHOLDERS IN ATTENDANCE:

J.E. MASON SR
CATHERINE L MASON
J.E. MASON JR
CATHERINE J ST. BLANCHARD
OZ J. ST. BLANCHARD

KATHY PRESENTED MINUTES OF JULY MEETING. ALL AGREED AND SIGNED. JOE JR., LOOKED OVER MINUTES TO SEE IF ANY QUESTIONS NEEDED ANSWERING FROM LAST MEETING, THERE WAS NONE.

SENIOR OPENED THE MEETING WITH DISCUSSION ON THE FORD TIRE RECALL, TOLD JOE JUNIOR HE HAS DONE AN EXCELLENT JOB IN MAKING THE COMPANY MONEY. THIS MONEY HELPED EASE THE PAIN OF THE 42,000.00 PAYABLE TO GOODYEAR.

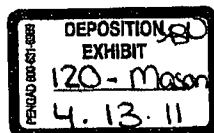
SENIOR TALKED ABOUT THE SPIFF PROGRAM AND THAT HE IS UNEASY WITH THE WAY THIS IS HANDLED. SENIOR ASKED KATHY TO CALL IRWIN AND FIND OUT WHAT HE SAYS ABOUT THIS.

ASKED ABOUT ACCOUNTS RECEIVABLE, NOT SURE IF OUR PROGRAM IS THE WAY TO GO. JUNIOR AND OZ FEELS THE ACCOUNTS RECEIVABLE PROGRAM IS GOING O.K. WOULD BE HAPPIER ONLY HAVING ONE ACCOUNTS RECEIVABLE LOCATION, BUT THIS WOULD BE IMPOSSIBLE AT THE PRESENT TIME.

SENIOR VOICED HIS OPINION ABOUT COMMERCIAL ACCOUNTS AND FEELS THIS IS OVERLOADING OUR MANAGERS. THOUGHT MAYBE WE NEED TO LOOK INTO A COMMERCIAL TRAINING PROGRAM. FEELS THE MANAGERS ARE UNCOMFORTABLE WITH TRUCK TIRES. POSSIBLY ONLY ONE LOCATION TO CONTROL ALL THE COMMERCIAL ACCOUNTS. SENIOR IS GOING TO ALL LOCATIONS TO GET A FEEL FROM THE MANAGERS ON HOW COMFORTABLE THEY ARE WITH COMMERCIAL ACCOUNTS.

SENIOR TALKED ABOUT HIRING GEORGE AND LETTING GO OF GAYLAND.

SENIOR ASKED ABOUT MYRTLE BEACH, JOE JUNIOR SAID HE HAS HIS HANDS FULL. MYRTLE BEACH IS A UNIQUE STORE WITH SO MANY NATIONAL ACCOUNTS.



PLTF000164

JUNIOR FEELS BILLY NEEDS TO BE REPLACED AS HE LEAVES TOO MUCH HANGING. JOE JUNIOR WOULD LIKE TO FIRE BILLY BRING MIKE POOLE BACK TO ASSISTANT MANAGER AND BRING THE OLDER GENTLEMAN IN THE SHOP TO SERVICE MANAGER. HE IS GOING TO ADDRESS THIS WITH THE EMPLOYEES INVOLVED.

OZ TOOK THE FLOOR AND OPENED WITH THE INSURANCE INCREASES. GOING TO CHANGE THE DEDUCTABLE TO KEEP RATE INCREASES AT A MINIMUM. GOING TO LOOK INTO EXACTLY HOW THIS EFFECTS OUR POLICY.

ENVIRO-SCAN TALKED TO OZ AGAIN ABOUT PAYMENT. WAS INTERESTED IN SWITCHING TIRES FOR THE PAYMENT. OZ EXPLAINED TO THEM HOW WE STAND ON THE PAYMENT, THAT THERE WILL BE NONE.

OZ TALKED ABOUT HOW AMCO AND GEMINI IS JOINING FORCES IN THE TRANSMISSION END OF THE BUSINESS. WANTS TO LOOK MORE INTO THIS FOR POSSIBLY TRANSMISSION WE DON'T WANT TO TOUCH/

OZ TALKED ABOUT WALTER THE NEW SERVICE MANAGER. ISN'T IMPRESSED ON HIS APPEARANCE BUT FEELS ONCE HE IS IN UNIFORM THIS COULD IMPROVE. SEEMS TO BE CATCHING ON. TALKED ABOUT WHAT TO OFFER JOE A WEEK FOR SERVICE MANAGER. WANTS TO HOLD ONTO BOTH MEN UNTIL HE MAKES A DECISION.

JOE JR., OPENED HIS DISCUSSION WITH DONATIONS AND WHO TO HANDLE THIS. JOE SAID HE WILL MAKE A LIST OF THE DONATIONS WE NOW DO AND TO DISCUSS THIS.

TALKED ABOUT THE 401K PROGRAM. THE MEETING WILL TAKE PLACE AUGUST 30TH-31ST JOE NEEDS EITHER SENIOR OR OZ TO BE PRESENT AT THIS MEETING TO PRESENT THE PACKAGE TO OUR EMPLOYEES. NEEDS THE EXACT FIGURE ON WHAT TO PRESENT TO THE EMPLOYEES. ALL AGREED TO THINK ABOUT THIS AND GET BACK TO HIM NEXT WEEK. TALKED ABOUT THE SAFE HARBOR PROGRAM. ALL AGREED THIS WAS THE PROGRAM TO DO FOR THE HOLDING COMPANY.

JUNIOR WANTS TO START PUTTING TOGETHER A TV ADD. NEEDS IMPUT AND IDEAS FOR NEW ADD.

TALKED AGAIN ABOUT THE CONFERENCE IN LAS VEGAS. JUNIOR WILL BE GOING TO THIS. JUNIOR SAID HE WAS ASKED TO BE ON THE GEMINI BOARD AND WILL BE GOING TO THE CONFERENCE A DAY EARLY.

JUNIOR TALKED ABOUT WAREHOUSE SPACE. THAT SENIOR REALLY NEEDS TO GET ON THE BALL WITH THIS. SENIOR SAID HE WAS WAITING FOR PHONE CALLS

PLTF000165

FROM SOME PEOPLE THAT SHOULD BE COMING IN THIS WEEK. HE WANTS TO WAY IT ALL OUT.

THE FENCE WAS INSTALLED AT MYRTLE BEACH FOR TIRES AT A COST OF \$970.00.

TALKED ABOUT OIL RECYCLING. DECIDED TO GO WITH SMALLWOOD.

CATHY MASON TOOK THE FLOOR AND ASKED ABOUT SEEING THE P & L'S. THIS WOULD BE DONE BY THE QUARTER SO IT WILL BE PRESENTED IN SEPTEMBER.

CATHY ALSO SPOKE ABOUT HER ABILITY TO CHECK THE VOIDS AT THE DIFFERENT LOCATIONS IF SHE IS NEEDED.

KATHY TOOK THE FLOOR AND TALKED ABOUT GOING TO TIDELAND FORD. WHEN SHE WENT TO HAVE HER OIL CHANGED SHE RAN INTO A WOMAN SHE KNEW. DOESN'T FEEL COMFORTABLE DOING THIS. IF ANYONE ELSE WANTED HER TO SHE WOULD FIND SOMEONE ELSE TO DO THIS.

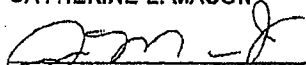
SHE BROUGHT UP HAVING THREE PEOPLE GO TO THE OTHER STORES AND HAVE THEIR OIL CHANGED AND THE RESPONSE BACK ON A SURVEY.

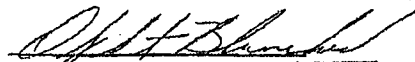
SPOKE ABOUT NATIONAL ACCOUNTS AND THE POSSIBILITY OF DOING ADD-ONS TO THESE ACCOUNTS.

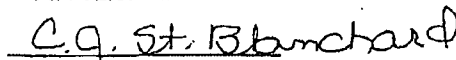
MEETING WAS ADJOURNED.


JOSEPH E. MASON SR


CATHERINE L. MASON


JOSEPH E. MASON JR
PRESIDENT


OSWALDO J. ST. BLANCHARD
VICE-PRESIDENT


CATHERINE J. ST. BLANCHARD

PLTF000166

SECR/TREAS

PLTF000167

MASON TIRE & AUTO SERVICE INC.

MEETING WAS CALLED ON AUGUST 29TH, 2001 AT 8:00 A.M. AT THE HOME OF MR. AND MRS. J.E. MASON, SR.

IN ATTENDANCE WERE:

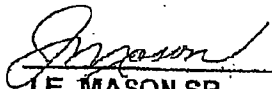
J.E. MASON SR
CATHERINE L MASON
J.E. MASON JR.
CATHERINE J. ST. BLANCHARD
OZ J. ST. BLANCHARD
IRWIN LEVINE, CPA

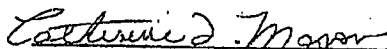
JUNIOR OPENED THE DISCUSSION TO THE MEETING BEING HELD ON AUGUST 30TH PERTAINING TO THE 401K PROGRAM FOR OUR EMPLOYEES. OPEN FOR DISCUSSION WERE QUESTIONS THAT BOTH JUNIOR OR IRWIN COULD ANSWER.

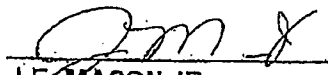
DISCUSSION ALSO FOCUSED ON THE 401K FOR THE HOLDING COMPANY ESPECIALLY FOR J.E. MASON JR., AND OSWALDO J. ST. BLANCHARD.

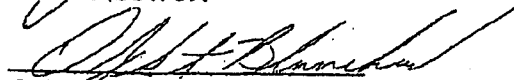
J.E.MASON SENIOR ALSO DISCUSSED POSSIBLY PUTTING INTO EFFECT HIS RETIREMENT/BUY OUT AGREEMENT.

MEETING WAS ADJOURNED.

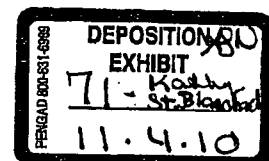

J.E. MASON SR


CATHERINE L. MASON


J.E. MASON JR


OSWALDO J. ST. BLANCHARD


CATHERINE J. ST. BLANCHARD



PLTF000168

STATE OF SOUTH CAROLINA)
COUNTY OF HORRY)

STOCK PURCHASE AGREEMENT

This Agreement is made this _____ day of _____, 200____, by and between Joseph E. Mason, Sr. and Catherine L. Mason hereinafter together and jointly referred to as the "Seller" and Mason Holding Company, Inc., hereinafter referred to as the "Purchaser" or the "Corporation", with reference to the following facts:

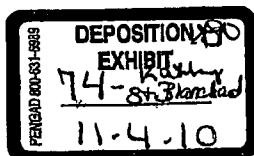
- a. Seller now owns 680 shares of the outstanding stock of the Corporation, the same representing 68% percent of all of the outstanding shares of stock;
- b. Seller desires to sell said shares of stock and the Purchaser desires to purchase such shares of stock upon the terms and conditions set forth hereinbelow;

Therefore, for valuable consideration, the receipt and sufficiency of which is acknowledged by each party to the other, the parties agree as follows:

1. Stock Purchase. Purchaser shall purchase from the Seller 680 shares of stock of the Corporation representing 68% percent of the outstanding shares of the Corporation. Seller hereby warrants that said stock is free and clear of all liens and encumbrances and is not the subject of any pledge or other obligation.

2. Consideration. The consideration for the shares being conveyed pursuant to this Agreement shall be the sum of \$1,360,000 together with the indemnifications and other mutual promises and covenants set forth hereinbelow.

a. The purchase price shall be paid under a Promissory Note (hereinafter, "the Note") in 240 equal, consecutive, monthly installments of principal in the amount of \$5,666.67 each, together with an additional amount for interest in the amount of \$866.67 per



PLTF000338
- 794 -

month, for a total monthly payment of \$6,533.34. The first such installment shall be due on _____ with a payment due on the same day of each month thereafter for 240 consecutive months. The Promissory Note shall be in a form acceptable to the Seller.

b. A corporate guarantee of payment and performance of the Note, all closing documents, and all security agreements shall be delivered at closing by Mason Holding Company, Inc. The corporate guarantee required hereunder shall be in such form as is acceptable to Seller.

c. A pledge of the shares of stock being conveyed by the Seller to the Purchaser shall be provided to the Seller pursuant to a Pledge Agreement to be in a form acceptable to Seller.

3. Corporate Position. Joseph E. Mason, Sr. and/or Catherine L. Maon shall continue to serve, if they so elect, as officers and/or directors of the Corporation. The Corporation, and its individual shareholders who have signed this Agreement hereinbelow, agree, covenant, ratify and affirm that Joseph E. Mason, Sr. and Catherine L. Mason, or the survivor or designee of them, shall maintain 68% of the control of all shareholder or other voting rights relative to the Corporation until the fifth anniversary of the execution of this Agreement. Upon said fifth anniversary date, said 68% control of voting rights shall be reduced to 33 1/3% control of voting rights until such time as all of Seller's 680 shares are purchased and the Note referenced in Paragraph 2.a., or any replacement or renewal thereof, is fully paid and satisfied. If requested by any party, all outstanding shares of the Corporation shall be marked in their margins with an endorsement referencing this Agreement.

4. Acceleration of Payment Upon Sale: Should more than a 49% interest in the Corporation be sold in the aggregate or cumulatively by any shareholder or shareholders, by the

Corporation, or should the Corporation sell in the aggregate or cumulatively more than 49% of the market value or the book value of its assets, the entire balance due the Seller under the Note shall be immediately paid by the Corporation.

5. Consultantship: Until all sums are paid to the Seller under the Note, or any renewal or replacement thereof, Joseph E. Mason, Sr. shall be employed by the Corporation as a consultant at a salary to be determined at the discretion of the Board of Directors of the Corporation at the end of each calendar year, together with all benefits outlined in Exhibit A attached hereto and incorporated herein by reference.

6. Effective Date and Closing: The effective date and the closing of the transactions contemplated by this Agreement shall be _____, 200__.

7. Closing:

a. Place: The closing of the stock sale shall take place at the Offices of Kelaher, Connell & Connor, P.A. at 1500 U.S. Highway 17 North, Suite 209, The Courtyard, Surfside Beach, South Carolina 29575, on December 31, 2001.

b. Delivery of Stock Certificates: At the closing, the Seller shall deliver to the Purchaser, free and clear of all liens and encumbrances, certificates for the shares to be sold by the Seller, in negotiable form, with Seller's signature endorsed thereon.

c. Delivery of Purchaser's Documents: At the closing, the Purchaser shall deliver to the Seller such sums of money (in certified funds), documents, acknowledgments and representations as may be required by this Agreement.

d. Memorandum of Closing: On the day of the closing, the parties shall execute, if requested by any party, a Memorandum of Closing which shall state the events that occurred at the closing. All transactions at the closing shall be considered to take place

simultaneously. No delivery shall be considered to be made until all transactions are completed.

8. Documents to be Delivered by Seller at Closing: The documents set forth below shall be delivered by the Seller to the Purchaser at the closing:

a. Stock Certificates representing all of the outstanding common stock owned by the Seller as to the corporation.

b. Any other instruments or documents which are required to fulfill the obligations of the Seller under this contract.

9. Documents to be Delivered by Purchaser at Closing: The documents set forth below shall be delivered by the Purchaser to the Seller at the closing:

a. A "Promissory Note" as described in Paragraph 2.a. above.

b. A Pledge Agreement as described in Paragraph 2.c. above.

c. The Corporate Guarantee of Mason Holding Company, Inc. as set forth in Paragraph 2.b. above.

d. Any other instruments or documents which are required to fulfill the obligations of the Purchaser under this contract.

10. Counsel: This document has been prepared by Kelaher, Connell & Connor, P.C. as attorneys for the Corporation. All parties are encouraged to seek legal counsel and financial counsel of their own choice before executing this Agreement. Kelaher, Connell & Connor, P.C. does not undertake individual representation of any of the parties hereto with respect to the subject matter hereof.

11. Waiver of Right of Refusal. The undersigned shareholders of the Corporation hereby acknowledge and ratify the within Agreement and waive any preemptive rights or rights of refusal they may have as to the Corporation's stock owned by Seller, so long as the same

is transferred pursuant to this Agreement.

12. Indemnification: The Purchaser/Corporation, as well as the undersigned Stockholders individually, jointly and severally, shall indemnify and hold the Seller harmless from any and all obligations, claims, demands, and liabilities of any type or kind, including, but not limited to, those relative to any local, state or federal tax matters. Such indemnification shall include any attorney's fees or Court costs incurred by the Seller as a result of any such liabilities, claims, or demands, or relative to any enforcement by the Seller of any of the provisions of this Agreement or any documents to be delivered at closing.

13. Binding Effect: This contract shall be binding upon the heirs, executors, administrators and assigns of the parties hereto.

14. Captions: The heading, captions or subheadings of paragraphs contained herein are used for convenience and reference and shall not limit or expand the scope or intent of the paragraph.

15. Entire Agreement. This is the entire agreement between the parties hereto with respect to the subject matter hereof. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective heirs, successors and assigns.

16. Notices: All notices and correspondence shall be sent by either party to the other and all matters dealing with this Agreement to the following addresses:

Seller:

Joseph E. Mason, Sr. and Catherine L. Mason
2121 Deerfield Avenue
Myrtle Beach, SC 29575

Purchaser:

Mason Holding Company, Inc.
750 Highway 17 North
Surfside Beach, SC 29575

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be signed on the day and year first above mentioned.

WITNESSES:

SELLER:

Joseph E. Mason, Sr.

Catherine L. Mason

PURCHASER:
MASON HOLDING COMPANY, INC.

By: _____

Its: _____

Attest: _____

Its: _____

SHAREHOLDERS:

Joseph E. Mason, Jr., individually

Oswaldo J. St. Blanchard, individually

Kathy St. Blanchard, individually

As to the Corporate Guarantee of
Paragraph 2.b. hereinabove
MASON HOLDING COMPANY, INC.

By: _____

Its: _____

Attest: _____

Its: _____

EXHIBIT A

1. Life insurance shall be provided by the Corporation to Joseph E. Mason, Sr. and Catherine L. Mason as currently exists on this date.
2. Health insurance and a Medicare supplement shall be provided by the Corporation to Joseph E. Mason, Sr. and Catherine L. Mason equivalent to the coverage provided to him or her on this date.
3. A gasoline credit card without limit, but to be reasonably used, shall be provided by the Corporation to Joseph E. Mason, Sr. and Catherine L. Mason.
4. A corporate credit card, with a \$200.00 per month limit, shall be provided by the Corporation to Joseph E. Mason, Sr.
5. The Corporation shall provide complete car maintenance for any corporate and personal vehicle used or owned by Joseph E. Mason, Sr. or Catherine L. Mason.
6. A cell phone shall be provided by the Corporation to Joseph E. Mason, Sr. with a usage/service plan equivalent to that provided to him on this date.
7. A nursing care policy shall be provided by the Corporation to Joseph E. Mason, Sr. and Catherine L. Mason equivalent to the coverage provided to him on this date.
8. The Corporation's Certified Public Accountant shall prepare all personal annual returns for Joseph E. Mason, Sr. and Catherine L. Mason at the Corporation's expense.
9. The Corporation shall provide maintenance services for the personal residence, and the landscaping thereof, of Joseph E. Mason, Sr. and Catherine L. Mason.
10. The Corporation shall provide a vehicle, and payment of all operating, insurance, taxation, maintenance and repair expenses therefor, to Joseph E. Mason, Sr. Said vehicle shall be the vehicle currently provided to Joseph E. Mason, Sr. or any equivalent quality replacement therefor.

KELAHER, CONNELL & CONNOR, P.C.

ATTORNEYS AT LAW
SUITE 209
THE COURTYARD
1500 U.S. HIGHWAY 17 NORTH
P. O. DRAWER 14547
SURFSIDE BEACH, SOUTH CAROLINA 29587

EDWARD T. KELAHER
GENE M. CONNELL, JR.
L. SIDNEY CONNOR, IV
LISA POE DAVIS

February 18, 2002

AREA CODE 843
238-5648
FAX: 238-5050

Mr. Joseph E. Mason, Sr.
Ms. Catherine L. Mason
2121 Deerfield Avenue
Myrtle Beach, SC 29575

Mr. Joseph E. Mason, Jr.
Ms. Kathy St. Blanchard
Mr. Oswaldo J. St. Blanchard
MASON TIRE & AUTO SERVICE
750 Highway 17 North
Surfside Beach, SC 29575

RE: Stock Purchase Agreement between Mason Holding Company, Inc./Purchaser and Joseph E. Mason, Sr. and Catherine L. Mason/Sellers

Dear Friends:

I received a telephone call from Erwin Levine, CPA, who has reviewed my most recent draft of the Stock Purchase Agreement. He requested that some changes be made regarding the treatment of interest in Paragraph 2.a., and regarding the manner in which consulting fees would be paid under Paragraph 5. I have made all of the changes he requested and I am sending a new draft to you with this letter for your review. I would request that Joe, Sr. forward a copy of this draft to Erwin to be sure that I have completed the changes according to his expectations.

Please understand that I am representing Mason Holding Company, Inc. regarding this transaction and, although each of you may have individually contacted me from time to time with information to put into the Agreement, you must each seek separate legal or accounting advise as you may deem appropriate. I only represent the corporation and I am ethically under a conflict of interest to undertake representation of any person or persons among you.

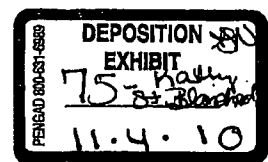
Let me know if you need my help further. I would be glad to hear from you.

Warmest regards,

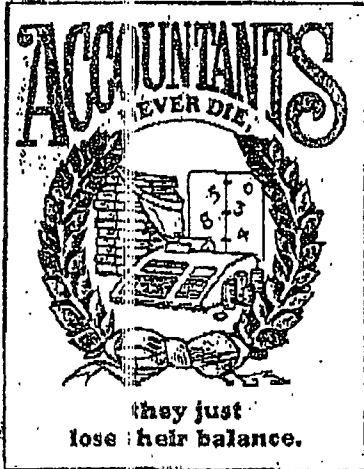


Edward T. Kelaher

ETK:smt
Enc.



PLT**881**00065



IRWIN H. LEVINE & ASSOC., P.A.
TAXES - ACCOUNTING SERVICES
1747 Van Buren Street - Suite 950
Hollywood, FL 33020
Phone: (954) 922-1444 • Fax: (954) 922-2770

FAX TRANSMITTAL SHEET

DATE: 3-26-02 NO OF SHEETS: 2
(including this cover sheet)

TO: Cathy

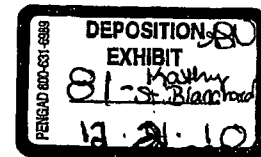
RE: END OF YEAR EVALUATION

FAX NO. 843-238-8506

FROM: IRWIN

The information contained in this fax is intended only for the personal and confidential use of the designated recipient(s) named above. This message may be attorney-client communication and, as such, is privileged and confidential.

If received in error, any review, distribution, dissemination, or copying of this communication is strictly prohibited.



May-26-02 10:07A

P.02

48-600 Eye Photo
45-303 2 Pack
Made in USA

MISSION TIME & AUTO SERVICE
END OF YEAR EVALUATION
6/1/2001

Prepared By
Approved By

1	WINTER BENCH				
2	BOOK VALUE 12-31-01			4200	
3	NET INCOME	10,300	10,300		
4	10 TIMES		10 X	103,000	
5					107,200
6					
7	WINTER BENCH				
8	BOOK VALUE 12-31-01			15,800	
9	ADD: PARTS & UNDEVELOPED			25,000	
10	ADD NET INCOME	9,250	9,250		
11	ADD PARTS	10,000	10,000		
12		10	10		
13				200,000	
14					215,800
15					
16	PAINTS & SUPPLIES				
17	BOOK VALUE 12-31-01			24,500	
18	WINTER BENCH			50,000	
19	NET INCOME	12,800	12,800		
20	ADD: PARTS	10,000	10,000		
21		10	10		
22				200,000	
23					214,500
24					
25	SUPPLIES				
26	BOOK VALUE			20,000	
27	ADD: GOODWILL			40,000	
28	ADD: UNDEVELOPED			20,000	
29	ADD: INCOME	5,000	5,000		
30	NET INCOME	5,000	5,000		
31	ADD: PARTS	20,000	20,000		
32		70,000	70,000		
33				176,000	
34	PAINTS & SUPPLIES				
35	NET INCOME	100,500	100,500		
36	ADD: INCOME	100	100		
37		100,700	100,700		
38		10	10		
39					100,700
40					302,500

JM-D JH-B

KELAHER, CONNELL & CONNOR, P.C.

ATTORNEYS AT LAW

SUITE 209

THE COURTYARD

1500 U.S. HIGHWAY 17 NORTH

P.O. DRAWER 14947

SURFIDE BEACH, SOUTH CAROLINA 29587

EDWARD T. KELAHER
GREG M. CONNELL, JR.
L. SIDNEY CONNOR, IV
LISA FOR DAVIS

August 2, 2002

AREA CODE 843
238-5648
FAX: 238-5050

MEMORANDUM

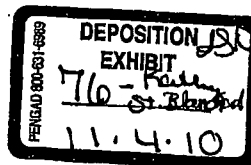
TO: FILE; 200-0615K - Mason Tire & Auto

FROM: Ed Kelaher

RE: Stock Purchase Agreement

I spoke to Irwin Levine today who is the CPA for the Masons (954-922-1444). Irwin explained to me that he has some very particular concerns as to how the transaction should be completed between and among the Mason family as Joe, Sr. retires. Irwin's objective is to be smart about tax issues while still completing the intentions of the parties. Nonetheless, he indicates, and I agree with him, that there will be some measure of trust among family members as things cannot be absolutely "locked down" without forming the sort of iron clad agreements which would trigger tax liabilities. Here's what Irwin had to say:

1. His first objective is to get 50% of the stock in the hands of Joe, Jr. and Kathy over a five year span. Joe owns 680 shares of 1000 which are outstanding. Thus, if Joe, Sr. gives Joe, Jr. and Kathy 180 of his shares, Joe, Sr. will be left with 500 shares and Joe, Jr. and Kathy will have the other 500 shares together with Ozzie.
2. Irwin's proposal to move the 50% interest is for Joe, Sr. to give Joe, Jr. and Kathy the 180 shares over five years at a rate of 36 shares per year with 18 shares going to each child.
3. At the end of five years, Joe, Sr. would still own 500 shares which would thereafter be transferred to Joe, Jr. and Kathy as the years roll on; however, the delay in transferring the shares would not prejudice Joe, Jr. or Kathy because they would already have control of the corporation as of the fifth year.
4. By implementing the strategy outlined above, the shares would essentially be "gifted" to Joe, Jr. and to Kathy under such values and tax basis amounts which are comfortable to Irwin as the CPA for the corporation.



August 2, 2002
Page 2

5. This then leaves the issue of compensation for Joe, Sr. Irwin has specified that there should be a separate employment contract for twenty years by which Joe, Sr. is an employee of the corporation at a salary of \$5,666.67 per month which is \$68,000 per year. The benefits for Joe, Sr. would be those listed in Exhibit A to the Stock Purchase Agreement previously drafted which we will no longer use in any shape or form whatsoever.
6. Irwin's strategy in making Joe, Sr. an employee is to avoid any possibility that Joe, Sr. will be considered an independent contractor who would owe self employment tax to the government. Further, Irwin wishes to avoid anything which would upset Joe's social security income and Irwin feels that this arrangement will be proper in that regard. He takes into consideration that Joe, Sr. will be 70 years old on June 7, 2003.
2.000.21
7. Irwin indicated that Cathy Mason should be a party to the employment agreement such that she would become the consultant should Joe, Sr. pass away prior to the expiration of the employment agreement. Upon the death of both Joe, Sr. and Cathy Mason, the employment agreement would, of course, be terminated.
8. Although a self employment tax would be avoided by making Joe, Sr. an employee instead of an independent contractor, the corporation would have to pick up such social security taxes and other withholding taxes on the \$68,000 salary.
9. Thus, the \$68,000 per year will be the subject of income tax rather than capital gain tax. This part confused me because the capital gain taxes are so much less than income taxes; however, I understand that Irwin is juggling issues of self employment tax, social security income preservation, gift taxes, and other matters relative to these complex transactions.
10. The employment contract would state that the full amount due for the full twenty years would become immediately due and payable upon any sale of the corporation's assets. It is here that the principals of the corporation need to make a decision. Would such an acceleration of payment be upon the sale of all of the assets, or only upon the sale of the Surfside location, or upon some other triggering sale?
11. Irwin and I discussed how any arrangement short of a pure sale has some elements of trust involved as the payment of salary under the employment agreement cannot be made a condition of the transfer of stock under the gift declaration or, as a matter of taxation, we will merely be creating the same tax consequence as if we had designed a straight up sale of stock for cash.

This memo should be circulated among the shareholders of the corporation and, upon instructions from the corporation to our firm as its legal counsel, we can prepare the documents as may be directed.

MASON TIRE & AUTO SERVICE, INC.

STOCKHOLDERS MONTHLY MEETING HELD AUGUST 14, 2002 AT 7:00 PM AT
MASON TIRE & AUTO, SURFSIDE LOCATION

STOCKHOLDERS IN ATTENDANCE:

J.E. MASON SR
CATHERINE L MASON
J.E. MASON JR
CATHERINE J ST. BLANCHARD
OZ J. ST. BLANCHARD

JOE JR., OPENED THE MEETING BY READING THE FOLLOWING MONTHS MINUTES.

FLOOR OPEN FOR DISCUSSION, JUNIOR OPENED FLOOR.

JR., WENT OVER EXPENSES 2001 VERSES 2002. EXPLAINED WHY DIFFERENCES IN
EXPENSES FOR ACCOUNTS. WENT OVER ALL FOUR LOCATIONS.

SENIOR TOOK OVER FLOOR AND FEELS HE ISN'T GETTING WHAT HE WANTS OUT
OF THESE MEETINGS. FROM NOW ON HE WILL SUBMIT QUESTIONS THAT HE AND
CATHERINE L. MASON HAVE A WEEK PRIOR TO SCHEDULED MEETING AND THOSE
QUESTIONS WILL BE ADDRESSED AT THE MEETING. HE WANTS JUNIOR TO PLAN
THE MEETING THE WEEK AFTER RECEIVING THE P&L FOR THE LAST MONTH WHICH
IS USUALLY AFTER THE THIRTEENTH.

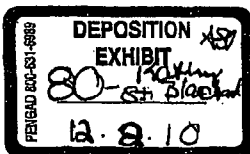
SENIOR WANTS SUGGESTIONS ON CAPPING SALARIES. WANTS ALL TO THINK OF
THIS AND SEE IF WE CAN COME UP WITH AN IDEA. SPOKE ABOUT OBTAINING
HIGHER SALARY PEOPLE BUT DIFFICULT WITH THREE FAMILIES TAKING LARGE
INCOMES.

CATHERINE MASON ASKED ABOUT CAPPING GASOLINE AND WANTS IDEAS ON
THIS EXPENSE. FEELS IT IS TOO HIGH.

SENIOR SPOKE ABOUT SURFSIDES SERVICE DEPARTMENT FLOOR. STILL IN THE
PROCESS OF GETTING IDEAS ON EXACTLY WHAT TO DO.

SPOKE ABOUT FRANKIES SITUATION AND SEE WHAT IDEAS THEY HAD IN CASE
FRANKIE OR MIKE WERE TO LEAVE.

JUNIOR TOOK FLOOR AGAIN AND SPOKE ABOUT THE PARTS INVENTORY. HOW



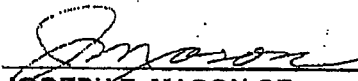
PLTF000197
- 806 -

IRWIN WOULD LIKE US TO BRING IT DOWN. SPOKE ABOUT PUTTING THE 401K BACK INTO PLAY. CATHERINE & JOSEPH MASON WOULD GET BACK WITH US WITHIN ONE WEEK WITH A DECISION ON THIS.

JUNIOR TALKED ABOUT THE DEBIT TO EQUITY RATIO WITHIN THE COMPANIES AND ALL LOOKS FINE.

NO MORE BUSINESS, MEETING WAS ADJOURNED

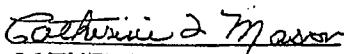
MEETING WAS ADJOURNED.


JOSEPH E. MASON SR

→ 
CATHERINE L. MASON


JOSEPH E. MASON JR
PRESIDENT


OSWALDO J. ST. BLANCHARD
VICE-PRESIDENT

→ 
CATHERINE J. ST. BLANCHARD
SECR/TREAS

11/10/2009 18:58 8435928928

THOMPSON HENRY

PAGE 16/23

KELAHER, CONNELL & CONNOR, P.C.

ATTORNEYS AT LAW
SUITE 209
THE COURTYARD
1500 U.S. HIGHWAY 17 NORTH
P.O. DRAWER 14547
SURFSIDE BEACH, SOUTH CAROLINA 29587

EDWARD T. KELAHER
GENE M. CONNELL, JR.
L. SIDNEY CONNOR, IV
LISA POE DAVIS

November 8, 2002

AREA CODE 843
238-5618
FAX: 238-5050

Mr. Joseph E. Mason, Sr.
Ms. Catherine L. Mason
2121 Deerfield Avenue
Myrtle Beach, SC 29575

Mr. Joseph E. Mason, Jr.
Ms. Kathy St. Blanchard
MASON TIRE & AUTO SERVICE
750 Highway 17 North
Surfside Beach, SC 29575

RE: Lease Agreements

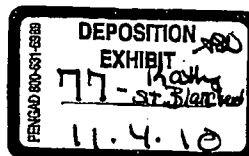
Dear Friends:

After meeting with Joe, Sr., Joe, Jr., and Irwin Levine, CPA, I have followed the instructions given me and I have prepared the documents which are enclosed with this memo as the attorney for the Corporation. Being the attorney for the Corporation, I am not the attorney for any of the individuals involved in this transaction. Each of you are specifically advised to seek your own legal and financial counseling as you may determine best.

The documents I have prepared are unusual. I have not done documents in this form at any time previously in my practice and I am not able to tell you if you will be achieving your goals as a tax matter or as a legal matter. For example, the questions surrounding the gift letter include the possibility that the Internal Revenue Service, or some other taxing authority, may or may not see this transaction as a "gift". Likewise, a court of law may or may not enforce the gift letter in one direction or the other. The inclusion of the right to appoint certified public accounts in the gift letter may help to make it enforceable, but by the same token it may serve to have the gift letter declared as something other than a "gift". I don't know that any lawyer could tell you with certainty how these issues would turn out in the future, but it is important that you know where you stand in any event. Certainly you should seek legal and financial counseling on these points.

Similarly, I have prepared the Employment Agreement in accordance with your instructions. I would also caution you that the employee benefits included in the Agreement may or may not be considered as taxable compensation in the future and you should seek professional advice concerning that point as well.

The Pawleys Island property has been made the subject of two leases, one for the building and one for the land. I have never done this before in my 22 years of practice and it is my professional opinion that buildings and land both comprise what we call "real property". I cannot say with certainty how this may be viewed by a court in the future, nor can I entirely



Levine Resp. to D's 1st RPD
00345

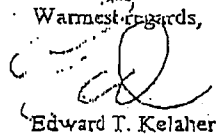
- 808 -

November 8, 2002
Page 2

predict the possible outcomes flowing from this structure. Please note that the real property is owned by Catson, L.L.C. and not by Joseph E. Mason, Sr. and Catherine L. Mason.

Please let me know of any changes you would like to have made in the documents before execution and I will deliver a new draft or drafts to you.

Warmest regards,



Edward T. Kelaher

ETK:smt
Enc.

EMPLOYMENT AGREEMENT

This Agreement is made and entered into as of the 31st day of December 2002, by and between Mason Tire & Auto Service, Inc., a South Carolina corporation, hereinafter called the "Corporation", and Joseph E. Mason Sr. and/or Catherine L. Mason, hereinafter called the "Employee".

WHEREAS, Joseph E. Mason, Sr. and Catherine L. Mason have elected to reduce and diminish their respective roles in the Corporation, but still desire to assist the Corporation in its efforts to be successful; and

WHEREAS, the Corporation and Joseph E. Mason, Sr. and Catherine L. Mason deem it appropriate to enter into an Employment Agreement to ensure the services of the Masons and to ensure proper compensation and understanding of the relationship which will hereafter exist; and

WHEREAS, the Corporation desire the consulting services of either Joseph E. Mason, Sr. and Catherine L. Mason, without a substantial preference, such that the Corporation and the Masons wish to make this Employment Agreement "joint" as to the Masons to the extent that either could serve as "Employee" hereunder at the discretion of the Masons from time to time; and

WHEREAS, the within Agreement is written in the singular using the term "Employee" and masculine pronouns, but the same are to be understood to be singular or plural as the Masons may determine and all pronoun references shall be conformed to Joseph E. Mason, Sr. or Catherine L. Mason, as may be appropriate and relevant from time to time;

NOW, THEREFORE, in consideration of the covenants herein contained and the monies to be paid hereunder, the parties agree to the following terms and conditions:

1. Employment. The Corporation hereby employs the Employee, and the Employee hereby agrees to such employment, on the terms and conditions described in this Agreement. The Employee is being employed directly by the Corporation as a salaried employee who will be compensated for the services rendered as herein provided.

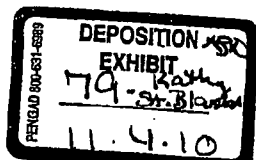
2. Duties and Performance. During the term of this Agreement, the Employee agrees to devote his best efforts to perform, on a part-time or full-time basis as Employee may deem necessary, consultant services toward the efficient and profitable operation of the Corporation.

3. Compensation.

A. Base Salary. During the term of this Agreement, the Corporation shall pay to the Employee (Joseph E. Mason, Sr. and Catherine L. Mason, jointly), as compensation for the Employee's services hereunder, a base salary of Ten Thousand Four Hundred and No/100 Dollars (\$10,400.00) per year (the "Annual Base Salary"), which Annual Base Salary shall be payable in twelve (12) consecutive equal monthly installments of Eight Hundred Sixty-Six and 66/100 Dollars (\$866.66) each.

B. Employee Benefits. The Employee shall have such employee benefits as are listed on Exhibit A attached hereto and incorporated herein by reference.

4. Term of Agreement. The obligations of the parties hereunder shall commence on January 1, 2003, and end on December 31, 2022 unless extended by the written agreement of both parties hereto. Further, this Agreement shall terminate upon the sale by the now existing shareholders of the Corporation of all of their capital stock as may be outstanding at the time of such sale. Further,



this Agreement shall terminate upon the Corporation selling substantially all of its assets and goodwill. Additionally, this Agreement shall terminate at the discretion of Joseph E. Mason, Sr. and/or Catherine L. Mason at any time.

5. Covenant Not to Compete. Employee hereby agrees that during the term of Employee's employment by Corporation and for a period of thirty-six (36) months from the date of termination of such employment, the Employee will not, directly or indirectly, own, manage, operate, join, control or participate in the ownership, management, operation or control, of or be connected with, in any manner, any automobile or tire-related business, of any type or kind whatsoever, within fifty (50) miles of the Corporation's business on U. S. Highway 17, Surfside Beach, South Carolina. The Employee agrees that the remedy at law for any breach by the Employee of the foregoing will be inadequate and that Corporation shall be entitled to injunctive relief. If any provisions of this paragraph shall be held invalid, the Employee agrees that such provisions shall be severed and the balance thereof shall remain valid and enforceable. In the event that a court of competent jurisdiction determines that the scope of business restricted or the time or geographic limitations imposed are too broad to be capable of enforcement, the Employee agrees that such court may ignore such provisions and instead enforce the provisions as to such scope, time and geographical area as the court deems proper.

6. Invalid Provision. The invalidity or unenforceability of a particular provision of this Agreement shall not affect the other provisions hereof, and the Agreement shall be construed in all respects as if such invalid or unenforceable provisions were omitted.

7. Modification. No change or modification of this Agreement shall be valid unless in writing and signed by the parties hereto.

8. Applicable Law and Binding Effect. This Agreement shall be governed by and interpreted under the laws of the State of South Carolina, and shall inure to the benefit of and be binding upon the parties hereto and their heirs, personal representatives, successors and assigns. Venue for any action or proceeding arising out of this Agreement shall lie in Horry County, South Carolina.

IN WITNESS WHEREOF, the undersigned have hereunto executed this Agreement on the date set forth above.

Signed, sealed and delivered
in the presence of:

Mason Tire & Auto Service, Inc.

By: J. M. - J.

Its: C. J. St. Blanchard

Joseph E. Mason, Sr.

Catherine L. Mason

EXHIBIT A

1. Health insurance and a Medicare supplement shall be provided by the Corporation to Joseph E. Mason, Sr. and Catherine L. Mason equivalent to the coverage provided to him or her on this date.
2. A gasoline credit card without limit, but to be reasonably used, shall be provided by the Corporation to Joseph E. Mason, Sr. and Catherine L. Mason.
3. A corporate credit card, with a \$200.00 per month limit, shall be provided by the Corporation to Joseph E. Mason, Sr.
4. The Corporation shall provide complete car maintenance for any corporate and personal vehicle used or owned by Joseph E. Mason, Sr. or Catherine L. Mason.
5. A cell phone shall be provided by the Corporation to Joseph E. Mason, Sr. with a usage/service plan equivalent to that provided to him on this date.
6. A nursing care policy shall be provided by the Corporation to Joseph E. Mason, Sr. and Catherine L. Mason equivalent to the coverage provided to him on this date.
7. The Corporation's Certified Public Accountant shall prepare all personal annual returns for Joseph E. Mason, Sr. and Catherine L. Mason at the Corporation's expense.
8. The Corporation shall provide maintenance services for the personal residence, and the landscaping thereof, of Joseph E. Mason, Sr. and Catherine L. Mason.
9. The Corporation shall provide a vehicle, and payment of all operating, insurance, taxation, maintenance and repair expenses therefor, to Joseph E. Mason, Sr. Said vehicle shall be the vehicle currently provided to Joseph E. Mason, Sr. or any equivalent quality replacement therefor.

*Joseph E. Mason, Sr.
Catherine L. Mason
2121 Deerfield Avenue
Myrtle Beach, SC 29575*

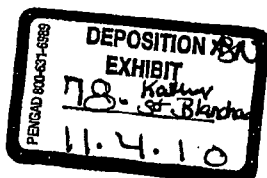
January 1, 2003

Mr. Joseph E. Mason, Jr.
Kathy St. Blanchard
c/o Mason's Tire & Auto Service
750 U. S. Highway 17 North Business
Surfside Beach, SC 29575

Dear Jay and Kathy:

Please let this letter stand as our promise, commitment, and absolute and unfailing word that we will make a gift to you as follows:

1. Beginning on or before December 31, 2002, and continuing on or before the same date of each of the years 2003, 2004, 2005, and 2006, we will be delivering to you, as an absolute gift, 36 shares of stock per year of Mason Holding Company, Inc., with each of you to receive 18 of such shares comprising an equal half.
2. Beginning on or before December 31, 2007, and on or before the same date of each of the years 2008, 2009, 2010 and 2011, we will be delivering to you, as an absolute gift, 100 shares of stock per year of Mason Holding Company, Inc., with each of you to receive 50 of such shares comprising an equal half.
3. If either of us should die before the completion of these gifts, we pledge absolutely that the other will and shall make such gifts to you to the completion of the schedule of gifts outlined above.
4. If we should both die before the completion of the gift schedule outlined above, all of said stock will be provided to you absolutely under the terms of our wills or other estate documents.
5. However, the gifts set forth above are made upon the specific condition that Joseph E. Mason, Sr. and Catherine L. Mason, or the designee or survivor of them, shall retain full voting rights equal to the percentage shares we may own, from time to time or 33 1/3% voting rights, whichever is greater, until all gifts made hereunder are completed.



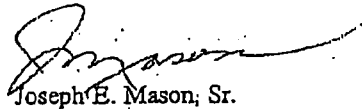
PLT800068

Page Two

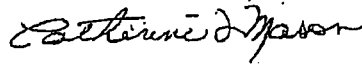
In exchange for these gifts, you must, at this time, grant us irrevocably, or the survivor of us, the right to designate the certified public accountant to be used by Mason Holding Company and each of you until such time as the schedule of gifts is completed.

Please know that we want you to have the absolute assurance, reliance, and guarantee that these gifts will be made as scheduled now that you have given us the right to designate a certified public accountant or accounts as set forth hereinabove.

Sincerely yours,

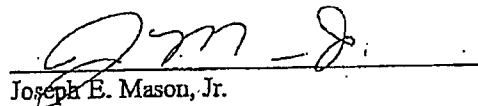


Joseph E. Mason, Sr.

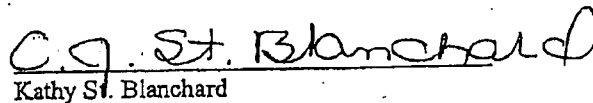


Catherine L. Mason

THE TERMS AND CONDITIONS OF THE GIFT LETTER SET FORTH HEREINABOVE ARE ACKNOWLEDGED, UNDERSTOOD, AND FULLY ACCEPTED. THE RIGHT TO DESIGNATE THE CERTIFIED PUBLIC ACCOUNTANT OF MASON HOLDING COMPANY AND/OR FOR OURSELVES IS HEREBY GRANTED TO JOSEPH E. MASON, SR. AND/OR CATHERINE L. MASON, OR THE SURVIVOR OF THEM, PURSUANT TO THE TERMS SET FORTH ABOVE.



Joseph E. Mason, Jr.



Kathy St. Blanchard

PLT8000069

STATE OF SOUTH CAROLINA)
COUNTY OF GEORGETOWN)

BUILDING LEASE AGREEMENT

This Lease Agreement is entered into this 1st day of January, 2003, by and between Catson, L.L.C., a South Carolina Limited Liability Company, hereinafter referred to as "LESSOR" and MASON TIRE, hereinafter referred to as "LESSEE".

WITNESSETH:

In consideration of the covenants and agreements hereinafter set forth to be kept and performed by the parties hereto, the Lessor hereby leases unto the Lessee, and the Lessee hereby leases from the Lessor, the premises hereinafter described, and upon the terms and conditions set forth herein.

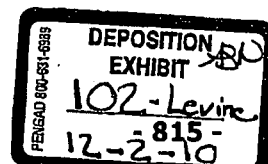
1. Description of the Leased Property: The Lessor hereby leases to the Lessee the following real property:

ALL AND SINGULAR that certain piece, parcel of lot of land situate, lying and being in Pawleys Island, Georgetown County, South Carolina, and being more particularly described as parcel Five-A (5-A) of True Blue Plantation, as shown on a plat prepared for Joseph E. Mason, Sr. and Catherine L. Mason by Beasley Land Surveying, Inc. dated March 19, 1996 and recorded on March 26, 1996 in Plat Slide 15 at Page 805, records of the RMC for Georgetown County.

This Lease Agreement concerns the building and improvements upon the subject property described hereinabove and not the land which is leased under a separate Lease Agreement dated this same date.

2. Term: The term of this Lease shall be for a nineteen (19) year period, commencing on January 1, 2003 and terminating on December 31, 2021.

3. Rent: The Lessee shall pay to the Lessor the annual rent amount of Ninety Thousand and No/100 (\$90,000.00) Dollars in lawful money of the United States, in equal monthly



installments of Seven Thousand Five Hundred and No/100 (\$7,500.00) Dollars in advance, on the first day of each term month throughout the term of this Lease. The first such payment of monthly rent shall be due upon the execution hereof with a like amount being due on the same day of each month hereafter throughout the initial term of this lease, subject to any provisions related to in the extended terms which may be set forth hereinbelow. The rent shall be payable at the address set forth for notices hereinbelow by the Lessor or at such other place as the Lessor may designate in writing.

4. Condition of Property: At the commencement of the term, the Lessee shall accept the leased premises in its existing condition. No representation, statement, or warranty, expressed or implied, has been made by or on behalf of the Lessor as to such condition, or as to the use that may be made of the subject property. In no event shall the Lessor be liable for any defect in such property or for any limitations on its use.

This Lease is made by the Lessor and accepted by the Lessee subject to the following:

- a. Rights of tenants, licensees, concessionaires, or occupants in possession.
- b. Any state of facts that an accurate survey or inspection would show.
- c. Any presently existing condition of title, easement, covenant, encumbrance, restriction, mortgage, agreement and lien affecting the leased property.
- d. All zoning regulations affecting the leased property now or hereafter in force.
- e. Restrictive covenants and party wall agreements of record.
- f. Encroachment of the leased property on any street or on adjacent property.
- g. Projection of any portion of the leased property or equipment in or under any abutting street and the right of any governmental authority to require the removal thereof.
- h. All ordinances, statutes and regulations and any presently existing violations thereof whether or not of record.

i. The existing condition and state of repair of the leased property.

5. Quiet Enjoyment: The Lessee, upon payment of the rent due, and upon the due performance of all the terms, covenants, and condition contained within this Lease, shall and may at all times during the term hereof granted, including any extensions, peacefully and quietly enjoy the leased premises, subject to the terms and conditions of this Lease.

6. Taxes: Lessee, in addition to the fixed rent, shall pay all taxes and assessments upon the leased property, and upon the buildings and improvements thereon, which are assessed during the lease term. All taxes assessed prior to but payable in whole or in installments after the effective date of the lease term, and all taxes assessed during the term but payable in whole or in installments after the lease term, shall be adjusted and prorated, so that the Lessor shall pay its prorated share for the period prior to and for the period subsequent to the lease term, and the Lessee shall pay its prorated share for the lease term. The Lessee shall furnish to the Lessor, within thirty days after the date any amount is payable by the Lessee, official receipts of the appropriate taxing authority or other proof satisfactory to the Lessor evidencing payment.

7. Personal Property Taxes: Lessee shall be responsible for all personal property taxes relating to the business or property of the Lessee.

8. Operational Expenses: The Lessee shall be responsible for all operational expenses incurred in connection with the use of the leased premises, including all business licenses, utilities, and any and all other similar charges, fees and assessments.

9. Fire and Extended Coverage Insurance: Lessee shall, throughout the term of this Lease, for the benefit of both Lessor and Lessee as named insureds, maintain insurance against loss or damage by fire, and such other risks and hazards as are insurable under present and future standard forms of fire and extended coverage insurance policies, in an amount sufficient to prevent

the Lessor from becoming a co-insuror under the terms of the applicable policies, but, in any event, in an amount not less than the full insurable value as determined from time to time. The term "full insurable value" shall mean actual replacement cost without deduction for physical depreciation. Such insurance shall be issued by a company licensed to do business in the State of South Carolina. The policy shall provide that not less than ten days prior to the expiration of any such policy, evidence of the renewal of such policy, or a new certificate, together with evidence of payment of premiums for the renewal period or insurance policy, as the case may be, shall be delivered to the Lessor. Such insurance shall further contain an agreement by the insurance company that the policy shall not be cancelled or the coverage changed without ten days' prior written notice to Lessor.

The Lessee shall be responsible for obtaining, if desired, insurance regarding Lessee's personal property and contents. Lessee shall accept such insurance proceeds as may flow from said policy as payment in full for any loss or damage to Lessee's property, or to go without compensation if Lessee elects not to purchase such insurance, and not to make claim against, or seek to recover from Lessor, any other sum for such loss or damage, whether or not the loss or damage was due to the negligence of the Lessor.

10. Liability Insurance: Lessee shall, at its own expense, during the term hereof, maintain and deliver to Lessor public liability and property damage and plate glass insurance policies with respect to the demised premises, in which both Lessor and Lessee shall be named as insureds, with limits of at least Five Hundred Thousand and No/100 (\$500,000.00) Dollars for injury or death to any one person and One Million and No/100 (\$1,000,000.00) Dollars for any one accident, and Two Hundred Fifty Thousand and No/100 (\$250,000.000) Dollars with respect to damage to property and with full coverage for plate glass. Such policies shall be in such form and with such insurance companies as shall be reasonably satisfactory to Lessor with provisions for at

least ten days' notice to the Lessor of cancellation. The policy shall further provide that no less than ten days prior to the expiration of such policy, evidence of renewal of such policy or a new certificate, together with evidence of payment of premiums for the renewal period or insurance policy, as the case may be, shall be delivered to the Lessor. At least ten days before the expiration of any such policy, Lessee shall supply the Lessor with a substitute therefor with evidence of payment of the premiums thereof. If such premium shall not be so paid and/or the policies therefor shall not be so delivered, then Lessor may procure and/or pay for the same, and the amount so paid by the Lessor, with interest thereon at a rate of 14% per annum from time of payment, shall be added to the installment of rent next due and shall be collected as an additional charge.

11. Possession: Lessee shall be entitled to possession of the demised premises upon the date referenced herein for the commencement of the lease term provided that Lessee has fulfilled all obligations required of the Lessee as of said date.

12. Maintenance and Repairs: The Lessee shall, at its own expense, make all repairs and replacements to the leased property, both interior and exterior, including, but not limited to, all pipes, heating systems, plumbing systems, windows, fixtures, sidewalks, curbs and paving. Such repairs and replacements, interior and exterior, ordinary as well as extraordinary, and structural as well as non-structural, shall be made promptly as and when necessary. All repairs and replacements shall be in quality and class at least equal to the original work. Upon default of the Lessee in making such repairs and replacements, the Lessor may, but shall not be required to, make such repairs and replacements for the Lessee's account, and the expense thereof shall constitute and be collectible as additional rent.

13. Surrender of Premises: The Lessee shall on the last day of the term or upon the sooner termination thereof, peaceably and quietly surrender the leased property to the Lessor,

broom clean, including all buildings, alterations, rebuildings, replacements, changes or additions placed by the Lessee thereon, in as good condition and repair as at the commencement of the term, and as any new buildings, structures, replacements, additions or improvements constructed, erected, added or placed thereon by the Lessee are, when completed, natural wear and tear excepted. Should any personal property of the Lessee remain on the demised premises after the termination of this Lease, the Lessor shall be entitled to remove such fixtures or property from the leased property and store them at Lessee's risk and expense. The Lessee shall repair and restore, and hold the Lessor harmless from all damage to the leased property caused by such removal whether by the Lessee or the Lessor.

14. Inspection: Lessor shall be entitled to come upon and inspect the subject premises at any reasonable time.

15. Utilities: The Lessee shall be responsible for the payment of its own utilities and services such as, but not limited to, water, heat, gas, electricity, telephone, cable television and sewage charges. Lessee shall further be responsible for any deposits which may be required by utility companies regarding any such services.

16. Risk of Loss: No destruction or damage to any building or improvement on the leased property by fire, windstorm or any other casualty shall entitle the Lessee to surrender possession of the leased property, to terminate this Lease, to violate any of its provisions, or to cause any rebate or abatement in rent then due or thereafter becoming due under the terms hereof. In the event of damage to or destruction of the leased property by fire or other casualty, the Lessee at its sole expense, shall promptly restore the leased property as nearly as possible to its condition prior to such damage or destruction. All insurance proceeds received by the Lessor pursuant to the provisions of this Lease, less the costs, if any, of such recovery, shall be paid over to the Lessee and

applied by the Lessee to the payment of such restoration. If the insurance proceeds exceed such costs, the excess shall be retained by the Lessor.

17. Condemnation: If the whole of the leased property, or such portion thereof as will make the leased property unsuitable for the purposes leased, is condemned for any public use or purpose by any legally constituted authority, then in either of such events this Lease shall cease from the time when possession is taken by such public authority and rental shall be accounted for between the Lessor and the Lessee as of the date of the surrender of possession. Such termination shall be without prejudice to the rights of either the Lessor or the Lessee to recover compensation from the condemning authority for any loss or damage caused by such condemnation. Neither the Lessor nor the Lessee shall have any rights in or to any award made to the other by the condemning authority.

18. Memorandum of Lease: Lessor and lessee shall execute, acknowledge and deliver at any time after the date of this Lease, at the request of the other, a short form Lease suitable for recording.

19. Right of First Refusal: If Lessor shall receive from any third party, other than one controlled by Lessor's principal shareholder, if Lessor be a corporation or member of Lessor's immediate family as shareholder or general partner, an acceptable bona fide offer to purchase the premises, Lessor shall submit a written copy of such offer to Lessee providing Lessee thirty days within which to elect to meet such offer. If Lessee elects to meet such offer, it shall give Lessor written notice thereof, and settlement shall be had within ninety days thereafter, whereupon Lessor shall convey to Lessee a good and marketable title to the premises free and clear of all liens and encumbrances. Upon Lessee's failure to meet such bona fide offer within thirty days after notice thereof from Lessor, the Lessor shall be free to sell the premises or any portion thereof to such third

person in accordance with the terms and conditions of said offer.

20. Default: Each of the following events shall constitute a default or breach of this Lease by Lessee:

- a. If Lessee, or any successor or assignee of Lessee while in possession, shall file a petition in bankruptcy or insolvency or for reorganization under any bankruptcy act, or shall voluntarily take advantage of any such act by answer or otherwise, or shall make an assignment for the benefit of creditors.
- b. If involuntary proceedings under the Bankruptcy Law or Insolvency Act shall be instituted against Lessee or if a receiver or Trustee shall be appointed of all, or substantially all, of the property of Lessee, and such proceedings shall not be dismissed or the receivership or the trusteeship vacated within thirty (30) days after the institution or appointment.
- c. If Lessee shall fail to perform or comply with any of the conditions of this Lease and the non-performance shall continue for a period of thirty (30) days after notice thereof by Lessor to Lessee.
- d. If Lessee shall vacate or abandon the premises.

In the event of any default hereunder as set forth above, the rights of Lessor shall be as follows:

- a. Lessor shall have the right to cancel and terminate this Lease, and this Lease shall terminate in the same manner and with the same force and effect, as if the termination date had been reached.
- b. Lessor may elect, but shall not be obligated, to make any payment required of Lessee herein, or comply with any agreement, term or condition required hereby to be performed by Lessee, and Lessor shall have the right to enter the demised premises for the purpose of correcting or remedying any such default and remain until the default has been corrected or remedied. Any expenditure for the correction by Lessor shall not be deemed to waive or release the default of Lessee, or the right of Lessor to take any action as may be otherwise permissible herein in the case of default.
- c. Lessor may re-enter the premises immediately and remove the property of Lessee, and store the property in a public warehouse or in a place selected by Lessor, at the expense of Lessee. On termination, the Lessor may recover from Lessee all damages resulting from the breach, including the cost of recovering the premises which shall be immediately due Lessor from lessee.

- d. After re-entry, Lessor may re-let the premises or any part thereof, for any term, without terminating the Lease, at the rent and on the terms the Lessor may choose.
- e. After re-entry, Lessor may procure the appointment of a Receiver to take possession and collect rents and profits of the business of Lessee.

21. Indemnification: Lessee shall hold the Lessor harmless and indemnified at all times against any loss, damage, cost, expense or liability, including attorney's fees, resulting to any person or property by reason of any use which may be made of the leased premises or any part thereof, or by reason of any act or thing done or made to be done in, upon or about the leased premises or any part thereof. If any person shall institute an action against Lessee in which the Lessor shall be made a party defendant, Lessee shall indemnify and save Lessor harmless from all liabilities by reason thereof, including reasonable attorney's fees and all costs incurred by Lessor for such action. If any action be brought to recover any rental under this Lease, for or on account of any breach or to enforce or interpret any of its terms, covenants or conditions, or for the recovery of the possession of the premises, the Lessor shall be entitled to recover from the Lessee, as a part of Lessor's cost, a reasonable attorney's fee, as well as court costs.

22. Severability: If any provision of this instrument or the application thereof to any person or circumstance, shall to any extent be invalid or unenforceable, the remainder of this instrument or the application of such provision to persons or circumstances other than those as to which it is invalid or unenforceable shall not be affected thereby, and each provision of this instrument shall be valid and enforced to the fullest extent permitted by law and equity.

23. Waiver: The failure of the Lessor to complain of any act or omission on behalf of the Lessee, no matter how long the same shall continue, shall not be deemed a waiver by said Lessor of any of the rights granted to the Lessor pursuant to this agreement. No waiver by the

Lessor, at any time, expressed or implied, of any breach of any provision of this Lease shall be deemed a waiver of a breach of any other provision of this Lease or consent to any subsequent breach of the same or any other provision.

24. Governing Law: This Lease shall be governed exclusively by the provisions hereof and by the laws of the State of South Carolina. This agreement shall not be construed against either party in favor of the other party as a result of the preparation thereof.

25. Captions: The captions in this Lease are for convenience only and are not a part of this Lease and do not in any way limit or amplify the terms and conditions of this Lease.

26. Notices: All notices to be given by Lessor shall be in writing, and delivered in person to Lessee or deposited in the United States mail, certified or registered, with postage prepaid, and addressed to the Lessee at:

c/o Masons Tire & Auto Service, Inc.
750 U. S. Highway 17 North Business
Surfside Beach, SC 29575

All notices to be given by Lessee to Lessor shall be in writing and delivered in person to Lessor or deposited in the United States mail, certified or registered, with postage prepaid, and addressed to the Lessor at:

2121 Deerfield Avenue
Surfside Beach, SC 29575

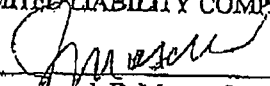
27. Binding Effect: This Lease Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective heirs, successors, legal representatives and assigns.

28. Entire Agreement: This instrument contains the entire and only agreement between the parties, and no oral statements or representations or prior written matter not contained within this instrument shall have any force and effect. This Lease shall not be modified in any way except by a writing executed by both parties.

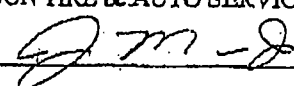
IN WITNESS WHEREOF, the parties have executed this Lease Agreement at Surfside
Beach, South Carolina on the day and date first above written.

IN THE PRESENCE OF:

LESSOR:
CATSON, L.L.C., A SOUTH CAROLINA
LIMITED LIABILITY COMPANY

By: 
Joseph E. Mason, Sr.
Its: Manager/Member

LESSEE:
MASON TIRE & AUTO SERVICE, INC.

By: 
Its: _____

STATE OF SOUTH CAROLINA)
COUNTY OF HORRY) PROBATE

Personally appeared before me the first witness above who, being duly sworn, deposes and says that (s)he saw the within named Lessor, sign, seal and deliver the within written Lease Agreement, and that (s)he, along with the other witness above, witnessed the execution thereof.

SWORN to before me this

____ day of _____, 200__.

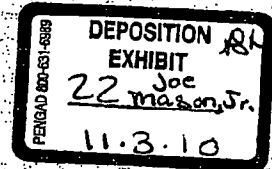
(L.S.)

Notary Public for South Carolina

My Commission Expires: _____

Form A293

PROMISSORY NOTE



\$ 220,000.00

Dated JUNE 1st, 2003

Principal Amount

State of SOUTH CAROLINA

FOR VALUE RECEIVED the undersigned hereby jointly and severally promise to pay to the

Dollars (\$ 220,000.00) together with interest thereon at the rate of PRIME PLUS 1% per annum on the unpaid balance. Said sum shall be paid in the manner following:

- (A) FULL PRINCIPAL BALANCE DUE JUNE 1st, 2023
- (B) PRINCIPAL PAYMENTS MADE PRIOR TO JUNE 1st, 2023 MUST BE APPROVED BY MAJORITY OF DIRECTORS

All payments shall be first applied to interest and the balance to principal. This note may be assigned or transferred without endorsement. All payments shall be applied to the principal of maturity.

This note shall at the option of any holder hereof be immediately due and payable upon the failure to make any payment when due.

In the event this note shall be in default and placed with an attorney for collection, then the undersigned agree to pay all reasonable attorney fees and costs of collection. Payment not made within five (5) days of the date shall be subject to a charge of 5% of said amount. All payments hereunder shall be made to such address as may from time to time be designated by any holder hereof.

The undersigned hereby agree to remain fully bound hereunder until this note is paid in full and until the holder hereof shall receive all notices thereof and further agree to remain bound, notwithstanding any extension, renewal, modification, waiver, or other indulgence by any holder or upon the discharge or release of any obligation hereunder or to this note, or upon the exchange, substitution, or release of any collateral granted as security for this note. No modification or indulgence by any holder hereof shall be binding unless in writing and any indulgence on any one occasion shall not be an indulgence for any other or future occasion. Any modification or change of terms hereunder granted by any holder hereof, shall be valid and binding upon each of the undersigned, notwithstanding the acknowledgement of any of the undersigned and each of the undersigned does hereby irrevocably grant to each of the others a power of attorney to enter into any such modification on their behalf. The rights of any holder hereof shall be cumulative and not necessarily successive. This note shall take effect as a sealed instrument and shall be construed, governed and enforced in accordance with the laws of the State first appearing at the head of this note. The undersigned hereby warrant this note as principal and not as sureties.

Signed in the presence of

MASON TIRE AND AUTO SERVICE, INC.

Witness

Witness

JOSEPH MASON, JR. PRESIDENT

Witness

Witness

OSWALDO J. ST. BLANCHARD VICE PRES

Form A293

PROMISSORY NOTE

\$ 220,000.00

Dated: JUNE 1ST, 2003 .19

Principal Amount

State of SOUTH CAROLINA

FOR VALUE RECEIVED, the undersigned hereby jointly and severally promise to pay to the order of JOSEPH MASON, JR.

the sum of

Dollars (\$ 220,000.00

), together with interest thereon at the rate of PRIME⁺ PLUS 1% per annum on the unpaid balance. Said sum shall be paid in the manner following:

- (A) FULL PRINCIPAL BALANCE DUE JUNE 1st, 2023
 (B) PRINCIPAL PAYMENTS MADE PRIOR TO JUNE 1st, 2023 MUST BE APPROVED BY MAJORITY OF DIRECTORS

All payments shall be first applied to interest and the balance to principal. ~~This note may be prepaid at any time in whole or in part without penalty. All prepayments shall be applied in the order of maturity.~~

~~This note shall be the option of any holder hereof to immediately due and payable upon the first or any subsequent day of default in payment of any installment of principal or interest.~~

In the event this note shall be in default, and placed with an attorney for collection, then the undersigned agree to pay all reasonable attorney fees and costs of collection. Payments not made within five (5) days of due date shall be subject to a late charge of $\frac{1}{2}$ % of said payment. All payments hereunder shall be made to such address as may from time to time be designated by any holder hereof.

The undersigned and all other parties to this note, whether as endorsers, guarantors or sureties, agree to remain fully bound hereunder until this note shall be fully paid and waive demand, presentment and protest and all notices thereto and further agree to remain bound, notwithstanding any extension, renewal, modification, waiver, or other indulgence by any holder or upon the discharge or release of any obligor hereunder or to this note, or upon the exchange, substitution, or release of any collateral granted as security for this note. No modification or indulgence by any holder hereof shall be binding unless in writing; and any indulgence on any one occasion shall not be an indulgence for any other or future occasion. Any modification or change of terms, hereunder granted by any holder hereof, shall be valid and binding upon each of the undersigned, notwithstanding the acknowledgment of any of the undersigned, and each of the undersigned does hereby irrevocably grant to each of the others a power of attorney to enter into any such modification on their behalf. The rights of any holder hereof shall be cumulative and not necessarily successive. This note shall take effect as a sealed instrument and shall be construed, governed and enforced in accordance with the laws of the State first appearing at the head of this note. The undersigned hereby execute this note as principals and not as sureties.

Signed in the presence of:

MASON TIRE AND AUTO SERVICE INC.

Witness

Borrower

JOSEPH MASON, JR. PRESIDENT

Witness

Borrower

OSWALDO J. ST. BLACHARD VICE-PRES

GUARANTY

We the undersigned jointly and severally guaranty the prompt and punctual payment of all monies due under the aforesaid note and agree to remain bound until fully paid.

In the presence of:

Witness

Borrower

Witness

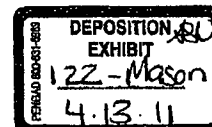
Borrower



© E-Z Legal Forms. Before you use this form, read it, fill in all blanks, and make whatever changes are necessary to your particular transaction. Consult a lawyer if you doubt the form's fitness for your purpose and use. E-Z Legal Forms and the retailer make no representation or warranty, express or implied, with respect to the merchantability of this form for an intended use or purpose.

(Revised 3/93)

Run - 28146



MASON TIRE & AUTO SERVICE, INC.

STOCKHOLDERS MONTHLY MEETING HELD NOVEMBER 15TH, 2005 AT 4:00 AT MASON TIRE & AUTO SURFSIDE LOCATION.

STOCKHOLDERS IN ATTENDANCE:

JE. MASON SR
CATHERINE L. MASON
JE MASON JR
CATHERINE J ST. BLANCHARD
IRWIN LEVIN, CPA

OPENING DISCUSSION HELD BY CATHERINE J. ST. BLANCHARD. SHE DISCUSSED THE MEETING HELD BETWEEN HER AND JE MASON JR EARLIER THAT MORNING AT 9:00.

THEY DISCUSSED THE FOLLOWING ISSUES WITH AGREEMENT ON ALL:

*RESPONSIBILITY OF OFFICERS THAT DISABILITY INSURANCE WAS NEVER ISSUED, ALWAYS DISCUSSED BUT, ALWAYS SAID TO BE ANSWER AT A LATER DATE.

*TALKED ABOUT THE ISSUANCE OF DISABILITY INSURANCE OF JE. MASON JR., TO BENEFIT THE CORPORATION

*DISCUSSED ALL DEDUCTIONS THAT CATHERINE J. ST. BLANCHARD HAS OCCURED SINCE THE ACCIDENT OF HER HUSBAND.

*DISCUSSED THE POSSIBILITY OF CATHERINE WORKING FULL TIME. EXPLAINED AT THIS TIME BETWEEN MY OWN RESPONSIBILITIES, TAKING OVER SANDRAS FULL-TIME JOB WOULD BE TOO MUCH AT THIS TIME. I DID EXPLAIN THIS IS A GOAL I WOULD LIKE TO OBTAIN, BUT TOO MUCH ON MY PLATE AT THIS TIME. POSSIBLY TALK AGAIN IN THREE MONTHS.

*SPOKE ABOUT THE POSSIBILITY OF OSWALDO ST. BLANCHARD COMING BACK TO WORK FOR A FEW HOURS A DAY, STILL IN BEGINNING STAGES OF DISCUSSION, GET BACK AT LATER DATE

*THE FOLLOWING WILL NOT BE CHANGED FOR CATHERINE ST. BLANCHARD FOR THE YEAR OF 2005:

SALARY

INTEREST IN PROMISSARY NOTE

RENT INCOME NMB

AFLAC TO RETAIN THE SAME (LOOKING INTO FAMILY POLICY)

EXTRA MONEY TO BE DIVIDED EQUALLY -ALL-

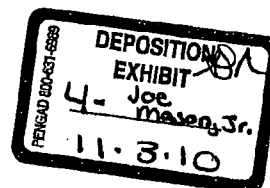
*THE FOLLOWING WILL CHANGE FOR THE YEAR OF 2005:

MONEY IN THE HOLDING COMPANY WILL BE DIVIDED EQUALLY AND THEN I WILL GIVE JE. MASON, JR AN EXTRA \$10,000.00 *ie 30,000 KAT 50,000 JE JR Jdm*

CATHERINE ST. BLANCHARD & J.E. MASON JR AGREED ON THE FOLLOWING ALSO: *CM. CORB DLS*

*THE NEXT GOODYEAR TRIP WILL BE J.E. MASON JR. AND THEN ROTATION WILL START AGAIN FOR CATHERINE ST. BLANCHARD

*GAS CARD TWO FOR ALL FAMILIES



*MAINTANCE FOR ALL FAMILIES, ONE FOR COMPANY CAR AND ONE PERSONAL.

FOR THE YEAR OF 2006 THE FOLLOWING CHANGES WILL ONLY TAKE PLACE:

- *J.E. MASON SALARY WILL INCREASE TO \$110,000.00 DOLLARS + 4K + 4K TO J.E. MASON SR. + J.E. MASON JR. *J.E. Mason*
- *THE HOLDING COMPANY WILL BE DIVIDED EQUALLY AMONG CATHERINE J. ST. BLANCHARD & J.E. MASON JR. *COB*
- *EVERYTHING ELSE WILL REMAIN THE SAME AS IN 2005, PER ABOVE *OTB*
- *CATHERINE ST. BLANCHARDS SALARY WILL REMAIN THE SAME UNTIL SHE CHANGES HER HOURS AND THEN HER SALARY WILL BECOME NEGOTIABLE.

FLOOR OPENED FOR NEW DISCUSSION. CATHERINE MASON AND J.E. MASON DISCUSSED THEIR FEELINGS ON WORKING TOGETHER TO ALL OBTAIN THE SAME GOAL. THEY AGREED ON ALL AS LONG AS IT WAS A MUTUAL UNDERSTANDING.

CATHERINE MASON, OPENED DISCUSSION ON THE WORKMANS COMPENSATION CASE FOR OSWALD ST. BLANCHARD. J.E. MASON SR DISCUSSED HE WAS CALLED TO HIS DEPOSITION ON DECEMBER 2nd. J.E. MASON WAS THE ONE TO GIVE OSWALD THE DAY OFF TO DO PR WORK FOR THE COMPANY INCLUDING FREE OIL CHANGES AND SPEND THE DAY DOING PR WORK FOR MASON TIRE. J.E. MASON JR HAS NOT BEEN CALLED FOR A DEPOSTION AS YET. HE WAS WORKING THAT DAY OSWALDO WAS IN THE ACCIDENT, BUT WAS IN THE CORPORATE OFFICE UPSTAIR. HE KNEW OSWALD DOES THE PR WORK, BUT WAS NOT INVOLVED IN THE SATURDAY TOY RUN. J.E. MASON SR., HAD GIVEN OZ THE DAY OFF TO DO THE RUN AND THEN DO PR WORK. J.E. MASON ALONG WITH OTHERS AT GOODYEAR DID SEE HIM COME INTO WORK ON SATURDAY FOR BUSINESS CARDS AND FREE OIL CHANGES.

AFTER PRESENTING ALL AT MEETING, EVERYONE AGREED WITH CHANGES FOR THE PRESENT YEAR AND FOLLOWING. ANY CHANGES ARE OPEN FOR DISCUSSION DURING THE YEAR.

C. J. St. Blanchard
CATHERINE J. ST. BLANCHARD

J.E. Mason Jr.
J.E. MASON JR

J.E. Mason Sr.
J.E. MASON SR

Catherine L. Mason
CATHERINE L. MASON

Irwin Levine
IRWIN LEVINE

The Deposition of Joseph E. Mason, Sr.

Page 1

BEFORE THE
SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION
OSWALD ST. BLANCHARD, W.C.C. File No. 0422585
Employee/Claimant,
-vs-
MASON HOLDING COMPANY, INC., DEPOSITION OF:
Employer, JOSEPH E. MASON, SR.
and
ACE-USA,
Carrier,
Defendant.

DATE: Friday, December 2, 2003
TIME: 1:31 p.m.
LOCATION: Melsher, Connell & Connor, PC
1600 U.S. Highway 17 North
Surfside Beach, SC 29587
REPORTER: Ryan P. Alderman

COPY

RYAN P. ALDERMAN
Independent Court Reporter
178 Jansen Lakes Drive
Conway, SC 29526
Telephone: 843.971.5867 Fax: 843.971.6509

Page 3

It was stipulated by and between counsel
for the parties that this deposition is taken
for the purpose of discovery; that all
objections, save as to the form of the
question, are reserved until the time of trial;
that the deponent was explained his right to
read and sign the deposition and waived that
right.
(Joseph E. Mason, Sr., having been duly sworn,
testified as follows:)

DIRECT EXAMINATION BY MR. CONNELL

Q. As you know, this is being taken down, and it
may be used in a court proceeding at a later date. Of
course, you and I know each other. I've known you for
years. And you understand that the question's really
about Ozzie's situation?

A. Uh-huh.

Q. Tell us, if you would, your full name, please,
sir.

A. Joseph E. Mason, Sr.

Q. And what do you do for a living?

A. Well, I still work at Mason Tire. I'm the --
well, you can call it managing partner if you want, but
it's -- I'm the major stockholder. And I still work
there. I function as a commercial sales --

RYAN P. ALDERMAN
Independent Court Reporter
Tel: 843.971.5867 Fax: 843.971.6509

Page 2

*This transcript is proprietary and protected by
copyright laws. No part of it may be reproduced, stored
in a retrieval system, or transmitted in any form or by
any means, electronic, mechanical, photocopying,
recording, or otherwise, without written permission from
the court reporter.

APPEARANCES

For the Employee/Claimant: Melsher, Connell & Connor, PC
By: Gene M. Connell, Jr., Esq.
1600 U.S. Highway 17 North
Surfside Beach, SC 29587
For the Employer/Carrier: Young Clement Rivers, LLP
By: Amy S. Mathisen, Esquire
28 Broad Street
Charleston, SC 29401

INDEX TO EXAMINATIONS:

	Page
Direct Examination by Mr. Connell	03
Cross-Examination by Ms. Mathisen	11

INDEX TO EXHIBITS:

No exhibits were proffered during this deposition.

RYAN P. ALDERMAN
Independent Court Reporter
Tel: 843.971.5867 Fax: 843.971.6509

Page 4

Q. And how many stores do you all have?
A. Four.

Q. And is it -- what's the name of the
corporation? Is it called --

A. Well, actually we -- each, each store is a
separation corporation. Then we have a holding company,
and everything goes by Mason Holding Company.

Q. All right. Ozzie St. Blanchard is related to
you?

A. Correct.

Q. And how is he related to you?

A. Married to my daughter.

Q. And has he been employed with Mason Holding
Companies?

A. I think he started probably in 1988 or 7. When
I opened the store in '84, he was not married to my
daughter at that time. They got married. Once they got
married, he was part of the organization.

Q. All right. And how long has -- what is his --
what is his job title?

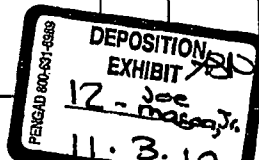
A. Vice president.

Q. All right. How long has he been vice
president?

A. Guess, top of the head, ten years.

Q. How long has he been working there?

RYAN P. ALDERMAN
Independent Court Reporter
Tel: 843.971.5867 Fax: 843.971.6509



The Deposition of Joseph E. Mason, Sr.

Page 5

1 A. Top of the head, 15 years, 16 years.
2 Q. Is he responsible for any promotional things?
3 A. Well, again, now, Ozzie is -- well, I call him
4 our PR man. I call him this only because no matter
5 where he goes or what he does, he's always talking about
6 Mason Tire; so that makes me say hey; you're my PR man.
7 And he gets involved, like this Toys for Tots and
8 different other things that we have in the organization.
9 He is the one that is usually -- heads up or what have
10 you. So yes to answer the question.
11 Q. And has he done tv commercials for you before?
12 A. Oh, yeah.
13 Q. And radio commercials?
14 A. He's done tv. He's done the radio. Both.
15 They have a slogan, Smokin' Joe and the Wizard of Oz.
16 And, of course, Ozzie is the Wizard of Oz.
17 Q. And you said something about the Toys for Tots.
18 On the day this accident happened in December, the 18th I
19 believe, last year, was he employed at Mason's?
20 A. Yes.
21 Q. And was he working or was he on the job for
22 Mason's on the day the accident happened?
23 A. Yes.
24 Q. And what was he doing if you would tell us,
25 please, sir?

RYAN P. ALDERMAN
Independent Court Reporter
Tel: 843.971.5867 Fax: 843.971.6509

Page 7

1 A. Yes.
2 Q. And had he done this in the past, worked at the
3 Toys for Tots?
4 A. I know he did it one other time a year ago, a
5 year before the accident. I know that for a fact.
6 Whether he did it before that, honestly I don't
7 remember.
8 Q. All right.
9 A. He could have. I just don't remember.
10 Q. And do you all have any, any records or minutes
11 of any meetings that would talk about him working --
12 A. What we'd do --
13 Q. Yes, sir. Or do you know?
14 A. Well, we do every time we have a meeting. Of
15 course, we have records of it, so. I don't know what it
16 is that you're after but --
17 Q. Whether or not he --
18 A. Well, they're --
19 Q. Whether or not the shareholders had
20 discussed --
21 A. Oh, it could have been. I don't -- again, I
22 don't remember. There may be at one of the meetings
23 where we discussed him doing this if that's what you
24 mean.
25 Q. All right.

RYAN P. ALDERMAN
Independent Court Reporter
Tel: 843.971.5867 Fax: 843.971.6509

Page 6

1 A. What was he doing when?
2 Q. I mean, what was he doing that day, that,
3 that --
4 A. Well, normally he would be in the store running
5 it 'cause it was on a Saturday, but he only came in to
6 get certificates that I wanted him to take with him on
7 his run for tots. So he came into the store to get the
8 certificates and some of the business cards; and then,
9 of course, he was gone, and we didn't see him the rest
10 of the day.
11 Q. All right. And are you talking about some free
12 certificates or something; is that what you mean by
13 that?
14 A. Yeah. We, we have a habit of giving out oil
15 change certificates, which are free, to golf courses,
16 different giveaways, and different clubs that come in
17 that want some freebies so -- so they can give them
18 away. He took those with him so that when he goes on
19 his Toys for Tots and he sees different people, he knows
20 where to handle it, who to give them to, and so forth,
21 again, because of Mason Tire.
22 Q. All right.
23 A. That's who we're trying to promote.
24 Q. Was he working that day when the accident
25 happened?

RYAN P. ALDERMAN
Independent Court Reporter
Tel: 843.971.5867 Fax: 843.971.6509

Page 8

1 A. That's possible.
2 Q. Was Mason's Tire -- was that -- were you all
3 actively involved in getting toys for the -- for the
4 Toys for Tots?
5 A. Oh, yeah. Yeah. We have -- I think it was the
6 Marine Corps that had the boxes; that you donate toys
7 and put them in boxes. We did that for the past few
8 years.
9 Q. And did you feel that that -- that his
10 involvement in that would promote the business and help
11 the business by being involved in the Toys for Tots?
12 A. Running the Toys for Tots, honestly I thought
13 that was part of his deal, --
14 Q. When you say --
15 A. -- what he was supposed to do.
16 Q. Part of his job?
17 A. Yeah. Yeah. Yeah. We got the boxes. We got
18 the toys, what have you. Roy, now everybody's taking
19 the toys or whatever they're doing. They're going down
20 to wherever they go. I can't answer it because I don't
21 know -- I don't even really know where they went.
22 Q. All right. And it's your testimony that he was
23 on the job working for Mason's Goodyear promoting on
24 that day?
25 A. Absolutely.

RYAN P. ALDERMAN
Independent Court Reporter
Tel: 843.971.5867 Fax: 843.971.6509

The Deposition of Joseph E. Mason, Sr.

Page 9

1 Q. And that he had done this in the past?
2 A. Yes.
3 Q. Now, his job as vice president, besides doing
4 the promotional work what other -- what other duties did
5 he have and responsibilities there?
6 A. Well, really, really a multitude because we're,
7 we're a close corporation. Consequently there's a lot
8 of things that he's involved in. He's involved in
9 running the store being that he's in our big store or
10 was at that time, so he would be responsible for running
11 the store. He'd be responsible for all the employees.
12 He'd be responsible for the -- partly for the
13 advertising. He'd be responsible for the financial end
14 of it. There's a multitude of things he would be
15 responsible for really, again, only because we're a
16 close, small corporation.
17 Q. Sure. Would you consider him to be one of your
18 trusted employees?
19 A. Oh, yeah.
20 Q. Did he do a good job for you?
21 A. Absolutely.
22 Q. Had he ever had another workers' comp claim
23 that you know of?
24 A. No.
25 Q. Have you been to see him recently?

RYAN P. ALDERMAN
Independent Court Reporter
Tel: 843.971.5867 Fax: 843.971.6509

Page 11

1 A. Couldn't handle it at home. She just couldn't
2 handle it period.
3 Q. All right. Do you know what his salary was at
4 the time of the collision a week?
5 A. He made more than I did, and that wasn't good.
6 I'm trying to figure this one out. Hold on a minute.
7 If I had to guess, --
8 Q. All right, sir.
9 A. -- 6,000 a month.
10 Q. All right. That's good enough. Okay, thank
11 you for coming. I don't have any questions of you
12 anymore.
13 A. Oh, that's it?
14 MS. MATHISEN: That's it. I might have a
15 few. Let me look back through my notes just
16 for one second.
17 (Whereupon there was a pause in the
18 proceedings.)
19 CROSS-EXAMINATION BY MS. MATHISEN:
20 Q. As far as the details of that day, you don't
21 know --
22 A. No.
23 Q. -- where they went and --
24 A. No, because see what, what I did at that
25 particular time is Ozzie, you're going on a run. Great.

RYAN P. ALDERMAN
Independent Court Reporter
Tel: 843.971.5867 Fax: 843.971.6509

Page 10

1 A. A couple days ago.
2 Q. All right. Now would you describe his, his
3 mental faculties now?
4 A. He comes and goes as far as, as that, yeah. He
5 comes and goes.
6 Q. And how about his physical capacity; how would
7 you describe that at this point? Is he --
8 A. Well, physically he's, he's nothing. I mean,
9 he's, you know, he's totally paralyzed. So if you ask
10 me that question, I don't know how to answer it other
11 than to say --
12 Q. That's fine.
13 A. -- he's, he's just there.
14 Q. And he is at National Healthcare?
15 A. Correct.
16 Q. And why, why is he there?
17 A. Mainly because to begin with they, they offered
18 physical therapy; so we thought it would be best to put
19 him in there and let him get this physical therapy,
20 which is something that he could not get at home. Plus
21 he has to be catheterized every four hours. He has
22 to -- I can get in to things I don't -- rather, rather
23 not get in to, but there's things that have to be done
24 with him that Cathy couldn't handle.
25 Q. All right.

RYAN P. ALDERMAN
Independent Court Reporter
Tel: 843.971.5867 Fax: 843.971.6509

Page 12

1 blah, blah, blah, blah, blah, blah. Make sure you get
2 the cards. Make sure you pick up the lube and oil
3 certificates because I, in my brain, I thought hey, this
4 is good. Get this out to all these people. You're
5 going to see -- some of them are going to like this or
6 remember us, blah, blah, blah. When you finish, drop
7 over to the house. Then we'll talk about it. And I
8 would have learned more then, but he never made it to
9 the house, so I don't know what happened.
10 Q. Where do you live?
11 A. I live in Deerfield.
12 Q. What's your address?
13 A. 2121 Deerfield Avenue.
14 Q. Okay. And it was a normal -- did he always
15 work Saturdays?
16 A. He kind of pick and choose, come and go
17 depending if -- if he doesn't want to work, he may turn
18 to me and say hey, do me a favor. I got to go somewhere
19 this Saturday. So I'll work for him this Saturday. But
20 to answer your question does he work every Saturday.
21 No.
22 Q. How many out of a month?
23 A. No way of knowing. I mean, I just have no way
24 of knowing.
25 Q. Okay. Would he have had to punch a time clock

RYAN P. ALDERMAN
Independent Court Reporter
Tel: 843.971.5867 Fax: 843.971.6509

The Deposition of Joseph E. Mason, Sr.

Page 13

1 or record any -- he just was on his own? He was a
2 manager?
3 A. He opened the store, he closed the store
4 normally, but he didn't have -- he didn't punch a clock.
5 Q. Were you in the store, the Surfside store, that
6 morning?
7 A. No, I was not.
8 Q. Okay. Do you know who would have been there?
9 A. That particular morning? You're going back a
10 year, and I don't think I can give you a real -- a real
11 answer. I may be wrong. I know -- I know a few people
12 that were there. I can give you their names. I know
13 Randy was there. I know Bruce was there. Other than
14 that, I really don't know. And these are people that
15 work in the store.
16 Q. Okay.
17 A. Not people that --
18 Q. Okay. Yeah, these are people in --
19 A. Yeah.
20 Q. -- physically inside, yeah. And as far as
21 minutes from shareholder meetings, I think that was
22 discussed briefly. Is that something that you could
23 produce if we needed it?
24 A. Well, I'm sure Cathy should be able to.
25 Q. Okay. When --

RYAN P. ALDERMAN
Independent Court Reporter
Tel: 843.971.5867 Fax: 843.971.6509

Page 13

1 A. I can't answer you.
2 Q. Okay. Now, as far as -- I know you talked
3 about the boxes in the stores for the Marines. Was that
4 something separate from the Toys for Tots?
5 A. Oh, yeah, that had nothing to do with Toys for
6 Tots.
7 Q. Okay.
8 A. It was -- I thought it was the Marines that put
9 it in, or then sometimes I thought it was the fire
10 department that put the boxes in there, and people would
11 just come in and donate toys. You know, and then when
12 they -- when the run. Toys for Tots, I associated that
13 with the boxes.
14 Q. Okay.
15 A. But I don't think it really -- it really was.
16 Q. It's not like Ozzie came into the store, picked
17 up the boxes of toys --
18 A. Oh, no. No. No. No, I'm not saying that he
19 couldn't have taken a toy with him out of the box. Now,
20 that I can't answer. I don't know.
21 Q. Okay. Are his hours documented or were his
22 hours documented in any way --
23 A. Uh-huh.
24 Q. -- as far as work hours?
25 A. Uh-huh. Just ask me. That's documentation.

RYAN P. ALDERMAN
Independent Court Reporter
Tel: 843.971.5867 Fax: 843.971.6509

Page 14

1 A. We're not the sharpest people in the world, but
2 we do keep some records. So I would say, you know, I
3 mean, if you were the IRS I would talk to you, telling
4 me different --
5 Q. Okay.
6 MR. CONNELL: Don't let him fool you. He's
7 got 5 or 6, I mean, 200 employees after that --
8 THE WITNESS: Oh, yeah.
9 BY MR. MATTHESEN:
10 Q. Now, as far as the details of that you knew he
11 was going on this run for Toys for Tots?
12 A. Yes.
13 Q. But didn't know the details about where it
14 started?
15 A. No.
16 Q. Where it ended?
17 A. No.
18 Q. If there was any after party?
19 A. To be honest with you, I don't even know what
20 Toys for Tots meant. I hate to say that.
21 Q. And I know you --
22 A. But Ozzie was the man. He knew.
23 Q. Okay. So didn't know about the details of that
24 day at all, what time it started, what time it ended, or
25 anything like that?

RYAN P. ALDERMAN
Independent Court Reporter
Tel: 843.971.5867 Fax: 843.971.6509

Page 15

1 Q. Okay. Other than your memory?
2 A. No. No.
3 Q. Do you have any record of any reimbursement
4 that was made to Ozzie?
5 A. I'm sorry?
6 Q. Any reimbursement made to Ozzie after the Toys
7 for Tots run or any donation of any --
8 A. Not that I know of. Again, being that who
9 Ozzie was, he was not an employee as such. If he was an
10 employee as such, then yes, I imagine you would turn in
11 something, whether -- and Ozzie may have. I don't know.
12 I'm talking out -- maybe would he get reimbursed for
13 what he did? Is that what you're asking me?
14 Q. Yes.
15 A. Sure, if he did something we would have
16 reimbursed him, or maybe he took it out of his pocket
17 and just did it. Because, again, he makes \$6,000 a
18 year (sic); and if he wants to forget and just straight
19 out gave a donation or something, that's his
20 prerogative, you know, without, without saying well,
21 hey, Goodyear, I just spent \$5.00. I want my money
22 back.
23 Q. Sure.
24 A. Now, he wouldn't have done that, no.
25 Q. But as far as if there was any reimbursement

RYAN P. ALDERMAN
Independent Court Reporter
Tel: 843.971.5867 Fax: 843.971.6509

The Deposition of Joseph E. Mason, Sr.

Page 17

1 made maybe in the year 2003 or 2004, there would be a
2 record of that or --

3 A. Should be if, if he -- if he ran it through the
4 company, yes.

5 Q. Okay.

6 A. Absolutely.

7 Q. That's all I have. Thanks.

8 (Deposition concluded at 1:48 p.m.)
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

RYAN P. ALDERMAN
Independent Court Reporter
Tel: 843.971.5667 Fax: 843.971.5509

Page 18

1 STATE OF SOUTH CAROLINA)
2) C-E-R-T-I-F-I-C-A-T-E
3 COUNTY OF HORRY)

4 I, Ryan P. Alderman, Court Reporter and Notary
5 Public, certify that I did have Joseph E. Mason, Sr., to
6 appear before me at 1:31 p.m. on Friday, December 2,
7 2005, at the law Offices of Kelaher, Connell & Connor,
8 PC, 1900 U.S. Highway 17 North, Surfside Beach, South
9 Carolina; that the witness was sworn and cautioned to
10 tell the truth, the pages constitute a true and accurate
11 transcript of the testimony given at that time and
12 place.

13 I further certify that I am not of counsel or kin
14 to any of the parties to this cause of action, nor am I
15 interested in any manner in its outcome.

16 IN WITNESS WHEREOF, I have hereunto set my hand and
17 seal this the 20th day of December, 2005.
18
19

20 Ryan P. Alderman
21 Notary Public for South Carolina
22 My Commission Expires: 06/01/2010
23
24
25

RYAN P. ALDERMAN
Independent Court Reporter
Tel: 843.971.5667 Fax: 843.971.5509

STANDARD JOURNAL TICKET

ISSUING LOCATION 9931
MASON TIRE & AUTO SERVICE
750 HIGHWAY 17 N

J.T. NO 014223

DATE 12/14/06 PAGE 1 OF 1
EMPLOYEE NO 16

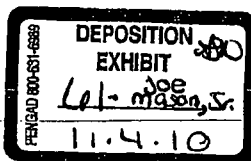
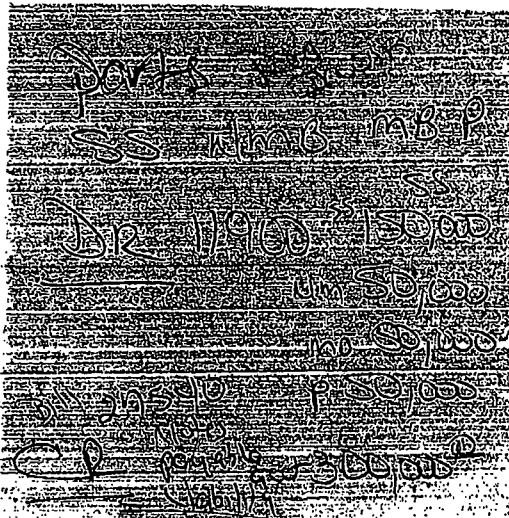
REASON FOR ISSUANCE
PER IRWIN NOTES PAYABLE TO JOE & KATHY

SURFSIDE BEACH SC
29575 (843) 238-3339

TERMINAL NUMBER	ACCOUNT CODE	ACCOUNTING CODE DESCRIPTION	DEBIT AMOUNT	CREDIT AMOUNT
9931	11900	INV SERVICE PARTS	150000.00	
7386	11900	INV SERVICE PARTS	50000.00	
7323	11900	INV SERVICE PARTS	50000.00	
1531	11900	INV SERVICE PARTS	50000.00	
9931	27540	JOE MASON JR & KATHY ST. BLANCHARD		300000.00
TOTAL			300000.00	300000.00

AUTHORIZED SIGNATURE _____

END OF LISTING



MASON TIRE
E. OF 15TH STOCK
2006

Prepared By	Initials	Date
Approved By		

© WILSON JONES G7503 ColumnWrite®

	1	2	3
1	<u>MASON TIRE - SURFSIDE</u>		
2	NET BOOK VALUE 12-31-06	454,000 -	454,000 -
3	ADD DEFERRED LIABILITIES	1,000 -	7,271,000 -
4	NET PROFIT	50,000	
5	ADD EXCESSIVE DEPRECIATION	1,000	1,000,000 -
6	DEFERRED LIFE INSURANCE	110,000 -	
7	1 DEFERRED DEPRECIATION	21,000 -	
8		85,000	
9	RATE OF RETURN 10%		8,500,000 -
10			
11	<u>NORTH MYRTLE BEACH</u>		
12	NET BOOK VALUE 12-31-06		204,800 -
13	NET PROFIT	19,255 -	2,111,000 -
14	RATE OF RETURN 10%		92,450 -
15			1,341,000 -
16			
17	<u>MYRTLE BEACH</u>		
18	NET BOOK VALUE - BEFORE PROFITS		85,000 -
19	NET PROFIT	39,421	
20	RATE OF RETURN 10% 39,421 =		394,210 -
21			
22			
23	<u>PAWLEY ISLAND</u>		
24	NET BOOK VALUE BEFORE PROFITS		156,039 -
25	NET PROFIT OPERATION	19,227	
26	ADD EXCESSIVE DEPRECIATION	10,000 -	
27	NET PROFIT	79,227	
28	RATE OF RETURN 10% 79,227		7,922,700 -
29			1,000,000
30			
31			
32	<u>HAWAII COMPANY</u>		
33	NET PROFIT FROM OPERATION	145,910	
34	10% PROFIT 145,910		1,459,100 -
35			
36			
37	<u>END OF 4TH COND. VALUE</u>		
38			1,000,000
39			
40			

DEPOSITION
EXHIBIT
105-Levine
12-3-10

SHAREHOLDER MANAGEMENT AGREEMENT

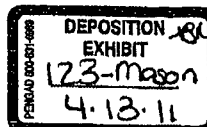
FOR

MASON HOLDING COMPANY, INC.

1. General. The business and affairs of the Corporation shall be managed by the undersigned shareholders who shall be invested with all corporate powers not expressly reserved by statute and the Articles of Incorporation.

2. Meetings of Shareholders. A meeting of the shareholders shall be held annually to elect the officers designated under this agreement and to transact other business as may properly come before the meeting. The annual meeting shall be held within four months after the close of the taxable year of the Corporation. If the Corporation shall fail to hold an annual meeting for a period of ten days after the time herein specified, a substitute meeting may be called by any shareholder. Notice of the annual meeting may be given in writing or by means of telephone within ten days of the meeting. If the Corporation shall fail to hold the annual meeting within four months and ten days after the close of its tax year, the officers then in office shall continue to serve until the next annual meeting of shareholders. Other meetings of the shareholders may be held upon a consent basis. A majority of the votes entitled to be cast on any matter, either in person or by proxy, shall constitute a quorum at any meeting of shareholders. Each outstanding share shall be entitled to one

1



vote on each matter submitted to a vote of the shareholders.

3. Board of Directors. Pursuant to the provision contained in its Articles of Incorporation, the shareholders have elected to conduct the business and affairs of the Corporation without a Board of Directors.

4. Officers. The officers of the Corporation shall be a President and a Secretary, each of whom shall be elected by the shareholders. Both offices may be held by the same person who may act in more than one capacity where action by two or more officers is required. The President shall preside at all meetings of the shareholders and shall sign, along with the Secretary, certificates for shares of the Corporation. The Secretary shall keep the minutes of the proceedings of the shareholders, shall be custodian of the corporate records and of the seal of the Corporation and shall sign, along with the President, certificates for shares of the Corporation. The President and Secretary shall perform such other duties as shall be authorized by the shareholders.

5. Contracts, Loans, Checks and Deposits. The President of the Corporation may enter into those contracts or execute and deliver those instruments in the name of and on behalf of the Corporation as are in the ordinary course of the Corporation's trade or business. No loans shall be contracted on behalf of the Corporation and no evidence of indebtedness shall be issued in its name unless authorized by a resolution of the shareholders. All checks, drafts or other orders for payment of

money, notes or other evidence of indebtedness issued in the name of the Corporation shall be signed by the President or the Secretary, or both, as shall be authorized by the resolution for checking duly filed with the principal depository of funds for the Corporation.

6. Amendments. This agreement may be amended by vote of the holders of the majority of the shares of the issued and outstanding common shares of the Corporation.

Dated: 4-6-07

DM - 2.
Shareholder

Catherine G. St. Blanchard
Shareholder

Catherine J. Mason
Shareholder

Mason
Shareholder

MASON TIRE & AUTO SERVICE, INC.

STOCKHOLDERS MONTHLY MEETING HELD MAY 2007 5:30 PM AT MASON TIRE & AUTO
SURFSIDE LOCATION.

STOCKHOLDERS IN ATTENDANCE:

JE. MASON SR
CATHERINE L. MASON
JE MASON JR
CATHERINE J ST. BLANCHARD
IRWIN LEVINE, CPA

OPENING DISCUSSION HELD BY;

THEY DISCUSSED THE FOLLOWING ISSUES WITH AGREEMENT TO ALL:

MEETING WAS OPENED BY CATHERINE MASON ST. BLANCHARD TO DISCUSS EQUALITY
AMONG THE PARTNERS AND THE ADMINISTRATIVE DUTIES AND HOW THE BOOKKEEPING
DEPARTMENT IS RUN PER IRWIN LEVINE.

IRWIN LEVINE, CPA FOR MASON TIRE SPOKE AND TOLD HIS OPIONION OF THE
BOOKKEEPING DEPARTMENT, "ALL IS RUNNING WELL," REPORTS ARE PERFORMED AT THE
PROPER TIME AND IRWIN FEELS THE BOOKKEEPING DEPARTMENT IS RUNNING BETTER
THAN EVER.

THE MEETING QUICKLY SHIFTED TOWARDS SANDRA AND HER ATTITUDE IN THE WORK
PLACE. CATHERINE MASON ST. BLANCHARD SAID SHE WOULD TRY AND WORK ON THIS.
ALL AGREED SANDRA DID NOT HAVE AN EVALUATION AND RAISED HER 50CENTS AND
ANOTHER 50 CENTS ONCE THE NEW STORE ON 544 OPENS.

CATHERINE TOOK THE FLOOR AGAIN ABOUT EQUALITY AMONG THE PARTNERS. SHE
DISCUSSED ONCE AGAIN HER EVALUATION TERMS WHEN SHE TOOK OVER FULL TIME. SHE
WAS COMPENSATED WITH 100 - PER PAY INCREASE.

AFTER PRESENTING ALL AT MEETING AGREED EXCEPT JOSEPH E. MASON, JR., DID NOT
VOTE TOWARDS CATHERINE MASON ST. BLANCHARD PAY INCREASE OR ANY OF THE ABOVE.

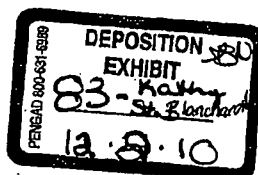
C. St. Blanchard CATHERINE J. ST. BLANCHARD

JE. Mason JOSEPH E. MASON SR

Catherine L. Mason CATHERINE L. MASON

JE. Mason JOSEPH E. MASON JR

Irwin Levine IRWIN LEVINE, CPA



PLTF000227
- 841 -