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IN THE STATE OF SOUTH CAROLINA
In the Court of Appeals

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SC Court of Appeals

APPEAL FROM LEE COUNTY

W. Jeffery Young, Presiding Judge, Third Judicial Circuit

Appellate Case No. 2014-0002451

Ernestine N. Palmer, as Trustee of the
Article IV Trust created under the Will of
Mary Denman Newman, deceased, Ronald
O. Palmer, Ernestine N. Palmer, as Trustee
of the Article IV Trust created under the
Will of James E. Newman, deceased,

Respondents,

v.

Hatcham Grove, Inc., and David H.
Lucas,

Appellants,

RECORD ON APPEAL

Magalie A. Arcure, Esquire
FINKEL LAW FIRM, LLC
Post Office Box 41489
Charleston, South Carolina 29423
843.577.5460
Attorney for Appellants

Kyle B. Parker, Esquire
POPE & HUDGENS, P.A.
1508 College Street
Newberry, South Carolina 29108
803.276.2532
Attorney for Respondents

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STATE OF SOUTH CAROLINA
COUNTY OF LEE

IN THE COURT OF COMMON PLEAS
THE THIRD JUDICIAL CIRCUIT
Civil Action No.: 2013-CP-31-130

Ernestine N. Palmer, as Trustee of the)
Article IV Trust created under the Will of)
Mary Denman Newman, deceased, Ronald)
O. Palmer, Ernestine N. Palmer, as Trustee)
of the Article IV Trust created under the)
Will of James E. Newman, deceased,)

Plaintiffs,

vs.

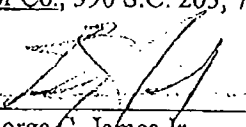
Hatcham Gove Inc., David H. Lucas,

Defendants.

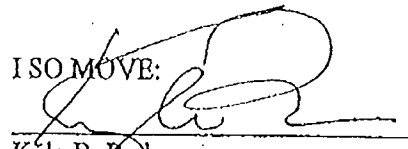
CONSENT ORDER REALIGNING PARTIES

By virtue of the consents below, and pursuant to Rule 21 of the South Carolina Rules of Civil Procedure, this Court hereby realigns the parties to provide that the Third-Party Defendant, Ronald O. Palmer, and Defendant, Ernestine N. Palmer, as Trustee, of the Article IV Trust created under the Will of James E. Newman, deceased, will be Plaintiffs in the proceeding given that their respective interests herein are substantially similar to that of Ernestine N. Palmer, as Trustee of the Article IV Trust created under the Will of Mary Denman Newman, deceased. This Court finds that such realignment avoids confusion and better prevents prejudice to all parties, and is, therefore, done in the interest of justice. See, Branham v. Ford Motor Co., 390 S.C. 203, 701 S.E.2d 5 (2010).

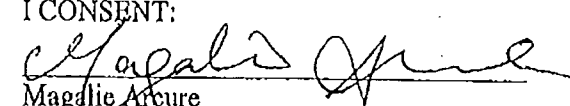
AND IT IS SO ORDERED.


George C. James, Jr.
Chief Administrative Judge, Court of Common Pleas
Third Circuit

I SO MOVE:


Kyle B. Parker
P.O. Box 190
Newberry, South Carolina 29108
(803) 276-2532
Attorney for the Plaintiff
and Third-Party Defendant

I CONSENT:


Magalie Arcure
P.O. Box 41489
Charleston, SC 29423
(843) 577-5460
Attorney for Defendants
and Third-Party Plaintiffs

STATE OF SOUTH CAROLINA

COUNTY OF LEE

IN THE COURT OF COMMON PLEAS
THE THIRD JUDICIAL CIRCUIT
Civil Action No.: 2013-CP-31-130

Ernestine N. Palmer, as Trustee of the
Article IV Trust created under the Will of
Mary Denman Newman, deceased, Ronald
O. Palmer, Ernestine N. Palmer, as Trustee
of the Article IV Trust created under the
Will of James E. Newman, deceased,

Plaintiffs,

vs.

Hatcham Gove Inc., David H. Lucas,

Defendants.

COPY

ORDER GRANTING
PLAINTIFFS' MOTIONS FOR
PARTIAL SUMMARY JUDGMENT AND
FOR ADDITIONAL TIME TO RESPOND TO
DEFENDANTS' REQUESTS FOR ADMISSION
OR, IN THE ALTERNATIVE, MOTION TO
WITHDRAW OR AMEND UNDER RULE 36(b)
AND DENYING DEFENDANTS' MOTION FOR
SUMMARY JUDGMENT

This matter is before the Court on competing motions. Plaintiffs have filed a motion for partial summary judgment on Defendants counterclaim for violation of S.C. Code Ann. § 37-10-102 and a motion for additional time to respond to Defendants' requests for admission or, in the alternative, to allow Plaintiffs to withdraw or amend any deemed admissions pursuant to Rule 36(b); SCRCP. Defendants have moved for summary judgment based solely on deemed admissions under 36(a). A hearing upon these motions was held on September 12 at 9:30am. For the reasons set forth herein, both of the Plaintiffs motions are **GRANTED** and Defendants' motion is **DENIED**.

This proceeding was initiated by Plaintiff, Ernestine N. Palmer, as Trustee of the Article IV Trust created under the Will of Mary Denman Newman, deceased, as a foreclosure proceeding in her attempt to collect upon a \$700,000 mortgage. Defendant Hatcham Grove, Inc. is a South Carolina corporation owned and controlled by Defendant David H. Lucas. (See ¶'s 41 of Defendants Answer, Counterclaim, and Third Party Complaint). As admitted in Defendants answer, the said Plaintiff and her husband, Plaintiff Ronald O. Palmer, have been close personal friends with Defendant David H. Lucas for over 40 years. (See ¶'s 42 of Defendants Answer, Counterclaim, and Third Party Complaint) The mortgage loan to Defendants came about when Plaintiffs became aware of Defendant Lucas' financial difficulties that threatened the imminent loss of his home located on the subject property. (See ¶'s 43, 44 of Defendants Answer, Counterclaim, and Third Party Complaint). However, while now admitting that not even a single payment has been made towards the loan, Defendants responded to the foreclosure



complaint with several precarious defenses, counterclaims, and third party complaints. The pleadings show that Plaintiffs have repeatedly denied the substance of Defendants claims in this regard.

The only defenses of Defendants to the foreclosure cause of action are based on alleged oral modifications of the subject promissory note and mortgage. (See Defendants' Supplemental Responses to Plaintiffs First Set of Interrogatories). Defendants alleged that Plaintiff Ronald O. Palmer, though not the mortgagee, orally agreed that repayment of the loan would come from Defendant David H. Lucas' distributions of profit from an unrelated and now defunct entity, Grease Guard, LLC. (See ¶ 44 of Defendants Answer, Counterclaim, and Third Party Complaint). Defendants have further plead counterclaims and third party causes of action concerning the breach of the allegedly modified contract. However, it has been the law of this state since before its founding that such oral modifications, even if true, are unenforceable under the Statute of Frauds. e.g., Player v. Chandler, 299 S.C. 101, 382 S.E.2d 891 (1989) (holding that a contract required to be in writing by the Statute of Frauds, S.C. Code Ann. § 32-3-10, such as a mortgage cannot be orally modified); Windham v. Honeycutt, 279 S.C. 109, 302 S.E.2d 856 (1983); Harby v. Wilson, 106 S.C. 7, 90 S.E. 183 (1916).

Defendants appear to have little support for their remaining counterclaims and third party causes of action as well. The first counterclaim and third party cause of action was for an accounting of any payments to Plaintiffs from any source. As noted above, Defendants have now admitted that there have never been any payments whatsoever made towards the subject \$700,000 promissory note from either Defendants and that Grease Guard, LLC never made any profits in order to facilitate any payments under the alleged oral modification of the promissory note and mortgage. (See Deposition of David H. Lucas, p. 20, ln. 23-25; p. 39, ln.9-p.41, ln.17). Therefore, there does not appear anything for which to account.

It is now clear that the second counterclaim and third party cause of is without merit. It alleges a violation of the attorney preference statute (S.C. Code Ann. § 37-10-102). Since filing his pleading, however, Mr. Lucas has stipulated under oath that 1) this claim is based solely on the fact that no attorney preference form was obtained at the closing of the loan notwithstanding the fact that the statute does not require such a form; 2) that the attorney closing the transaction had represented him on numerous occasions prior to the loan closing; 3) that he never voiced any objection to this attorney closing the transaction; and 4) that he did not want anyone else to represent him in the closing. (See Defendants' Supplemental Responses to Plaintiffs' First Set of Interrogatories and Deposition of David H. Lucas, p. 81, ln.6-p. 82, ln.22). Therefore, even when viewing the evidence in the light most favorable to Defendants, they simply cannot maintain this cause of action. It is for this reason, Plaintiffs motion for partial summary judgment on this claim is granted.

Defendants further plead causes for violation of the Unfair Trade Practices Act, promissory estoppel, interference with contractual relations and prospective advantages, and theft of corporate



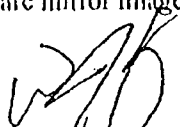
opportunities all of which concern Defendants allegations relating either to the claimed oral modifications or what Defendant David H. Lucas now admits is merely a theory that Plaintiff Ronald O. Palmer for an unspecified reason intentionally harmed Grease Guard, LLC's ability to repay an approximately \$3million outstanding obligation to Mr. Palmer and that Mr. Palmer is now actually indebted to the company. (See Defendants Answers to Plaintiffs First Set of Interrogatories and Deposition of David H. Lucas, p. 42, ln. 6-p.52, ln.12).

Even though the pleadings show that Plaintiffs repeatedly denied each of the substantive allegations that form the basis of all of their defenses, counterclaims and third party causes of action, Defendants served Requests for Admissions seeking further denials of these very same allegations. Counsel for the Plaintiffs filed an affidavit stating that he did not receive these requests until June 20, 2014. Plaintiffs served their denials only four days late on July 25, 2014. Based solely on this shortcoming, Defendants now seek to have the requests deemed admitted and ask this court to grant summary judgment. This Court denies that motion.

Instead, the Court will enlarge the time in which Plaintiffs had to serve their denials to the Defendants' requests for admission and allow Plaintiffs to withdraw or amend the deemed admissions pursuant to Rule 36(b), SCRCF. To do otherwise in these circumstances would frustrate the very intent and purpose the rules of civil procedure were promulgated. See Rule 1, SCRCF (stating that the Rules "shall be construed to secure the *just*, speedy, and inexpensive determination of every action." emphasis added). Commentators and courts alike have recognized that the primary purpose of procedural rules is to promote the ends of justice. 4 Wright & Miller, Federal Practice and Procedure: Civil 3rd § 1029 (2014).

Towards this end, Rule 6, SCRCF, provides, "[w]hen by these rules ...an act is required...to be done at or within a specified time,...the court ... may at any time in its discretion ... upon motion made after the expiration of the specified period, for good cause shown, permit the act to be done." And, Rule 36(b) states that "the court may permit withdrawal or amendment when the presentation of the merits of the action will be subserved thereby and the party who obtained the admissions fails to satisfy the court that withdrawal or amendment will prejudice him in maintaining his action or defense on the merits."¹ A trial court "may allow a party to amend or withdraw its answers to a request to admit when: (1) the presentation of the merits is furthered by the amendment; and (2) the party who obtained the admission cannot demonstrate prejudice because of the amendment." Commerce Ctr. of Greenville, Inc. v. W. Powers McElveen & Assocs., Inc., 347 S.C. 545, 557, 556 S.E.2d 718, 724 (Cl.App.2001); see also Tuomey Reg'l Med. Ctr., Inc. v. McIntosh, 315 S.C. 189, 191, 432 S.E.2d 485, 487 (1985) ("Rule 36,

¹ Both rules are mirror images of the federal rules. See Committee Notes to Rules 6 and 36, SCRCF



SCRCP allows amendment of an admission in the discretion of the court when 'the merits of the action will be subverted thereby and the party who obtained the admissions fails to satisfy the court that withdrawal or amendment will prejudice him....' ").

Rule 36 is intended only to expedite the trial and to relieve the parties of the cost of proving facts that will not be disputed at trial, and the rule is to be construed liberally. 8 Wright & Miller, Federal Practice and Procedure: Civil 3rd § 2252 (2014). It is not, therefore, intended as a mechanism to cynically obtain admissions of fact relating to key factual issues well known to be disputed by the party seeking the admissions. See Baughman v. American Tel. and Tel. Co., 306 S.C. 101, 410 S.E. 2d 537 (1991). Rather, as with other rules of civil procedure, mere technicalities will not be allowed to prevail to the detriment of substantial justice. 8 Wright & Miller, Federal Practice and Procedure: Civil 3rd § 2252 (2014). Here, while it is true that Plaintiffs were four days late in serving their denials, given Defendants admission that they have not made a single payment towards the subject \$700,000 promissory note and Defendant Lueas' inability to point to any competent evidence to support Defendants' claims, it is clear that the first element is met. Refusal to allow Plaintiffs late answers in this context would not aid, but rather hinder the presentation of the merits.

What is more, "requests for admission as to central facts in dispute are beyond the proper scope of the rule [36]. Such requests have consistently been held improper." 8 Wright & Miller, Federal Practice and Procedure: Civil 3rd § 2256 (2014), *citing*, Pickens v. Equitable Life Assur. Soc. of U. S., 413 F.2d 1390, 1393-1394 (5th Cir. 1969). In fact, our Supreme Court has held that while the withdrawal of deemed admissions or the allowance of late denials is a matter lying within the discretion of this Court, the denial of a motion to withdraw any deemed admissions would constitute a reversible abuse of such discretion where, as here, the sought admissions, "if not dispositive, involve key factual elements" of both parties claims and defenses. Baughman, *supra*. (holding that deemed admissions that are either dispositive or involve key factual issues thwart the presentation of the merits requiring the allowance of the withdrawal of any such admissions under Rule 36(b))².

² During the hearing, Defendants counsel cited Scott v. Greenville Housing Authority, 353 S.C. 639, 579 S.E.2d 151 Ct. App. 2003) as supporting their position that Plaintiffs should not be allowed to withdraw the deemed admissions based solely on the fact that the matters had been previously denied in the pleadings. However, Plaintiffs, here, do not rely solely on the fact that the matter sought for admission had been repeatedly denied in the pleadings. As provided in the rule, they sufficiently show that the presentation of the merits would be subverted by the withdrawal and that Defendants have shown no prejudice. The Court of Appeals in Scott similarly did not base its decision on denials in pleadings, but instead based its determination that the trial court should not have allowed withdrawal in that case on the *prejudice* placed on Scott. There, GHA had failed to cooperate in discovery, had denied the existence of certain documents, and then surprised Scott with the records during the middle of trial. These are not

In the instant case, Defendants requests seek the admission of facts that go to the very crux of their and Plaintiffs' claims and defenses. Defendant David H. Lucas concedes in his deposition testimony that he has no competent evidence to prove the matters covered by the deemed admissions. Nevertheless, they, in essence, ask this Court, based solely on the barest of technicality, to deny relief to Plaintiff Ernestine N. Palmer on her \$700,000 mortgage in face of Defendant Lucas' admission that not a single payment has been made. It is clear, therefore, that the presentation of the merits is subserved by allowing Plaintiff to withdraw the deemed admissions and substitute the denials served on July 25, 2014 in their place.

Therefore, the Court's only inquiry is whether allowing Plaintiffs late denials would visit prejudice on Defendants. While it is their burden under Rule 36(b), the Defendants have not cited any particular prejudice. This is understandable. There can be no prejudice visited by requiring them to prove by competent evidence the substance of their bald allegations. That they have little, if any, evidence to do so cannot form the basis of any claim of prejudice.

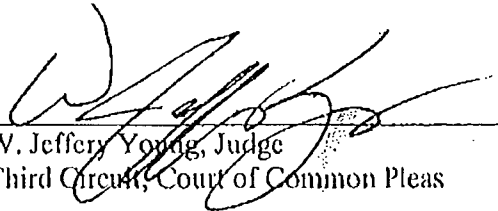
More importantly, however, the reference to "prejudice" in Rule 36(b) is to the prejudice stemming from reliance on the binding effect of the admission. 8 Wright & Miller, Federal Practice and Procedure: Civil 3d § 2264 (2014). Defendants cannot be said to have relied on any deemed admissions here. Plaintiffs have repeatedly denied these matters in any and all other pleadings in which such matters were mentioned. It is likewise insufficient for Defendants to assert they have relied on the deemed admissions in support of their summary judgment. It has been consistently held that such reliance does not constitute prejudice under rule 36(b). *Id.*, citing, *Conlon v. U.S.*, 474 F.3d 616, 624 (9th Cir. 2007); *In re Durability Inc.*, 212 F.3d 551, 556 (10th Cir. 2000); *F.D.I.C. v. Prusia*, 18 F.3d 637, 640 (8th Cir. 1994). Instead, when considering "prejudice" under Rule 36(b), courts have focused on the prejudice that the nonmoving party would suffer *at trial*. *Id.* Because the trial is not imminent, no prejudice can be found in this case. Therefore, Plaintiffs motion in this regard is granted and the responses to the Defendants requests to admit served on July 25, 2014 shall be Plaintiffs admissions or denials for all purposes within this proceeding.

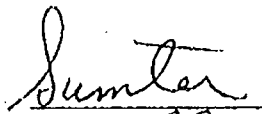
Because Defendants' relied entirely on the deemed admissions in their motion for summary judgment, said motion is denied. It should also be noted that even if the admissions were not withdrawn, Defendants motion would fail. As noted above, any deemed admissions

circumstances present in the case at bar, and, for the reasons cited herein, there is no prejudice to the Defendants in allowing the withdrawal of any deemed admissions. Therefore, *Baughman, supra*, a Supreme Court opinion, is binding upon this Court.

concerning the alleged oral modifications would not result in summary judgment because such modifications are unenforceable under the Statute of Frauds. Player, *supra*; Windham, *supra*; Harby, *supra*. Moreover, given the deposition testimony of Defendant Lucas, there are clearly still questions of fact with regard to the other claims which Defendants assert the admissions support. Accordingly, the motion is denied, alternatively, because Defendant is not entitled to judgment as a matter of law and questions of material fact remain.

AND IT IS SO ORDERED.


W. Jeffery Young, Judge
Third Circuit, Court of Common Pleas


Sumter, South Carolina
September 22, 2014

STATE OF SOUTH CAROLINA
COUNTY OF LEE

IN THE COURT OF COMMON PLEAS
THE THIRD JUDICIAL CIRCUIT
Civil Action No.: 2013-CP-31-_____

Ernestine N. Palmer, as Trustee of the
Article IV Trust created under the Will of
Mary Denman Newman, deceased,

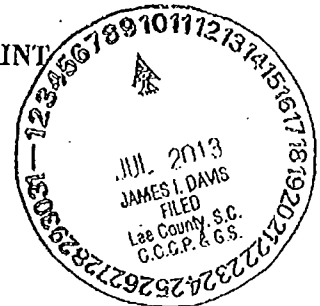
Plaintiff,

vs.

Hatchman Gove Inc., David H. Lucas, and
Ernestine N. Palmer, as Trustee of the
Article VI Trust created under the Will of
James E. Newman, deceased,

Defendants.

COMPLAINT



Plaintiff, by and through the undersigned counsel, and complaining of the above named Defendants would allege and show unto this honorable Court the following:

1. This is an action foreclosing a mortgage encumbering real property described herein below, which is situate in Lee County, South Carolina, to collect the debt thereby secured, sell the property at public auction, eject the mortgagors/defendants (and each of them, if more than one) and any subordinate tenants and/or other occupants from the property, and place the purchaser at any such sale in exclusive possession thereof. The real property, which is the subject of this action, is described as follows:

Tract No. 1:

All that certain piece, parcel or tract of land situate, lying and being in the Turkey Creek Township, County of Lee, State of South Carolina, shown as Parcel A and containing 134.02 acres as shown on a plat by Ervin Engineering Co., Inc., dated June 11, 1986, recorded in the Office of the Clerk of Court for Lee County in Plat Book V at Page 126. Said tract has such shape, metes, courses and distances as is shown on said survey, and is bounded generally on the northeast by land now or formerly of David H. Lucas, on which it measures 1721 feet; on the east by land now or formerly of David H. Lucas, on which it measures 2029.7 feet; on the south by land now or formerly of Adline Hopkins, J.R. Kelley and Elizabeth Tatleton, on which it measures 1931.97 feet, and by lands now or formerly of R.H. Fountain and G.E. Locklair, on which it measures 1039.82 feet; on the west by S.C. Highway 341, by Parcel C and by Parcel B, on which it fronts and

measures in the aggregate 2070.86 feet; and on the northwest by land now or formerly of David H. Lucas and Turkey Creek Land and Cattle Co., on which it measures 1900.48 feet.

Tax Map No.: 008-00-00-010-000

Tract 2:

All that certain piece, parcel or tract of land, with improvements thereon, situate, lying and being in the Turkey Creek Community, County of Lee, State of South Carolina, shown as 33.40 acres on a survey by Engineering, Surveying & Planning, Inc., dated March 26, 1991 and recorded in the Office of the Clerk of Court for Lee County in Plat Book V at Page 103. Said tract being bounded and described as follows: On the north by lands now or formerly of J.J. Josey and measuring thereon a distance of 2233.55 feet; on the southeast by lands now or formerly of David H. Lucas and measuring thereon for the aggregate distance of 1900.12 feet; on the southwest by S.C. Highway 341 and measuring thereon for the aggregate distance of 1541.86 feet; all measurements being a little more or less. **LESS, HOWEVER,** a 1.16 acre tract deeded to Sonja T. Lucas by deed recorded in the Office of the Clerk of Court for Lee County in Deed Book C-8 at Page 268, as shown on a plat by Franklin D. Cooper, Jr., dated May 25, 1996 and recorded in Plat Book E-1 at Page 25. Pursuant to section 30-5-250 of the Code of Laws of South Carolina, 1976 as amended, reference to said plat is hereby craved for metes, bounds, courses and or distances of said plat.

Tax Map No.: 008-00-00-009-000

A perpetual, non-exclusive thirty (30) foot easement given by Hatcham Grove, Inc. to Charles K. Young as shown by deed recorded in the Office of the Clerk of Court for Lee County in Deed Book D-111 at Page 6.

Such property hereinafter described by use of the phrase "the subject property."

2. Plaintiff, Ernestine N. Palmer, as Trustee of the Article IV Trust created under the Will of Mary Denman Newman, deceased, holds and administers a trust with its situs being in the State of Texas.

3. Defendant Hatchman Gove Inc. is a corporation organized and existing under the laws of the State of South Carolina, having its principal office located in Lee County, South Carolina.

4. Defendant David H. Lucas is a citizen and resident of Lee County, South Carolina and a personal guarantor of the debt hereinafter described in the Guaranty attached Exhibit A which is incorporated herein by reference.

5. Defendant, Ernestine N. Palmer, as Trustee of the Article VI Trust created under

the Will of James E. Newman, deceased, is made party to this action solely by virtue of the trust's interest in the subject property created by that certain deed recorded on September 20, 2007 in the Office of the Clerk of Court for Lee County, South Carolina in Book D-228 at Page 182.

6. On or about September 20, 2007, Defendant Hatcham Grove, Inc. made, executed, and delivered to Plaintiff that certain promissory note in writing, wherein and whereby the said Defendant promised to pay Plaintiff the principal sum of Seven Hundred Thousand and No/100 (\$700,000.00) Dollars, together with interest at the rate of seven (7%) percent per annum; said principal and interest being due and payable in full on September 20, 2012. A copy of said promissory note is attached hereto as Exhibit B which is incorporated herein by reference.

7. In order to better secure the payment of such promissory note, said Defendant, on or about September 20, 2007, made, executed, and delivered to Plaintiff, her successors and assigns, that certain purchase money mortgage encumbering the subject property.

8. On September 21, 2007, such mortgage was recorded in the Office of the Clerk of Court for Lee County in Book 422 at Page 80. A copy of said mortgage is attached hereto as Exhibit C which is incorporated herein by reference.

9. Such mortgage evidences and secures the repayment of money advanced by the mortgagee, Plaintiff, to, or on behalf of, said Defendant, and constitutes a valid lien upon the subject property.

10. In and by the terms of the aforementioned promissory note and mortgage, it was further provided that should said Defendant fail to pay the full amount accruing under the note when due, such would render said Defendant in default under the terms of such promissory note.

11. According to the terms of the aforementioned promissory note, Plaintiff has, and does hereby, declare the entire outstanding balance of principal and interest, along with any other charges and fees provided under the terms of such promissory note, immediately due and payable.

12. In and by the terms of the aforementioned promissory note, it is further provided that the aforementioned Defendant thereof shall pay any and all fees and expenses, including attorney's fees, incurred by Plaintiff in his effort to collect upon such promissory note.

13. Plaintiff waives any deficiency judgment against Defendant Hatcham Grove, Inc. only insofar as such has bearing on terms of any foreclosure sale conducted by the Court pursuant to the requests made herein. However, Plaintiff is informed and believes that she is

entitled to judgment in full against Defendant David H. Lucas pursuant to the terms of the Guaranty attached hereto as Exhibit A.

14. Said Defendant has failed to make the monthly payments as required by the terms of the aforementioned promissory note, and there is now due, owing, and payable the unpaid balance of Nine Hundred Fifty-six Thousand Four Hundred Forty-six and 58/100 (\$956,446.58) Dollars, together with interest thereon at seven (7%) percent per annum and attorney's fees and the cost of this action.

15. Defendant Hatcham Grove, Inc. is in default under the terms of both the aforementioned promissory note attached hereto as Exhibit B and the aforementioned mortgage attached hereto as Exhibit C, and Defendant David H. Lucas is in default of his obligations to guaranty the said debt under the terms of the Guaranty attached hereto as Exhibit A.

16. Therefore, and according to the foregoing, Plaintiff is informed and believes that she is entitled to an order of this Court declaring the mortgage attached as Exhibit C to be a valid first lien upon the subject property, ascertaining the amount due upon the said promissory note and mortgage held by Plaintiff, together with attorney's fees and the cost of this action, a judgment of foreclosure for the amount so found, and selling the subject property according to law and the practice of this Court barring the equitable remedy of redemption and applying the proceeds of any such sale as follows: First to the costs and expenses of the within action; and second to the payment and discharge of the amount found due to Plaintiff according to the terms of aforementioned promissory note and mortgage, together with attorney's fees as aforesaid; and third, the surplus, if any, be distributed according to law.

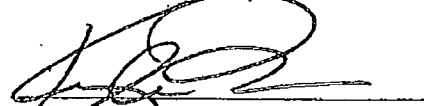
WHEREFORE, Plaintiff prays the Court inquire into the matter, and enter its Order and Judgment as follows:

- a) That the amount due upon the aforementioned promissory note and mortgage held by Plaintiff be ascertained and determined under the direction of this Court, together with attorney's fees and costs of this action; and,
- b) That Plaintiff's mortgage be declared a valid first lien against the subject property and that Plaintiff have judgment of foreclosure for the amount so found to be due and owing on the aforementioned promissory note and mortgage, together with attorney's fees and costs of this action; and,
- c) That the subject property be sold according to law and the practice of this Court, that the equity of redemption be barred, and that the proceeds of the sale be applied as follows:

- i. first to the costs and expenses of the within action; and,
 - ii. second to the payment and discharge of the amount found due to Plaintiff according to the terms of aforementioned promissory note and mortgage, together with attorney's fees as aforesaid; and,
 - iii. third the surplus, if any, be distributed according to law; and,
- d) That judgment be entered in favor of Plaintiff against Defendant David H. Lucas for any deficiency in the repayment of the debt described herein after application of any and all sale's proceeds as provided by law; and,
- e) That, FURTHER, in the event the successful bidder (at the time of the foreclosure sale) is other than Defendant in possession herein, the Sheriff of Lee County be ordered and directed to eject and remove from the subject property the occupants of the property sold, together with all personal property located therein, and put the successful bidder or his assigns in full, quiet, and peaceable possession of the subject property without delay and to keep the successful bidder or his assigns in peaceable possession; and,
- f) For such other and further relief as the Court deems just and proper.

Respectfully submitted,

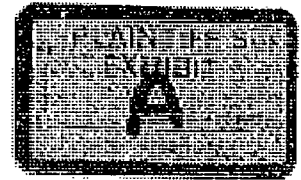
POPE & HUDGENS, P.A.



Kyle B. Parker
1508 College Street
P.O. Box 190
Newberry, South Carolina 29108
(803) 276-2532

Attorneys for the Plaintiff

Newberry, South Carolina
July 8, 2013



GUARANTY

Date: September 20, 2007

Bishopville

(City)

SOUTH CAROLINA

(State)

For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and to induce Ernestine N. Palmer, Trustee of The Article IV Trust created under the Will of Mary Denman Newman, Deceased (herein, with its participants, successors and assigns, called "Lender"), at its option, at any time or from time to time to make loans or extend other accommodations to or for the account of Hatcham Grove, Inc. (herein called "Borrower") or to engage in any other transactions with Borrower, the Undersigned hereby absolutely and unconditionally guarantees to Lender the full and prompt payment when due, whether at maturity or earlier by reason of acceleration or otherwise, of the debts, liabilities and obligations described as follows:

- A. If this [X] is checked, the Undersigned guarantees to Lender the payment and performance of the debt, liability or obligation of Borrower to Lender evidenced by or arising out of the following: Agreement for the payment of \$ 700,000.00 and any extensions, renewals or replacements thereof (hereinafter referred to as the "Indebtedness").
- B. If this [] is checked, the Undersigned guarantees to Lender the payment and performance of each and every debt, liability and obligation of every type and description which Borrower may now or at any time hereafter owe to Lender (whether such debt, liability or obligation now exists or is hereafter created or incurred, and whether it is or may be direct or indirect, due or to become due, absolute or contingent, primary or secondary, liquidated or unliquidated, or joint, several, or joint and several; all such debts, liabilities and obligations being hereinafter collectively referred to as the "Indebtedness"). Without limitation, this guaranty includes the following described debt(s) _____

The term "Indebtedness" as used in this guaranty shall not include any obligations entered into between Borrower and Lender after the date hereof (including any extensions, renewals or replacements of such obligations) for which Borrower meets the Lender's standard of creditworthiness based on Borrower's own assets and income without the addition of a guaranty, or for which a guaranty is required but Borrower chooses someone other than the joint Undersigned to guaranty the obligation.

The Undersigned further acknowledges and agrees with Lender that:

1. No act or thing need occur to establish the liability of the Undersigned hereunder, and no act or thing, except full payment and discharge of all indebtedness, shall in any way exonerate the Undersigned or modify, reduce, limit or release the liability of the Undersigned hereunder.
2. This is an absolute, unconditional and continuing guaranty of payment of the Indebtedness and shall continue to be in force and be binding upon the Undersigned, whether or not all Indebtedness is paid in full, until this guaranty is revoked by written notice actually received by the Lender, and such revocation shall not be effective as to Indebtedness existing or committed for at the time of actual receipt of such notice by the Lender, or as to any renewals, extensions and refinancings thereof. If there be more than one Undersigned, such revocation shall be effective only as to the one so revoking. The death or incompetence of the Undersigned shall not revoke this guaranty, except upon actual receipt of written notice thereof by Lender and then only as to the decedent or the incompetent and only prospectively, as to future transactions, as herein set forth.
3. If the Undersigned shall be dissolved, shall die, or shall be or become insolvent (however defined) or revoke this guaranty, then the Lender shall have the right to declare immediately due and payable, and the Undersigned will forthwith pay to the Lender, the full amount of all Indebtedness, whether due and payable or unmatured. If the Undersigned voluntarily commences or there is commenced involuntarily against the Undersigned a case under the United States Bankruptcy Code, the full amount of all Indebtedness, whether due and payable or unmatured, shall be immediately due and payable without demand or notice thereof.
4. The liability of the Undersigned hereunder shall be limited to a principal amount of \$ 700,000.00 (if unlimited or if no amount is stated, the Undersigned shall be liable for all Indebtedness, without any limitation as to

amount), plus accrued interest thereon and all attorney's fees, collection costs and enforcement expenses referable thereto. Indebtedness may be created and continued in any amount, whether or not in excess of such principal amount, without affecting or impairing the liability of the Undersigned hereunder. The Lender may apply any sums received by or available to Lender on account of the Indebtedness from Borrower or any other person (except the Undersigned), from their properties, out of any collateral security or from any other source to payment of the excess. Such application of receipts shall not reduce, affect or impair the liability of the Undersigned hereunder. If the liability of the Undersigned is limited to a stated amount pursuant to this paragraph 4, any payment made by the Undersigned under this guaranty shall be effective to reduce or discharge such liability only if accompanied by a written transmittal document, received by the Lender, advising the Lender that such payment is made under this guaranty for such purpose.

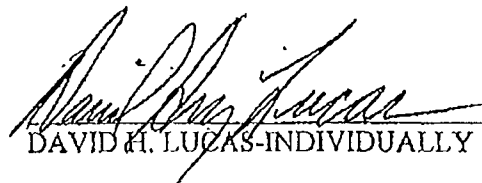
5. The Undersigned will pay or reimburse Lender for all costs and expenses (including reasonable attorneys' fees and legal expenses) incurred by lender in connection with the protection, defense or enforcement of this guaranty in any litigation or bankruptcy or insolvency proceedings.
6. Whether or not any existing relationship between the Undersigned and Borrower has been changed or ended and whether or not this guaranty has been revoked, Lender may, but shall not be obligated to, enter into transactions resulting in the creation or continuance of Indebtedness, without any consent or approval by the Undersigned and without any notice to the Undersigned. The liability of the Undersigned shall not be affected or impaired by any of the following acts or things (which Lender is expressly authorized to do, omit or suffer from time to time, both before and after revocation of this guaranty, without notice to or approval by the Undersigned): (i) any acceptance of collateral security, guarantors, accommodation parties or sureties for any or all Indebtedness; (ii) any one or more extensions or renewals of Indebtedness (whether or not for longer than the original period) or any modification of the interest rates, maturities or other contractual terms applicable to any Indebtedness; (iii) any waiver, adjustment, forbearance, compromise or indulgence granted to Borrower, any delay or lack of diligence in the enforcement of Indebtedness, or any failure to institute proceedings, file a claim, give any required notices or otherwise protect any Indebtedness; (iv) any full or partial release of, settlement with, or agreement not to sue, Borrower or any other guarantor or other person liable in respect of any Indebtedness; (v) any discharge of any evidence of Indebtedness or the acceptance of any instrument in renewal thereof or substitution therefor; (vi) any failure to obtain collateral security (including rights of setoff) for Indebtedness, or to see to the proper or sufficient creation and perfection thereof, or to establish the priority thereof, or to protect, insure, or enforce any collateral security; or any release, modification, substitution, discharge, impairment, deterioration, waste, or loss of any collateral security; (vii) any foreclosure or enforcement of any collateral security; (viii) any transfer of any Indebtedness or any evidence thereof; (ix) any order of application of any payments or credits upon Indebtedness; (x) any election by the Lender under §1111(b)(2) of the United States Bankruptcy Code.
7. The Undersigned waives any and all defenses, claims and discharges of Borrower, or any other obligor, pertaining to Indebtedness, except the defense of discharge by payment in full. Without limiting the generality of the foregoing, the Undersigned will not assert, plead or enforce against Lender any defense of waiver, release, statute of limitations, res judicata, statute of frauds, fraud, incapacity, minority, usury, illegality or unenforceability which may be available to Borrower or any other person liable in respect of any Indebtedness, or any setoff available against Lender to Borrower or any such other person, whether or not on account of a related transaction. The Undersigned expressly agrees that the Undersigned shall be and remain liable, to the fullest extent permitted by applicable law, for any deficiency remaining after foreclosure of any mortgage or security interest securing Indebtedness, whether or not the liability of Borrower or any other obligor for such deficiency is discharged pursuant to statute or judicial decision. The undersigned shall remain obligated, to the fullest extent permitted by law, to pay such amounts as though the Borrower's obligations had not been discharged.
8. The Undersigned further agrees that the Undersigned shall be and remain obligated to pay Indebtedness even though any other person obligated to pay Indebtedness, including Borrower, has such obligation discharged in bankruptcy or otherwise discharged by law. "Indebtedness" shall include post-bankruptcy petition interest and attorneys' fees and any other amounts which Borrower is discharged from paying or which do not

otherwise accrue to Indebtedness due to Borrower's discharge, and the Undersigned shall remain obligated to pay such amounts as though Borrower's obligations had not been discharged.

9. If any payment applied by Lender to Indebtedness is thereafter set aside, recovered, rescinded or required to be returned for any reason (including, without limitation, the bankruptcy, insolvency or reorganization of Borrower or any other obligor), the Indebtedness to which such payment was applied shall for the purposes of this guaranty be deemed to have continued in existence, notwithstanding such application, and this guaranty shall be enforceable as to such Indebtedness as fully as if such application had never been made.
10. The Undersigned waives any claim, remedy or other right which the Undersigned may now have or hereafter acquire against Borrower or any other person obligated to pay Indebtedness arising out of the creation or performance of the Undersigned's obligation under this guaranty, including, without limitation, any right of subrogation, contribution, reimbursement, indemnification, exoneration, and any right to participate in any claim or remedy the Undersigned may have against the Borrower's debts, whether or not such claim, remedy or right arises in equity, or under contract, statute or common law.
11. The Undersigned waives presentment, demand for payment, notice of dishonor or nonpayment, and protest of any instrument evidencing Indebtedness. Lender shall not be required first to resort for payment of the Indebtedness to Borrower or other persons or their properties, or first to enforce, realize upon or exhaust any collateral security for Indebtedness, before enforcing this guaranty.
12. The liability of the Undersigned under this guaranty is in addition to and shall be cumulative with all other liabilities of the Undersigned to Lender as guarantor or otherwise, without any limitation as to amount, unless the instrument or agreement evidencing or creating such other liability specifically provides to the contrary.
13. This guaranty shall be enforceable against each person signing this guaranty, even if only one person signs and regardless of any failure of other persons to sign this guaranty. If there be more than one signer, all agreements and promises herein shall be construed to be, and are hereby declared to be, joint and several in each of every particular and shall be fully binding upon and enforceable against either, any or all the Undersigned. This guaranty shall be effective upon delivery to Lender, without further act, condition or acceptance by Lender, shall be binding upon the Undersigned and the heirs, representatives, successors and assigns of the Undersigned and shall inure to the benefit of Lender and its participants, successors and assigns. Any invalidity or unenforceability of any provision or application of this guaranty shall not affect other lawful provisions and application hereof, and to this end the provisions of this guaranty are declared to be severable. Except as authorized by the terms herein, this guaranty may not be waived, modified, amended, terminated, released or otherwise changed except by a writing signed by the Undersigned and Lender. This guaranty shall be governed by the laws of the State in which it is executed. The Undersigned waives notice of Lender's acceptance hereof.

This guaranty includes the additional provisions on the following page, all of which are made a part hereof.
This guaranty is ☒ unsecured; ☐ secured by a mortgage or security agreement dated _____;
☐ secured by _____

IN WITNESS WHEREOF, this guaranty has been duly executed by the Undersigned the day and year first above written.


DAVID H. LUCAS-INDIVIDUALLY

MORTGAGE NOTE

\$ 700,000.00

Bishopville, S. C.

September 20, 20 07

FOR VALUE RECEIVED, the undersigned promises to pay to Ernestine N. Palmer, Trustee of the Article IV Trust created under the Will of Mary Denman Newman, Deceased

or order, the full and just principal sum of Seven Hundred Thousand and 00/100 (\$700,000.00) dollars with interest from date at the rate of Seven (7%) per centum per annum on the unpaid principal balance until paid. The said principal and accrued interest shall be payable to Ernestine N. Palmer, Trustee of the Article IV Trust created under the Will of Mary Denman Newman, Deceased at or at such other place as the holder may designate.

Borrower agrees to pay the principal sum of Seven Hundred Thousand and 00/100 (\$700,000.00) to Ernestine N. Palmer, Trustee of the Article IV Trust created under the Will of Mary Denman Newman, Deceased, and any unpaid accrued interest at an interest rate of seven (7%) per centum per annum in one lump sum payment of principal and accrued interest due and payable September 20, 2012. Purchaser may prepay the principal amount and interest outstanding in full or in part at any time without penalty. Any prepayments will be applied first to any unpaid accrued interest and then to principal. Any interest not paid annually is to become a part of the principal and thereafter bear interest at the same rate.

To secure this note the undersigned has executed a mortgage of even date herewith and for a like amount covering real property situate in Lee County, South Carolina.

If default be made in the payment of this note or any installment thereof, or if this note is declared due because of the violation of any of the covenants contained in the mortgage or mortgages securing this note, the entire principal sum and accrued interest shall at once become due and payable without notice at the option of the holder of this note. Failure to exercise this option shall not constitute a waiver of the right to exercise the same in the event of any subsequent default. In the event of default in the payment of this note, and if it is placed in the hands of an attorney at law for collection, the undersigned hereby agrees to pay all costs of collection, including a reasonable attorney's fee.

All parties to this note including sureties, endorsers, and guarantors, hereby severally waive presentment for payment, notice of non-payment, protest and notice of protest and diligence in bringing suit against any party hereto, and hereby consent that time of payment may be extended after maturity without notice.

Witness the hand and seal of the undersigned.

\$ 700,000.00

Address:

HATCHAM GROVE, INC

BY: DAVID H. LUCAS

ITS: PRESIDENT

(SEAL)



WHEN RECORDED MAIL TO
Stuckey, Fata & Segars, LLC
P.O. Drawer 568
Bishopville, SC 29010
File # 07-598

1907 BK422 PG80

000001907 BK: 00422 PG: 00080
09/21/2007 12:15:10PM
James I. Davis, Clerk of Court
Lee County SC
REC FEE:12.00

SPACE ABOVE THIS LINE FOR RECORDER'S USE

MORTGAGE

THIS MORTGAGE ("Security Instrument") is given on September 20, 2007. The mortgagor is HATCHAM GROVE, INC. and ERNESTINE N. PALMER, TRUSTEE OF THE ARTICLE VI TRUST CREATED UNDER THE WILL OF JAMES E. NEWMAN, DECEASED. This Security Instrument is given to ERNESTINE N. PALMER, TRUSTEE OF THE ARTICLE IV TRUST CREATED UNDER THE WILL OF MARY DENMAN NEWMAN, DECEASED, and whose address is 139 Hickory Ridge, Houston, Texas 77024 ("Lender").

The term Borrower as used throughout this document refers only to HATCHAM GROVE, INC. Borrower owes Lender the principal sum of Seven Hundred Thousand and 00/100 Dollars (U.S. \$700,000.00). This debt is evidenced by Borrower's note dated the same date as this Security Instrument ("Note"), which provides for the full debt, if not paid earlier, due and payable on September 20, 2012. This Security Instrument secures to Lender: (a) the repayment of the debt evidenced by the Note, with interest, and all renewals, extensions and modifications; (b) the payment of all other sums, with interest, advanced under paragraph 7 to protect the security of this Security Instrument; and (c) the performance of Mortgagor's covenants and agreements under this Security Instrument and the Note. For this purpose, Mortgagor does hereby mortgage, grant and convey to Lender and Lender's successors and assigns the following described property located in Lee County, South Carolina:

Tract No. 1: All that certain piece, parcel or tract of land situate, lying and being in the Turkey Creek Township, County of Lee, State of South Carolina, shown as Parcel A and containing 134.02 acres as shown on a plat by Ervin Engineering Co., Inc., dated June 11, 1986, recorded in the office of the Register of Deeds for Lee County in Plat Book V at page 126. Said tract has such shape, metes, courses and distances as is shown on said Survey, and is bounded generally on the Northeast by land now or formerly of David H. Lucas, on which it measures 1721 feet; on the East by land now or formerly of David H. Lucas, on which it measures 2029.7 feet; on the South by land now or formerly of Adline Hopkins, J.R. Kelley and Elizabeth Tarleton, on which it measures 1931.97 feet, and by lands of R.H. Fountain and G.E. Locklair, on which it measures 1039.82 feet; on the West by S.C. Highway 341 by Parcel C and by Parcel B, on which it fronts and measures in the aggregate 2070.86 feet; and on the Northwest by land now or formerly of David H. Lucas and Turkey Creek Land and Cattle Co., on which it measures 1900.48 feet.

Tax Map Number: 008-00-00-010-000

Tract No. 2: All that certain piece, parcel or tract of land with improvements thereon situate, lying and being in the Turkey Creek Community, Lee County, South Carolina, shown as 33.40 acres on a survey by Engineering, Surveying & Planning, Inc. dated March 26, 1991 and recorded in the office of the Register of Deeds for Lee County in Plat Book V at Page 103. Said tract being bounded and described as follows: On the North by lands now or formerly of J.J. Josey and measuring thereon a distance of 2233.55 feet; on the Southeast by lands now or formerly of David H. Lucas and measuring thereon for the aggregate distance 1900.12 feet; on the southwest by S.C. Highway No. 341 and measuring thereon for the aggregate distance of 1541.86 feet; all measurements being a little more or less;



CERTIFIED as a TRUE COPY
ORIGINAL filed in this Office
Date: 09/21/2007
James I. Davis, Clerk of Court
Lee County, SC

LBSS, HOWEVER, a 1.16 acre tract, deeded to Sonja T. Lucas by deed recorded in the office of the Register of Deeds for Lee County in Deed Book C-8 at Page 268 as shown on a plat by Franklin D. Cooper, Jr., dated May 25, 1996 and recorded in Plat Book B-1 at Page 25. Pursuant to section 30-5-250 of the Code of laws of South Carolina, 1976 as amended, reference to said plat is hereby craved for metes, bounds, courses and or distances of said plat.

Tax Map Number: 008-00-00-009-000

The above two tracts being the same property conveyed to Hatcham Grove, Inc. and Ernestine N. Palmer, Trustee of the Article VI Trust created under the Will of James E. Newman, Deceased by deed of John J. Stuckor and April Lucas executed September 19, 2007 and recorded September 20, 2007 in Book 228 at page 182 in the office of the Register of deeds for Lee County South Carolina.

This conveyance is subject to all visible and/or recorded easements, restrictions, covenants, rights-of-way and zoning ordinances which affect said property including but not limited to the following:

A perpetual, non-exclusive thirty (30) foot easement given by Hatcham Grove, Inc. to Charles K. Young as shown by deed recorded in Deed Book D-111 at page 6 in the office of the Register of Deeds for Lee County SC.

which has the address of , 3760 Bethune Highway, Bishopville
(Street) (City)
South Carolina 29010 ("Property Address");
(Zip Code)

TO HAVE AND TO HOLD such property unto Lender and Lender's successors and assigns, forever, together with all the improvements now or hereafter erected on the property, and all easements, rights, appurtenances, rents, royalties, mineral, oil and gas rights and profits, water rights and stock and all fixtures now or hereafter a part of the property. All replacements and additions shall also be covered by this Security Instrument. All of the foregoing is referred to in this Security Instrument as the "Property".

MORTGAGOR COVENANTS that Mortgagor is lawfully seized of the estate hereby conveyed and has the right to mortgage, grant and convey the Property and that the Property is unencumbered, except for encumbrances of record. Mortgagor warrants and will defend generally the title to the Property against all claims and demands, subject to any encumbrances of record.

THIS SECURITY INSTRUMENT combines uniform covenants for national use and non-uniform covenants with limited variations by jurisdiction to constitute a uniform security instrument covering real property.

UNIFORM COVENANTS. Mortgagor and Lender covenant and agree as follows:

1. Payment of Principal and Interest; Prepayment and Late Charges. Borrower shall promptly pay when due the principal of and interest on the debt evidenced by the Note and any prepayment and late charges due under the Note.
2. Funds for Taxes and Insurance. N/A
3. Application of Payments. Unless applicable law provides otherwise, all payments received by Lender under paragraphs 1 and 2 shall be applied: first, to late charges due under the Note; second, to prepayment charges due under the Note; third, to amounts payable under paragraph 2; fourth, to interest due; and last, to principal due.
4. Charges; Liens. Borrower shall pay all taxes, assessments, charges, fines and impositions attributable to the Property which may attain priority over this Security Instrument, and leasehold payments or ground rents, if any. Borrower shall pay these obligations in the manner provided in paragraph 2, or if not paid in that manner, Borrower shall pay them on time directly to the person owed payment. Borrower shall promptly furnish to Lender all notices of amounts to be paid under this paragraph. If Borrower makes these payments directly, Borrower shall promptly furnish to Lender receipts evidencing the payments.

Borrower shall promptly discharge any lien which has priority over this Security Instrument unless Borrower: (a) agrees in writing to the payment of the obligation secured by the lien in a manner acceptable to Lender; (b) contests in good faith the lien by, or defends against enforcement of the lien in legal proceedings which in the Lender's opinion operate to prevent the enforcement of the lien or forfeiture of any part of the Property; or (c) secures from the holder of the lien an agreement satisfactory to Lender subordinating the lien to this Security Instrument. If Lender determines that any part of the Property is subject to a lien which may attain priority over this Security Instrument, Lender may give Borrower a notice identifying the lien. Borrower shall satisfy the lien or take one or more of the actions set forth above within 10 days of the giving of notice.

5. Hazard Insurance. Borrower shall keep the improvements now existing or hereafter erected on the Property insured against loss by fire, hazards included within the term "extended coverage" and any other hazards for which Lender requires insurance. This insurance shall be maintained in the amounts and for the periods that Lender requires. The insurance carrier providing the insurance shall be chosen by Borrower subject to Lender's approval which shall not be unreasonably withheld.

All insurance policies and renewals shall be acceptable to Lender and shall include a standard mortgage clause. Lender shall have the right to hold the policies and renewals. If Lender requires, Borrower shall promptly give to Lender all receipts of paid premiums and renewal notices. In the event of loss, Borrower shall give prompt notice to the insurance carrier and Lender. Lender may make proof of loss if not made promptly by Borrower.

Unless Lender and Borrower otherwise agree in writing, insurance proceeds shall be applied to restoration or repair of the Property damaged, if the restoration or repair is economically feasible and Lender's security is not lessened. If the restoration or repair is not economically feasible or Lender's security would be lessened, the insurance proceeds shall be applied to the sums secured by this Security Instrument, whether or not then due, with any excess paid to Borrower. If Borrower abandons the Property, or does not answer within 30 days a notice from Lender that the insurance carrier has offered to settle a claim, then Lender may collect the insurance proceeds. Lender may use the proceeds to repair or restore the Property or to pay sums secured by this Security Instrument, whether or not then due. The 30-day period will begin when the notice is given.

Unless Lender and Borrower otherwise agree in writing, any application of proceeds to principal shall not extend or postpone the due date of the monthly payments referred to in paragraphs 1 and 2 or change the amount of the payments. If under paragraph 19 the Property is acquired by Lender, Borrower's right to any insurance policies and proceeds resulting from damage to the Property prior to the acquisition shall pass to Lender to the extent of the sums secured by this Security Instrument immediately prior to the acquisition.

6. **Preservation and Maintenance of Property; Leaseholds.** Mortgagor shall not destroy, damage or substantially change the Property, allow the Property to deteriorate or commit waste. If this Security Instrument is on a leasehold, Borrower shall comply with the provisions of the lease, and if Borrower acquires fee title to the Property, the leasehold and fee title shall not merge unless Lender agrees to the merger in writing.

7. **Protection of Lender's Rights in the Property; Mortgage Insurance.** If Mortgagor fails to perform the covenants and agreements contained in this Security Instrument, or there is a legal proceeding that may significantly affect Lender's rights in the Property (such as a proceeding in bankruptcy, probate, for condemnation or to enforce laws or regulations) then Lender may do and pay for whatever is necessary to protect the value of the Property and Lender's rights in the Property. Lender's actions may include paying any sums secured by a lien which has priority over this Security Instrument, appearing in court, paying reasonable attorneys' fees and entering on the Property to make repairs. Although Lender may take action under this paragraph 7, Lender does not have to do so.

Any amounts disbursed by Lender under this paragraph 7 shall become additional debt of Borrower secured by this Security Instrument. Unless Borrower and Lender agree to other terms of payment, these amounts shall bear interest from the date of disbursement at the Note rate and shall be payable, with interest, upon notice from Lender to Borrower requesting payment.

If Lender required mortgage insurance as a condition of making the loan secured by this Security Instrument, Borrower shall pay the premiums required to maintain the insurance in effect until such time as the requirement for the insurance terminates in accordance with Borrower's and Lender's written agreement or applicable law.

8. **Inspection.** Lender or its agent may make reasonable entries upon and inspections of the Property. Lender shall give Mortgagor notice at the time of or prior to an inspection specifying reasonable cause for the inspection.

9. **Condemnation.** The proceeds of any award or claim for damages, direct or consequential, in connection with any condemnation or other taking of any part of the Property, or for conveyance in lieu of condemnation, are hereby assigned and shall be paid to Lender.

In the event of a total taking of the Property, the proceeds shall be applied to the sums secured by this Security Instrument, whether or not then due, with any excess paid to Borrower. In the event of a partial taking of the Property, unless Borrower and Lender otherwise agree in writing, the sums secured by this Security Instrument shall be reduced by the amount of the proceeds multiplied by the following fraction: (a) the total amount of the sums secured immediately before the taking, divided by (b) the fair market value of the Property immediately before the taking. Any balance shall be paid to Borrower.

If the Property is abandoned by Borrower, or if, after notice by Lender to Borrower that the condemnor offers to make an award or settle a claim for damages, Borrower fails to respond to Lender within 30 days after the date the notice is given, Lender is authorized to collect and apply the proceeds, at its option, either to restoration or repair of the Property or to the sums secured by this Security Instrument, whether or not then due.

Unless Lender and borrower otherwise agree in writing, any application of proceeds to principal shall not extend or postpone the due date of the monthly payments referred to in paragraphs 1 and 2 or change the amount of such payments.

10. **Borrower Not Released; Forbearance By Lender Not a Waiver; Extension of the time for payment or modification of amortization of the sums secured by this Security Instrument granted by Lender to any successor in interest of Borrower shall not operate to release the liability of the original Borrower or Borrower's successors in interest.** Lender shall not be required to commence proceedings against any successor in interest or refuse to extend time for payment or otherwise modify amortization of the sums secured by this Security Instrument by reason of any demand made by the original Borrower or Borrower's successors in interest. Any forbearance by Lender in exercising any right or remedy shall not be a waiver of or preclude the exercise of any right or remedy.

11. **Successors and Assigns Bound; Joint and Several Liability; Co-signers.** The covenants and agreements of this Security Instrument shall bind and benefit the successors and assigns of Lender and Borrower, subject to the provisions of paragraph 17. Borrower's covenants and agreements shall be joint and several. Any Mortgagor who co-signs this Security Instrument but does not execute the Note: (a) is co-signing this Security Instrument only to mortgage, grant and convey that Mortgagor's interest in the Property under the terms of this Security Instrument; (b) is not personally obligated to pay the sums secured by this Security Instrument; and (c) agrees that Lender and any other Borrower may agree to extend, modify, forbear or make any accommodations with regard to the terms of this Security Instrument or the Note without that Borrower's consent.

12. **Loan Charges.** If the loan secured by this Security Instrument is subject to a law which sets maximum loan charges, and that law is finally interpreted so that the interest or other loan charges collected or to be collected in connection with

the loan exceed the permitted limits, then: (a) any such loan charge shall be reduced by the amount necessary to reduce the charge to the permitted limit; and (b) any sums already collected from Borrower which exceeded permitted limits will be refunded to Borrower. Lender may choose to make this refund by reducing the principal owed under the Note or by making a direct payment to the Borrower. If a refund reduces principal, the reduction will be treated as a partial prepayment without any prepayment charge under the Note.

13. **Legislation Affecting Lender's Rights.** If enactment or expiration of applicable laws has the effect of rendering any provision of the Note or this Security Instrument unenforceable according to its terms, Lender, at its option, may require immediate payment in full of all sums secured by this Security Instrument and may invoke any remedies permitted by paragraph 19. If Lender exercises this option, Lender shall take the steps specified in the second paragraph of paragraph 17.

14. **Notices.** Any notice to Mortgagor provided for in this Security Instrument shall be given by delivering it or by mailing it by first class mail unless applicable law requires use of another method. The notice shall be directed to the Property Address or any other address Mortgagor designates by notice to Lender. Any notice to Lender shall be given by first class mail to Lender's address stated herein or any other address Lender designates by notice to Mortgagor. Any notice provided for in this Security Instrument shall be deemed to have been given to Mortgagor or Lender when given as provided in this paragraph.

15. **Governing Law; Severability.** This Security Instrument shall be governed by federal laws and the law of the jurisdiction in which the Property is located. In the event that any provision or clause of this Security Instrument or the Note conflicts with applicable law, such conflict shall not affect other provisions of this Security Instrument or the Note which can be given effect without the conflicting provision. To this end the provisions of this Security Instrument and the Note are declared to be severable.

16. **Borrower's Copy.** Mortgagor shall be given one conformed copy of the Note and of this Security Instrument.

17. **Transfer of the Property or a Beneficial Interest in Mortgagor.** If all or any part of the Property or any interest in it is sold or transferred (or if a beneficial interest in Mortgagor is sold or transferred and Mortgagor is not a natural person) without Lender's prior written consent, Lender may, at its option, require immediate payment in full of all sums secured by this Security Instrument. However, this option shall not be exercised by Lender if exercise is prohibited by federal laws as of the date of this Security Instrument.

If Lender exercises this option, Lender shall give Mortgagor notice of acceleration. The notice shall provide a period of not less than 30 days from the date the notice is delivered or mailed within which Borrower must pay all sums secured by this Security Instrument. If Borrower fails to pay these sums prior to the expiration of this period, Lender may invoke any remedies permitted by this Security Instrument without further notice or demand on Borrower.

18. **Borrower's Right to Reinststate.** If Borrower meets certain conditions, Borrower shall have the right to have enforcement of this Security Instrument discontinued at any time prior to the earlier of: (a) 5 days (or such other period as applicable law may specify for reinstatement) before sale of the Property pursuant to any power of sale contained in this Security Instrument; or (b) entry of a judgment enforcing this Security Instrument. Those conditions are that Borrower: (a) pays Lender all sums which then would be due under this Security Instrument and the Note had no acceleration occurred; (b) cures any default of any other covenants or agreements; (c) pays all expenses incurred in enforcing this Security Instrument, including, but not limited to, reasonable attorneys' fees; and (d) takes such action as Lender may reasonably require to assure that the lien of this Security Instrument, Lender's rights in the Property and Borrower's obligation to pay the sums secured by this Security Instrument shall continue unchanged. Upon reinstatement by Borrower, this Security Instrument and the obligations secured hereby shall remain fully effective as if no acceleration had occurred. However, this right to reinstate shall not apply in the case of acceleration under paragraphs 13 or 17.

NON-UNIFORM COVENANTS. Borrower and Lender further covenant and agree as follows:

19. **Acceleration; Remedies.** Lender shall give notice to Mortgagor prior to acceleration following Borrower's breach of any covenant or agreement in this Security Instrument (but not prior to acceleration under paragraphs 13 and 17 unless applicable law provides otherwise). The notice shall specify: (a) the default; (b) the action required to cure the default; (c) a date, not less than 30 days from the date the notice is given to Mortgagor, by which the default must be cured; and (d) that failure to cure the default on or before the date specified in the notice may result in acceleration of the sums secured by this Security Instrument, foreclosure by judicial proceeding and sale of the Property. The notice shall further inform Mortgagor of the right to reinstate after acceleration and the right to assert in the foreclosure proceeding the non-existence of a default or any other defense of Mortgagor to acceleration and foreclosure. If the default is not cured on or before the date specified in the notice, Lender at its option may require immediate payment in full of all sums secured by this Security Instrument without further demand and may foreclose this Security Instrument by judicial proceeding. Lender shall be entitled to collect all expenses incurred in pursuing the remedies provided in this paragraph 19, including, but not limited to, reasonable attorneys' fees and costs of title evidence, all of which shall be additional sums secured by this Security Instrument.

20. **Lender In Possession.** Upon acceleration under paragraph 19 or abandonment of Property, Lender (by judicially appointed receiver) shall be entitled to enter upon, take possession of and manage the Property and to collect the rents of the Property including those past due. Any rents collected by Lender or the receiver shall be applied first to payment of the costs of management of the Property and collection of rents, including, but not limited to, receiver's fees, premiums on receiver's bonds and reasonable attorneys' fees, and then to the sums secured by this Security Instrument.

21. Release. Upon payment of all sums secured by this Security Instrument, this Security Instrument shall become null and void. Lender shall release this Security Instrument without charge to Borrower. Borrower shall pay any recordation costs.

22. Waivers. Borrower waives all rights of homestead exemption in the Property. Borrower waives the right to assert any statute providing appraisal rights which may reduce any deficiency judgment obtained by Lender against Borrower in the event of foreclosure under this Security Instrument.

23. Future Advances. The lien of this Security Instrument shall secure the existing indebtedness under the Note and any future advances made under this Security Instrument up to one hundred fifty percent (150%) of the original principal amount of the Note plus interest thereon, attorneys' fees and court costs.

Riders to this Security Instrument. If one or more riders are executed by Borrower and recorded together with this Security Instrument, the covenants and agreements of each such rider shall be incorporated into and shall amend and supplement the covenants and agreements of this Security Instrument as if the rider(s) were a part of this Security Instrument. [Check applicable box(es)]

☐ Adjustable Rate Rider

☐ Condominium Rider

☐ 2-4 Family Rider

☐ Graduated Payment Rider

☐ Planned Unit Development Rider

☐ Other(s) [specify]

BY SIGNING BELOW, Mortgagor accepts and agrees to the terms and covenants contained in this Security Instrument and in any rider(s) executed by Borrower and recorded with it.

Signed, sealed and delivered in the presence of:

[Signature]
Regina G. Matthews

HATCHAM GROVE, INC.

[Signature] (SEAL)
DAVID H. LUCAS, ITS PRESIDENT

STATE OF SOUTH CAROLINA,

County ss: LEE

I, Regina G. Matthews, a Notary Public for the State of South

Carolina, do hereby certify that Hatcham Grove, Inc by David H. Lucas its President personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Sworn before me this 20th day of September, 2007

Regina G. Matthews
Notary Public for South Carolina
My Commission expires 4/12/11

W. Palmer

Sora Medrano

Ernestine N. Palmer (SEAL)
ERNESTINE N. PALMER, TRUSTEE OF THE ARTICLE
VI TRUST CREATED UNDER THE WILL OF JAMES E.
NEWMAN, DECEASED

STATE OF

County ss:

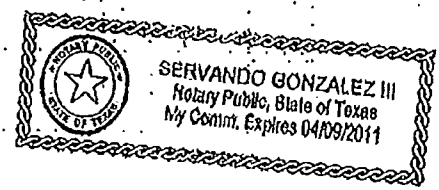
I, Servando Gonzalez, a Notary Public for the State of
TEXAS

do hereby certify that Ernestine N. Palmer, Trustee of the Article VI Trust created under the Will of James E. Newman

Deceased personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Sworn before me this 20th day of September 2007

[Signature]
Notary Public for
My Commission expires 4-9-2011



STATE OF SOUTH CAROLINA

COUNTY OF LEE

Ernestine N. Palmer, as Trustee of the Article IV
Trust created under the Will of Mary Denman
Newman, deceased,

PLAINTIFF,

vs.

Hatcham Grove, Inc., David H. Lucas, and
Ernestine Palmer as Trustee of the Article IV
Trust created under the Will of James E.
Newman, deceased,

DEFENDANT.

Hatcham Grove, Inc., and David H. Lucas,

THIRD-PARTY PLAINTIFF,

vs.

Ronald O. Palmer,

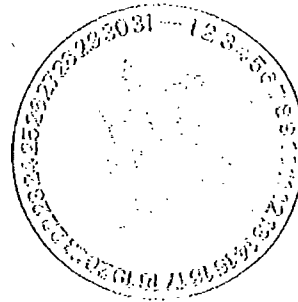
THIRD-PARTY DEFENDANT.

IN THE COURT OF COMMON PLEAS

CASE NO.: 2013-CP-31-130

ANSWER, COUNTERCLAIM, THIRD-
PARTY COMPLAINT, AND MOTION TO
DISMISS OF HATCHAM GROVE, INC. AND
DAVID H. LUCAS

(JURY TRIAL DEMANDED)



Hatcham Grove, Inc., and David H. Lucas (together "Defendants" or "Lucas"), by undersigned counsel, hereby answers Plaintiff's complaint and asserts certain defenses, counterclaims, and third party claims. In support of its thereof, Defendants state as follows:

FOR A FIRST DEFENSE

(Answering the allegations of the Complaint)

1. Unless expressly admitted herein, Defendants deny each and every allegation in the Complaint.
2. Defendants crave reference to the public records of Lee County, South Carolina, for the subject documents of Plaintiff's action, deny anything inconsistent therewith and demand strict proof.
3. Paragraph 1 of the Complaint appears to state legal conclusions which require no response; to the extent a response is required, Defendants crave reference to applicable South Carolina law, deny anything inconsistent therewith and demand strict proof.

4. Defendants have insufficient information to admit or deny paragraph 2 of the Complaint; therefore, deny same and demands strict proof.

5. Defendant Hatcham Grove Inc. admits paragraph 3 of the Complaint.

6. Defendant David H. Lucas admits so much of paragraph 4 of the Complaint which may be construed to allege that he is a resident of Lee County, South Carolina. The remaining allegations in paragraph 4 appear to state legal conclusions which require no response; to the extent a response is required, Defendant Lucas craves reference to applicable South Carolina law, deny anything inconsistent therewith and demand strict proof.

7. Defendants have insufficient information to admit or deny paragraph 5 of the Complaint; therefore, deny same and demands strict proof.

8. Defendant Hatcham Grove Inc. admits so much of paragraphs 6 and 7 of the Complaint which may be construed to allege that it is the mortgagor of the loan that is the subject of Plaintiff's action. In response to the remaining allegations in paragraphs 6 and 7, Defendant Hatcham Grove Inc. craves reference to the subject loan documents which are written agreements and speak for themselves, denies anything inconsistent therewith and demands strict proof.

9. Defendants have insufficient information to admit or deny paragraph 8 of the Complaint; therefore, deny same and demands strict proof.

10. Paragraph 9 of the Complaint appears to state legal conclusions which require no response; to the extent a response is required, Defendants crave reference to applicable South Carolina law, deny anything inconsistent therewith and demand strict proof.

11. Paragraph 10 of the Complaint appears to state legal conclusions which require no response; to the extent a response is required, Defendants crave reference to applicable South Carolina law, deny anything inconsistent therewith and demand strict proof. In response to the remaining allegations in paragraph 10, Defendants crave reference to the subject loan documents which are written agreements and speak for themselves, deny anything inconsistent therewith and demand strict proof.

12. Paragraph 11 of the Complaint appears to state legal conclusions which require no response; to the extent a response is required, Defendants crave reference to applicable South Carolina law, deny anything inconsistent therewith and demand strict proof.

13. In response to in paragraph 12 if the Complaint, Defendants crave reference to the subject loan documents which are written agreements and speak for themselves, deny anything inconsistent therewith and demand strict proof.

14. Defendant David H. Lucas denies the allegations in paragraph 13 of the Complaint to the extent they allege Plaintiff is entitled to any deficiency judgment from this Defendant. The remaining allegations in paragraph 13 appear to state legal conclusions which require no response; to the extent a response is required, Defendants crave reference to applicable South Carolina law, deny anything inconsistent therewith and demand strict proof.

15. Defendants deny paragraphs 14, 15, and 16 of the Complaint and demand strict proof.

FOR A SECOND DEFENSE
(Unclean Hands)

16. Defendants reassert the foregoing statements as if set forth at length herein.

17. Defendants aver that Plaintiff's claims are barred by the doctrine of unclean hands.

FOR A THIRD DEFENSE
(Estoppel)

18. Defendants reassert the foregoing statements as if set forth at length herein.

19. Defendants aver that Plaintiff's claims are barred by the doctrine of estoppel and should be dismissed with prejudice.

FOR A FOURTH DEFENSE
(Unjust Enrichment)

20. Defendants reassert the foregoing statements as if set forth at length herein.

21. Defendants aver that Plaintiff's claims are barred by the doctrine of unjust enrichment.

FOR A FIFTH DEFENSE
(Waiver)

22. Defendants reassert the foregoing statements as if set forth at length herein.

23. Defendants aver that Plaintiff's claims are barred by the doctrine of waiver and should be dismissed with prejudice.

FOR A SIXTH DEFENSE
(Laches)

24. Defendants reassert the foregoing statements as if set forth at length herein.

25. Defendants aver that Plaintiff's claims are barred by the doctrine of laches and should be dismissed with prejudice.

FOR A SEVENTH DEFENSE
(Release)

26. Defendants reassert the foregoing statements as if set forth at length herein.

27. Defendants aver that Plaintiff's claims are barred by the doctrine of release, and should be dismissed with prejudice.

FOR A EIGHTH DEFENSE
(Failure to Mitigate)

28. Defendants reassert the foregoing statements as if set forth at length herein.

29. Defendants aver that Plaintiff's claims are barred by their failure to mitigate damages.

FOR A NINTH DEFENSE
(Intervening/Superseding Cause)

30. Defendants reassert the foregoing statements as if set forth at length herein.

31. Defendants aver that Plaintiff's damages, if any, are the result of their own actions and/or omissions or the actions, omissions of individuals over whom Defendants exercised no control, or both.

32. Defendants reserve the right to assert additional claims and defenses as they may become known.

FOR A TENTH DEFENSE
(Failure to State a Claim)

33. Defendants reassert the foregoing statements as if set forth at length herein.

34. Defendants aver that Plaintiff's Complaint fails to state a claim upon which relief can be granted and should be dismissed with prejudice.

FOR AN ELEVENTH DEFENSE
(Affirmative Defense)

35. Defendants reassert the foregoing statements as if set forth at length herein.

36. Further answering said complaint and for a further defense thereto, Defendants specifically plead as affirmative defenses to the allegations of the complaint, accord and satisfaction, comparative negligence, duress, fraud, illegality, statute of limitations, misrepresentation, mistake, payment, standing, and lack of consideration. Defendants further reserve the right to raise any other affirmative defenses which may become known to the parties in discovery.

ALLEGATIONS COMMON TO COUNTERCLAIMS AND THIRD-PARTY COMPLAINT

37. Defendants/Third-Party Plaintiffs reassert the foregoing statements as if set forth at length herein.

38. Third-Party Defendant Ronald O. Palmer ("Palmer") is a citizen and resident of the State of Texas.

39. This Court has specific personal jurisdiction over Palmer for purpose of this action arising from his actions in the subject loan transaction, both individually and as agent of Plaintiff, his regularly conducted business transactions within South Carolina, and his causing tortious injury to Third-Party Plaintiffs as detailed herein.

40. Upon information and belief, Palmer, was acting as the agent or apparent agent of the Plaintiff at all times relevant hereto. Palmer is the husband of Ernestine N. Palmer, the trustee for Plaintiff.

41. Third-Party Plaintiff David H. Lucas is the sole member of Hatcham Grove Inc.

42. Over the past forty years, Lucas and Palmer have engaged in multiple business dealings together and enjoyed a close personal friendship. At the time the loan that is the subject of Plaintiff's foreclosure was extended, Lucas and Palmer were involved in several business dealings together in South Carolina. Once such business enterprise involved grease collection and treatment services offered by Grease Guard, LLC ("Grease Guard"). Lucas was a managing member of Grease Guard, and Palmer was its one of its four partners.

43. Palmer was aware that Lucas was facing the imminent loss of his home due to financial difficulties unless he could acquire a loan. Therefore, Palmer offered to lend Lucas the funds he needed

to protect his 166 acre residence, in the amount of \$300,000.00, in exchange for a mortgage in favor of a trust for which his wife, Ernestine N. Palmer, is named trustee, the present lienholder and Plaintiff in this action. As part of the transaction, a fee interest in the property was also to be conveyed to a second trust for which Ernestine Palmer is named as trustee: the Article IV Trust created under the Will of James B. Newman, deceased as part of the agreement.

44. Grease Guard's initial revenues indicated that it would be a profitable business venture. Palmer and Lucas agreed that the proceeds from the Grease Guard enterprise would be used to pay off the loan from Plaintiff. Lucas and Palmer agreed that if such funds were insufficient to repay the loan, after carving out that portion of the property where the residence is located, the property would be sold and any proceeds realized would be remitted to Plaintiff.

45. Upon information and belief, the loan funds in the transaction did not originate within the trust of Plaintiff itself, but rather came from an account held by Palmer and/or Ernestine N. Palmer jointly.

46. Pursuant to the deed recorded in the Lee County Register of Deeds Office on September 20, 2007 in Deed Book D-228 at Page 182, Ernestine Palmer as Trustee of the Article IV Trust created under the Will of James B. Newman, deceased was conveyed an undivided $\frac{1}{2}$ interest in the subject property as part of the loan closing transaction.

47. Grease Guard was operating at a profit. Then sometime in late 2010/early 2011, Grease Guard began losing some of its biggest customers to a competitor, and Third-Party Plaintiffs began to fall behind on the loan payments. Grease Guard's sales director abruptly resigned in January of that year, and pirated Grease Guard's client list as well as a laptop containing Grease Guard's proprietary business information. Then without explanation in January of 2011, Palmer dissociated from Grease Guard and refused to honor an oral promise made to pay the company's expenses through the remainder of the fiscal year as agreed upon for allowing the dissociation. It became apparent that Grease Guard would have to cease its operations and that Third-Party Plaintiffs would not be able repay the loan.

48. Lucas subsequently learned that Palmer had introduced and facilitated the hiring of Grease Guard's former sales director with its main competitor, who had since acquired all the business Grease

Guarde had lost. Lucas also learned that Palmer was seeking to become involved with Grease Guard's competitor.

49. Palmer denied Lucas' offer to obtain a reverse mortgage on the property and repay the loan. Palmer refused to sell the property and accept the proceeds as the parties initially agreed. Palmer also refused to accept a deed-in-lieu, excepting the ten acre portion of the property where the house is located.

50. During the course of their dealings with Third-Party Plaintiffs, Plaintiff and Palmer engaged in the following course of conduct which forms as the basis of Third-Party Plaintiffs' claims, counterclaims, and defenses herein:

- a. Misrepresenting material facts and making false promises to influence, persuade, or induce Third-Party Plaintiffs to take the mortgage loan;
- b. Overreaching, and unconscionable conduct in the initial loan transaction by requiring a fee simple conveyance in the property to Ernestine Palmer as Trustee of the Article IV Trust created under the Will of James E. Newman, deceased;
- c. Intentionally producing the default in payments on the loan, by disclosing the trade secrets of Grease Guard to its competitor and other unconscionable conduct in depriving Grease Guard of rightful business opportunities;
- d. Denying Third-Party Plaintiffs the right to select counsel of their choosing in connection with the subject loan transaction; and
- e. Such other breaches of contract, fiduciary and other statutory duties, acts and omissions as may be shown at the trial of this matter.

**FOR A TWELFTH DEFENSE BY WAY OF COUNTERCLAIM AND THIRD PARTY
COMPLAINT
(Accounting)**

51. Third Party Plaintiffs reassert the foregoing statements as if set forth at length herein.

52. Third Party Plaintiffs are entitled to an accounting from Plaintiff detailing all payments made, when received, how applied, interest charged, fees assessed and all other matters relating to the amount claimed owed.

**FOR A THIRTEENTH DEFENSE BY WAY OF COUNTERCLAIM AND THIRD PARTY
COMPLAINT**

(Violation of Attorney Preference Statute)

53. Third Party- Plaintiffs reassert the foregoing statements as if set forth at length herein.
54. Plaintiff failed to ascertain Third Party- Plaintiffs' preference in all matters relating to the closing of the subject loan transaction as required by S.C. Code Ann. § 37-10-102 (1976).
55. As such, Third Party- Plaintiffs are entitled to not less than one thousand five hundred dollars (\$1,500.00) and not more than seven thousand five hundred dollars (\$7,500.00) for the violation, as well as attorneys' fees, and if the Court finds Plaintiff's conduct unconscionable, the amount of the loan, award of all finance charges, twice the interest paid on the mortgage, and forgiveness of all interest due on the mortgage pursuant to S.C. Code. Ann. § 37-1-105.

**FOR A FOURTEENTH DEFENSE BY WAY OF COUNTERCLAIM AND THIRD PARTY
COMPLAINT**

(Breach of Contract)

56. Third-Party Plaintiffs reasserts the foregoing statements as if set forth at length herein.
57. Third-Party Plaintiffs, Palmer, and Plaintiff were parties to an enforceable contract; to wit, the subject loan agreement and the agreement to repay the loan using proceeds from Grease Guard.
58. Plaintiff and Palmer had a duty to deal fairly and in good faith with Third-Party Plaintiffs in performance of the agreements.
59. Third-Party Plaintiffs performed and attempted to continue performing under the loan agreement, while Plaintiff and Palmer breached the agreements by wrongfully procuring the default in payments and failing to honor the alternative repayment terms of the agreement.
60. Plaintiff and Palmer know of their failure to honor the agreement, and refused to accept the agreed-upon alternatives to payment. In doing so, Plaintiff and Palmer breached the implied duty of good faith and fair dealing implied in every contract.
61. As a result of the Plaintiff's and Palmer's breaches, Third-Party Plaintiffs have sustained damages, included but not limited to the following:

- a. Third-Party Plaintiffs have lost the use of sums paid in performance under the agreement(s);
- b. Third-Party Plaintiffs have lost the use of money spent applying for a reverse mortgage and trying to get Plaintiff and Palmer to honor the alternative repayment terms of the agreement; and
- c. Third-Party Plaintiffs have paid sums they do not legally owe to the extent that their account has been assessed costs and fees that would not otherwise have been assessed but for the breach of Plaintiff and Palmer and said fees and costs have been paid.

62. Third-Party Plaintiffs are informed and believe that they are entitled to judgment for actual damages for the Plaintiff's and Palmer's breaches, including all incidental and consequential damages occasioned by said breaches. In addition, Third-Party Plaintiffs ask the Court to require Plaintiff and Palmer to specifically perform the alternative payment obligations they undertook when the agreements were made.

63. Third-Party Plaintiffs further ask the court to award them costs and attorneys fees for this action.

**FOR A FIFTEENTH DEFENSE BY WAY OF COUNTERCLAIM AND THIRD PARTY
COMPLAINT**
(Breach of Contract Accompanied by a Fraudulent Act)

64. Third-Party Plaintiffs reasserts the foregoing statements as if set forth at length herein.

65. Plaintiff and Palmer breached the agreements by refusing to honor their terms, refusing to continue accepting payments thereunder in full satisfaction of Third-Party Plaintiffs' payment obligation under the mortgage. At the same time, Plaintiff by its agent Palmer engaged in a fraudulent scheme to convince Third Party Plaintiffs that the alternative repayment obligations would be honored, to procure Third-Party Plaintiffs default by depriving Grease Guard of its business opportunities, and to disclose Grease Guard's trade secrets and client lists to its competitor. Plaintiff and Palmer knew and intended that Third-Party Plaintiffs would be unable to maintain the mortgage payments and would therefore ultimately lose the property to Plaintiff in foreclosure after Plaintiff and Palmer extracted as much additional revenue as they could, and wrongfully refused to honor the agreed-upon repayment

alternatives. Plaintiff and Palmer also knew and intended that it would benefit financially by seeking a deficiency judgment against Third-Party Plaintiff Lucas.

66. As a result of the Plaintiff's and Palmer's breaches, Third-Party Plaintiffs have sustained damages, included but not limited to the following:

- a. Third-Party Plaintiffs have lost the use of sums paid in performance under the agreement(s);
- b. Third-Party Plaintiffs have been unfairly deprived of the interest in the property conveyed to Ernestine Palmer as Trustee of the Article IV Trust created under the Will of James E. Newman, deceased;
- c. Third-Party Plaintiffs have lost the use of money spent applying for a reverse mortgage and trying to get Plaintiff and Palmer to honor the alternative repayment terms of the agreement; and
- d. Third-Party Plaintiffs have paid sums they do not legally owe to the extent that their account has been assessed costs and fees that would not otherwise have been assessed but for the breach of Plaintiff and Palmer and said fees and costs have been paid.

67. Third-Party Plaintiffs are informed and believe that they are entitled to judgment against Plaintiff and Palmer for punitive damages in addition to actual, incidental and consequential damages, as well as costs and attorneys fees for this action.

**FOR A SIXTEENTH DEFENSE BY WAY OF COUNTERCLAIM AND THIRD PARTY
COMPLAINT**
(Promissory Estoppel)

68. Third-Party Plaintiffs reasserts the foregoing statements as if set forth at length herein.

69. Plaintiff, by and through its agent Palmer, made an unambiguous promise to Third Party Plaintiffs that if the profits from Grease Guard were insufficient to repay the loan, after carving out that portion of the property where the residence is located, the property would be sold and any proceeds realized would be remitted to Plaintiff.

70. Plaintiff refused to honor the terms of the alternative repayment agreement.

71. Plaintiff refused to permit Third Party Plaintiffs to obtain a reverse mortgage to repay the loan.

72. Third Party Plaintiffs acted reasonably in relying on Plaintiff and Palmers' representations, and they performed their obligations under the agreements in good faith. Their reliance is reasonable especially in light of the long personal and professional relationship Lucas and Palmer enjoyed.

73. Because Plaintiff and Palmer have not honored the promises and representations made to Third Party Plaintiffs, Third Party Plaintiffs have been damaged. Third Party Plaintiffs have paid sums they would otherwise not have paid but for the promises and representations made by Plaintiff and Palmer. Plaintiff and Palmer have also denied Third Party Plaintiff other opportunities to reduce the debt owing under mortgage, yet continue to demand the continually increasing amounts due under the mortgage.

74. Consequently, Plaintiff and Palmer should be estopped from denying that the loan is in default and Third Party Plaintiffs ask the Court to require Plaintiff to honor the terms of the agreements herein. Alternatively, Third Party Plaintiffs ask the Court to award them damages in an amount equal to any arrears the Plaintiff alleges as well as the difference between all future payments under the loan agreement.

75. Third Party Plaintiffs further ask the Court to award them the costs of this action.

**FOR A SEVENTEENTH DEFENSE BY WAY OF COUNTERCLAIM AND THIRD PARTY
COMPLAINT**

(Violation of South Carolina Trade Secret Act, S.C. Code Ann. §§ 39-8-20, *et. seq.*)

76. Third-Party Plaintiffs reasserts the foregoing statements as if set forth at length herein.

77. Upon information and belief, Palmer is engaged in business dealings in South Carolina which are similar to Grease Guard's prior business operation.

78. Upon information and belief, Palmer had access to and disclosed Grease Guard's confidential and proprietary information constituting "trade secrets," as defined by the South Carolina Trade Secret Act, S.C. Code Ann. §§ 39-8-20, *et. seq.*, and disclosed same to its competitor directly and/or indirectly.

79. This information is sufficiently secret to derive independent and economic value from not being generally known to, and not being readily ascertainable by proper means, by the public or any other person who can obtain economic value from its disclosure or use.

80. This information is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.

81. Palmer's illegal disclosure of Grease Guard's trade secret information was done without Lucas' authorization or permission, and in violation of Palmer's fiduciary duty to Grease Guard.

82. Palmer's unauthorized possession, use, and/or disclosure of Grease Guard's trade secret information violates the South Carolina Trade Secrets Act.

83. As a result, Third Party Plaintiffs have been damaged by the misappropriation, use, and/or disclosure of its trade secrets by Palmer as set forth herein.

**FOR A EIGHTEENTH DEFENSE BY WAY OF COUNTERCLAIM AND THIRD PARTY
COMPLAINT**

(Tortious Interference with Contractual Relations)

84. Third-Party Plaintiffs reasserts the foregoing statements as if set forth at length herein.

85. Plaintiff and Palmer were aware and agreed that the profits of Grease Guard would be used to repay the loan to Third Party Plaintiffs.

86. Upon information and belief, Palmer procured the default of Third Party Plaintiffs by intentionally causing the dissolution of Grease Guard and directly and/or indirectly disclosing its client list and trade secrets to its competitor.

87. As such, Palmer intentionally harmed Third Party Plaintiffs by preventing the existing business relations between Grease Guard and its clients from occurring.

88. Palmer's purpose and intent to interfere with Grease Guard's performance of existing contracts was done without privilege or justification.

89. As a result of Palmer's conduct, Third Party Plaintiffs have suffered pecuniary loss.

**FOR A NINETEENTH DEFENSE BY WAY OF COUNTERCLAIM AND THIRD PARTY
COMPLAINT**

(Intentional Interference with Prospective Advantage)

90. Third-Party Plaintiffs reasserts the foregoing statements as if set forth at length herein.

91. Plaintiff and Palmer were aware and agreed that the profits of Grease Guard would be used to repay the loan to Third Party Plaintiffs.

92. Upon information and belief, Palmer procured the default of Third Party Plaintiffs by intentionally causing the dissolution of Grease Guard and directly and/or indirectly disclosing its client list and trade secrets to its competitor.

93. As a result of the foregoing, Grease Guard was deprived of future professional relationships.

94. But for Palmer's intentionally causing the dissolution of Grease Guard and directly and/or indirectly disclosing its client list and trade secrets to its competitor, contracts with Grease Guard and new clients would have ensued.

95. As a result, Third Party Plaintiffs have suffered pecuniary loss.

**FOR A TWENTIETH DEFENSE BY WAY OF COUNTERCLAIM AND THIRD PARTY
COMPLAINT**
(Theft of Corporate Opportunity)

96. Third-Party Plaintiffs reasserts the foregoing statements as if set forth at length herein.

97. As an insider of Grease Guard, Palmer was aware of its corporate opportunities and goodwill which, upon information and belief, he attempted to purloin to his account by intentionally causing the dissolution of Grease Guard and directly and/or indirectly disclosing its client list and trade secrets to its competitor.

98. As a result of the foregoing, Grease Guard was deprived of corporate opportunities.

99. But for Palmer's intentionally causing the dissolution of Grease Guard and directly and/or indirectly disclosing its client list and trade secrets to its competitor, Grease Guard would have retained its corporate opportunities.

100. As a result, Third Party Plaintiffs have suffered pecuniary loss.

MOTION TO DISMISS

101. Defendants reassert the foregoing statements as if set forth at length herein.

102. Pursuant to South Carolina Supreme Court Administrative Order 2011-05-02-01 ("Administrative Order"), in all mortgage foreclosure actions filed after May 9, 2011, the Mortgagee's attorney shall serve on the Mortgagor, along with the summons and complaint, a notice of the Mortgagor's right to

foreclosure intervention. All proceedings in the foreclosure action shall be stayed until completion of such foreclosure intervention under the Administrative Order.

103. This action falls within the purview of the Administrative Order and Defendants are entitled to participate in foreclosure intervention because the subject property is owner occupied.

104. Defendants move to dismiss the within Complaint pursuant to Rule 12, SCRCP, on the grounds that Plaintiff has failed to serve Defendants a Notice of Foreclosure intervention, as required by the Administrative Order.

NOTICE OF DEMAND FOR APPRAISAL RIGHTS

105. Defendants reassert the foregoing statements as if set forth at length herein.

106. Defendants hereby place Plaintiff on notice of their intent to assert the right to an appraisal as allowed by South Carolina law.

PRAYER FOR RELIEF

WHEREFORE, Defendants/Third Party Plaintiffs pray that the Court grant the following relief:

1. Dismiss the Complaint with costs and attorneys fees awarded to Defendants/ Third Party Plaintiffs;
2. Grant Defendants/Third Party Plaintiffs judgment against Plaintiff and Third Party Defendant Palmer for the Counterclaims in an amount to be determined by a jury;
3. Dismiss the Plaintiff's Complaint with prejudice for its failure to comply with the Administrative Order of the Supreme Court of South Carolina or, alternatively, to sanction Plaintiff for its failure to comply with the Administrative Order of the Supreme Court of South Carolina;
4. Require Plaintiff to pay Defendants/Third Party Plaintiffs' attorneys fees and cost incurred in this action; and
5. For such other and further relief as the Court deems just and property.

Defendants demand a jury trial of the counterclaims.

FINKEL LAW FIRM LLC


Magalie A. Arpure (S.C. Bar 78855)
Post Office Box 41489
Charleston, South Carolina 29423
Tel: (843) 577-5460
Facsimile: (843) 577-5135
Attorneys for the Defendants

September 25, 2013

STATE OF SOUTH CAROLINA)
)
COUNTY OF LEE)

IN THE COURT OF COMMON PLEAS
THE THIRD JUDICIAL CIRCUIT
Civil Action No.: 2013-CP-31-130

Ernestine N. Palmer, as Trustee of the)
Article IV Trust created under the Will of)
Mary Denman Newman, deceased,)

Plaintiff,)

vs.)

Hatcham Gove Inc., David H. Lucas, and)
Ernestine N. Palmer, as Trustee of the)
Article IV Trust created under the Will of)
James E. Newman, deceased,)

Defendants.)

**REPLY TO DEFENDANTS'
ANSWER AND COUNTERCLAIM**

Hatcham Grove, Inc., and David H. Lucas,)

Third-Party Plaintiff,)

vs.)

Ronald O. Palmer,)

Third-Party Defendant.)

Plaintiff, by and through the undersigned counsel, replying to the Answer and Counterclaim of Defendants Hatcham Grove, Inc. and David H. Lucas ("Defendants"), would show and allege unto this Honorable Court the following:

FOR A FIRST DEFENSE

1. Each and every allegation set forth in Defendants' Answer and Counterclaim not specifically admitted herein is denied, and strict proof demanded thereof.
2. Plaintiff denies the allegations and inferences contained in Paragraphs 1 – 37 of the Answer and Counterclaim, and demand strict proof thereof.
3. Plaintiff admits the allegations contained in Paragraph 38 of the Answer and Counterclaim.

4. Plaintiff denies the allegations contained in Paragraphs 39 – 50 of the Answer and Counterclaim, and demands strict proof thereof.

5. In response to Paragraph 51 of the Answer and Counterclaim, Plaintiff incorporates the foregoing Paragraphs 1 – 4 as if fully set forth herein verbatim.

6. Plaintiff denies the allegations contained in Paragraph 52 of the Answer and Counterclaim.

7. In response to Paragraph 53 of the Answer and Counterclaim, Plaintiff incorporates the foregoing Paragraphs 1 – 6 as if fully set forth herein verbatim.

8. Plaintiff denies the allegations contained in Paragraphs 54 and 55 of the Answer and Counterclaim, and demands strict proof thereof.

9. In response to Paragraph 56 of the Answer and Counterclaim, Plaintiff incorporates the foregoing Paragraphs 1 – 8 as if fully set forth herein verbatim.

10. Plaintiff denies the allegations contained in Paragraphs 57 – 63 of the Answer and Counterclaim, and demands strict proof thereof.

11. In response to Paragraph 64 of the Answer and Counterclaim, Plaintiff incorporates the foregoing Paragraphs 1 – 10 as if fully set forth herein verbatim.

12. Plaintiff denies the allegations contained in Paragraphs 65 – 67 of the Answer and Counterclaim, and demands strict proof thereof.

13. In response to Paragraph 68 of the Answer and Counterclaim, Plaintiff incorporates the foregoing Paragraphs 1 – 12 as if fully set forth herein verbatim.

14. Plaintiff denies the allegations contained in Paragraphs 69 – 75 of the Answer and Counterclaim, and demands strict proof thereof.

15. In response to Paragraph 76 of the Answer and Counterclaim, Plaintiff incorporates the foregoing Paragraphs 1 – 14 as if fully set forth herein verbatim.

16. Plaintiff denies the allegations contained in Paragraphs 77 – 83 of the Answer and Counterclaim, and demands strict proof thereof.

17. In response to Paragraph 84 of the Answer and Counterclaim, Plaintiff incorporates the foregoing Paragraphs 1 – 16 as if fully set forth herein verbatim.

18. Plaintiff denies the allegations contained in Paragraphs 85 – 89 of the Answer and Counterclaim, and demands strict proof thereof.

19. In response to Paragraph 90 of the Answer and Counterclaim, Plaintiff incorporates the foregoing Paragraphs 1 – 18 as if fully set forth herein verbatim.

20. Plaintiff denies the allegations contained in Paragraphs 91 – 95 of the Answer and Counterclaim, and demands strict proof thereof.

21. In response to Paragraph 96 of the Answer and Counterclaim, Plaintiff incorporates the foregoing Paragraphs 1 – 20 as if fully set forth herein verbatim.

22. Plaintiff denies the allegations contained in Paragraphs 97 – 100 of the Answer and Counterclaim, and demands strict proof thereof.

23. In response to Paragraph 101 of the Answer and Counterclaim, Plaintiff incorporates the foregoing Paragraphs 1 – 22 as if fully set forth herein verbatim.

24. Plaintiff denies the allegations contained in Paragraphs 102 – 103 of the Answer and Counterclaim, and demands strict proof thereof.

25. Plaintiff does not believe a response is required to Paragraph 104 of the Answer and Counterclaim, but, to the extent a response is required, the same is denied.

26. In response to Paragraph 105 of the Answer and Counterclaim, Plaintiff incorporates the foregoing Paragraphs 1 – 25 as if fully set forth herein verbatim.

27. Plaintiff does not believe a response is required to Paragraph 106 of the Answer and Counterclaim, but, to the extent a response is required, the same is denied.

FOR A SECOND DEFENSE

28. Plaintiff restates and re-alleges Paragraphs 1-27 of this Answer as if fully set forth herein.

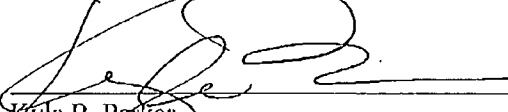
29. Third-Party Plaintiffs' claims are barred by the doctrine of accord and satisfaction concerning agreements reached between Third-Party Plaintiff David H. Lucas ("Lucas") and Third-Party Defendant Ronald O. Palmer ("Palmer") relating the resolution of any and all claims with respect to a \$1,300,000.00 loan by Palmer to Grease Guard, LLC, an enterprise referenced in the Third-Party Complaint. Third-Party Plaintiffs' claims are further barred by the applicable statute of limitations, the doctrine of laches, waiver, estoppel, and condonation.

WHEREFORE, Plaintiff prays the Court inquire into the matter, and enter its Order and Judgment as follows:

- (a) dismissing the Counterclaims with prejudice; and,
- (b) granting the relief prayed for in the Complaint, and,
- (c) for such other and further relief as the Court deems necessary and appropriate.

Respectfully submitted,

POPE & HUDGENS, P.A.

A handwritten signature in black ink, appearing to read 'Kyle B. Parker', is written over a horizontal line.

Kyle B. Parker
1508 College Street
P.O. Box 190
Newberry, South Carolina 29108
(803) 276-2532

Attorneys for the Plaintiff
and Third-Party Defendant

Newberry, South Carolina
October 31, 2013

STATE OF SOUTH CAROLINA
COUNTY OF LEE

IN THE COURT OF COMMON PLEAS
THE THIRD JUDICIAL CIRCUIT
Civil Action No.: 2013-CP-31-130
Civil Action No.: 2013-CP-31-133

Ernestine N. Palmer, as Trustee of the
Article IV Trust created under the Will of
Mary Denman Newman, deceased,

Plaintiff,

vs.

Hatcham Gove Inc., David H. Lucas, and
Ernestine N. Palmer, as Trustee of the
Article IV Trust created under the Will of
James E. Newman, deceased,

Defendants.

**NOTICE OF MOTION AND MOTION FOR
PARTIAL SUMMARY JUDGMENT**

Hatcham Grove, Inc., and David H. Lucas,

Third-Party Plaintiff,

vs.

Ronald O. Palmer,

Third-Party Defendant.

Ronald O. Palmer and Thomas Fairly,

Plaintiffs,

vs.

Grease Guard, LLC,

Defendant.

TO: THE ABOVE-NAMED PARTIES AND THEIR COUNSEL

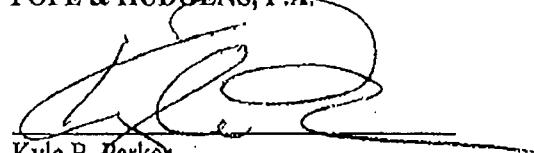
YOU WILL PLEASE TAKE NOTICE that Plaintiff Ernestine N. Palmer, as Trustee of the Article IV Trust created under the Will of Mary Denman Newman, deceased, by and through the undersigned counsel will move at such time as the Court appoints for an order granting said Plaintiff partial summary judgment in the above-styled matter against Defendants David H. Lucas and Hatcham Grove, Inc.'s claim for damages for violation of S.C. Code Ann. § 37-10-102. There are no questions of

fact and Plaintiff Palmer is entitled to judgment as a matter of law.

This motion is further based upon said Defendants' responses to Plaintiff's interrogatory numbers 24 and 25 wherein Defendants assert that their claim under said statute is based on the fact that no "attorney preference form" was obtained. The statute requires no such form to be procured. Therefore, said Defendants' claims under S.C. Code Ann. § 37-10-102 are without merit. This motion is further based on all applicable case and statutory law, as well as any memorandum or other materials submitted to the Court prior to the hearing of this motion.

Pursuant to Rule 11 of the South Carolina Rules of Civil Procedure, the undersigned counsel certifies that there is no duty to consult with opposing counsel concerning this motion for partial summary judgment.

POPE & HUDGENS, P.A.



Kyle B. Parker
1508 College Street
P.O. Box 190
Newberry, South Carolina 29108
(803) 276-2532

Attorneys for Plaintiffs and
Third-Party Defendant

Newberry, South Carolina
May 21, 2014

STATE OF SOUTH CAROLINA

COUNTY OF LEE

Ernestine N. Palmer, as Trustee of the Article IV Trust created under the Will of Mary Denman Newman, deceased; Ronald O. Palmer; Ernestine N. Palmer, as Trustee of the Article IV Trust created under the Will of James E. Newman, deceased,

PLAINTIFF,

vs.

Hatcham Grove, Inc., David H. Lucas,

DEFENDANTS.

IN THE COURT OF COMMON PLEAS

CASE NO.: 2013-CP-31-130

**RETURN TO PLAINTIFFS' MOTION
FOR PARTIAL SUMMARY JUDGMENT**

Hatcham Grove, Inc. and David H. Lucas ("Defendants") by and through their undersigned counsel, hereby respond to the Motion for Partial Summary Judgment as to S.C. Code §37-10-102, *et seq.* filed by Ernestine N. Palmer, as Trustee of the Article IV Trust created under the Will of Mary Denman Newman, deceased, Ronald O. Palmer, and Ernestine N. Palmer, as Trustee of the Article IV Trust created under the Will of James E. Newman, deceased ("Plaintiffs"). For the reasons set forth herein, Plaintiffs' Motion should be denied.

STANDARD

Summary judgment is proper if, viewing the evidence and inferences to be drawn therefrom in a light most favorable to the nonmoving party, the pleadings, depositions, answers to interrogatories, admissions, and affidavits, if any, show that there is no genuine issue of material fact and that the moving party is entitled to a judgment as a matter of law. Rule 56(c), SCRCP; Quail Hill, LLC v. County of Richland, 387 S.C. 223, 235 692 S.E.2d 499, 505 (2010). Under Rule 56(c), the party seeking summary judgment has the initial burden of demonstrating the absence of a genuine issue of material fact. Baughman v. American Tel. and Tel. Co., 306 S.C.101, 115 410 S.E.2d 537, 545 (1992). With respect to an issue upon which the nonmoving party has the burden of proof, this initial responsibility may be discharged by pointing out to the trial court that there is an absence of evidence to support the nonmoving

party's case. Id. In determining whether any triable issues of fact exist, the evidence and all inferences which can be reasonably drawn therefrom must be viewed in the light most favorable to the nonmoving party. Sumner v. Carpenter, 328 S.C. 36, 492 S.E.2d 55 (1997). Summary judgment is not appropriate where further inquiry into the facts of the case is desirable to clarify the application of the law. Brockbank v. Best Capital Corp., 341 S.C. 372, 534 S.E.2d 688 (2000). Summary judgment should not be granted even when there is no dispute as to evidentiary facts if there is disagreement concerning the conclusion to be drawn from those facts. Moriarty v. Garden Sanctuary Church of God, 341 S.C. 320, 534 S.E.2d 672 (2000).

ARGUMENT

Plaintiffs have failed to provide any evidence of their compliance with the requirements of S.C. Code § 37-10-102, *et seq.* and, therefore, Plaintiff's Motion for Summary Judgment must be denied. Under the South Carolina Consumer Protection Code, creditors must ascertain a borrower's preference prior to the closing of the legal counsel employed to represent them in the transaction. See S.C. Code § 37-10-102(a). Compliance may be established through the provision of an attorney preference form submitted to the borrowers either accompanying or following the credit application. See S.C. Code § 37-10-102(a)(1)-(2). A creditor need only show substantial compliance to satisfy this provision, such as providing a clear and prominent request for the information. Davis v. Nations Credit Fin. Servs. Corp., 326 S.C. 83, 86, 484 S.E.2d 471, 472 (1997) ("[W]e conclude that a lender substantially complies with section 37-10-102 if the borrower receives a clear and prominent disclosure of the statutorily required information.").

Plaintiffs have not produced a signed attorney preference form executed by the borrower in the transaction, Defendant David Lucas, prior to the closing. Similarly, Plaintiffs have failed to establish any other evidence of compliance with the provision, let alone the stringent substantial compliance standard set forth in the statute. Defendant Lucas, both in response to Plaintiffs' written discovery requests and in his deposition testimony, denies that his attorney preference was ascertained by the lender prior to the closing transaction.

As the lender in the subject transaction, the burden falls on Plaintiff Ernestine N. Palmer, as Trustee of the Article IV Trust created under the Will of Mary Denman Newman, deceased, to demonstrate it complied with the Attorney Preference Provision of the S.C. Consumer Protection Code by providing a clear and prominent request for the information to the borrower prior to the closing and/or an attorney preference form executed by the borrower prior to the closing. Because Plaintiffs have failed to show any evidence that Defendant Lucas was provided the statutorily mandated opportunity to indicate his preference of the attorney to represent him in the loan transaction, Plaintiffs' motion must be denied as a matter of law.

Based on the foregoing, Plaintiffs Motion for Partial Summary Judgment should be denied.

Respectfully submitted,

FINKEL LAW FIRM LLC


Magalie A. Arcure (S.C. Bar 78855)
Post Office Box 41489
Charleston, South Carolina 29423
Telephone: (843) 577-5460
Facsimile: (843) 577-5135
Attorneys for Defendants

September 8, 2014

STATE OF SOUTH CAROLINA

COUNTY OF LEE

IN THE COURT OF COMMON PLEAS

THE THIRD JUDICIAL CIRCUIT

Civil Action No.: 2013-CP-31-130

Ernestine N. Palmer, as Trustee of the
Article IV Trust created under the Will of
Mary Denman Newman, deceased, Ronald
O. Palmer, Ernestine N. Palmer, as Trustee
of the Article IV Trust created under the
Will of James E. Newman, deceased,

Plaintiffs,

vs.

Hatcham Gove Inc., David H. Lucas,

Defendants.

MEMORANDUM IN SUPPORT OF MOTION
FOR ADDITIONAL TIME TO RESPOND TO
DEFENDANTS' REQUESTS FOR ADMISSION
OR, IN THE ALTERNATIVE, MOTION TO
WITHDRAW OR AMEND UNDER RULE 36(b)

Plaintiffs submit this Memorandum in Support of Motion for Additional Time to Respond to Defendants' Requests for Admission or, in the Alternative, Motion to Withdraw or Amend Under Rule 36(b) for the benefit of the Court in connection with the hearing upon said motion on September 12 at 9:30am.

STATEMENT OF THE CASE

This proceeding was initiated by Plaintiff, Ernestine N. Palmer, as Trustee of the Article IV Trust created under the Will of Mary Denman Newman, deceased, as a simple foreclosure proceeding in her attempt to collect upon a \$700,000 mortgage. As admitted in Defendants answer, the said Plaintiff and her husband, Plaintiff Ronald O. Palmer, have been close friends with Defendant David H. Lucas for over 40 years. The mortgage loan to Defendants came about when Plaintiffs became aware of Defendant Lucas' financial difficulties that threatened the imminent loss of his home located on the subject property. (See ¶s 43, 44 of Defendants Answer, Counterclaim, and Third Party Complaint). Plaintiffs thought they were helping their friend. However, while now admitting that not even a single payment has been made towards the loan, Defendants responded to the foreclosure complaint with several specious defenses, counterclaims, and third party complaints. Plaintiffs have repeatedly denied the substance of these allegations time after time within this proceeding.

The primary defenses of Defendants to the foreclosure cause of action were based on alleged oral modifications of the subject promissory note and mortgage. (See Defendants' Supplemental Responses to Plaintiffs First Set of Interrogatories attached hereto as Exhibit A). Defendants alleged that Plaintiff Ronald O. Palmer, though not the mortgagee, orally agreed that repayment of the loan would come from

Defendant David H. Lucas' distributions of profit from an unrelated and now defunct entity, Grease Guard, LLC.

Defendants counterclaims and third party causes of action are all without merit. The first counterclaim and third party cause of action was for an accounting of any payments to Plaintiffs from any source. Defendants brought this claim despite the fact that Defendants have now admitted that there have never been any payments whatsoever made towards the subject \$700,000 promissory note from either Defendants and that Grease Guard, LLC never made any profits in order to facilitate any payments under the alleged oral modification of the promissory note and mortgage, (See Deposition of David H. Lucas, p. 20, ln. 23-25; p. 39, ln.9-p.41, ln.17).

The second counterclaim third party cause of action is likewise meritless. It alleges a violation of the attorney preference statute (S.C. Code Ann. § 37-10-102). Since filing his pleading, however, Mr. Lucas has stipulated under oath that 1) this claim is based solely on the fact that no attorney preference form was obtained at the closing of the loan notwithstanding the fact that the statute does not require such a form; 2) that the attorney closing the transaction had represented him on numerous occasions prior to the loan closing; 3) that he never voiced any objection to this attorney closing the transaction; and 4) that he did not want anyone else to represent him in the closing. (See Defendants' Answers to Plaintiffs' First Set of Interrogatories attached as Exhibit B and Deposition of David H. Lucas, p. 81, ln.6-p. 82, ln.22).

The third and fourth counterclaims third party causes of action are doomed to fail as well. It is a claim for breach of loan agreement as allegedly orally modified as noted above. It has been the law of this state since before its founding that such oral modifications, even if true, are unenforceable under the Statute of Frauds. *e.g.*, Player v. Chandler, 299 S.C. 101, 382 S.E.2d 891 (1989) (holding that a contract required to be in writing by the Statute of Frauds, S.C. Code Ann. § 32-3-10, such as a mortgage cannot be orally modified); Windham v. Honeycutt, 279 S.C. 109, 302 S.E.2d 856 (1983); Harby v. Wilson, 106 S.C. 7, 90 S.E. 183 (1916).

Defendants further plead causes for violation of the Unfair Trade Practices Act, promissory estoppel, interference with contractual relations and prospective advantages, and theft of corporate opportunities all of which concern Defendants allegations relating either to the claimed oral modifications or Defendant David H. Lucas' laughable theory that Plaintiff Ronald O. Palmer intentionally harmed Grease Guard, LLC's ability to pay an approximately \$3million outstanding obligation to Mr. Palmer. These counterclaims and third party causes therefore fail because the alleged modifications are unenforceable or because Defendants have now admitted they have no means to prove them. (See Defendants Answers to Plaintiffs First Set of Interrogatories and Deposition of David H. Lucas, p. 48, ln. 10-p.51, ln.14).

Nevertheless and even though Plaintiffs repeatedly denied each of the allegations contained in the

counterclaims and third party causes of action, Defendants served Requests for Admissions seeking further denials of these very same allegations. The undersigned did not receive these requests until June 20, 2014. Plaintiffs served their denials only four days late on July 25, 2014, and, based solely on this shortcoming, Defendants have sought to have the requests deemed admitted and asked this court to grant summary judgment.

ARGUMENT

The Court should enlarge the time in which Plaintiffs had to serve their denials to the Defendants' requests for admission or allow Plaintiffs to withdraw or amend the deemed admissions pursuant to Rule 36(b), SCRPC. Otherwise, the Court frustrates the intent and purpose of the rules of civil procedure to ensure a just result. See Rule 1, SCRPC (stating that the Rules "shall be construed to secure the *just*, speedy, and inexpensive determination of every action," emphasis added). The primary purpose of procedural rules is to promote the ends of justice. 4 Wright & Miller, Federal Practice and Procedure: Civil 3rd § 1029 (2014).

Rule 6, SCRPC, provides, "[w]hen by these rules ...an act is required...to be done at or within a specified time,...the court ... may at any time in its discretion ... upon motion made after the expiration of the specified period, for good cause shown, permit the act to be done." Moreover, Rule 36(b) states that "the court may permit withdrawal or amendment when the presentation of the merits of the action will be subserved thereby and the party who obtained the admissions fails to satisfy the court that withdrawal or amendment will prejudice him in maintaining his action or defense on the merits."

Indeed, the reference to "prejudice" in Rule 36(b) is to the prejudice stemming from reliance on the binding effect of the admission. 8 Wright & Miller, Federal Practice and Procedure: Civil 3rd § 2264 (2014). Defendants cannot be said to have relied on any deemed admissions as the matters to which admissions were sought had been repeatedly denied in any and all other pleadings in which such matters were mentioned. To the extent Defendants assert they have relied on the deemed admissions in support of their summary judgment, the Court should note that it has been consistently held that such reliance does not constitute prejudice under rule 36(b). 8 Wright & Miller, Federal Practice and Procedure: Civil 3rd § 2264 (2014), *citing*, Conlon v. U.S., 474 F.3d 616, 624 (9th Cir. 2007); In re Durability Inc., 212 F.3d 551, 556 (10th Cir. 2000); F.D.I.C. v. Prusia, 18 F.3d 637, 640 (8th Cir. 1994). Instead, when considering "prejudice" under Rule 36(b), district courts should focus on the prejudice that the nonmoving party would suffer *at trial*. Id.

Here, the Court's only inquiry is whether allowing Plaintiffs late denials would visit prejudice on Defendants. It is clear the ends of justice and the adjudication of the case on the merits will only be

served by either the enlargement of the time for the Plaintiffs to deny the subject requests for admission or the withdrawal of any deemed admissions. This cannot be denied by Defendants, as there can be no prejudice visited by requiring them to prove by competent evidence the substance of their bald allegations. That they have no such competent evidence to do so cannot form the basis of any claim of prejudice.

What is more, "requests for admission as to central facts in dispute are beyond the proper scope of the rule [36]. Such requests have consistently been held improper." 8 Wright & Miller, Federal Practice and Procedure: Civil 3rd § 2256 (2014), *citing*, Pickens v. Equitable Life Assur. Soc. of U. S., 413 F.2d 1390, 1393-1394 (5th Cir. 1969). In fact, our Supreme Court has held that while the withdrawal of deemed admissions or the allowance of late denials is a matter lying within the discretion of this Court, the denial of a motion to withdraw any deemed admissions and to substitute in their place the responses offered by Plaintiffs on July 25, 2014 would constitute reversible error and an abuse of such discretion where, as here, the sought admissions, "if not dispositive, involve key factual elements" of both parties claims and defenses. Baughman v. American Tel. and Tel. Co., 306 S.C. 101, 410 S.E. 2d 537 (1991) (holding that deemed admissions that are either dispositive or involve key factual issues subserve the presentation of the merits requiring the allowance of the withdrawal of any such admissions under Rule 36(b)).

In the instant case, Defendants requests seek the admission of facts that could only be established by a deemed admission. These facts go to the very crux of their and Plaintiffs' claims and defenses. Defendant David H. Lucas concedes in his deposition testimony that he has no evidence whatsoever to prove the matters covered by the deemed admissions. Nevertheless, they, in essence, ask this Court, based solely on the barest of technicality, to deny relief to Plaintiff Ernestine N. Palmer on her \$700,000 mortgage in face of Defendant Lucas' admission that not a single payment has been made towards the balance thereof. It is simply inane, ludicrous and unjust.

Justice Black, in the well known Supreme Court case of Surowitz v. Hilton Hotels Corp., 86 S.Ct. 845, 851, 383 U.S. 363, 373, 15 L.Ed.2d 807 (1966), discussing the intent and purpose of the federal rules of civil procedure on which our rules are mirrored explained that:

" [th]e basic purpose of the Federal Rules is to administer justice through fair trials, not through summary dismissals as necessary as they may be on occasion. These rules were designed in large part to get away from some of the old procedural booby traps ... If rules of procedure work as they should in an honest

and fair judicial system, they not only permit, but should as nearly as possible guarantee that bona fide complaints be carried to an adjudication on the merits."

It is, therefore, axiomatic that Rules 6 and 36(b), when construed consistent with the purpose and intent of the rules as provided in Rule 1, require this Court to enlarge the time in which Plaintiffs had to serve their denials to the Defendants' requests for admission or allow Plaintiffs to withdraw any deemed admissions and to substitute in their place the responses offered by Plaintiffs on July 25, 2014. To do otherwise is to stand the rules of civil procedure on their head and subserve the presentation of the merits and the ends of justice, which is the very ill that the rules have been explicitly promulgated to avoid.

CONCLUSION

This Court should The Court should enlarge the time in which Plaintiffs had to serve their denials to the Defendants' requests for admission or allow Plaintiffs to withdraw or amend the deemed admissions pursuant to Rule 36(b), SCRCF. The Court's only inquiry is whether to do so would visit prejudice upon Defendants. As explained above, no such prejudice is present in this case. Therefore, Plaintiffs motion in this regard should be granted.

Respectfully submitted,

POPE & HUDGENS, P.A.



Kyle B. Parker
1508 College Street
P.O. Box 190
Newberry, South Carolina 29108
(803) 276-2532

Attorneys for Plaintiffs

Newberry, South Carolina
September 11, 2014

RECEIVED

NOV 10 2014

30th Court of Appeals

IN THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM LEE COUNTY

W. Jeffery Young, Presiding Judge, Third Judicial Circuit

Case No. 2013-CP-31-00130

Ernestine N. Palmer, as Trustee of the Article IV Trust created under
the Will of Mary Denman Newman, deceased, Ronald O. Palmer,
Ernestine N. Palmer, as Trustee of the Article IV Trust created
under the Will of James B. Newman, deceased,.....Respondents,

v.

Hatcham Grove, Inc., and David H. Lucas,.....Appellants.

NOTICE OF APPEAL

Appellants, Hatcham Grove, Inc. and David H. Lucas, by and through their undersigned counsel, appeal the Order Granting Plaintiff's Motion for Partial Summary Judgment, entered as part of the *Order Granting Plaintiffs' Motions for Partial Summary Judgment and for Additional Time to Respond to Defendants' Requests for Admission, or in the Alternative, Motion to Withdraw or Amend Under Rule 36(b) and Denying Defendants' Motion for Summary Judgment* of the Honorable W. Jeffrey Young signed on September 22, 2014 and filed October 15, 2014.

Appellants received notice of the signed order on October 13, 2014 and have yet to receive notice of the entry of the filed order.

[SIGNATURE ON FOLLOWING PAGE]

Ernestine N. Palmer, as Trustee, etc.
v. Hatcham Grove, Inc., et al.
Case No. 2013-CP-31-00130
NOTICE OF APPEAL
Page 2 of 2

November 6, 2014

Respectfully submitted,


Magalie A. Arcure (SC Bar No. 78855)
FINKEL LAW FIRM LLC
4000 Faber Place Drive, Suite 450
North Charleston, South Carolina 29405
T: 843.577.5460
F: 866.800.7954
marcure@finkellaw.com

*Attorney for Defendants/Appellants Hatcham
Grove, Inc. and David H. Lucas*

Respondents' counsel:

Kyle B. Parker
POPE & HUDGENS, P.A.
Post Office Box 190
Newberry, South Carolina 29108
T: 803.276.2532
F: 803.276.8684

*Attorney for Plaintiffs/Respondents Ernestine N.
Palmer and Ronald O. Palmer*

In The Matter Of:
Ernestine N. Palmer vs
Hatcham Grove, Inc. et al

David H. Lucas
August 1, 2014

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STATE OF SOUTH CAROLINA

COURT OF COMMON PLEAS

COUNTY OF LEE

Ernestine N. Palmer, as Trustee of the Article IV
Trust created under the Will of Mary Denman Newman,
deceased, Ronald O. Palmer, Ernestine N. Palmer, as
Trustee of the Article IV Trust created under the
Will of James E. Newman, deceased,

Plaintiffs,

vs.

CASE NO. 2013-CP-31-130

Hatcham Grove Inc., David H. Lucas,

Defendants.

DEPOSITION OF: DAVID H. LUCAS

DATE: August 1, 2014

TIME: 9:57 a.m.

LOCATION: Law Offices of
Jennings & Jennings
One Courthouse Square
Bishopville, South Carolina

TAKEN BY: Counsel for the Plaintiffs

REPORTED BY: ANGELA D. ZUVER,
Court Reporter

A. WILLIAM ROBERTS, JR., & ASSOCIATES

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1 APPEARANCES OF COUNSEL:

2 ATTORNEYS FOR THE PLAINTIFFS

3 Ernestine N. Palmer, as Trustee of the
4 Article IV Trust created under the Will
5 of Mary Denman Newman, deceased, Ronald
6 O. Palmer, Ernestine N. Palmer, as
7 Trustee of the Article IV Trust created
8 under the Will of James E. Newman,
9 deceased:

10 POPE & HUDGENS, P.A.
11 BY: KYLE B. PARKER
12 1508 College Street
13 Newberry, SC 29108
14 (803) 276-2532
15 kparker@popeandhudgens.com

16 ATTORNEYS FOR THE DEFENDANT

17 Hatcham Grove Inc., David H. Lucas:

18 FINKEL LAW FIRM, LLC
19 BY: MAGALIE A. ARCURE
20 4000 Faber Place Drive, Suite 450
21 N. Charleston, SC 29405
22 (843) 577-5460
23 marcure@finkellaw.com

24

25

(INDEX AT REAR OF TRANSCRIPT)

STIPULATIONS

It is stipulated by and between Counsel that this deposition is being taken in accordance with the South Carolina Rules of Civil Procedure, Rule 30; that all objections as to Notice of this deposition are hereby waived; that all objections except as to form are reserved until the time of trial; and that the deponent waives reading and signing of this deposition.

* * * * *

DAVID H. LUCAS

being first duly sworn, testified as follows:

EXAMINATION

BY MR. PARKER:

Q. Mr. Lucas, my name is Kyle Parker. You and I have met before, but I represent Ernestine Palmer and Ron Palmer in the foreclosure proceeding that we're taking a deposition of today. And it is just a deposition. It's not anything where I'm trying to trick you or catch you in a trap or anything like that. I'm just getting your side of the story.

As I'm wont to do, sometimes I'll ask a question that doesn't make a lot of sense. If I do that then just tell me that and ask me to restate

1 it and I will.

2 Of course, if you need a break or
3 anything like that, that's fine. Just tell us.
4 And I may need one myself, but hopefully this won't
5 take all morning. In any case, as I'm sure your
6 attorney, Magalie, has told you, if we do take a
7 break, the rules state that you can't talk to her
8 about your testimony. You can talk to her about
9 the weather or whatever,, but not about your
10 testimony.

11 So having said all that, do you
12 understand it?

13 A. Yes.

14 Q. What is your full name?

15 A. David Henry Lucas.

16 Q. Okay. And are you married?

17 A. Yes.

18 Q. What is your wife's name?

19 A. Martha Lucas.

20 Q. What is her maiden name?

21 A. Black.

22 Q. And you all live in Lee County?

23 A. Yes.

24 Q. Okay. And you all are currently living
25 at the property that is the subject of this action;

1 is that correct?

2 A. Correct.

3 Q. Where is Martha from? Where is her
4 family from? Did she grow up in Lee County?

5 A. Bamberg.

6 Q. Did you grow up in Lee County?

7 A. Yes.

8 Q. What was your mother's maiden name?

9 A. Wood.

10 Q. Okay. Was she from Lee County?

11 A. No.

12 Q. And do you have any other family names
13 in Lee County, last names, surnames?

14 A. In Lee County?

15 Q. Yes.

16 A. What kind of family are you talking
17 about? Are you talking about immediate family?
18 Are you talking about extended family?

19 Q. Both.

20 A. Yes.

21 Q. What are their last names?

22 A. Good Lord. Pick the phonebook up.

23 Q. But in any case, let me just tell you
24 why I'm asking. The reason why I'm asking is
25 because you've demanded a jury trial in this

1 proceeding and it may be that whenever we pick a
2 jury, you know, some of your family members might
3 be a part of it and I just want to be able to pick
4 them out. So can you give me any of the names of
5 your family?

6 A. There are no immediate.

7 Q. All right.

8 A. There's no immediate family here.

9 Q. Okay.

10 A. The closest family here would be third
11 or fourth cousins.

12 Q. And you don't know what their names
13 would be?

14 A. Galloway, Rollins, Welch.

15 Q. You mentioned Galloway. Is Benny
16 Galloway related to you in any way?

17 A. I hope not.

18 Q. All right. So, Mr. Lucas, tell me
19 about your education.

20 A. Graduated Bishopville High School and
21 University of South Carolina.

22 Q. When did you graduate from the
23 University of South Carolina?

24 A. 1970, January.

25 Q. What did you study there?

1 A. International relations.

2 Q. And did you finish there?

3 A. Yes.

4 Q. All right. And talk to me about your
5 employment history. Just start from whenever you
6 got out of college and go forward from there.

7 A. Sold life insurance, went to work for a
8 savings loan. Became a building contractor,
9 remained a building contractor, became a real
10 estate developer. After real estate developer I
11 became a -- what did I become? What did I do for a
12 living? I got into travel plaza development, still
13 doing some real estate development as well. Got
14 involved in the movie industry, got involved in
15 breeding and raising Arabian horses. I've written
16 some books.

17 Q. Sort of a Renaissance man. You've done
18 a little bit of everything there?

19 A. A little bit.

20 Q. And your real estate development, tell
21 me a little bit about that. In what sense were you
22 doing that? Where were you doing it? That kind of
23 thing.

24 A. I've done it in Columbia. I've done it
25 in Charleston. I've developed apartment complexes,

1 office buildings, shopping centers, arenas. Pretty
2 much across the board.

3 Q. Would you put dollar figures with
4 those? Would you say you were doing hundreds of
5 thousands of dollars worth of development?
6 Millions of dollars worth of development?

7 A. Millions of dollars worth of
8 development.

9 Q. So in any event, we're here today to
10 take your deposition in a foreclosure proceeding
11 that Ms. Ernestine Palmer in her capacity as
12 trustee of a trust has brought. So in that vein,
13 I'm going to hand you what will be marked
14 Plaintiff's 1.

15 (PLF. EXH. 1, Mortgage Note, was marked
16 for identification.)

17 BY MR. PARKER:

18 Q. When you have a chance, take a look at
19 it and tell me what it is.

20 A. It's a note for \$700,000.

21 Q. Okay. Payable to the plaintiff,
22 Ernestine Palmer as trustee; is that right?

23 A. Correct.

24 Q. \$700,000 at 7 percent interest; is that
25 right?

1 A. That's what the document says.

2 Q. Is that your signature at the bottom?

3 A. Appears to be, yes.

4 Q. Did you sign this note?

5 A. Yes.

6 Q. Does Plaintiff's 1 appear to be an
7 accurate copy of the note that you signed?

8 A. Well, it looks like a copy of a note
9 and it looks like I signed it.

10 Q. Okay. But you're not -- by that answer
11 you're not saying that that is not a copy -- or an
12 accurate copy of note?

13 A. No. I mean, I don't have the note in
14 front of me, so I can't tell whether it's accurate
15 or not. I can tell you it looks like a copy of a
16 note that I've signed.

17 Q. Okay. But you signed a note payable to
18 Ernestine Palmer as trustee in the amount of
19 \$700,000 at 7 percent interest, did you not?

20 A. That's correct.

21 Q. All right. And let's see. I'm going
22 to show you what will be marked as Plaintiff's 2.

23 (PLF. EXH. 2, Mortgage, was marked for
24 identification.)

25 BY MR. PARKER:

1 Q. When you get a chance, just take a look
2 and tell me what it is.

3 A. It appears to be a mortgage.

4 Q. If you would, go back to the second --
5 the next to last page.

6 A. Okay.

7 Q. About halfway down the page there is a
8 signature on the line above the words David H.
9 Lucas as president. Does that appear to be your
10 signature?

11 A. It does.

12 Q. Okay. So did you sign this mortgage?

13 A. Yes.

14 Q. Both the note and mortgage you signed
15 in your capacity of president of Hatcham Grove,
16 Inc.; is that right?

17 A. That is correct.

18 Q. Is Hatcham Grove, Inc. still
19 incorporated?

20 A. I don't know if it is or not. I'd have
21 to...

22 Q. Have you been given notice of any
23 administrative actions from the Secretary of State?

24 A. I don't know if I have or not. I don't
25 recall.

1 Q. So you don't recall if you've been
2 given notice of any administrative --

3 A. That's correct.

4 Q. Okay. Now, getting back to the first
5 page of Plaintiff's 2, which is the mortgage, the
6 second paragraph recites that Hatcham Grove owes
7 the lender which is previously defined as Ernestine
8 N. Palmer as trustee of the trust set up there in
9 the mortgage the principal sum of \$700,000. Is
10 this the mortgage that you gave to secure payment
11 of Plaintiff's 1, the note?

12 A. I assume that it is.

13 Q. Is it or is it not?

14 A. I can't tell you that. I don't have
15 the original document in front of me.

16 Q. But you signed a mortgage --

17 A. Correct.

18 Q. -- giving Ernestine Palmer a security
19 interest --

20 A. That's correct.

21 Q. -- in the property that's described in
22 this mortgage?

23 A. Correct.

24 Q. At the time you did that was it your
25 intent to give Ms. Palmer a first lien in the

1 property?

2 A. Yes.

3 Q. And do you believe you did that?

4 A. Yes.

5 Q. So I'm going to now show you what will
6 be Plaintiff's 3.

7 (PLF. EXH. 3, Guaranty, was marked for
8 identification.)

9 BY MR. PARKER:

10 Q. Again, after you get a chance, just
11 tell me what it is.

12 A. It looks like a guaranty.

13 Q. Let's see. Let's go to the last page
14 of that please, page three, where there appears to
15 be a signature above the line of David H. Lucas,
16 individually.

17 A. Yes.

18 Q. Is that your signature?

19 A. It is.

20 Q. Did you sign a guaranty in favor of
21 Ernestine N. Palmer as trustee of the trust set out
22 by that document?

23 A. Yes.

24 Q. Okay. And you gave that guaranty in
25 connection with the mortgage loan that is otherwise

1 represented by Plaintiff's 1 and 2?

2 A. Correct.

3 Q. And the intent of that document,
4 Plaintiff's 3, was your guaranty as an individual
5 for the payment of the mortgage note which is
6 Plaintiff's 1 in the event that the mortgager,
7 Hatcham Grove, Inc., could not pay; is that right?

8 A. Correct.

9 Q. So tell me what was happening, why this
10 loan came about, how it came about, that kind of
11 thing.

12 A. As I recall, it was a replacement of a
13 loan made prior to me by Mr. Palmer personally and
14 they replaced it with this.

15 Q. Tell me what you mean by that.

16 A. Mr. Palmer loaned me money to pay off a
17 prior creditor and then they wanted to switch it
18 over to this, so I agreed to do this.

19 Q. What were the circumstances of this
20 other loan? Who was the creditor that was paid off
21 and that kind of thing?

22 A. I don't really recall the name. It had
23 something to do with the business prior to -- I'm
24 thinking the truck travel plaza business perhaps.

25 Q. So it was a creditor of yours?

1 A. That's correct.

2 Q. And do you recall the amount of that
3 loan?

4 A. I do not.

5 Q. But, now, the loan that we're talking
6 about today which is represented -- or at least the
7 documents evidencing it are represented as
8 Plaintiff's 1, 2 and 3. Did Mr. -- or Ms. Palmer
9 actually fund this loan? Did she give you the
10 loan?

11 A. Yes.

12 Q. And what was --

13 A. Well, wait a minute. I'm not sure if
14 that's correct or not. She -- I don't know if I
15 was given the money, but the money went to pay off
16 her husband, Mr. Palmer, I believe. I'd have to
17 look back into that, but I believe that he received
18 the funds to replace the funds that he had already
19 put out.

20 Q. All right.

21 A. I may have received a portion of those
22 funds.

23 Q. Well, tell me what the money was
24 intended for.

25 A. To pay off Mr. Palmer. They wanted to

1 arrange their financing internally differently than
2 the way it was structured in the beginning is my
3 understanding. I may be wrong about that, but I
4 can't tell you all the details.

5 Q. Now, the prior loan that you say this
6 was sort of a refinance of, you say you don't
7 recall the amount?

8 A. No, I do not.

9 Q. Did you actually receive the money
10 under that loan?

11 A. Well, it went to pay off a prior
12 obligation.

13 Q. Did that obligation get paid?

14 A. Yes.

15 Q. Okay. Now, was your -- do you have a
16 sister?

17 A. I do.

18 Q. What is her name?

19 A. April Lucas-Stucker.

20 Q. Where does she live now?

21 A. Columbia.

22 Q. Was she in any way involved in this
23 transaction, the mortgage transaction that's
24 Plaintiff's 1, 2 and 3?

25 A. I don't believe so.

1 Q. Well, you say you don't believe so.

2 A. Are you talking about directly involved
3 in this transaction?

4 Q. Did she ultimately end up with any
5 money out of this transaction?

6 A. I don't recall.

7 Q. Was there any circumstance under which
8 she would have?

9 A. I'm certain there are circumstances
10 which she could have, but I can't recall them.

11 Q. Is that something that you would
12 recall?

13 A. If I could recall it I would recall it,
14 but I can't recall it.

15 Q. So are you saying that your sister was
16 not in any way connected to this transaction at
17 all?

18 A. To this particular transaction?

19 Q. Yeah.

20 A. I don't believe she was. I believe she
21 had been taken out of the prior loan by Mr. Palmer
22 and that this loan was basically made as an
23 internal adjustment to Mr. Palmer. Now, that's the
24 way I remember it. If you can show me
25 documentation that that's incorrect then I'll stand

1 corrected, but you're asking my recall and this is
2 what I recall.

3 Q. No, no. I understand.

4 A. Okay.

5 Q. I'm just trying to get my mind around
6 it. So there was another loan that Mr. Palmer made
7 to pay off your sister?

8 A. That's what we talked about. That's
9 what this loan, as I recall, was made to do.

10 Q. That's where I got lost because I
11 thought you --

12 A. The original loan that Mr. Palmer
13 made -- when Mr. Palmer got involved in this
14 project it was to pay off some obligations and I
15 can't remember exactly how that went. That's been
16 quite a while ago.

17 Q. Sure.

18 A. But some of those funds may have gone
19 to pay off my sister's obligations.

20 Q. Okay. So in other words, you had an
21 obligation to your sister and that may have been
22 part of the obligations that were paid off through
23 the loan -- the original loan that Mr. Palmer gave
24 you?

25 A. Something like that.

1 Q. So then your sister was a creditor of
2 yours or something to that effect?

3 A. Her or her husband owned the stock or
4 the shares of the partnership interest in Hatcham
5 Grove, Inc. So it would have been shares, I guess.

6 Q. Okay.

7 A. And the loan from Mr. Palmer was used,
8 I guess, to purchase -- I don't know how you'd say
9 it, but to take her out of Hatcham Grove.

10 Q. I got you. Okay.

11 A. And the stock was then put in my name.

12 Q. Okay. Was your sister threatening
13 legal action or anything such as that?

14 A. No.

15 Q. So she had not made any threats about
16 taking any action on these --

17 A. Not on the debt.

18 Q. -- shares or debt?

19 A. Not on the debt.

20 Q. Had she made any threats to take action
21 on anything other than the debt?

22 A. I don't know what you mean by threats.

23 Q. Well, I mean, did she say that she was
24 going to do this or going to do that if you didn't
25 do one thing or another?

1 A. She was going to put the property on
2 the market and sell it.

3 Q. And did she have the right to do that?

4 A. She owned Hatcham Grove and the
5 property was in Hatcham Grove's name, yes.

6 Q. All right. So Mr. Palmer, I'm taking
7 it from the original loan, loaned you enough money
8 to buy her out so that she wouldn't sell the
9 property?

10 A. Correct.

11 Q. And you asked him to do that?

12 A. I did.

13 Q. And he did that because your sister
14 didn't put it on the market and you ended up with
15 Hatcham Grove, right?

16 A. She did put it on the market, but did
17 not sell in time and I was able to secure the loan
18 from Mr. Palmer and take over the ownership of
19 Hatcham Grove.

20 Q. Well, good.

21 All right. So then you say that
22 between Mr. and Mrs. Palmer, they wanted to
23 restructure this debt in some way which ultimately
24 ended up being -- the way it was restructured is
25 reflected in Plaintiff's 1, 2 and 3?

1 A. Yes. Whether they wanted to do it that
2 way or not I don't know. This is the way it
3 eventually came out.

4 Q. Right. And you say you've developed
5 millions of dollars worth of real estate, right?

6 A. Correct.

7 Q. And so, you know, a mortgage note, a
8 mortgage and a guaranty, you would be familiar with
9 those kinds of things, right?

10 A. Correct.

11 Q. So in other words, it wasn't your first
12 rodeo?

13 A. Correct. I've been thrown before.

14 Q. So when you signed these things,
15 Plaintiff's 1, 2 and 3, you knew what you were
16 signing?

17 A. Yes.

18 Q. All right. And so you knew that what
19 you were doing is you were obligating Hatcham Grove
20 and yourself to make payment of this \$700,000 under
21 the terms of the note?

22 A. Correct.

23 Q. All right. So talk to me about your
24 payments under the note. Did you make any?

25 A. No.

1 Q. So, now, I know that you have alleged
2 in your pleadings that the terms of these documents
3 were orally modified. Do you recall saying that in
4 your pleadings?

5 A. Yes.

6 Q. Tell me what you say was modified and
7 how it was modified.

8 A. Mr. Palmer and I had an agreement that
9 if it came to a point that I could not pay this
10 debt that we would put the property on the market,
11 sell it and use the proceeds to pay it off.

12 Q. Okay. And was that agreement ever
13 reduced to writing?

14 A. It was not. At the time he was one of
15 the supposedly closest friends I had and I didn't
16 think it was necessary.

17 Q. Right. But there's no question that
18 the agreement set out in Plaintiff's 1, 2 and 3 and
19 this oral modification had to do with real estate,
20 right?

21 A. Correct.

22 Q. And it was more than \$500?

23 A. Yes.

24 Q. And it was something that couldn't be
25 carried out in a single year? In other words, it

1 was going to take longer than a year to carry out?

2 MS. ARCURE: Objection.

3 THE WITNESS: I don't understand the
4 question.

5 BY MR. PARKER:

6 Q. Okay. Under the alleged modification
7 that you say you and Mr. Palmer entered into, could
8 your performance under that modification happen
9 within a year?

10 A. Yes.

11 Q. Now, your agreement was with
12 Mr. Palmer; is that right?

13 A. My agreement was with Mr. Palmer and
14 whatever entities he represented.

15 Q. Okay. Did you ever have that
16 conversation, the one that you say there was an
17 agreement made about if it couldn't be paid that it
18 would be carved out and sold, with Ms. Palmer?

19 A. I don't know if I did or not. I don't
20 remember ever having a specific -- but I do think
21 that I did have that conversation with her, but I
22 can't tell you when or where. We were together
23 socially several times --

24 Q. Sure.

25 A. -- in which these -- this came up.

1 Q. Right. Okay.. So let me just back up a
2 little bit and get to, I think, the point that you
3 might have been trying to make. This alleged
4 modification that you say occurred with Mr. Palmer,
5 you said that you had that agreement with
6 Mr. Palmer and any entity that he represents?

7 A. Correct.

8 Q. What did you mean by that?

9 A. The trust.

10 Q. How does he represent the trust?

11 A. I don't know.

12 Q. What makes you think that he does?

13 A. Well, he was the one that negotiated
14 the terms. He was the one that met with the
15 attorney -- local attorney here to have these
16 documents prepared, and he was the one in
17 attendance when these things were done. His wife
18 was not.

19 Q. So just from that you say that he
20 represented the trust in some way?

21 A. It's my understanding he did, yes. He
22 held himself out to be a representative of the
23 trust.

24 Q. All right. And not just a husband
25 taking care of his wife's business?

1 MS. ARCURE: Objection.

2 THE WITNESS: That's for you to
3 speculate on. I won't speculate on it. All I can
4 tell you, it was my understanding that he
5 represented both himself and the trust.

6 BY MR. PARKER:

7 Q. All right. So in any event, now, is
8 that -- the modification you told me about where if
9 the payments weren't made by Hatcham Grove or you
10 that the house would be carved off and it be sold,
11 was that the only modification that was made?

12 A. That was not the modification.

13 Q. What was the modification?

14 A. The modification was to sell the entire
15 property and pay them off and I would retain what
16 was the difference.

17 Q. I'm sorry.

18 A. The other that you referred to was a
19 proposal of settlement that has not been agreed to.

20 Q. All right. Well, I'm glad you cleared
21 me up on that, but anyway --

22 A. I plan to clear you up on quite a few
23 things today.

24 Q. Good. I hope so.

25 So the deal about if it couldn't be

1 paid that it would be sold and you would get the
2 excess over what was owed -- now, being a person
3 who has been in real estate development and
4 developed millions of dollars worth of property,
5 isn't that exactly what would happen if you didn't
6 pay anyway, that the property would be sold and you
7 would get the excess if there were any?

8 A. I'm not sure of that. I would have to
9 refer to legal counsel to find that out.

10 Q. Well, you understand that Ms. Palmer
11 has brought a foreclosure proceeding and what she's
12 asking the court to do is sell the property? You
13 understand that, right?

14 A. Yeah.

15 Q. And you also understand that if the
16 property were to sell and it were to sell for more
17 than what was owed that you would get the excess;
18 is that correct?

19 A. Correct.

20 Q. So that's what would happen anyway?

21 MS. ARCURE: Objection.

22 THE WITNESS: Without the court
23 proceedings and the cost and litigation. There's
24 quite a bit of difference financially in the two
25 proposals. The first proposal was there was not to

1 be any legal action, that we would all agree to do
2 this without going through the legal proceedings.

3 BY MR. PARKER:

4 Q. All right. And you say you didn't make
5 any payments?

6 A. None were required.

7 Q. Now, none were required, what does that
8 mean?

9 A. That means Mr. Palmer said that the
10 interest would accrue and there would be no
11 payments made until I was able to pay the whole
12 thing off. That was the understanding.

13 Q. Is there anything in writing about
14 that?

15 A. Nope.

16 Q. But in any event --

17 A. But I'm not certain without reading
18 through these documents that there's a required
19 payment in there. I'd have to look at that and
20 read back through it.

21 Q. Let's do that.

22 A. Okay.

23 Q. Why don't you read the note and tell me
24 what it means you have to do or what Hatcham Grove
25 had to do.

1 A. I believe it calls for one payment of
2 principal -- accrued principal and interest.

3 Q. But you had to pay it, right?

4 A. Yes.

5 Q. It says it would have been due and
6 payable September 20, 2012; is that right?

7 A. Correct.

8 Q. All right. And, again, you signed
9 that, right?

10 A. Correct.

11 Q. Let's see, now. But you didn't pay
12 anything, right?

13 MS. ARCURE: Objection. Asked and
14 answered.

15 THE WITNESS: I'm required to answer
16 that even with the objection?

17 MS. ARCURE: Yes.

18 BY MR. PARKER:

19 Q. Right.

20 A. That's correct, I did not, but the
21 reason that I did not is Mr. Palmer blocked me from
22 exercising the provision that said if we came to a
23 pass like that that we would put the property on
24 the market and sell it, which I offered to do, with
25 the proviso that the property needed some repairs

1 and that I would be allowed to borrow the money
2 from a bank on a second mortgage, make the required
3 repairs and place the property on the market.
4 Mr. Palmer refused to allow that to happen, so
5 therefore it hasn't been paid yet.

6 Q. How did he refuse to allow it?

7 A. He said, I'm not going to do it. He
8 said, no, I don't want to do that.

9 Q. Okay. What was he required to do?

10 A. Allow me to put -- well, they were also
11 co-owners of the property and I couldn't put an
12 extra mortgage on the property without their
13 approval.

14 Q. All right. So what you're telling me
15 is that you were prevented from selling the
16 property?

17 A. Correct.

18 Q. And you were prevented from selling the
19 property because Mr. Palmer wouldn't agree to a
20 second mortgage; is that --

21 A. That's correct.

22 Q. Okay. Were there any other
23 modifications of this -- of Plaintiff's 1, 2 and 3?

24 A. Not that I know of.

25 Q. Now, you have said in your pleadings

1 that there was another side agreement about --
2 affecting this loan regarding Grease Guard and
3 whatever happened there. Do you recall saying that
4 in your pleadings?

5 A. Yes.

6 Q. Okay. Tell me what that's about.

7 A. Mr. Palmer was aware that the ability
8 to repay this loan other than through the sale of
9 the property was to be out of monies earned --
10 profits earned, shares earned, assets being built
11 up so we would be in the position to borrow money
12 out of the Grease Guard business and a couple --
13 or one other business that we were involved in, one
14 called Teal Green.

15 Q. Now, you say that he was aware of that.

16 A. We discussed it.

17 Q. Yeah. But, now, your pleadings say
18 that he bound himself in some way to that.

19 A. He did. He agreed to it, yes.

20 Q. How did he agree to it? Was this --
21 was there a contract or was this just an oral
22 thing?

23 A. It was an oral agreement.

24 Q. So none of that is in writing?

25 A. No.

1 Q. It's having to do with a loan of
2 \$700,000?

3 A. Correct.

4 Q. That affects real estate?

5 A. Correct.

6 Q. All right. So tell me what you say he
7 agreed to.

8 A. That that's where the funds -- the
9 funding would come from, would be the -- as I think
10 I've already answered that question earlier, the
11 funds and profits from Grease Guard, either the
12 profits or the buildup of the assets, so that I
13 would be able to replace his mortgage with a
14 different one.

15 Q. And so did any of that ever happen?

16 A. It did not..

17 (PLF. EXH. 4, Grease Guard, LLC
18 documents, was marked for identification.)

19 BY MR. PARKER:

20 Q. I'm going to show you what's been
21 labeled Plaintiff's 4. If you can, take a look at
22 those and tell me what -- it's consisting of four
23 pages, and if you could, just look through those
24 and if you can, tell me what it is.

25 A. Well, according to the titles, it is

1 from Rogers & Laban, an accounting firm, and it is
2 internal entries from December 2007, December 2008
3 standard trial balance report, December 2009
4 adjusting entries and the 2010 December 31st.

5 Q. If you would, go back to the first
6 page.

7 A. Okay.

8 Q. About the first quarter of the page it
9 shows -- do you see an entry where it's S, slash, H
10 loan Palmer and there's a credit that's shown of
11 \$100,000? Do you see that?

12 A. I do.

13 Q. During the year 2007 did Mr. Palmer
14 loan Grease Guard \$100,000?

15 A. According to this paper, he did.

16 Q. Did he do it?

17 A. I don't know.

18 Q. Do you not recall that?

19 A. I was not a managing member of Grease
20 Guard during that year.

21 Q. When did you become a managing member
22 of Grease Guard?

23 A. Not until maybe 2010.

24 Q. What were you before then?

25 A. I was a partner, but I was not involved

1 with Grease Guard on a day-to-day basis. I was
2 working with Teal Green, which is also an entry
3 here..

4 Q. So do you deny that Mr. Palmer loaned
5 Grease Guard \$100,000 --

6 A. No.

7 Q. -- in 2007?

8 A. I do not.

9 Q. All right. Let's look at the second
10 page. Again, it's in the first quarter of the
11 page. There's an entry that's got account number
12 212 S, slash, H loan Palmer, and if you look out to
13 the next to last column there is an entry of
14 \$400,000, and then the last column shows \$500,000,
15 and it appears that what's happening there is that
16 there was the \$100,000 from 2007 and then a
17 \$400,000 entry in 2008 for a total owed to
18 Mr. Palmer of \$500,000 as of December 31, 2008. Is
19 that a fair depiction of what that says?

20 MS. ARCURE: Object to the form.

21 THE WITNESS: I have no reason to know
22 otherwise, no.

23 BY MR. PARKER:

24 Q. Did Mr. Palmer loan Grease Guard
25 \$400,000 in 2008?

1 A. I don't know.

2 Q. Do you deny that he did?

3 A. I don't. I don't deny or admit. I
4 don't know.

5 Q. Do you have any evidence that would
6 suggest that he didn't?

7 A. No.

8 Q. Then on page three -- and, again, this
9 is showing things as of December 31, 2009. Do you
10 see again it's account 212 S, slash, H loan to
11 Palmer and an entry of \$400,000?

12 A. I do.

13 Q. Did Mr. Palmer loan Grease Guard
14 \$400,000 in 2009?

15 A. I don't know.

16 Q. Do you deny that he did?

17 A. No.

18 Q. All right. And then finally the last
19 page, December 31, 2010. By that date were you a
20 managing member of Grease Guard?

21 A. I don't believe so.

22 Q. Well, you --

23 A. I don't know the exact dates on those
24 things right now. I would have to do a little
25 research on that, but I don't -- I don't know

1 exactly the time. I did not actually become a full
2 managing member until Mr. Palmer left.

3 Q. In any case, looking at page four of
4 Plaintiff's 4 you'll see down at the bottom it's
5 again got an entry 212 S, slash, H loan Palmer, and
6 out at the next to last column entitled balance
7 sheet 12/31/2010 it's got an entry of \$1,375,235.
8 Do you see that?

9 A. I do.

10 Q. From 2007 to 2010 did Mr. Palmer loan
11 Grease Guarde basically \$1.3 million?

12 A. I don't know.

13 Q. Do you deny that he did?

14 A. No.

15 Q. So how did Grease Guarde -- where did
16 Grease Guarde get its capitalization from?

17 A. My understanding, Mr. Palmer put it in
18 along with Mr. Fairly.

19 Q. Do you have any evidence that would
20 contradict or any reason to believe that what is
21 shown on page four of Plaintiff's 4 as an entry
22 indicating that Mr. Palmer loaned Grease Guarde
23 \$1.3 million is incorrect?

24 A. I do not.

25 Q. All right. And so you do however admit

1 that Grease Guard was capitalized by Mr. Palmer in
2 conjunction with Mr. Fairly?

3 A. It's my understanding, yes.

4 MR. PARKER: I'll just go ahead and do
5 this.

6 (PLF. EXH. 5, Tax returns, was marked
7 for identification.)

8 BY MR. PARKER:

9 Q. That's Plaintiff's 5. When you get a
10 chance, just tell me what it is.

11 A. From reading from what the page says
12 it's another Rogers & Laban income tax return -- S
13 corporation federal income tax return.

14 Q. So if you'll look at the fifth page.
15 Basically it's the -- what I'm trying to get you to
16 is the front page of the tax return itself.

17 A. Okay.

18 Q. And so with what begins at the fifth
19 page of Plaintiff's 5, does that appear to be a
20 copy of Grease Guard's tax return for 2007?

21 A. It does.

22 Q. If you'll look at line 21, ordinary
23 business income, what does it say there?

24 A. 216,000 and some dollars.

25 Q. All right. Does it appear as income or

1 a loss?

2 A. It's a negative figure.

3 Q. So Grease Guard, an entity in which
4 you were a partner in 2007, filed a federal tax
5 return indicating a \$216,000 loss; is that right?

6 MS. ARCURE: Object to the form.

7 THE WITNESS: I can't tell you without
8 going through this thing with someone who is
9 knowledgeable of accounting matters.

10 BY MR. PARKER:

11 Q. Well, do you have any reason to believe
12 or any evidence that would suggest that the
13 \$216,000 loss shown on the tax return is incorrect?

14 A. No, I have no reason to believe that.

15 (PLF. EXH. 6, Tax returns, was marked
16 for identification.)

17 BY MR. PARKER:

18 Q. I'm going to show you what's
19 Plaintiff's 6. If you would look at page two of
20 that.

21 A. Okay.

22 Q. Tell me what it is.

23 A. Corporate income tax, state, South
24 Carolina.

25 Q. It's the declaration for electronic

1 filing; is that right?

2 A. That's what it says, yes.

3 Q. And it's for Grease Guard, correct?

4 A. Correct.

5 Q. And you'll see line one where it has an
6 entry of negative \$384,843.

7 A. Correct.

8 Q. So from this it appears that Grease
9 Guard in 2008 had a loss of \$384,843, does it not?

10 A. That's what it says.

11 Q. Is that what happened?

12 A. I have no idea.

13 Q. Do you have any documents or other
14 evidence that would suggest or indicate that that
15 is wrong?

16 A. I do not.

17 (PLF. EXH. 7, Tax returns, was marked
18 for identification.)

19 BY MR. PARKER:

20 Q. I'm going to show you what's
21 Plaintiff's 7 and point your attention to the fifth
22 page. If you would, tell me what that is.

23 A. IRS E file signature authorization
24 form.

25 Q. Now, that shows on line three that

1 Grease Guard in 2009 declared to the government
2 that there was a \$394,580 loss; is that right?

3 A. That's what it says.

4 Q. Okay. Did that happen?

5 A. I don't know.

6 Q. Do you have any evidence or documents
7 which would contradict or say that that's wrong?

8 A. I do not.

9 (PLF. EXH. 8, Tax returns, was marked
10 for identification.)

11 BY MR. PARKER:

12 Q. I'll show you what is Plaintiff's 8.
13 If you would turn to the third page and tell me
14 what that is.

15 A. IRS E file signature authorization for
16 form 1120S.

17 Q. For tax year 2010, right?

18 A. 2010, correct.

19 Q. And it says on line three that -- and
20 it's for Grease Guard -- I'm sorry -- right?

21 A. Correct.

22 Q. It says on line three that Grease
23 Guard declared to the government that there was a
24 \$538,280 loss; is that right?

25 A. That's correct.

1 Q. Is that what happened?

2 A. I don't know.

3 Q. Now, this is 2010. You still don't
4 know?

5 A. I don't know.

6 Q. Do you have any evidence or documents
7 which would contradict that number?

8 A. I do not.

9 Q. All right. And do you dispute that any
10 of the losses shown in any of the tax returns we
11 just went through are incorrect in terms of what
12 they say is losses?

13 A. No.

14 Q. So it's clear then that Grease Guard
15 never turned a profit, did it?

16 A. Not under this management, no.

17 Q. Did it ever?

18 A. Yes.

19 Q. When?

20 A. First quarter of, I think, 2012, after
21 Mr. Palmer had left. The first quarter had a
22 \$40,000 profit plus.

23 Q. What was your take from that?

24 A. Excuse me?

25 Q. Did you get any of the \$40,000 profit?

1 A. I got it as salary, yes.

2 Q. From that salary did you make any
3 payments on this loan?

4 A. None were required.

5 Q. How do you figure none were required?

6 A. Which loan are you speaking of?

7 Q. I'm speaking of the loan that
8 Ms. Palmer has brought a foreclosure action on, the
9 one that you say that Mr. Palmer has agreed for her
10 to take instead of payments according to the note
11 payments from profits from Grease Guard. That's
12 the loan I'm talking about.

13 A. Okay.

14 Q. You say that Grease Guard turned a
15 profit in 2012. My question was: Did you follow
16 your end of the agreement?

17 A. Yes.

18 Q. So you paid Ms. Palmer?

19 A. No.

20 Q. You paid Mr. Palmer?

21 A. No.

22 Q. So how did you follow your end of the
23 agreement?

24 A. I followed my end of the agreement
25 because there was supposed to be one payment and I

1 was not in a position to make one payment of over
2 700, \$800,000, whatever it was, at that time.

3 And besides, when I say there was
4 profit in the company, the profit was -- there were
5 also debts that had built up prior to that that had
6 to be taken care of business-wise. So I got no --
7 I took none of the \$40,000 as a profit
8 distribution.

9 Q. All right.

10 A. It went to pay off debts that were
11 incurred prior to my taking over the management of
12 the company. But the point is it was profitable at
13 one point.

14 Q. But strictly speaking, if it would --
15 if that \$40,000 was used to make payments on debt
16 then it wasn't really profit, was it?

17 A. No. Well, accounting-wise it was not,
18 but on a cash basis it was a \$40,000 -- we brought
19 in \$40,000 more than we spent during the
20 three-month period.

21 Q. Okay. Got you.

22 All right. And so in any case, whether
23 it was profit or not, depending on how you define
24 it, none of that \$40,000 ever went to Ms. Palmer?

25 A. No. It was not owed by that company to

1 Mrs. Palmer.

2 Q. Okay. Well, none of the money that
3 came from Grease Guard to you from this \$40,000
4 ever went to Ms. Palmer?

5 A. No.

6 Q. You have alleged in your pleadings that
7 somehow you were prevented from making good on your
8 end of the alleged agreement where your profits
9 from Grease Guard would pay Ms. Palmer. Talk to
10 me about that.

11 A. Is there a question?

12 Q. Well, you've alleged it. I just want
13 to know what you're saying.

14 A. It's in the document.

15 Q. All right. Well, tell me about it.

16 A. Mr. Palmer while he was still a partner
17 arranged a position for my sales manager with a
18 competitor and --

19 Q. Well, let's stop there. How do you say
20 that he arranged it?

21 A. He made the phone call and asked him to
22 hire him.

23 Q. What evidence do you have of that?

24 A. Mr. Palmer told me that himself.

25 Q. And so if Mr. Palmer were to say

1 that -- well, let me ask you this first. Who are
2 we talking about? Who is the person that you say
3 he got a job for?

4 A. Cromer. His daddy is Roy. He is Benny
5 Galloway's son-in-law, so I can't remember his --
6 Brandon.

7 Q. Brandon?

8 A. Yeah.

9 Q. So if Mr. Palmer were to say that
10 Mr. Cromer called him and wanted to know if he
11 would put in a good word for him with Panacea and
12 that Mr. Palmer said that he would and that when
13 Panacea called he did, if that's what Mr. Palmer
14 says is Mr. Palmer being untruthful?

15 MS. ARCURE: Objection.

16 THE WITNESS: I don't know.

17 BY MR. PARKER:

18 Q. Well, I mean, it sounds to me -- and
19 your pleadings say that there was an attempt by
20 Mr. Palmer to harm Grease Guard by getting this
21 fellow a job. I mean, that is what you're saying,
22 right?

23 A. Yes.

24 Q. And so if Mr. Palmer says -- denies
25 that and says all he did was put in a good word for

1 Mr. Cromer because he was asked to, if that's all
2 that happened is it still your contention that that
3 would be harmful to Grease Guarde?

4 MS. ARCURE: Objection.

5 THE WITNESS: Absolutely.

6 BY MR. PARKER:

7 Q. How so?

8 A. Same result. He was still a partner of
9 mine. He did not disclose to me that my sales
10 manager was getting ready to leave and that he had
11 encouraged it. He did not bring that to my
12 attention before or after the fact, after the deal
13 was done.

14 Q. All right. So --

15 A. While he was my partner. While he was
16 a partner of Grease Guarde.

17 Q. I got you.

18 I guess you've got Hatcham Grove, but
19 have you ever run any other businesses besides
20 Grease Guarde and Teal Green?

21 A. Yes.

22 Q. In those businesses have you ever had
23 an employee that wanted to leave?

24 A. Yes.

25 Q. And in any of those circumstances has

1 it -- has that employee asked for you to give a
2 recommendation to their new potential employer?

3 A. Yes.

4 Q. Is there anything wrong with that?

5 A. It depends on the circumstances.

6 Q. How is it wrong in this case?

7 A. In this case because it was a closely
8 held company. Mr. Palmer knew what the situation
9 was. The sales manager had access to customer
10 lists as -- proprietary customer lists and he took
11 those with him and used them to twist business away
12 from me later on and Mr. Palmer was aware that he
13 had all of those documents.

14 Q. And you know that Mr. Palmer is aware
15 of that how?

16 A. Because he was sitting in on sales
17 meetings, Mr. Palmer was. Prior to that we had
18 discussed sales many times. That was the whole key
19 to it.

20 Q. Let's back up a minute. You say that
21 he took client lists or what have you?

22 A. Yes.

23 Q. When you say he, you mean who?

24 A. Brandon Cromer.

25 Q. So not Mr. Palmer?

1 A. I don't know. Mr. Palmer had access to
2 the same lists.

3 Q. But you're not alleging that Mr. Palmer
4 took them and gave them to Panacea, are you?

5 A. I don't believe that's in the
6 pleadings, is it?

7 Q. I'm asking you the questions. Are you
8 saying that or are you not?

9 A. I'm saying I don't know that.

10 Q. And so because you don't know it you
11 couldn't in good faith put it in any pleadings,
12 could you?

13 A. I haven't thought about it really. I'd
14 have to think about it some more. Maybe that's
15 something we can add.

16 Q. Well, I want to talk about it today and
17 not later. Are you contending that Mr. Palmer took
18 client lists and gave them to Panacea?

19 A. Not at present.

20 Q. Do you have any reason to believe that
21 he did?

22 A. Not at the present.

23 Q. Okay. When did this happen?

24 A. When did what happen?

25 Q. When you say that Mr. Cromer ran off

1 with the client lists.

2 A. January of 2012, I think.

3 Q. And at this time did Grease Guard owe
4 Mr. Palmer money?

5 A. Yes.

6 Q. How much money did it owe him?

7 A. I think it was a note for a million
8 seven something. I'm not sure.

9 Q. So what you're saying is that
10 Mr. Palmer, even though he had loaned previously
11 throughout the years from 2007 \$1.3 million to
12 Grease Guard and there was a note for this 1.7 or
13 whatever it was, that he was intentionally harming
14 Grease Guard --

15 MS. ARCURE: Objection.

16 THE WITNESS: Yes.

17 BY MR. PARKER:

18 Q. -- so that Grease Guard could not pay
19 him?

20 A. Correct.

21 Q. So that you could not pay Ms. Palmer?

22 A. Correct.

23 Q. Why would he do that?

24 A. Ask him.

25 Q. Well, let me ask it this way. Does

1 it -- is it reasonable to even think that he would?

2 A. There are -- there are a set of
3 circumstances. Mr. Palmer had been negotiating
4 with the owners of Panacea about selling his shares
5 to Panacea. It's my contention that he was -- that
6 there were some other deals that I don't know
7 about, was not a party to, and that this was part
8 of a scheme or a plan to make sure that Panacea
9 took over our business.

10 Q. Do you have any evidence of that?

11 A. Maybe I do, yeah. I have -- I have
12 something.

13 Q. What is it?

14 A. Mr. Palmer tried to arrange a meeting
15 with the owners of Panacea without my knowledge
16 that I found out about and when I went up there
17 Mr. Palmer denied in front of me and other
18 witnesses that he was up there to negotiate selling
19 his shares to the owners of Panacea when the
20 question was asked, well, when are we going to
21 start discussing us buying you out. No, I'm not
22 here for that. I have no idea what you're talking
23 about. And I was sitting in the room when that
24 happened.

25 Q. But other than that you don't have any

1 evidence that what you're saying Mr. Palmer was
2 doing he was actually doing?

3 A. I don't have any direct -- I don't have
4 a smoking gun, no.

5 Q. So it's speculation?

6 MS. ARCURE: Objection.

7 THE WITNESS: No, it's not speculation.

8 BY MR. PARKER:

9 Q. Okay. Well, then that means you have
10 some evidence.

11 A. Well, it's a theory. I prefer to call
12 it a theory instead of speculation. It has a less
13 speculative connotation.

14 Q. Well, theory is okay with me.

15 But in any case, your -- you don't say
16 that Mr. Palmer gave Panacea client lists?

17 A. I don't say that he didn't.

18 Q. But you don't say that he did? That's
19 my question.

20 A. No, I haven't alleged that. Not yet.

21 Q. But you do say that Mr. Cromer did?

22 A. Yes.

23 Q. And so if Mr. Cromer did that then
24 wouldn't it be Mr. Cromer that would have a problem
25 with Grease Guard?

1 A. Mr. Cromer -- yes, he would also have a
2 problem with Grease Guard.

3 Q. Well, let's talk about what your
4 pleadings now say. Let's not speculate as to what
5 you might find later. Let's talk about what your
6 pleadings now say. They now say that your claim or
7 claims about this whole Mr. Palmer and Panacea
8 thing is based on your allegations that Mr. Palmer
9 arranged for Mr. Cromer to have employment with
10 Panacea.

11 A. Correct.

12 Q. Okay. So do you have any evidence that
13 as a part of that arrangement that Mr. Palmer knew
14 that Mr. Cromer was going to take the client list
15 and go to Panacea and harm Grease Guard?

16 A. We have not taken depositions as of yet
17 with those people. They need to be introduced.

18 Q. But I'm asking you: Do you have any
19 evidence?

20 A. At the present time, no.

21 Q. All right. Let's see.

22 Now, you have also alleged that
23 Mr. Palmer somehow prevented Grease Guard from, I
24 assume, profiting from existing business
25 contracts -- or prevented them from occurring is, I

1 think, how you said it; is that right?

2 A. If that's what it says in the
3 pleadings, yeah.

4 Q. I mean, have you said that?

5 A. If that's what's in the pleadings, yes.

6 Q. Okay. Are you claiming that Mr. Palmer
7 somehow prevented Grease Guard from -- or
8 prevented Grease Guard's existing contracts to
9 occur?

10 A. Yes.

11 Q. Okay. Tell me about that.

12 A. Same scenario.

13 Q. It's the Brandon Cromer thing?

14 A. Yes.

15 Q. And how did that -- how did that
16 prevent Grease Guard from -- prevent Grease
17 Guard's contracts to occur?

18 A. Mr. Cromer wound up taking clients,
19 twisting clients, breaking contracts with Grease
20 Guard.

21 Q. Did Grease Guard ever make any claim
22 against the parties with which it had the contracts
23 that were broken?

24 A. It did not.

25 Q. Is there --

1 A. They were too numerous. It would have
2 been too expensive.

3 Q. You have also said that Mr. Palmer
4 stole corporate opportunities, have you not?

5 A. Yes. If that's in the pleadings that's
6 correct.

7 Q. Okay. So what kinds of corporate
8 opportunities do you say that Mr. Palmer stole from
9 Grease Guard?

10 A. Same allegation coming out of the same
11 set of circumstances, plus he interfered with the
12 relationship we had with Panacea.

13 Q. Okay. Tell me about that.

14 A. I had an agreement with the person who
15 was running Panacea, Wayne Bobo. Wayne Bobo and I
16 had agreed that we would not go after each other's
17 business and that we would cooperate as two
18 competing companies, but it would be friendly
19 competition, and he was -- he was prevented from
20 doing that when -- and ordered not to do that
21 anymore and they came after our business and --

22 Q. Wait a minute. When you say he, who
23 are you talking about? You said he was --

24 A. He was -- Wayne was prevented from
25 continuing in that vein. And the other problem I

1 had was that I had been negotiating with Panacea
2 about buying Mr. Palmer's interest and I had been
3 hoping to combine the two companies to make it a
4 larger company that functioned better and
5 Mr. Palmer inserted himself into those negotiations
6 and instead of being able to accomplish that goal
7 what we wound up with was Mr. Palmer -- or Panacea
8 hired our sales manager away instead and instead of
9 being a friendly competitor became a hard-nosed
10 rival and stole business from us.

11 Q. So Panacea broke their agreement with
12 you?

13 A. Correct.

14 Q. Now, you say you were negotiating with
15 Panacea to purchase Mr. Palmer's shares.

16 A. Correct.

17 Q. But just a minute ago you said it was
18 somehow wrong for Mr. Palmer to be negotiating with
19 Panacea for the sale of his shares.

20 A. I didn't say that.

21 Q. I think you did.

22 A. I think I didn't. Want to read it
23 back?

24 Q. No. That's all right.

25 Because you recounted a -- you know,

1 the one reason, the one theory that you had as it
2 relates to Mr. Palmer somehow preventing Grease
3 Guarde from succeeding as it relates to Panacea was
4 this meeting where he was at and he denied the
5 sale --

6 A. It's not the one thing, but it is one
7 thing. It is one of the things.

8 Q. What are the others?

9 A. The phone call in December where he
10 arranged for a job for the sales manager, that's
11 one, and the other is the meeting that he arranged
12 to have privately and not let me know that he was
13 going to have it and then he denied in front of
14 witnesses that he was there to discuss the sale of
15 his shares.

16 Q. Is there anything wrong with someone
17 talking about selling their own property rights?

18 A. Absolutely not.

19 Q. Is there any obligation that you're
20 aware of for one to disclose any kind of
21 discussions of that regard?

22 A. I think in a partnership arrangement as
23 an LLC when a managing member is involved in it and
24 the other managing member has already set up that
25 meeting then, yes, I think there is something wrong

1 with that.

2 Q. Is there a specific provision of an
3 operating agreement that you're talking about?

4 A. Yes. It's -- we'd have to get the
5 operating agreement and I would have to go through
6 it again, but I believe that also is a violation of
7 that operating agreement.

8 Q. But it's all right for you to negotiate
9 the sale of Mr. Palmer's shares?

10 A. Mr. Palmer and I discussed before I
11 made the approach. Mr. Palmer okayed that. I kept
12 Mr. Palmer fully informed of where we were and who
13 I was negotiating with.

14 Q. So basically what you're saying is that
15 because he inserted himself in the negotiations
16 that that's somehow wrong?

17 A. Yes.

18 Q. He should have let you do it?

19 A. It should have been disclosed that he
20 intended to do it.

21 Q. Let's assume that he did disclose it.
22 Would it then have been wrong?

23 A. No.

24 Q. So really he just should have told you?

25 A. He should have told me, correct.

1 Q. And so unless there's something in the
2 operating agreement that would say that he had to
3 disclose it then there's nothing wrong with what he
4 did, right?

5 MS. ARCURE: Objection.

6 THE WITNESS: That's incorrect. There
7 is something wrong what that.

8 BY MR. PARKER:

9 Q. Well, tell me. Tell me how I'm wrong.

10 A. I've already explained it to you.

11 Q. I'm trying to understand it because
12 it's not making any sense. Tell me how I'm wrong.

13 A. I don't know how the exact negotiations
14 between them were --

15 Q. Right.

16 A. -- but I do know that after that
17 meeting there were other phone calls that they made
18 to themselves negotiate it. After that the sales
19 manager went to work for them after telling me that
20 he was going back into the medical insurance field.
21 So it was done surreptitiously. I only found out
22 about his change of venue three months later when I
23 started losing accounts. And at that time when I
24 asked Mr. Palmer about it, Mr. Palmer said that he
25 had made the call to get the job for Mr. Cromer.

1 And he didn't say that Mr. Cromer called him to ask
2 him to help him get a job. He said, I called in
3 December, which was when he was still a partner.

4 Q. Okay. But apart from that, do you have
5 any evidence that would show that Mr. Palmer
6 intended for Mr. Cromer when he left to take Grease
7 Guard's business?

8 A. I don't know what Mr. Palmer intended.
9 I do know that what I'm telling you happened
10 happened.

11 Q. Well, you've alleged that Mr. Palmer is
12 or has intentionally taken corporate opportunities
13 and corporate trade secrets.

14 A. And that's how he did it.

15 Q. But what I'm saying -- asking you is:
16 What evidence do you have of that?

17 A. It's prima facie.

18 Q. How so?

19 A. When you get your sales manager a job
20 with a competitor before you leave the company that
21 you're with I believe that's a violation probably
22 of the South Carolina Fair Trade and Practices Act.

23 Q. How is that?

24 A. Because it is -- you're disclosing
25 proprietary secrets.

1 Q. What secrets did Mr. Palmer disclose?

2 A. Mr. Palmer -- you and I both know, and
3 any rational human being knows, that Mr. Palmer
4 expected him to do exactly what he did.

5 Q. What evidence do you have of that is
6 what I'm asking.

7 A. That it happened.

8 Q. But see, now, you've alleged that
9 Mr. Palmer stole trade secrets.

10 A. Mr. Palmer caused it. Mr. Palmer
11 caused it.

12 Q. You've got to have some evidence that
13 Mr. Palmer intended for Mr. Cromer to take from
14 Grease Guard client lists and business.

15 A. Is that a legal conclusion that I'm
16 being asked to reach?

17 Q. Well, how about I just follow it up.
18 Do you have any evidence --

19 A. What I just told you.

20 Q. So the only evidence that you have that
21 Mr. Palmer took corporate opportunities or stole
22 trade secrets is the fact that he called and
23 ultimately Brandon Cromer ended up working for
24 Panacea?

25 MS. ARCURE: Objection.

1 BY MR. PARKER:

2 Q. Is that all you have?

3 A. Not exactly.

4 Q. Well, what else do you have?

5 A. I also have the testimony that -- from
6 Wayne Bobo about how it occurred.

7 Q. Okay. What does Mr. Bobo say?

8 A. Mr. Bobo said he was totally cut out of
9 the loop after -- when his boss came to him and
10 said, you will hire this man, and that he had to
11 hire him, and when he saw that -- what they were
12 doing, taking the business, he resigned and now
13 works for a different company.

14 Q. So Wayne Bobo is going to say that his
15 boss came in and told him he had to hire Brandon
16 Cromer. How is that evidence that Mr. Palmer
17 intended for Mr. Cromer to take Grease Guard's
18 business?

19 A. I'm not -- I don't know. I don't know
20 the legal answer to that. In my mind it's plain
21 enough.

22 Q. Well, it's not in mine.

23 A. I wouldn't expect it to be.

24 Q. I mean, isn't it true you're just
25 speculating?

1 A. No.

2 MS. ARCURE: Objection.

3 THE WITNESS: It happened.

4 BY MR. PARKER:

5 Q. What happened?

6 A. Mr. Palmer caused a major prime
7 employee, a key employee to go to work for a
8 competitor.

9 Q. Okay. So Mr. Cromer wasn't going to
10 leave Grease Guard but for Mr. Palmer's
11 insistence, I suppose?

12 A. I don't know.

13 Q. What if Mr. Cromer says that he was
14 leaving no matter what you did? What --

15 A. I doesn't matter. Mr. Palmer did not
16 have the right to do what he did while he was a
17 partner of mine.

18 Q. All right. But what I'm trying to
19 understand is -- what you say he did is he got
20 Mr. Cromer a job. I mean, I understand that
21 Mr. Palmer says that it didn't happen that way, but
22 for purposes of today, you're saying that what
23 Mr. Palmer did was he got Mr. Cromer a job?

24 A. That's correct. With a competitor.

25 Q. Okay.

1 A. And that as soon as that happened, the
2 competitor all the sudden became unfriendly instead
3 of a friendly competitor and he started taking
4 business from us.

5 Q. The competitor did?

6 A. Yes.

7 Q. All right. And when you -- and he
8 being Mr. Cromer working for the competitor?

9 A. Yes.

10 Q. Not Mr. Palmer?

11 A. I don't know. I haven't taken all of
12 their depositions yet. That's what depositions --

13 Q. Well, you've made all these
14 allegations.

15 A. That's what depositions are for, is to
16 discover evidence.

17 Q. You're right, but you've made all these
18 allegations.

19 A. And I've given you my answer.

20 Q. So your answer is that he got him a
21 job?

22 A. That he made a phone call to a
23 competitor and offered up a key employee --

24 Q. But what evidence --

25 A. -- while he was --

1 Q. -- do you have of that?

2 A. I have Mr. Palmer -- Mr. Palmer himself
3 admitted that he did it, and he did it in December,
4 and I --

5 Q. That he did what, though? That he made
6 a phone call or what? What did he do?

7 A. That he got Cromer the job and he made
8 the call while he was still my partner.

9 Q. Okay. So he got Cromer a job?

10 A. Uh-huh.

11 Q. What else did he do?

12 A. That's enough.

13 Q. So by getting somebody a job -- how was
14 he to know what Mr. Cromer was going to do or not
15 do?

16 A. Well, he's getting him the job as a
17 sales manager and I suspect that the sales manager
18 is to bring business in.

19 Q. But you don't have any evidence that
20 Mr. Palmer knew that that's what Mr. Cromer was
21 going to do?

22 A. Mr. Palmer knew. Any sane individual,
23 thinking individual would understand -- that's been
24 in business as long as Mr. Palmer has or I have
25 would understand what that meant. It meant that

1 he --

2 Q. So he should have foresaw that
3 Mr. Cromer was going to commit illegal acts?

4 MS. ARCURE: Objection.

5 THE WITNESS: Absolutely.

6 BY MR. PARKER:

7 Q. But you don't have any evidence that he
8 did foresee that or that he intended that?

9 A. I do not at this point.

10 Q. Right. And, of course, Mr. Bobo and
11 Mr. Cromer will have their say, I suppose.

12 All right. So let's back up. I just
13 want to make sure we nail down -- when did you
14 become a managing member?

15 A. I think January the 1st.

16 Q. Of --

17 A. Oh. A managing member. I guess I
18 became -- I became a managing member sometime -- I
19 don't remember. 2010, something like that.

20 Q. Now, being someone who has significant
21 experience in business and developing real estate,
22 as you say millions of dollars worth of that, is it
23 reasonable to believe that Mr. Palmer would
24 intentionally harm an entity that owed him millions
25 of dollars?

1 A. Under the circumstances, yes.

2 Q. Okay. What circumstances could there
3 possibly be?

4 A. That he could cut a better deal by
5 dealing directly with Panacea than he could with
6 me.

7 Q. Did he ever cut a deal with Panacea?

8 A. I don't know.

9 Q. Well, let's back up. In 2007 when
10 Grease Guard was, you know, basically getting up
11 and going --

12 A. Yes.

13 Q. -- you say you were a partner at that
14 time?

15 A. Yes.

16 Q. But I think you said you weren't
17 actually day-to-day --

18 A. No.

19 Q. What were you doing then?

20 A. Teal Green.

21 Q. And what were you doing there?

22 A. Teal Green was trying to develop a meat
23 sanitizer, an alternative to chlorine. If you
24 don't know it, all chickens are bathed for an hour
25 and a half in a chlorine solution to chill it down

1 and kill germs. And if you recall, there was a
2 railroad accident in Graniteville where a load of
3 chlorine killed several people.

4 Q. Right.

5 A. So the price of chlorine went up and
6 we -- the same people that Grease Guard was
7 purchased from had a product that they alleged was
8 a better meat sanitizer.

9 Q. Right.

10 A. And so we actually started negotiating
11 with the meat sanitizer before we found out about
12 Grease Guard. Grease Guard was purchased
13 subsequent to us negotiating with them on the meat
14 sanitizer. My job was to try to find a way to get
15 that meat sanitizer into the poultry and meat
16 industry. So that was what I was doing.
17 Mr. Galloway and Rocky Couch were running Grease
18 Guard.

19 Q. Okay. Now, this deal with the meat
20 sanitizer, was that your primary job during that
21 time?

22 A. Yes.

23 Q. And was that paying you something?

24 A. Yes.

25 Q. What was it paying you?

1 A. I don't recall.

2 Q. Were you doing anything with Grease
3 Guarde?

4 A. I was working out of the Grease Guarde
5 office and whatever came up -- you know, if I was
6 there I would help, yes, but I was not involved in
7 the day-to-day administrative management.

8 Q. Right. But you were getting payments
9 from Grease Guarde --

10 A. No.

11 Q. -- weekly, right?

12 A. No. From Mr. Palmer.

13 Q. So Mr. Palmer was paying you weekly?

14 A. I don't recall if it was weekly or
15 monthly or whatever it was, but, yes, I was on a
16 draw against profits.

17 Q. But now, we went through the tax
18 returns and there were no profits, were there?

19 A. No.

20 Q. So you were just getting a draw?

21 A. But not from Grease Guarde.

22 Q. Okay.

23 A. From Teal Green.

24 Q. So you would deny that you were getting
25 draws from Grease Guarde?

1 A. I don't know where the checks were
2 written from. I wouldn't deny or -- you know, I
3 don't know. I don't recall.

4 Q. So in any case, you were getting draws
5 when no monies were being made?

6 A. That's correct. Mr. Palmer was funding
7 it.

8 Q. He was funding you?

9 A. Yes.

10 Q. So he was funding, you know, you to
11 live?

12 A. Correct.

13 Q. So here is a man who has funded you to
14 live, given you money you out of a corporate -- or
15 an LLC that's not making any and is, in fact,
16 losing hundreds of thousands of dollars each year
17 and is ultimately owed millions of dollars by this
18 company and you actually want people to believe
19 that he would intentionally hurt this company so
20 that he would not get paid his millions of dollars
21 back, his wife would not get paid -- under your
22 theory of the case would not get paid on the
23 mortgage note to the tune of, you know, two or
24 \$3 million?

25 MS. ARCURE: Objection.

1 BY MR. PARKER:

2 Q. Is that what you want people to
3 believe?

4 A. I believe it.

5 Q. So apart from Mr. Palmer inserting
6 himself into negotiations of his own shares in
7 Grease Guard with Panacea and making a phone call
8 to arrange or -- well, I guess, as you allege,
9 arranged for Mr. Cromer to get a job with Panacea,
10 you have no other evidence of that contention; is
11 that right?

12 A. I don't know what contention you're
13 speaking of.

14 Q. The contention that Mr. Palmer
15 intentionally made it such that he would not get
16 paid two or \$3 million back.

17 A. I can show you a series of e-mails
18 which will prove that the conversations were had
19 with Mr. Palmer that the reason he was losing money
20 and the reason the company was not able to make
21 profits --

22 Q. Oh. I know. I'm not asking about the
23 reason why Grease Guard wasn't profitable.

24 A. That made no sense either.

25 Q. Yeah.

1 A. That made no sense either, but he did
2 it and continued to do it and he never responded to
3 the e-mails or suggestions that I made to him. So
4 if that doesn't make any sense, if he didn't -- if
5 wasn't doing the right thing there what would be
6 any different for him doing the wrong thing down
7 the road? So I think I can make the case that his
8 prior activities would justify the way I reacted at
9 the end of the situation.

10 Q. Right. Why would Mr. Palmer be
11 giving -- funding you? Not the company, but you.
12 Why would he be doing that?

13 A. Supposedly he and I were best friends
14 and why all this happened -- I've asked him point
15 blank what I had done to cause him to act the way
16 he did and I have never received an answer. If you
17 could find out on the sly sometime I'll really
18 appreciate knowing that.

19 Q. And I'll make that promise. I'll do
20 that.

21 But you wouldn't think it had anything
22 to do with the fact that you owed him a bunch of
23 money and never paid him, do you?

24 A. Huh-uh. I don't think it does, as a
25 matter of fact.

1 Q. I'm not trying to beat a dead horse
2 here. I'm just trying to figure out --

3 A. Yeah, don't beat horses. I like
4 horses.

5 Q. This is, you know, my chance to get
6 from you, you know, what it is you're saying and
7 why you're saying it and what I've heard you say is
8 that all of this contention that Mr. Palmer
9 intentionally hurt Grease Guard is based on the
10 fact that Mr. Cromer got a job and he inserted
11 himself -- Mr. Palmer inserted himself into
12 negotiations with Panacea. That's what I've heard.
13 If I'm wrong, tell me. If there's more to the
14 story, tell me.

15 A. We don't have -- you'd have to schedule
16 this for a couple of weeks for me to go back and
17 tell you the whole period and the history of this,
18 but I did my best to make sure Mr. Palmer's
19 investments paid off and never got any cooperation.

20 Q. Okay.

21 A. And I think I can show you a pattern of
22 conduct that will -- it won't explain, but it will
23 certainly make you understand that the end of the
24 trail was business as usual. This is the way he
25 operated for the entire time, which I think will

1 give validity to those points.

2 Q. All right. So other than this pattern
3 of conduct, the phone call with -- about Brandon
4 Cromer and the insertion of himself into the
5 negotiations of the sale of his own shares, is
6 there anything else?

7 A. I don't know yet until we do some more
8 depositions.

9 Q. Where would you go to find it? If
10 there were evidence, where would you go?

11 A. Probably talk to the owners of Panacea,
12 and we'll have to see what Mr. Cromer has to say,
13 and also what Mr. Bobo has to say, and there are
14 other members that work for Grease Guard that we
15 will need.

16 Q. What would they know?

17 A. They would understand that there was
18 also a problem with Mr. Palmer's son that he forced
19 on us. We were forced to take him in as an
20 employee and pay him a salary and he was not needed
21 and became a disruptive source -- or became a
22 disruptive person in the company and did his best
23 to undermine the company. And that's where I'm at
24 on that.

25 Q. That's what the people at Grease Guard

1 would tell us about?

2 A. Some of them will, yes.

3 Q. So what you're trying to say then with
4 that, I guess, is that somehow Mr. Palmer should be
5 held responsible for the acts of his son?

6 MS. ARCURE: Objection.

7 THE WITNESS: Yeah. He forced his son
8 on us. We had to hire him.

9 BY MR. PARKER:

10 Q. Well, he was paying all the money into
11 Grease Guard, was he not?

12 A. You just answered your own question.

13 Q. Well, I mean, I'd like you to answer
14 it.

15 A. Yes, he was.

16 Q. Okay.

17 A. So therefore I had to hire his son,
18 want him or not.

19 Q. But then you're trying to have
20 Mr. Palmer then responsible for the actions of his
21 son?

22 A. If you start a ball rolling downhill
23 and it runs over somebody I think that you're still
24 liable.

25 Q. Okay. Is there anybody else or

1 anywhere else you would go to find evidence of
2 this?

3 A. I don't know yet. I've told you
4 everything as far as I know right now.

5 Q. Okay. Well, that's good.

6 And if we are to find some new source
7 of evidence other than what we've talked about
8 today would you object to reconvening this
9 deposition?

10 A. No.

11 Q. Now, in your pleadings you've talked
12 about an agreement that supposedly was between you
13 and Mr. Palmer about settling this debt, the
14 mortgage debt that would have involved a reverse
15 mortgage; is that right? Have you alleged that?

16 A. An agreement?

17 Q. Right.

18 A. I don't know. I'm not sure I
19 understand that.

20 Q. Well, in your pleadings you have
21 alleged that there was an agreement made with --

22 A. Oh, yeah. Okay. Yeah, there was an
23 agreement.

24 Q. Tell me about that.

25 A. There was an agreement that they would

1 carve out the house and ten acres, make a payment
2 of \$300,000 to Mr. Palmer by reverse mortgage --

3 Q. Right.

4 A. -- and deed the balance of the property
5 to him.

6 Q. Right.

7 A. The property at the time did not
8 qualify for a \$300,000 reverse mortgage.

9 Q. Right.

10 A. It was 200 and some thousand and he did
11 not accept that.

12 Q. Okay. Are you contending within this
13 lawsuit that he had some obligation to accept
14 \$100,000 less?

15 A. I'd have to reread the pleadings. I
16 don't recall exactly that part of it.

17 Q. What about today as you sit here? Are
18 you saying that Mr. Palmer had some legal
19 obligation to, instead of the \$300,000 that was
20 agreed, accept \$200,000?

21 A. Again, I'd have to go back to the
22 pleadings and take a look at what I alleged.

23 Q. Okay. If there were some legal
24 obligation for him to accept less money, what would
25 it be?

1 A. Again, I'd have to go back to the
2 pleadings.

3 Q. But you admit that the agreement was
4 \$300,000, 10 acres and the house to you and he gets
5 the balance of the property?

6 A. I believe that's correct.

7 Q. In other words, not 200,000?

8 A. I believe that's correct.

9 Q. In your pleadings several times and in
10 your responses to our interrogatories concerning
11 your claims of unclean hands and unjust enrichment
12 and so on you indicate that those claims and
13 defenses are in part based on the fact that
14 Ms. Palmer through another trust ended up with a
15 half interest in this property as a result of this
16 mortgage transaction that we're here about today;
17 isn't that right?

18 A. (Nodding head.)

19 Q. Well, what exactly do you say is wrong
20 about that?

21 A. I think that she's overreaching.

22 Q. Now, you're an educated businessman,
23 right?

24 A. I have an education and I've been a
25 businessman.

1 Q. Right. And you've developed millions
2 of dollars worth of real estate, right?

3 A. Correct.

4 Q. And been involved in several other
5 businesses?

6 A. Correct.

7 Q. Was there something you didn't
8 understand about these documents and the
9 transaction?

10 A. No.

11 Q. So you knew full well she was getting
12 the half interest?

13 A. I did.

14 Q. And you agreed to it?

15 A. Yes, I did.

16 Q. So how was it wrong when you agreed to
17 it?

18 A. Again, I would have to check the
19 pleadings and read them.

20 Q. In some of your -- well, in your answer
21 and counterclaim you have mentioned that Ms. Palmer
22 didn't give you notice of default; is that right?

23 A. If they're in the pleadings that's
24 correct.

25 Q. But you don't contend that you're not

1 in default, right?

2 A. I don't know. Maybe I am not.

3 Q. But you do admit that you've made no
4 payments on this note?

5 A. That's correct, but I've also said that
6 I stand ready to satisfy our oral agreement and put
7 the property on the market and sell it.

8 Q. So today you're telling me that you
9 want to -- that you would put the entire property
10 on the market and sell it?

11 A. That's correct.

12 Q. Now, I'm sort of backing up, and I
13 apologize. Also in your pleadings you have alleged
14 that Mr. Palmer refused to participate in both
15 Grease Guard and the circumstances there and with
16 relation to this -- as it relates to the payment --
17 your alleged agreement about payment of the note
18 coming out of Grease Guard. What exactly are you
19 talking about there, his refusal to participate in
20 good faith?

21 A. Mr. Palmer was aware that I was
22 dependent on Grease Guard to be the engine that
23 brought enough money to pay that.

24 Q. Right. And by, I guess, 2010/2011 is
25 it true that Mr. Palmer was if not the sole source,

1 the primary source of all capital to Grease Guard?

2 A. Above the income, yes.

3 Q. And in 2010, whenever you started
4 getting on board, even into '11, Grease Guard was
5 running a deficit every month; is that right?

6 A. That's correct.

7 Q. So Mr. Palmer was funding this deficit?

8 A. That's correct.

9 Q. And any future operations?

10 A. Correct.

11 Q. In the end he just decided that he'd
12 given it enough money; is that right?

13 A. That's correct.

14 Q. Is it that that you say is his refusal
15 to participate in good faith?

16 A. No.

17 Q. What is it?

18 A. I'd have to read the pleadings again.

19 Q. So you don't deny that Grease Guard
20 never made any money, right? You would admit that,
21 right?

22 A. No. It did for one quarter on a cash
23 basis.

24 Q. Right, but during that quarter was
25 Mr. Palmer in any way involved?

1 A. No.

2 Q. So maybe I should just revise my
3 question. During the time that Mr. Palmer was
4 involved you would admit that Grease Guarde never
5 made any money?

6 A. I would.

7 Q. So what precisely do you want an
8 accounting of as you've pled in your answer?
9 You've brought a counterclaim for an accounting of
10 whatever payments Mr. Palmer got from Grease
11 Guarde.

12 A. Yeah, I mean, I'd have to go back to
13 the pleadings and take a look at the question
14 again.

15 Q. Okay. Well, I mean, I think we've
16 fairly well established today, have we not, that
17 rather than getting payments from Grease Guarde,
18 Mr. Palmer was making payments to Grease Guarde; is
19 that right?

20 A. Correct.

21 Q. So there wouldn't be much to account
22 for there because there were no payments. So
23 what's he going to account for?

24 A. Again, I'd have to refer back to the
25 pleadings.

1 Q. Now, I promise you I'm almost done with
2 this line of questioning here, but you've said also
3 that Mr. Palmer had somehow procured your default
4 in payments under this mortgage loan. Do you
5 recall saying that?

6 A. Yes.

7 Q. What precisely are you talking about
8 there?

9 A. I'm talking about the ability or the --
10 what he did to prevent Grease Guard from
11 continuing in a profitable basis.

12 Q. And you're referring to what when you
13 say that?

14 A. Getting Mr. Cromer a job with a
15 competitor.

16 Q. So what you're saying is that when that
17 happened you're saying that that caused Grease
18 Guard problems and that it is Mr. Palmer's fault
19 and so Mr. Palmer --

20 A. Yes.

21 Q. -- procured your default?

22 A. Yes.

23 Q. So in your answer on paragraph 47 you
24 allege that Grease Guard was operating at a profit
25 and then sometime in late 2010, early 2011 Grease

1 Guarde began losing its customers and so on. That
2 initial statement where you said that Grease Guard
3 was operating at a profit sometime before late 2010
4 into 2011, that's just not correct, is it?

5 A. I think that should have been 2012.

6 Q. Jimmy Segars, do you know him?

7 A. I do.

8 Q. How long have you known him?

9 A. Well, I've known him -- I've known
10 about him ever since he was born, but known him,
11 probably ten years. Since I moved back up here to
12 Lee County.

13 Q. And Mr. Segars had represented you on
14 several transactions prior to this one here, had he
15 not?

16 A. Yeah, he did not represent me on this
17 one.

18 Q. He did?

19 A. He did not, no. That I know of. I
20 don't know what technically it would have been --
21 he represented Mr. Palmer and the trust.

22 Q. So how did Mr. Palmer, who is from
23 Texas, know to get in touch with Jimmy Segars?

24 A. At my recommendation.

25 Q. So you told him as you all were

1 discussing this loan, why don't you go see Jimmy
2 Segars?

3 A. No.

4 Q. What did you say?

5 A. I didn't say anything. He went to
6 Jimmy Segars.

7 Q. How did he get to Jimmy Segars?

8 A. He had dealt with Jimmy Segars on
9 matters pertaining to Grease Guard several years
10 prior.

11 Q. Now, you just said a minute ago it was
12 on your recommendation.

13 A. No, I did not. You said, how did he
14 met Jimmy Segars, and I said it was on my
15 recommendation. This was not when he met Jimmy
16 Segars. He met Jimmy Segars several years before
17 that in negotiating with -- about Grease Guard and
18 about other matters and about the first loan that
19 he made here.

20 Q. Did you want somebody else to represent
21 you?

22 A. No. I was not -- no. I mean, I did
23 not -- it was what it was. It was presented as a
24 fait accompli.

25 Q. Did you ever voice any objection to

1 Jimmy Segars?

2 A. No, I did not.

3 Q. I think that's all I've got.

4 A. There's one other thing that I want to
5 add. And I know I'm not supposed to do this,
6 but --

7 Q. Please do.

8 A. Another obligation that Mr. Palmer did
9 not fulfill, the agreement -- verbal agreement that
10 we had -- and which I had no objection to -- he and
11 the other partners disassociating from the LLC was
12 that he would make the overhead payment for the
13 month of December of 2011, I believe, and he
14 refused to do that. He made partial payments, but
15 he did not take care of the entire balance. I just
16 wanted that for the record.

17 Q. Yeah. Okay. I'm glad you mentioned
18 that. And so what you're saying is that Mr. Palmer
19 agreed to pay the debts or obligations of Grease
20 Guard?

21 A. Correct, through December 31st. And,
22 of course, bills come in the following month and
23 when he was presented with those bills he refused
24 to pay all of them. He paid some of them, but he
25 didn't pay all of them.

1 Q. And we're talking thousands of dollars?

2 A. Yeah. Yeah.

3 Q. But this is verbal?

4 A. It's verbal, but the -- there are
5 several people in my office that were party to
6 those conversations and there were separate
7 conversations held with them in anticipation of
8 this.

9 Q. And but there is no agreement? This
10 agreement was not in writing?

11 A. That's correct.

12 MR. PARKER: All right. Thank you.

13 (The deposition was concluded at
14 12:03 p.m.)

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1 CERTIFICATE OF REPORTER

2
3 I, Angela D. Zuver, Court Reporter
4 and Notary Public for the State of South Carolina
5 at Large, do hereby certify that the foregoing
6 transcript is a true, accurate, and complete
7 record.

8 I further certify that I am
9 neither related to nor counsel for any party to the
10 cause pending or interested in the events thereof.

11 Witness my hand, I have hereunto
12 affixed my official seal this 14th day of August,
13 2014 at Columbia, Richland County, South Carolina.

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24 Angela D. Zuver, Court Reporter
25 My Commission expires
June 24, 2024

1 STATE OF SOUTH CAROLINA

2 COUNTY OF LEE

3

4 Ernestine N. Palmer, et. al., Motions Hearing
5 Plaintiffs 2013-CP-31-00130
6 vs.

7 Hatcham Grove and David Lucas, September 12, 2014
8 Defendants Bishopville, S.C.

9

10

BEFORE THE HONORABLE W. JEFFREY YOUNG, JUDGE.

11

12

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

14 Mr. Kyle B. Parker,
15 Attorney for Plaintiffs

16 Ms. Magalie Amelia Arcure
17 Attorney for defendants

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19

Margaret T. Sullivan,
Court Reporter

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1 THE COURT: This is Ernestine N. Palmer versus
2 Hatcham Grove and David Lucas. And present and
3 appearing is Kyle Parker. And how do you pronounce your
4 name?

5 MS. ARCURE: Magalie Arcure.

6 THE COURT: Magalie Arcure. Whose motion
7 is this?

8 MR. PARKER: Well, Your Honor, I believe
9 there is several.

10 THE COURT: Well yes, I see that we have
11 got three motions.

12 MR. PARKER: I am okay with doing it in
13 whatever order the court would like or as it goes
14 on the roster. I just, I don't have privy to the
15 roster to know which one is first.

16 THE COURT: The first one is the motion
17 for summary judgment. And this would be Palmer's.

18 MS. ARCURE: Palmer's.

19 THE COURT: And this would be plaintiff's
20 motion for summary judgment.

21 MR. PARKER: I believe and if I might,
22 Judge, I am just going to hand up the original of
23 the deposition of the defendant, David H. Lucas.
24 The motion referred to is motion for partial
25 summary judgment. And if I might, I'll just give

1 you a little bit of background that will help
2 you----

3 THE COURT: All right, sir.

4 MR. PARKER: ----for the remainder of the
5 motion as well. What this is, Ms. Ernestine
6 Palmer has brought a foreclosure proceeding.
7 There is a mortgage loan that Hathham Grove, Inc.
8 took out for \$700,000, which was guaranteed by the
9 defendant, David Lucas. The relationship here is
10 that Ms. Palmer and her husband, Ronald O. Palmer,
11 have been friends with Mr. Lucas. And Hatcham
12 Grove is a corporation that's owned by Mr. Lucas.
13 He's the sole shareholder apparently; have been
14 friends with Mr. Lucas for over 40 years. I
15 think they went to college together, and so on.

16 And at some point, it became apparent that
17 Mr. Lucas was having some financial difficulties
18 and has, is alleged in his answer to the
19 complaint, he was in imminent danger of losing his
20 home. And so because of that, there was a
21 mortgage loan agreement that was entered into
22 between Mr. Lucas and his friends of 40 years,
23 Mr. and Mrs. Palmer; whereby, Mr. and Ms. Palmer,
24 loaned him or his company guaranteed by him,
25 \$700,000. It has now been admitted by Mr. Palmer

1 in his deposition and through his discovery
2 responses, that there has never been a payment
3 made on this \$700,000 mortgage, ever.

4 So as a result of that, Ms. Palmer being
5 the mortgagee, came asking for payment of the
6 mortgage. Mr. Lucas and his company have
7 responded by basically saying, I know I have not
8 paid you anything. I'm not going to pay you
9 anything. And I don't have to. And in fact, you
10 own me money. It is the essential response that
11 the Palmers have received from, and all that is
12 borne out by Mr. Lucas and for the defendant's
13 answer, and counterclaims and third party
14 complaints.

15 So having said all that, part of what
16 Mr. Lucas has -- well the defendant's have said as
17 part of their counterclaims is that, Ms. Palmer as
18 the mortgagee failed to ascertain Mr. Lucas' or
19 Hatcham Grove's preference for an attorney in the
20 closing of the mortgage loan. Now through
21 discovery Mr. Lucas and Hatcham Grove have now
22 admitted that the sole basis of that claim is
23 that Ms. Palmer failed to obtain an attorney
24 preference form, okay.

25 Your Honor, there is a statute in South

1 Carolina says that as part of any loan closing a
2 lender, in this case, I suppose that would be
3 Ms. Palmer, is to ascertain the bar over
4 preference for the closing attorney. Now that
5 statute says that the lender may, and I don't need
6 to, you know, tell the court what Black's legal
7 dictionary would say the definition of may is.
8 But the statute says that the lender may satisfy
9 the requirements of ascertaining the borrower's
10 attorney preference by obtaining a form, whereby,
11 the borrower would sign saying so and so is my
12 preferred attorney.

13 And, Judge, I emphasize that the statute
14 says, may. And Mr. Lucas and Hatcham Grove have
15 now admitted in their discovery responses and
16 further in Mr. Lucas' disposition, that the sole
17 basis for that claim is that there was no form
18 obtained. And so the basis for their claim is
19 that there was no form obtained, and the form is
20 required by the statute. And so, therefore there
21 can be no claim based on the form that's not
22 required by the statute. In addition to that,
23 Mr. Lucas testified in his deposition. And
24 reference is made in a memorandum that I provided
25 to the court with regard to another motion.

1 THE COURT: Is that the one you sent
2 yesterday?

3 MR. PARKER: It is, Your Honor.

4 THE COURT: By email?

5 MR. PARKER: Yes, sir. And in the course
6 of page 81 and 82 of Mr. Lucas' deposition, he
7 testifies in essence, and in fact verbatim, that
8 he did not want anybody else other than Jimmy
9 Segars to represent him in the closing of this
10 loan. So if the sole basis of the Mr. Lucas and
11 Hatcham Grove's claim, counterclaim, for violation
12 of attorney preference statute, is that the form
13 that is not required by the statute was not
14 obtained, and Mr. Lucas says that he didn't want
15 anybody else representing him at the closing.
16 Then there just simply isn't a claim for that
17 anymore. And for that, Judge, we'd just ask for
18 summary judgment on that issue.

19 THE COURT: Yes, ma'am, I will hear you.

20 MS. ARCURE: Thank Your Honor. First, I'd
21 like to in a nutshell, present the defendant's
22 version of the story. In a sense that, the
23 performance of the defendants on the note, we've
24 alleged was modified by an oral agreement between
25 Mr. Davis -- Mr. Lucas and Mr. Palmer. They

1 worked in various enterprises together. And
2 Mr. Lucas' position in the case; is that, the
3 understanding between the parties was that he was
4 going to repay the loan with the proceeds and the
5 profits from one specific business, which was
6 Grease Guard, LLC. And if that for some reason
7 was unable to pay off the loan, that they would
8 agree to sale a proportion of the property. But
9 in any event, they understood that because they
10 were friends, that they were going to find a way
11 to work it out. And Mr. Lucas has presented
12 various other alternates which at this point, has
13 not to fruition.

14 THE COURT: How much has Mr. Lucas paid
15 back?

16 MS. ARCURE: He hasn't paid back anything.

17 THE COURT: Nothing?

18 MS. ARCURE: None, Your Honor. But again,
19 our position is that the Grease Guard Enterprise
20 which was Mr. Lucas was the day to day operational
21 manager of, and was going to pay back the loan
22 with that. And that Mr. Palmer intentionally
23 prevented the performance of that by dissolving
24 the company. He knew that the sole means for
25 Mr. Lucas to repay that out of those loan proceeds

1 of his company, and that based on the oral
2 modification as alleged and the intentional
3 dissolution of the company by the Palmers, is part
4 of what the unclean hands defense to 403.

5 With regards to the motion for summary
6 judgment on the attorney preference claim, the
7 statute requires that the lender show substantial
8 compliance with the statute, which is either in
9 the form of an attorney preference form executed
10 prior to the closing, or a substantial compliance
11 by demonstrating that the lender at least notified
12 the borrower of their right.

13 THE COURT: But your guy only wanted Jim
14 Segars to do it. Did he exercise his own
15 preference there.

16 MS. ARCURE: Your Honor, we dispute that
17 characterization of the deposition testimony.

18 THE COURT: Can you cite where it is in
19 the disposition?

20 MR. PARKER: Yes, Your Honor.

21 MS. ARCURE: If I may, Mr. Lucas, excused
22 Mr. Segars for various other transactions that
23 involved other attorneys. He denies that he was
24 offered the opportunity to select another
25 attorney.

1 THE COURT: I asked where.

2 MR. PARKER: Your Honor, the whole
3 colloquy about the Mr. Segars representation in
4 this thing begins at page 81 at line 6 of
5 Mr. Lucas' deposition, and then carries on through
6 to page 82 of line 22. And if Your Honor would
7 like, I'll just read the colloquy into the record.

8 THE COURT: Yes, sir.

9 MR. PARKER: Okay. The question: Jimmy
10 Segars, do you know him. Answer: I do. And
11 question: How long have you known him. Answer:
12 Well, I've known him. I've known about him ever
13 since I was born. But known him probably 10 years
14 since I moved back up here to Lee County.
15 Question: And Mr. Segars has represented you on
16 several transactions prior to this one here, had
17 he not. Answer: Yes, he did. Yeah, he did not
18 represent me on this one. Question: It was a
19 clarification question. Where I was asking he
20 did. And the Answer: He did not know that I know
21 of, know what technically would have been. He
22 represented Mr. Palmer and the trust.

23 So how did Mr. Palmer who is from Texas,
24 know to get in touch with Mr. Segars. Answer: At
25 my recommendation. Question: So you told him as

1 you were discussing this alone, why don't you go
2 see Jimmy Segars. Answer: No. Well what did you
3 say. Answer: I didn't say anything. He went to
4 Jimmy Segars. Question: How did he get to Jimmy
5 Segars. He had dealt with Jimmy Segars on matters
6 pertaining to Grease Guard several years prior.
7 And question: You just said a minute ago it was
8 on your recommendation. Answer: No, I did not.
9 You said how did met Jimmy Segars, and I said it
10 was on my recommendation. This was not when he
11 met Jimmy Segars. He meet Jimmy Segars several
12 years before that in negotiating with him about
13 Grease Guard and about other matters, and about
14 the first loan that he made here.

15 Question: And this is the important one.
16 Did you want somebody else to represent you.
17 Answer: No, I was not. No I mean, I did not. It
18 was not -- it was what it was. It was presented
19 as a failure, a conflict.

20 So he was asked the question, do you want
21 somebody else to represent you, his answer was no.
22 So I don't what else the defendant would require.
23 It certainly is something that a finder of fact is
24 not required in this case, Judge. And I know that
25 the defendant's have recited to the court the

1 standard of review on summary judgments, and how
2 the evidence must be viewed in the light most
3 favorable to the non-moving party. And in this
4 case, Judge, even if you do that where he says he
5 didn't want anything else to represent him, and
6 the sole basis of his claim is the fact that there
7 isn't a form signed by him.

8 And it's not just Kyle Parker saying that
9 that's the sole basis of the claim. Mr. Lucas and
10 his company through their supplemental responses
11 to interrogatories say that. They say the sole
12 basis of their claim is the fact that there is no
13 form.

14 THE COURT: I am going to grant summary
15 judgment. Thank you. What's your next motion?

16 MR. PARKER: Your Honor, I think the next
17 motion is Ms. Accure's.

18 MS. ARCURE: Thank you, Your Honor. We'd
19 move for summary judgment based on the plaintiff's
20 failure to timely respond to request for
21 admission. The defense or the responses to the
22 plaintiff's discovery requests and their own
23 separate requests including admissions on
24 June 10th. The defendant's moved for summary
25 judgment on July 22nd, which was 7 days after the

1 expiration of the 5 day mailing period in which to
2 serve the request for admission. If I may, I
3 would like to read into the record the specific
4 requests that contain answers to admit. Which
5 again pertain to the defendant's position in this
6 case, as to the oral agreement and the performance
7 under the subject loan transaction.

8 The defendant's request the plaintiff's to
9 admit that Ernestine Palmer, the trust, to obtain
10 the undivided half interest in the subject
11 property as part of a loan closing transaction.
12 Mr. Palmer and Mr. Lucas orally modified the terms
13 of the mortgage. Mr. Lucas and Mr. Palmer orally
14 agreed that the proceeds from the Grease Guard
15 Enterprise would be used to pay off the loan.
16 Mr. Lucas and Mr. Palmer orally agreed that the
17 proceeds from the Grease Guard were insufficient
18 to repay the loan.

19 After carving out that portion of the
20 property where the residence is located, the
21 property was sold and any proceeds realized would
22 be remitted to plaintiff. Plaintiff's did not
23 comply with defendants's with their notice of
24 alleged default. Palmer caused the distribution
25 of Grease Guard, LLC and Plaintiff's knew

1 defendant's sole means to pay this mortgage were
2 with proceeds from the Grease Guard Enterprise.
3 And plaintiff's did not accept any of foreclosure
4 alternates offered by defendant's.

5 We have moved under Rule 36 (a) on the
6 grounds on failure to timely respond to the
7 admissions deemed admitted. In the brief opposing
8 our motion, the plaintiff's have argued that
9 because the subject matter of the request to admit
10 deal with key allegations that would deny the
11 pleadings, it would be improper to grant summary
12 judgment on that basis. Additionally we would
13 move for enlargement of time in which to serve
14 their responses. And in response to that, Your
15 Honor, I would direct to the court to the decision
16 of Scott vs. Greenville Housing Authority. That
17 is a 2003 Court of Appeals case.

18 In that case the Court of Appeals reversed
19 and remanded a case where the plaintiff's had
20 moved for summary judgment based on defendant's
21 failure to respond to requests for admission. The
22 trial level judge determined that it would be
23 improper to grant summary judgment, because those
24 admissions sought were responsive which were
25 denied in the pleadings. The case was tried. The

1 jury found for defendant's. And on appeal the
2 court stated and I'll quote, this is the language
3 from page 650 of the Scott vs. Greenville case:
4 That the trial judge in the present case erred as
5 a matter of law, in finding the admissions made as
6 the result of GHA's failure to respond to Scott's
7 requests for admissions were not binding, because
8 admissions will conflict with GHA's answers and
9 its pleadings.

10 The purpose of Rule 36 is to allow the
11 parties to narrow the issues and determine which
12 facts do not to be proven, because they are
13 admitted. Rule 36 (a) does not condition the
14 finding of fact of request for admission upon
15 whether the request addresses issues asserted and
16 denied in the pleadings. If the language of the
17 request for admissions specifically goes to an
18 issue in the pleadings, the admission resulting
19 from the parties failure to respond to the request
20 may override the pleadings, despite GHA's denial
21 of liability and language in the pleadings, it's
22 failure to respond to Scott's request for
23 admission concerning these issues were binding
24 upon.

25 And, your Honor, in this matter the

1 defendant's did not seek an extension. They did
2 not move for an enlargement of time prior to the
3 deadline in which the responses were due. And
4 this case is cited extensively at the trial level
5 and other trial orders in which summary judgment
6 has been granted on these grounds. And I would
7 respectfully submit that it would proper to grant
8 summary judgment as to these admissions being
9 deemed admitted under Rule 36 (a).

10 THE COURT: Yes, sir.

11 MR. PARKER: Your Honor, first of all,
12 even if the court were to deny the plaintiff's
13 motion to enlarge the time or withdraw the deemed
14 admissions, what Mr. Lucas or the defendant's have
15 asked that the court deem admitted, do not entitle
16 them to judgment as a matter of law. In essence,
17 the first instance, I will get into why the court
18 should allow the withdrawal of these deemed
19 admissions in the first place. But, Your Honor,
20 the primary admissions that Mr. Lucas seems to
21 believe is going to help him in this case, are
22 that there were some oral modifications of a
23 promissory note and mortgage.

24 Of course those kind of documents, a loan
25 agreement dealing with real estate, are

1 accompanied by the statute of frauds. And there
2 is case after case after case, in this state's
3 jurisprudence even from before this state was --
4 as an estate. Saying that a contract that which
5 governing, required to be in writing by the
6 statute of frauds, cannot be orally modified. So
7 in that since, Judge, the allegations and the
8 request for admissions that deal with whether or
9 not there was an oral modification, which the
10 plaintiff denies there ever was. But in any case,
11 even if there was, it doesn't matter. Because the
12 statute of frauds would say that it cannot be --
13 that a mortgage loan cannot be orally modified.
14 And that's something that has been a pillar of law
15 in this country and this state since before the
16 founding. But so I just say that as an initial
17 matter.

18 However, as it relates to whether or not
19 the court should allow the plaintiff's to file
20 these admissions which were, or denials of these
21 requests which were served on the defendant's on
22 July 25th, for whatever reason, I note that
23 Ms. Arcure has stated and do not doubt it in any
24 way, and please don't take anything I say to
25 intimate that I doubt in any way that Ms. Arcure

1 served or put in the mail these requests for
2 admissions on June 10th, I believe is what it is.
3 I believe that she did. But for whatever reason,
4 I didn't receive them until June 20th. And the
5 denials were served as set out in the affidavit
6 that was attached to the motion on the defendant's
7 on July 25th.

8 So, Judge, what we are talking about here
9 is four days. And so I mean I want the court to
10 have that in mind. We're talking about four days
11 here. And in this case where we have as Ms.
12 Arcure just told you a few minutes ago, a \$700,000
13 mortgage where they've never seen a payment,
14 admittedly. But now we have the defendant's
15 before you saying, Judge, based on four days, we
16 want you just forget about and say it's okay to
17 tell your friend of 40 years, I know you gave me
18 \$700,000. I am not going to pay you. And I
19 don't have to pay you. In fact you owe me money;
20 to say that's okay. And, Judge, there is a no
21 scrap of evidence or sliver of law that would say
22 that that's okay.

23 But, Judge, the difference between the
24 Scott case that Ms. Arcure cites to you, and the
25 position that the plaintiff's have with regard to

1 this motion; is that, that case one, is a Court of
2 Appeals case. Two, it didn't involve the motion
3 to withdraw the admissions, which is what you have
4 before you now. And three, there is a Supreme
5 Court case. Our south Carolina Supreme Court case
6 that is directly on point. And what the Supreme
7 Court said, in the case of Bowman vs. America's
8 Telephone and Telephone Company, which is at 410,
9 S.E. 2d., 537; is that, where there are deemed
10 admissions based on a failure to serve the denials
11 and when the time set out by the rule, that where
12 those deemed admissions are either dispositive or
13 involve key factoring issues. Okay, I don't think
14 there is any question between the two of us that
15 what they've sought to have admitted, are key
16 factual issues; that where that is the case, it is
17 actually reversible error and an abuse of this
18 court's discretion to deny the withdrawal of those
19 admissions, because by the very definition as is
20 set for in Rule 36 (b).

21 The trial of the merits would be absurd,
22 and an unjust result had by the failure or the
23 denial of a motion to withdraw the admissions.
24 So, Judge, on this question, the Supreme Court has
25 already spoken on it. And whatever the Scott case

1 has to say is inapplicable to this proceeding.
2 After all, Judge, it is about pretty clear that a
3 motion to withdraw or amend any deemed admissions
4 under Rule 36 (b), when that motion is made, the
5 court's sole inquiry is, all right well if we
6 don't do it this way, what prejudice is visited on
7 in this case, the defendant's.

8 And that prejudice is not, well we've
9 relied on these to support a motion of summary
10 judgment. It has been repeatedly held that that
11 is not kind of reliance or the kind of the
12 prejudice that the rule speaks to. Judge, in
13 fact, it has been repeatedly held that the kind of
14 prejudice and the kind of reliance on the deemed
15 admissions that the rule speaks to, is the
16 reliance on at trial. And, Judge, it is no
17 question, and I don't think Ms. Arcure would
18 quibble with me when I say that these very matters
19 that the defendant's have sought admissions on,
20 have been repeatedly denied.

21 So it's not as though as it's any real
22 question where they have relied on whether or not
23 these things are true or not. They simply,
24 knowing that they've already been denied, send the
25 admissions for whatever purpose they thought they

1 would have. But in any case the point is, is that
2 you've got a \$700,000 loan with no payments. And
3 based on four days, they want this court to say
4 that it's a just result to deny the Palmers any
5 sort of relief on \$700,000. And, Judge, I would
6 just submit that's not a rational theory.

7 THE COURT: What I'm going to -- you all
8 have provided me a number of affidavits. So I am
9 going to read over them, and take them under
10 advisement. I am going to ask both of you to send
11 me proposed orders on that particular issue.

12 MR. PARKER: Yes, sir.

13 THE COURT: The next one that you all have
14 is another motion for summary judgment and that
15 being, or is that your motion to enlarge the time?

16 MR. PARKER: Right, that's it.

17 THE COURT: All right.

18 MR. PARKER: And, Judge, if I might,
19 simply to speed this thing along, what I would
20 like to do, and I guess I am doing is, I'd like to
21 move to strike the defendant's defenses relating
22 to the oral modifications as being violative---

23 THE COURT: Has that motion been filed?

24 MS. ARCURE: No, Your Honor.

25 THE COURT: Okay, but I am not going to

1 hear it. She hasn't been noticed.

2 MR. PARKER: I understand.

3 THE COURT: So what I want you to do is
4 send the proposed orders concerning motion for
5 summary judgment. Of course, if I grant your
6 motion for summary judgment that means I denied
7 your motion to enlarge the time. If I allow you
8 to -- if I deny the motion for summary judgment,
9 of course that means I am going to allow it. So
10 brief it, or make an order in those particular
11 fashions.

12 MR. PARKER: Okay.

13 THE COURT: Thank you. And I expect those
14 to be in 10 days.

15 MR. PARKER: Sure.

16 --End of Requested Transcript of Record--

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C-E-R-T-I-F-I-C-A-T-E

I, Margaret T. Sullivan, Court Reporter, for the Third Judicial Circuit of the State of South Carolina, do hereby Certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced on September 10, 2014, in Common Pleas Nonjury Court, Lee County, Bishopville, South Carolina.

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

1-14-15
DATE

Margaret T. Sullivan

COURT REPORTER

My Commission expires: 9/7/2021

STATE OF SOUTH CAROLINA
COUNTY OF LEE

IN THE COURT OF COMMON PLEAS
THE THIRD JUDICIAL CIRCUIT
Civil Action No.: 2013-CP-31-130

Ernestine N. Palmer, as Trustee of the
Article IV Trust created under the Will of
Mary Denman Newman, deceased, Ronald
O. Palmer, Ernestine N. Palmer, as Trustee
of the Article IV Trust created under the
Will of James E. Newman, deceased,

Plaintiffs,

vs.

Hatcham Grove Inc., David H. Lucas,

Defendants.

**PLAINTIFFS' RESPONSES TO
DEFENDANTS' FIRST REQUESTS
FOR ADMISSION**

TO: DEFENDANTS AND THEIR COUNSEL

1. Admit that Ernestine N. Palmer, as Trustee of the Article IV Trust created under the Will of James E. Newman, deceased obtained an undivided half interest in the property as part of the subject loan closing transaction.

RESPONSE: Admitted.

2. Admit that David Lucas and Ronald Palmer orally modified the terms of the Note and Mortgage.

RESPONSE: Denied.

3. Admit that David Lucas and Ronald Palmer orally agreed that the proceeds from the Grease Guards enterprise would be used to pay off the loan from Plaintiffs.

RESPONSE: Denied.

4. Admit that David Lucas and Ronald Palmer orally agreed that if the proceeds from the Grease Guards enterprise were insufficient to repay the loan, after carving out that portion of the property where the residence is located, the property would be sold and any proceeds realized would be remitted to Plaintiffs.

RESPONSE: Denied.

5. Admit that you have not accepted any of the foreclosure alternatives offered by Defendants.

RESPONSE: Denied as stated.

6. Admit that you failed to ascertain the Defendants' attorney preference prior to the closing of the subject loan transaction.

RESPONSE: Denied.

7. Admit that you did not provide Defendants with notice of their alleged default.

RESPONSE: Denied.

8. Admit that Ronald Palmer caused the dissolution of Grease Guards, LLC.

RESPONSE: Denied.

9. Admit that you knew Defendants' sole means to pay the subject Note and Mortgage were proceeds from the Grease Guard enterprise.

RESPONSE: Denied.

10. Admit that Ronald Palmer intentionally prevented Defendants' agreed upon performance under the loan.

RESPONSE: Denied.

11. Admit that Ronald Palmer introduced Grease Guard's former sales director to Panacea Biofuel, LLC prior to his departure from Grease Guard.

RESPONSE: Denied.

12. Admit that Ronald Palmer made an oral promise to pay Grease Guard, LLC's overhead through the end 2011 fiscal year.

RESPONSE: Denied.

13. Admit that Ronald Palmer breached his oral promise to pay Grease Guard, LLC's overhead through the end of the 2011 fiscal year.

RESPONSE: Denied.

14. Admit that Ronald Palmer did not respond to David Lucas' multiple correspondences concerning the health and success of Grease Guard, LLC.

RESPONSE: Denied.

POPE & HUDGENS, P.A.



Kyle B. Parker
1508 College Street
P.O. Box 190
Newberry, SC 29108
803-276-2532 (Phone)
803-276-8684 (Fax)

Attorneys for Plaintiffs

Newberry, South Carolina
July 25, 2014

STATE OF SOUTH CAROLINA

COUNTY OF LEE

Ernestine N. Palmer, as Trustee of the Article IV Trust created under the Will of Mary Denman Newman, deceased; Ronald O. Palmer; Ernestine N. Palmer, as Trustee of the Article IV Trust created under the Will of James E. Newman, deceased,

PLAINTIFF,

vs.

Hatcham Grove, Inc., David H. Lucas,

DEFENDANTS.

IN THE COURT OF COMMON PLEAS

CASE NO.: 2013-CP-31-130

**RESPONSES AND OBJECTIONS TO
PLAINTIFFS' INTERROGATORIES**

TO: KYLE B. PARKER, ESQUIRE, ATTORNEY FOR PLAINTIFFS:

Defendants Hatcham Grove, Inc. David H. Lucas, by their undersigned attorneys, answer Ernestine N. Palmer, as Trustee of the Article IV Trust created under the Will of Mary Denman Newman, deceased, Ronald O. Palmer, Ernestine N. Palmer, as Trustee of the Article IV Trust created under the Will of James E. Newman, deceased (collectively, "Plaintiffs") Interrogatories pursuant to Rule 33 of the South Carolina Rules of Civil Procedure.

GENERAL OBJECTIONS

Defendants object to each and every interrogatory to the extent that:

1. Plaintiffs seek information not relevant to the issues raised in this action and not reasonably calculated to lead to the discovery of admissible evidence;
2. Plaintiffs seek information already in their possession or readily available to them;
3. Plaintiffs seek information protected by the attorney client privilege, the work product doctrine, or any other protection or privilege recognized by law;
4. A full and complete response to the interrogatories would subject Defendants to undue burden and expense;

5. The interrogatories require Defendants to gather information from documents not in Defendants' possession, custody or control; and,
6. The interrogatories impose discovery obligations upon the Defendants beyond those specified in the South Carolina Rules of Civil Procedure.

GENERAL RESPONSE

These responses are submitted by Defendants, without in any way waiving or intending to waive, but on the contrary reserving: (a) all questions as to competency, relevancy, materiality, privilege and admissibility as evidence for any purpose, of any of the documents referred to or responses given, or the subject thereof, in any proceeding; (b) the right to object to other discovery procedures involving or relating to the subject matter of the requests herein answered; and, (c) the right to revise or supplement any of the responses or documents referred to herein. Without waiving the objections above, Defendants respond as follows:

RESPONSES

1. Give the names and addresses of persons known to the parties or counsel to be witnesses concerning the facts of the case and indicate whether or not written or recorded statements have been taken from the witnesses and indicate who has possession of such statements.

RESPONSE #1: Pursuant to Rule 33(c), SCRPC, Defendants state that the following persons may have knowledge regarding the facts herein. By answering this specification, Defendants do not admit that these persons are or will be witnesses regarding the facts of the case. Subject to the foregoing general objections, Defendants state:

Defendant David Lucas
3760 Bethune Highway
Bishopville, SC 29010

Defendant shall testify as to his participation in and event leading up to the closing of the loan that is the subject of this action, the conveyance of the subject property as part of the loan transaction to Plaintiff Ernestine N. Palmer, as Trustee of the Article IV Trust created under the Will of James E. Newman, deceased, his business relationship with Plaintiff Ronald O' Palmer, and the circumstances giving rise to the dissolution of Grease Guard, LLC. Defendant will also testify regarding Palmer's apparent scheme to prevent Grease Guard, LLC's success and prevent Defendants' agreed upon performance under the loan.

Plaintiff Ronald O. Palmer
Texas; address unknown.

Defendants anticipate that this Plaintiff will testify as to his role in and the events leading up to the subject loan transaction, as well as the dissolution of Grease Guard, LLC. It is also expected that Plaintiff will testify regarding his knowledge of the oral agreement between Grease Guard, LLC and its main competitor Panacea to not seek each other's business and knowing violation thereof by introducing and facilitating the hiring of Grease Guard's former sales director with Panacea prior to Plaintiff's departure from Grease Guard.

Plaintiff N. Ernestine Palmer
Address unknown

Defendants anticipate that this Plaintiff will testify as to her role in and the events leading up to the subject loan transaction.

Rodman Lemon, III
Barnwell, SC

Additional address information to be supplemented.

Defendants anticipate that this witness will testify as to his duties as a sales manager for Grease Guard, LLC, and the viable business opportunities he brought to Grease Guard which were rejected by Ronald Palmer, including an agreement with Bojangle's fast food chain. This witness is also anticipated to testify as to the oral agreement between Grease Guard, LLC and its main competitor Panacea to not seek each other's business, Palmer's knowledge of that agreement and knowing violation thereof by introducing and facilitating the hiring of Grease Guard's former sales director with Panacea. It is also expected that this witness will testify regarding Palmer's apparent scheme to prevent Grease Guard, LLC's success and prevent Defendants' agreed upon performance under the loan.

Scott Outlaw
Camden, SC

Additional address information to be supplemented.

Defendants anticipate that this witness will testify as to his duties as service manager at Grease Guard, LLC, his witnessing of the oral promise made by Palmer to pay Grease Guard, LLC's overheard through the end of the 2011 fiscal year, and Palmer's apparent scheme to prevent Grease Guard, LLC's success and prevent Defendants' agreed upon performance under the loan.

Chris Hoffman
Mobile, AL

Additional address information to be supplemented.

Defendants anticipate that this witness will testify as to his work at Grease Guard as a municipal liaison and scientific consultant, and Grease Guard's transition from grease treatment to collection. This witness is also expected to testify regarding his execution of a non-compete agreement and witnessing Brandon Cromer's execution of the same non-compete agreement. This witness is also expected to testify regarding the oral agreement between Grease Guard, LLC and its main competitor Panacea to not seek each other's business, Palmer's knowledge of that agreement and knowing violation thereof by introducing and facilitating the hiring of Grease Guard's former sales director with Panacea. It is also expected that this witness will testify regarding Palmer's apparent scheme to prevent Grease Guard, LLC's success and prevent Defendants' agreed upon performance under the loan.

Dorothy Dennick
Florence, SC

Additional address information to be supplemented.

Defendants anticipate that this witness will testify as to her duties as office manager and bookkeeper for Grease Guard and its finances. It is also expected that this witness will testify regarding her witnessing of the oral promise made by Palmer to pay Grease Guard, LLC's overheard through the end of the 2011 fiscal year, and Palmer's apparent scheme to prevent Grease Guard, LLC's success and prevent Defendants' agreed upon performance under the loan.

Wayne Bobo
Spartanburg, SC

Additional address information to be supplemented.

Defendants anticipate that this witness will testify as to his role as the office manager for Panacea, the oral agreement between Grease Guard, LLC and Panacea to not seek each other's business, Palmer's knowledge of that agreement and knowing violation thereof by introducing and facilitating the hiring of Grease Guard's former sales director with Panacea prior to his departure from Grease Guard.

Brandon Cromer
Columbia, SC

Defendants anticipate that this witness will testify as to his role as sales director for Grease Guard, his execution of a non-compete agreement and knowing violation of that agreement by pirating Grease Guard's client list and a company laptop containing Grease Guard's proprietary business information prior accepting a position with Panacea, which had been arranged by Plaintiff Palmer.

Defendants reserve the right to call as a witness any person, expert, employee, representative or other witness identified as any party of witness during the pendency of this action whether identified in the discovery responses, deposition testimony, documents produced, or otherwise. Investigation and discovery are ongoing, and Defendants reserve the right to name and/or call additional witnesses or otherwise supplement this response prior to trial in accordance with the South Carolina Rules of Civil Procedure. Defendants are not in possession of any written or recorded Statements.

2. Set forth a list of photographs, plats, sketches or other prepared documents in possession of the party that relate to the claim or defense in the case.

RESPONSE #2: Defendants object to this interrogatory to the extent it seeks information that is protected by the attorney-client privilege and/or work product doctrine. Subject to the foregoing objections, Defendants state that the documents responsive to this request which are not protected by attorney-client privilege or work product are as follows:

a. Note

- b. Mortgage
- c. Guaranty
- d. Hatcham Grove Secretary State Records.
- e. Email correspondence with Plaintiff Ronald Palmer

Subject to the foregoing objections, Defendants state that the remaining documents responsive to this request are the business records of Grease Guard, which Plaintiff Palmer seized upon dissolution of the company. Among these documents which Defendants contend are relevant to the issues herein, are non-compete agreements and employment agreements executed by various Grease Guard personnel, including persons named as witnesses in this matter. Additionally, Defendants are not in possession of the closing documents other than those produced herewith; Defendants state that those documents are also relevant to the issues herein and anticipate that a subpoena shall be served to acquire said records.

3. For each person known to the parties or counsel to be a witness concerning the facts of the case, set forth either a summary sufficient to inform the other party of the important facts known to or observed by such witness, or provide a copy of any written or recorded statements taken from such witnesses.

RESPONSE #3: See Response #1.

4. List each and every document you intend to introduce as evidence at the trial of this case, or use in the questioning of any witness.

RESPONSE #4: Subject to the foregoing general objections, Defendants state that they have not yet identified which documents will be offered at the trial of this matter, but may offer any documents produced by Plaintiffs and/or Defendants in discovery.

5. Please identify each and every document, electronic or otherwise, which you contend support or refute the claims and/or defenses raised in this proceeding.

RESPONSE #5: Subject to and without waiving the foregoing general objections, Defendants object to this interrogatory to the extent it seeks information protected by the attorney-client privilege, the work produce doctrine, and/or any other applicable law or privilege. Defendants further object to this interrogatory because it is overly broad and unduly burdensome in failing to include an appropriate temporal limitation. Subject to and without waiving the foregoing

objections, Defendants refer Plaintiffs to Response #2 and all documents produced herewith in response to Plaintiffs' Request for Production.

6. Have either of you ever been a party to a legal proceeding, or testified as a witness or been deposed in any legal proceeding? If so, please provide the following information:

- a) name, court file number and court in which the proceeding occurred, if applicable
- b) date of your testimony; or
- c) date of disposition.

RESPONSE #6: Defendants object to this interrogatory on the grounds that it seeks information that is irrelevant to any claim or defense in this action, is not reasonably calculated to lead to the discovery of admissible evidence, and to the extent the information sought is readily available to Plaintiff's as a matter of public record.

7. Have either of you ever been convicted of a crime other than minor traffic offenses? If so, please provide the following information related to such conviction:

- a) date of arrest
- b) nature of crime charged
- c) date of conviction
- d) sentence imposed.

RESPONSE #7: Defendants object to this interrogatory on the grounds that it seeks information that is irrelevant to any claim or defense in this action, is not reasonably calculated to lead to the discovery of admissible evidence, and to the extent the information sought is readily available to Plaintiff's as a matter of public record.

8. Please provide your full name, address, date of birth, social security number and all addresses at which you resided and/or mailing addresses for the last twenty (20) years.

RESPONSE #8: Defendants object to this interrogatory on the grounds that it seeks information that is irrelevant to any claim or defense in this action, is not reasonably calculated to lead to the discovery of admissible evidence, and to the extent the information sought is readily available to Plaintiff's as a matter of public record. Notwithstanding the foregoing objections, Defendant David Henry Lucas states he has lived at the subject property since 2004, and prior to that lived in various rentals in Mount Pleasant, SC. Defendant Lucas has not used any other names or aliases.

9. In your responsive pleading, you have asserted the defense of unclean hands. Please state each and every act or omission which you contend constitutes inequitable conduct on the part of the Plaintiffs which would support the assertion of this defense. In so doing, please provide with specificity the date of any actions claimed to be inequitable, by whom the action was taken, and the prejudice you allege to have suffered by reason thereof.

RESPONSE #9: Subject to and without waiving the foregoing general objections, Defendants object to this interrogatory to the extent it seeks information protected from discovery by the attorney-client privilege, the work product doctrine, and/or any other applicable law of privilege. Notwithstanding the foregoing objections, Defendants state that, *inter alia*, Plaintiffs' acquisition of an interest in the subject property as part of the loan transaction, the facts and circumstances giving rise to the loan transaction, Ronald O. Palmer's procurement of Defendants' default under the note, Ronald O. Palmer's procurement of the dissolution of Grease Guard, LLC, Ronald O. Palmer's disclosure of trade secrets of Grease Guard to its competitor and other unconscionable conduct in depriving Grease Guard of rightful business opportunities, and the Plaintiffs' refusal to participate in good faith with Defendants to resolve the issues herein both prior to the commencement of this action and pursuant to the S.C. Supreme Court Administrative Order 2011-05-02-01 preclude Plaintiff's recovery in equity and law.

10. In your responsive pleading, you have alleged the Plaintiffs' claims are barred by the doctrine of estoppel. Please state each and every act or omission which you contend constitutes inequitable, by the conduct which you assert amounts to false representation or inconsistent with any factual assertion made by the Plaintiff, what evidence you may have you contend to show Plaintiffs' intention that any such representations or inconsistencies would be acted upon by you, how you contend you relied on any such representations or any inconsistencies of the Plaintiff and the prejudice you allege to have suffered by reason thereof.

RESPONSE #10: Subject to and without waiving the foregoing general objections, Defendants object to this interrogatory to the extent it seeks information protected from discovery by the attorney-client privilege, the work product doctrine, and/or any other applicable law of privilege. Notwithstanding the foregoing objections, Defendants state that Plaintiffs are estopped from the relief sought herein as a result of, *inter alia*, Plaintiffs' acquisition of an interest in the subject property as part of the loan transaction, the facts and circumstances giving rise to the loan transaction, Ronald O. Palmer's procurement of Defendants' default under the note, Ronald O.

Palmer's procurement of the dissolution of Grease Guard, LLC, Ronald O. Palmer's disclosure of trade secrets of Grease Guard to its competitor and other unconscionable conduct in depriving Grease Guard of rightful business opportunities, and the Plaintiffs' refusal to participate in good faith with Defendants to resolve the issues herein both prior to the commencement of this action and pursuant to the S.C. Supreme Court Administrative Order 2011-05-02-01.

11. In your responsive pleading, you have alleged as a defense the doctrine of unjust enrichment. Please list each and every benefit which you contend you have bestowed upon the Plaintiff and how you believe it is inequitable for the Plaintiff to retain any such benefits. In so doing, please indicate with specificity the date any such benefits were bestowed and upon whom you contend they were given.

RESPONSE #11: Subject to and without waiving the foregoing general objections, Defendants object to this interrogatory to the extent it seeks information protected from discovery by the attorney-client privilege, the work product doctrine, and/or any other applicable law of privilege. Notwithstanding the foregoing objections, Defendants state that, *inter alia*, Plaintiffs have been unjustly enriched by Plaintiffs' acquisition of an interest in the subject property as part of the loan transaction, Ronald O. Palmer's procurement of Defendants' default under the note, Ronald O. Palmer's procurement of the dissolution of Grease Guard, LLC, and Ronald O. Palmer's disclosure of trade secrets of Grease Guard to its competitor and other unconscionable conduct in depriving Grease Guard of rightful business opportunities.

12. In your responsive pleading, you assert the Plaintiffs' claims are barred by the doctrine of waiver. Please list each and every action or omission by the Plaintiff which you contend support the assertion of this defense. In so doing, please indicate with specificity the date of any such act or omission and the right or privilege which you contend has been waived.

RESPONSE #12: Subject to and without waiving the foregoing general objections, Defendants object to this interrogatory to the extent it seeks information protected from discovery by the attorney-client privilege, the work product doctrine, and/or any other applicable law of privilege. Notwithstanding the foregoing objections, Defendants state that Plaintiffs have waived any right to foreclose the subject mortgage and/or obtain a judgment against Defendants under the terms of the subject note by, *inter alia*, requiring Plaintiffs' acquisition of an interest in the subject property as part of the loan transaction, Ronald O. Palmer's procurement of Defendants' default under the

note, Ronald O. Palmer's procurement of the dissolution of Grease Guard, LLC, Ronald O. Palmer's disclosure of trade secrets of Grease Guard to its competitor and other unconscionable conduct in depriving Grease Guard of rightful business opportunities, and the Plaintiffs' refusal to participate in good faith with Defendants to resolve the issues herein both prior to the commencement of this action and pursuant to the S.C. Supreme Court Administrative Order 2011-05-02-01.

13. In your responsive pleading, you allege that the Plaintiffs' claims are barred by the doctrine of laches. Please list with specificity what you contend has been delayed, how that delay is unreasonable, and what prejudice you contend has been visited upon you by any such delay.

RESPONSE #13: Subject to and without waiving the foregoing general objections, Defendants object to this interrogatory to the extent it seeks information protected from discovery by the attorney-client privilege, the work product doctrine, and/or any other applicable law of privilege. Notwithstanding the foregoing objections, Defendants state that Plaintiffs claims are barred by the doctrine of laches due to their unreasonable delay between the execution of the loan instruments and the commencement of this action, given the parties' agreement that the proceeds from Grease Guard would be used to pay off the subject loan and if such funds were insufficient, the property would be sold and any proceeds realized would be remitted to Plaintiff after carving out that portion of the property where the residence is located. Defendants have been prejudiced by the foregoing due to Plaintiffs having misled Defendants to believe that the foregoing arrangement would be honored. Defendants have also been prejudiced by the foregoing to due Defendants' having mislead Defendants to believe that efforts to resolve the issues herein during this period were undertaken in good faith when, in actuality, Plaintiffs had no intention of reaching a resolution and caused Defendants to expend resources to attain a satisfactory method to recompense Plaintiffs.

14. In your responsive pleading, you have asserted the Plaintiffs' claims are barred by the doctrine of release. Please list each and every document, action, or omission which you contend support the assertion of this defense. In so doing, please indicate with specificity the date any such document was signed by the Plaintiffs or on which any act or omission took place, the person or entity you contend released the Plaintiffs' Claims and the manner in which you contend these claims were so released.

RESPONSE #14: Subject to and without waiving the foregoing general objections, Defendants object to this interrogatory to the extent it seeks information protected from discovery by the attorney-client privilege, the work product doctrine, and/or any other applicable law of privilege. Notwithstanding the foregoing objections, Defendants state that Plaintiffs have released their claims against Defendants by, *inter alia*, requiring Plaintiffs' acquisition of an interest in the subject property as part of the loan transaction, Ronald O. Palmer's procurement of Defendants' default under the note, Ronald O. Palmer's procurement of the dissolution of Grease Guard, LLC, Ronald O. Palmer's disclosure of trade secrets of Grease Guard to its competitor and other unconscionable conduct in depriving Grease Guard of rightful business opportunities. Plaintiffs have also released their claims against Defendants by their refusal to honor the parties' agreement that the proceeds from Grease Guard would be used to pay off the subject loan and if such funds were insufficient, the property would be sold and any proceeds realized would be remitted to Plaintiff after carving out that portion of the property where the residence is located. Plaintiffs also have released their claims by refusing to participate in good faith with Defendants to resolve the issues herein both prior to the commencement of this action and pursuant to the S.C. Supreme Court Administrative Order 2011-05-02-01.

15. In your responsive pleading, you have alleged the Plaintiffs' claims are barred by the Plaintiffs' failure to mitigate its damages. Please list each and every action or omission of the Plaintiffs which you contend support the assertion of this defense. In so doing, please indicate with specificity what actions you contend the Plaintiff could have taken to mitigate its damages.

RESPONSE #15: Subject to and without waiving the foregoing general objections, Defendants object to this interrogatory to the extent it seeks information protected from discovery by the attorney-client privilege, the work product doctrine, and/or any other applicable law of privilege. Notwithstanding the foregoing objections, Defendants state that Plaintiffs have failed to mitigate their purported damages herein by, *inter alia*, their refusal to honor the parties' agreement that the proceeds from Grease Guard would be used to pay off the subject loan and if such funds were insufficient, the property would be sold and any proceeds realized would be remitted to Plaintiff

after carving out that portion of the property where the residence is located. Plaintiffs also have released their claims by refusing to participate in good faith with Defendants to resolve the issues herein both prior to the commencement of this action and pursuant to the S.C. Supreme Court Administrative Order 2011-05-02-01.

16. In your responsive pleading, you assert that the Plaintiffs damages are the result of the Plaintiffs own actions and or omissions. Please list with specificity each and every action or omission which you contend support the allegations of Paragraph 31 of you responsive pleading.

RESPONSE #16: Subject to and without waiving the foregoing general objections, Defendants object to this interrogatory to the extent it seeks information protected from discovery by the attorney-client privilege, the work product doctrine, and/or any other applicable law of privilege. Notwithstanding the foregoing objections, Defendants state that Plaintiffs purported damages herein are the result of, *inter alia*, Ronald O. Palmer's procurement of Defendants' default under the note, Ronald O. Palmer's procurement of the dissolution of Grease Guard, LLC, Ronald O. Palmer's disclosure of trade secrets of Grease Guard to its competitor and other unconscionable conduct in depriving Grease Guard of rightful business opportunities. Plaintiffs purported damages are also the result of their own actions as a result of their refusal to honor the parties' agreement that the proceeds from Grease Guard would be used to pay off the subject loan and if such funds were insufficient, the property would be sold and any proceeds realized would be remitted to Plaintiff after carving out that portion of the property where the residence is located. Plaintiffs purported damages are also the result of their refusal to participate in good faith with Defendants to resolve the issues herein both prior to the commencement of this action and pursuant to the S.C. Supreme Court Administrative Order 2011-05-02-01.

17. In your responsive pleading, you assert the affirmative defenses of accord and satisfaction, comparative negligence, duress, fraud, illegality, statute of limitations, misrepresentation, mistake, payment, standing, and lack of consideration. With respect to each of the foregoing affirmative defenses alleged in your responsive pleading, please list each and every act, omission, or document upon which you base the assertion of each such affirmative defense.

RESPONSE #17: Subject to and without waiving the foregoing general objections, Defendants object to this interrogatory to the extent it seeks information protected from discovery by the

attorney-client privilege, the work product doctrine, and/or any other applicable law of privilege. Notwithstanding the foregoing objections, Defendants state that the affirmative defenses raised in the Answer are based on, *inter alia*, requiring Plaintiffs' acquisition of an interest in the subject property as part of the loan transaction, Ronald O. Palmer's procurement of Defendants' default under the note, Ronald O. Palmer's procurement of the dissolution of Grease Guard, LLC, Ronald O. Palmer's disclosure of trade secrets of Grease Guard to its competitor and other unconscionable conduct in depriving Grease Guard of rightful business opportunities. Defendants affirmative defenses are also based on the Plaintiff's refusal to honor the parties' agreement that the proceeds from Grease Guard would be used to pay off the subject loan and if such funds were insufficient, the property would be sold and any proceeds realized would be remitted to Plaintiff after carving out that portion of the property where the residence is located. Defendant's affirmative defenses are also based on Plaintiff's refusal to participate in good faith with Defendants to resolve the issues herein both prior to the commencement of this action and pursuant to the S.C. Supreme Court Administrative Order 2011-05-02-01.

18. Please list each and every document or other evidence which you contend support the allegations of Paragraph 40 of your responsive pleading concerning your belief that Ron O. Palmer is an agent or apparent agent of the Plaintiff Mortgagee.

RESPONSE #18: Defendants object to this interrogatory on the grounds that it is overly broad and unduly burdensome in failing to include an appropriate temporal limitation, not reasonably calculated to lead to the discovery of admissible evidence, and to the extent the information sought is already in Plaintiffs' possession and/or readily available to them. Notwithstanding the foregoing objections, Defendants state that Ronald O. Palmer, as the husband of the Trustee/Mortgagee, has held himself out as an agent of the Mortgagee by his involvement in and orchestration of the loan transaction, communications with Defendants regarding the terms of the loan, and the parties' agreement that the proceeds from Grease Guard would be used to pay off the subject loan and if such funds were insufficient, the property would be sold and any proceeds realized would be remitted to Plaintiff after carving out that portion of the property where the residence is located.

Further responding, Defendant states that Plaintiff Palmer held himself out as an agent of the Mortgagee in his statements and representations to Defendants regarding his authority to modify the terms of the loan instruments and the obligations of the Defendants thereunder, and his business dealings with Defendant Lucas.

Investigation and discovery are ongoing, and Defendants reserve the right to supplement this answer, if necessary, in accordance with the South Carolina Rules of Civil Procedure.

19. Please list each and every document or other evidence which you contend support the allegations of Paragraph 44 of your responsive pleading.

RESPONSE #19: Defendants object to this interrogatory on the grounds that it is overly broad and unduly burdensome in failing to include an appropriate temporal limitation, not reasonably calculated to lead to the discovery of admissible evidence, and to the extent the information sought is already in Plaintiffs' possession and/or readily available to them. Notwithstanding the foregoing objections, Defendants refer Plaintiffs to Response #2 and all documents produced herewith.

Investigation and discovery are ongoing, and Defendants reserve the right to supplement this answer, if necessary, in accordance with the South Carolina Rules of Civil Procedure.

20. Please list each and every document or other evidence which you contend support the allegations of Paragraph 45 of your responsive pleading.

RESPONSE #20: Defendants object to this interrogatory on the grounds that it is overly broad and unduly burdensome in failing to include an appropriate temporal limitation, not reasonably calculated to lead to the discovery of admissible evidence, and to the extent the information sought is already in Plaintiffs' possession and/or readily available to them. Notwithstanding the foregoing objections, Defendants refer Plaintiffs to Response #2 and all documents produced herewith.

Investigation and discovery are ongoing, and Defendants reserve the right to supplement this answer, if necessary, in accordance with the South Carolina Rules of Civil Procedure.

21. Please list each and every document or other evidence which you contend support the allegations of Paragraph 48 of your responsive pleading.

RESPONSE #21: Defendants object to this interrogatory on the grounds that it is overly broad and unduly burdensome in failing to include an appropriate temporal limitation, not reasonably calculated to lead to the discovery of admissible evidence, and to the extent the information sought is already in Plaintiffs' possession and/or readily available to them. Notwithstanding the foregoing objections, Defendants refer Plaintiffs to Response #2 and all documents produced herewith.

Investigation and discovery are ongoing, and Defendants reserve the right to supplement this answer, if necessary, in accordance with the South Carolina Rules of Civil Procedure.

22. Please list each and every document or other evidence which you contend support the allegations of Paragraph 50 of your responsive pleading. In so doing, please indicate with specificity each and every misrepresentation, action, omission, or other conduct of Ron O. Palmer or the Plaintiff Mortgagees which contend said support allegations.

RESPONSE #22: Defendants object to this interrogatory on the grounds that it is overly broad and unduly burdensome in failing to include an appropriate temporal limitation, not reasonably calculated to lead to the discovery of admissible evidence, and to the extent the information sought is already in Plaintiffs' possession and/or readily available to them. Notwithstanding the foregoing objections, Defendants refer Plaintiffs to Response #2 and all documents produced herewith.

Investigation and discovery are ongoing, and Defendants reserve the right to supplement this answer, if necessary, in accordance with the South Carolina Rules of Civil Procedure.

23. In your responsive pleading, you assert that you are entitled to an accounting from the Plaintiff with regard to all payments paid on the mortgage loan which is the subject of this action. Please list each and every payment you contend you ever made on the said loan.

RESPONSE #23: Defendants object to this interrogatory on the grounds that it is overly broad and unduly burdensome in failing to include an appropriate temporal limitation, and to the extent the information sought is already in Plaintiffs' possession and/or readily available to them.

24. In your responsive pleading, you allege a violation of S.C. Ann. § 37-10-102. Please indicate who you contend chose the closing attorney for the mortgage loan which is the subject of this action. Please also indicate who you contend contacted the attorney closing the said loan, who arranged for the documents to be prepared, and who gave the attorney instructions concerning the preparation of such documents.

RESPONSE #24: Defendants base their violation of S.C. Ann. § 37-10-102 on Plaintiff's failure to secure an executed Attorney Preference from Defendants prior to the closing of the subject loan.

25. Please list each and every document, correspondence, e-mail, or other evidence you contend support the allegations of Paragraph 54 of your responsive pleading.

RESPONSE #25: Defendants object to this interrogatory on the grounds that it is overly broad and unduly burdensome in failing to include an appropriate temporal limitation, not reasonably calculated to lead to the discovery of admissible evidence, and to the extent the information sought is already in Plaintiffs' possession and/or readily available to them. Notwithstanding the foregoing objections, Defendants state that Plaintiffs failed to secure an Attorney Preference Form from Defendants in connection with the subject loan closing.

26. In your responsive pleading, you allege a contract with Ron O. Palmer concerning the repayment of the mortgage loan which is the subject of this action with proceeds from the business operation of Grease Guard, LLC. Please list each and every document or other writing you contend support the allegation of any such agreement.

RESPONSE #26: Defendants object to this interrogatory on the grounds that it is overly broad and unduly burdensome in failing to include an appropriate temporal limitation, not reasonably calculated to lead to the discovery of admissible evidence, and to the extent the information sought is already in Plaintiffs' possession and/or readily available to them. Notwithstanding the foregoing objections, Defendants refer Plaintiffs to Response #2 and all documents produced herewith.

Investigation and discovery are ongoing, and Defendants reserve the right to supplement this answer, if necessary, in accordance with the South Carolina Rules of Civil Procedure.

27. Please list each and every document, correspondence, or other evidence which you contend support the allegations of Paragraph 60 of your responsive pleading.

RESPONSE #27: Defendants object to this interrogatory on the grounds that it is overly broad and unduly burdensome in failing to include an appropriate temporal limitation, not reasonably calculated to lead to the discovery of admissible evidence, and to the extent the information sought is already in Plaintiffs' possession and/or readily available to them. Notwithstanding the foregoing objections, Defendants refer Plaintiffs to Response #2 and all documents produced herewith.

Investigation and discovery are ongoing, and Defendants reserve the right to supplement this answer, if necessary, in accordance with the South Carolina Rules of Civil Procedure.

28. Please list with specificity all damages you claim as alleged in Paragraph 61 of your responsive pleading.

RESPONSE #28: Subject to the foregoing general objections, Defendants state that they have suffered at approximately \$4000.00 in efforts to obtain a reverse mortgage and other foreclosure alternatives, in addition to the costs and fees associated with this litigation which continue to accrue.

29. Please list each and every document, correspondence, or other evidence which you contend support the allegations of Paragraph 65 of your responsive pleading.

RESPONSE #29: Defendants object to this interrogatory on the grounds that it is overly broad and unduly burdensome in failing to include an appropriate temporal limitation, not reasonably calculated to lead to the discovery of admissible evidence, and to the extent the information sought is already in Plaintiffs' possession and/or readily available to them. Notwithstanding the foregoing objections, Defendants refer Plaintiffs to Response #2 and all documents produced herewith.

Investigation and discovery are ongoing, and Defendants reserve the right to supplement this answer, if necessary, in accordance with the South Carolina Rules of Civil Procedure.

30. In your responsive pleading, you allege that Plaintiff, through its agent, Ron O. Palmer, made an unambiguous promise to you concerning the repayment of the mortgage loan which is the subject of this action. Please list each and every document, correspondence, e-mail, or other evidence you contend support such allegations.

RESPONSE #30: Defendants object to this interrogatory on the grounds that it is overly broad and unduly burdensome in failing to include an appropriate temporal limitation, not reasonably calculated to lead to the discovery of admissible evidence, and to the extent the information sought is already in Plaintiffs' possession and/or readily available to them. Notwithstanding the foregoing objections, Defendants refer Plaintiffs to Response #2 and all documents produced herewith.

Investigation and discovery are ongoing, and Defendants reserve the right to supplement this answer, if necessary, in accordance with the South Carolina Rules of Civil Procedure.

31. In your responsive pleading, you allege that Ron O. Palmer disclosed confidential and proprietary information constituting trade secrets under the South Carolina Trade Secret Act. Please indicate each and every instance you contend Ron O. Palmer disclosed any such trade secrets, the content of the information disclosed, and to whom you contend it was disclosed.

RESPONSE #31: Defendants object to this interrogatory on the grounds that it is overly broad and unduly burdensome in failing to include an appropriate temporal limitation, not reasonably calculated to lead to the discovery of admissible evidence, and to the extent the information sought is already in Plaintiffs' possession and/or readily available to them. Notwithstanding the foregoing objections, Defendants state that Plaintiff was aware of the oral agreement between Grease Guard, LLC and its main competitor Panacea to not seek each other's business, and knowingly violated said agreement by introducing and facilitating the hiring of Grease Guard's former sales director with Panacea prior to Plaintiff's departure from Grease Guard.

32. In your responsive pleading, you allege damages resulting from interference with contracts. Please list with specificity the contracts you contend Ron O. Palmer interfered with, the actions you contend Ron O. Palmer took to interfere with such contracts, and each and every document, correspondence, e-mail, or other evidence you contend support these allegations.

RESPONSE #32: Defendants object to this interrogatory on the grounds that it is overly broad and unduly burdensome in failing to include an appropriate temporal limitation, not reasonably calculated to lead to the discovery of admissible evidence, and to the extent the information sought is already in Plaintiffs' possession and/or readily available to them. Notwithstanding the foregoing objections, Defendants state that Plaintiff Palmer was aware of the oral agreement between Grease Guard, LLC and its main competitor Panacea to not seek each other's business, and knowingly violated said agreement by introducing and facilitating the hiring of Grease Guard's former sales director with Panacea prior to Plaintiff's departure from Grease Guard. Grease Guard, as a result, lost existing contracts to its competitor Panacea and was forced to cease its operations.

33. In your responsive pleading, you allege damages resulting from interference with prospective advantages. Please list with specificity the prospective advantages you contend Ron O. Palmer interfered with, the actions you contend Ron O. Palmer took to interfere with such prospective advantages, and each and every document, correspondence, e-mail, or other evidence you contend support these allegations.

RESPONSE #33: Defendants object to this interrogatory on the grounds that it is overly broad and unduly burdensome in failing to include an appropriate temporal limitation, not reasonably calculated to lead to the discovery of admissible evidence, and to the extent the information sought is already in Plaintiffs' possession and/or readily available to them. Notwithstanding the foregoing objections, Defendants state that Plaintiff Palmer was aware of the oral agreement between Grease Guard, LLC and its main competitor Panacea to not seek each other's business, and knowingly violated said agreement by introducing and facilitating the hiring of Grease Guard's former sales director with Panacea prior to Plaintiff's departure from Grease Guard. Grease Guard, as a result, lost existing contracts to its competitor Panacea and was forced to cease its operations.

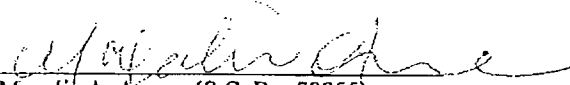
34. In your responsive pleading, you allege that Ron O. Palmer caused the dissolution of Grease Guard, LLC. Please list with specificity each and every action you contend Ron O. Palmer took to cause such dissolution and each and every document, correspondence, e-mail, or other evidence you contend support these allegations.

RESPONSE #34: Defendants object to this interrogatory on the grounds that it is overly broad and unduly burdensome in failing to include an appropriate temporal limitation, not reasonably calculated to lead to the discovery of admissible evidence, and to the extent the information sought is already in Plaintiffs' possession and/or readily available to them. Notwithstanding the foregoing objections, Defendants state that Plaintiff Palmer exercised unsound business judgment, as will be developed through the testimony of the witnesses named herein, failed to honor his agreement to pay Grease Guard's overhead through the 2011 fiscal year, and knowingly violated the oral agreement between Grease Guard, LLC and its main competitor Panacea to not seek each other's business by introducing and facilitating the hiring of Grease Guard's former sales director with Panacea prior to Plaintiff's departure from Grease Guard.

(SIGNATURE PAGE FOLLOWS)

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RESPONSES AND OBJECTIONS TO
PLAINTIFFS' FIRST INTERROGATORIES
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FINKEL LAW FIRM LLC


Magalie A. Arcure (S.C. Bar 78855)
Post Office Box 41489
Charleston, SC 29423
Main: (843) 577-5460
Direct: (843) 576-6307
Facsimile: (843) 577-5135
Attorneys for Defendants

Dated: April 30, 2014

STATE OF SOUTH CAROLINA

COUNTY OF LEE

Ernestine N. Palmer, as Trustee of the Article IV Trust created under the Will of Mary Denman Newman, deceased; Ronald O. Palmer; Ernestine N. Palmer, as Trustee of the Article IV Trust created under the Will of James E. Newman, deceased,

PLAINTIFF,

vs.

Hatcham Grove, Inc., David H. Lucas,

DEFENDANTS.

IN THE COURT OF COMMON PLEAS

CASE NO.: 2013-CP-31-130

**SUPPLEMENTAL RESPONSES AND
OBJECTIONS TO PLAINTIFFS'
INTERROGATORIES**

TO: KYLE B. PARKER, ESQUIRE, ATTORNEY FOR PLAINTIFFS:

Defendants Hatcham Grove, Inc. and David H. Lucas, by their undersigned attorneys, hereby supplement their prior responses to Ernestine N. Palmer, as Trustee of the Article IV Trust created under the Will of Mary Denman Newman, deceased, Ronald O. Palmer, Ernestine N. Palmer, as Trustee of the Article IV Trust created under the Will of James E. Newman, deceased (collectively, "Plaintiffs") Interrogatories pursuant to Rule 33 of the South Carolina Rules of Civil Procedure.

GENERAL OBJECTIONS

Defendants object to each and every interrogatory to the extent that:

1. Plaintiffs seek information not relevant to the issues raised in this action and not reasonably calculated to lead to the discovery of admissible evidence;
2. Plaintiffs seek information already in their possession or readily available to them;
3. Plaintiffs seek information protected by the attorney client privilege, the work product doctrine, or any other protection or privilege recognized by law;
4. A full and complete response to the interrogatories would subject Defendants to undue burden and expense;

5. The interrogatories require Defendants to gather information from documents not in Defendants' possession, custody or control; and,
6. The interrogatories impose discovery obligations upon the Defendants beyond those specified in the South Carolina Rules of Civil Procedure.

GENERAL RESPONSE

These responses are submitted by Defendants, without in any way waiving or intending to waive, but on the contrary reserving: (a) all questions as to competency, relevancy, materiality, privilege and admissibility as evidence for any purpose, of any of the documents referred to or responses given, or the subject thereof, in any proceeding; (b) the right to object to other discovery procedures involving or relating to the subject matter of the requests herein answered; and, (c) the right to revise or supplement any of the responses or documents referred to herein. Without waiving the objections above, Defendants respond as follows:

RESPONSES

19. Please list each and every document or other evidence which you contend support the allegations of Paragraph 44 of your responsive pleading.

RESPONSE #19: Defendants object to this interrogatory on the grounds that it is overly broad and unduly burdensome in failing to include an appropriate temporal limitation, not reasonably calculated to lead to the discovery of admissible evidence, and to the extent the information sought is already in Plaintiffs' possession and/or readily available to them. Notwithstanding the foregoing objections, Defendants refer Plaintiffs to Response #2 and all documents produced herewith.

Further responding, Defendants state that Messrs. Lucas and Palmer orally agreed that (1) the proceeds from the Grease Guard enterprise would be used to pay off the loan from Plaintiff and (2) if such funds were insufficient to repay the loan, after carving out that portion of the property where the residence is located, the property would be sold and any proceeds realized would be remitted to Plaintiff. Given that the agreement was oral in nature, Defendants are not in possession of responsive documents apart from those previously produced herein.

Investigation and discovery are ongoing, and Defendants reserve the right to supplement this answer, if necessary, in accordance with the South Carolina Rules of Civil Procedure.

20. Please list each and every document or other evidence which you contend support the allegations of Paragraph 45 of your responsive pleading.

RESPONSE #20: Defendants object to this interrogatory on the grounds that it is overly broad and unduly burdensome in failing to include an appropriate temporal limitation, not reasonably calculated to lead to the discovery of admissible evidence, and to the extent the information sought is already in Plaintiffs' possession and/or readily available to them. Notwithstanding the foregoing objections, Defendants refer Plaintiffs to Response #2 and all documents produced herewith.

Further responding, Defendants state that their allegation made upon information and belief that the loan funds originated from an account held by Palmer and/or Ernestine N. Palmer jointly is based upon discussions between Messrs. Lucas and Palmer. Given that these discussions were oral in nature, Defendants are not in possession of responsive documents apart from those previously produced herein.

Investigation and discovery are ongoing, and Defendants reserve the right to supplement this answer, if necessary, in accordance with the South Carolina Rules of Civil Procedure.

21. Please list each and every document or other evidence which you contend support the allegations of Paragraph 48 of your responsive pleading.

RESPONSE #21: Defendants object to this interrogatory on the grounds that it is overly broad and unduly burdensome in failing to include an appropriate temporal limitation, not reasonably calculated to lead to the discovery of admissible evidence, and to the extent the information sought is already in Plaintiffs' possession and/or readily available to them. Notwithstanding the foregoing objections, Defendants refer Plaintiffs to Response #2 and all documents produced herewith.

Further responding, Defendants state that Lucas became aware of Palmer's violation of the oral agreement between Grease Guard and Panacea not to seek each other's business and Palmer's facilitation of the hiring of Grease Guard's former sales director with Panacea from those witnesses identified in response to Interrogatory 1. Given that these discussions were oral in

nature, Defendants are not in possession of responsive documents apart from those previously produced herein.

Investigation and discovery are ongoing, and Defendants reserve the right to supplement this answer, if necessary, in accordance with the South Carolina Rules of Civil Procedure.

22. Please list each and every document or other evidence which you contend support the allegations of Paragraph 50 of your responsive pleading. In so doing, please indicate with specificity each and every misrepresentation, action, omission, or other conduct of Ron O. Palmer or the Plaintiff Mortgagee which contend said support allegations.

RESPONSE #22: Defendants object to this interrogatory on the grounds that it is overly broad and unduly burdensome in failing to include an appropriate temporal limitation, not reasonably calculated to lead to the discovery of admissible evidence, and to the extent the information sought is already in Plaintiffs' possession and/or readily available to them. Notwithstanding the foregoing objections, Defendants refer Plaintiffs to Response #2 and all documents produced herewith.

Further responding, Defendants state that Messrs. Lucas and Palmer orally agreed that (1) the proceeds from the Grease Guard enterprise would be used to pay off the loan from Plaintiff and (2) if such funds were insufficient to repay the loan, after carving out that portion of the property where the residence is located, the property would be sold and any proceeds realized would be remitted to Plaintiff. Defendants' conduct in requiring a fee simple conveyance in the property to Ernestine Palmer as Trustee of the Article IV Trust created under the Will of James E. Newman, deceased, as part of the loan transaction constitutes actionable overreaching and unconscionable actions. Had Defendants been given the opportunity to designate an attorney of their choosing to represent them in the closing transaction as required under S.C. Code Ann. § 37-10-102, *et seq.*, Defendants' rights and interests in the property could have been protected against Plaintiffs' unconscionable conduct. In addition, Lucas became aware of Palmer's violation of the oral agreement between Grease Guard and Panacea not to seek each other's business and Palmer's facilitation of the hiring of Grease Guard's former sales director with Panacea from those witnesses identified in response to Interrogatory 1. Given that this agreement and the

foregoing discussions were oral in nature, Defendants are not in possession of responsive documents apart from those previously produced herein.

Investigation and discovery are ongoing, and Defendants reserve the right to supplement this answer, if necessary, in accordance with the South Carolina Rules of Civil Procedure.

23. In your responsive pleading, you assert that you are entitled to an accounting from the Plaintiff with regard to all payments paid on the mortgage loan which is the subject of this action. Please list each and every payment you contend you ever made on the said loan.

RESPONSE #23: Defendants object to this interrogatory on the grounds that it is overly broad and unduly burdensome in failing to include an appropriate temporal limitation, and to the extent the information sought is already in Plaintiffs' possession and/or readily available to them.

Further responding, Defendants state that no payments have been made directly to Plaintiffs; however, to the extent that Plaintiffs have received any monies or derived any financial benefit from Mr. Lucas' efforts at Grease Guard, LLC, Defendants aver that any such amounts should be applied to the subject account as agreed upon by the parties, and as a matter of equity.

Investigation and discovery are ongoing, and Defendants reserve the right to supplement this answer, if necessary, in accordance with the South Carolina Rules of Civil Procedure.

25. Please list each and every document, correspondence, e-mail, or other evidence you contend support the allegations of Paragraph 54 of your responsive pleading.

RESPONSE #25: Defendants object to this interrogatory on the grounds that it is overly broad and unduly burdensome in failing to include an appropriate temporal limitation, not reasonably calculated to lead to the discovery of admissible evidence, and to the extent the information sought is already in Plaintiffs' possession and/or readily available to them. Notwithstanding the foregoing objections, Defendants state that Plaintiffs failed to secure an Attorney Preference Form from Defendants in connection with the subject loan closing, or otherwise comply with the applicable statute by ascertaining Defendant's right to choose an attorney to represent them in the transaction prior to the closing.

26. In your responsive pleading, you allege a contract with Ron O. Palmer concerning the repayment of the mortgage loan which is the subject of this action with proceeds from the business operation of

Grease Guard, LLC. Please list each and every document or other writing you contend support the allegation of any such agreement.

RESPONSE #26: Defendants object to this interrogatory on the grounds that it is overly broad and unduly burdensome in failing to include an appropriate temporal limitation, not reasonably calculated to lead to the discovery of admissible evidence, and to the extent the information sought is already in Plaintiffs' possession and/or readily available to them. Notwithstanding the foregoing objections, Defendants refer Plaintiffs to Response #2 and all documents produced herewith.

Further responding, Defendants state that Messrs. Lucas and Palmer orally agreed that (1) the proceeds from the Grease Guard enterprise would be used to pay off the loan from Plaintiff and (2) if such funds were insufficient to repay the loan, after carving out that portion of the property where the residence is located, the property would be sold and any proceeds realized would be remitted to Plaintiff. Given that the agreement was oral in nature, Defendants are not in possession of responsive documents apart from those previously produced herein.

Investigation and discovery are ongoing, and Defendants reserve the right to supplement this answer, if necessary, in accordance with the South Carolina Rules of Civil Procedure.

27. Please list each and every document, correspondence, or other evidence which you contend support the allegations of Paragraph 60 of your responsive pleading.

RESPONSE #27: Defendants object to this interrogatory on the grounds that it is overly broad and unduly burdensome in failing to include an appropriate temporal limitation, not reasonably calculated to lead to the discovery of admissible evidence, and to the extent the information sought is already in Plaintiffs' possession and/or readily available to them. Notwithstanding the foregoing objections, Defendants refer Plaintiffs to Response #2 and all documents produced herewith.

Further responding, Defendants state that Plaintiffs refused to honor the oral repayment agreement providing that (1) the proceeds from the Grease Guard enterprise would be used to pay off the loan from Plaintiff and (2) if such funds were insufficient to repay the loan, after carving out that portion of the property where the residence is located, the property would be sold and any proceeds realized would be remitted to Plaintiff. Prior to and after the commencement of this

action, Mr. Lucas offered a number of foreclosure alternatives to Plaintiffs, all of which were rejected in breach of the parties' oral agreement.

Investigation and discovery are ongoing, and Defendants reserve the right to supplement this answer, if necessary, in accordance with the South Carolina Rules of Civil Procedure.

28. Please list with specificity all damages you claim as alleged in Paragraph 61 of your responsive pleading.

RESPONSE #28: Subject to the foregoing general objections, Defendants state that they have suffered at approximately \$4000.00 in efforts to obtain a reverse mortgage and other foreclosure alternatives, in addition to the costs and fees associated with this litigation which continue to accrue. Defendants also claim \$1,500 to \$7,500 in applicable statutory penalties and attorneys fees, for Plaintiffs violation of the attorney preference provision of the S.C. Consumer Protection Code.

29. Please list each and every document, correspondence, or other evidence which you contend support the allegations of Paragraph 65 of your responsive pleading.

RESPONSE #29: Defendants object to this interrogatory on the grounds that it is overly broad and unduly burdensome in failing to include an appropriate temporal limitation, not reasonably calculated to lead to the discovery of admissible evidence, and to the extent the information sought is already in Plaintiffs' possession and/or readily available to them. Notwithstanding the foregoing objections, Defendants refer Plaintiffs to Response#2 and all documents produced herewith.

Further responding, Defendants state that Messrs. Lucas and Palmer orally agreed that (1) the proceeds from the Grease Guard enterprise would be used to pay off the loan from Plaintiff and (2) if such funds were insufficient to repay the loan, after carving out that portion of the property where the residence is located, the property would be sold and any proceeds realized would be remitted to Plaintiff. Defendants' conduct in requiring a fee simple conveyance in the property to Ernestine Palmer as Trustee of the Article IV Trust created under the Will of James E. Nowman, deceased, as part of the loan transaction constitutes actionable overreaching and unconscionable actions. Had Defendants been given the opportunity to designate an attorney of their choosing to represent them in the closing transaction as required under S.C. Code Ann. § 37-

10-102, *et seq.*, Defendants' rights and interests in the property could have been protected against Plaintiffs' unconscionable conduct. In addition, Lucas became aware of Palmer's violation of the oral agreement between Grease Guard and Panacea not to seek each other's business and Palmer's facilitation of the hiring of Grease Guard's former sales director with Panacea from those witnesses identified in response to Interrogatory 1. Given that this agreement and the foregoing discussions were oral in nature, Defendants are not in possession of responsive documents apart from those previously produced herein.

Investigation and discovery are ongoing, and Defendants reserve the right to supplement this answer, if necessary, in accordance with the South Carolina Rules of Civil Procedure.

30. In your responsive pleading, you allege that Plaintiff, through its agent, Ron O. Palmer, made an unambiguous promise to you concerning the repayment of the mortgage loan which is the subject of this action. Please list each and every document, correspondence, e-mail, or other evidence you contend support such allegations.

RESPONSE #30: Defendants object to this interrogatory on the grounds that it is overly broad and unduly burdensome in failing to include an appropriate temporal limitation, not reasonably calculated to lead to the discovery of admissible evidence, and to the extent the information sought is already in Plaintiffs' possession and/or readily available to them. Notwithstanding the foregoing objections, Defendants refer Plaintiffs to Response #2 and all documents produced herewith.

Further responding, Defendants state that Messrs. Lucas and Palmer orally agreed that (1) the proceeds from the Grease Guard enterprise would be used to pay off the loan from Plaintiff and (2) if such funds were insufficient to repay the loan, after carving out that portion of the property where the residence is located, the property would be sold and any proceeds realized would be remitted to Plaintiff. Defendants' conduct in requiring a fee simple conveyance in the property to Ernestine Palmer as Trustee of the Article IV Trust created under the Will of James E. Newman, deceased, as part of the loan transaction constitutes actionable overreaching and unconscionable actions. Had Defendants been given the opportunity to designate an attorney of their choosing to represent them in the closing transaction as required under S.C. Code Ann. § 37-

10-102, *et seq.*, Defendants' rights and interests in the property could have been protected against Plaintiffs' unconscionable conduct. In addition, Lucas became aware of Palmer's violation of the oral agreement between Grease Guard and Panacea not to seek each other's business and Palmer's facilitation of the hiring of Grease Guard's former sales director with Panacea from those witnesses identified in response to Interrogatory 1. Given that this agreement and the foregoing discussions were oral in nature, Defendants are not in possession of responsive documents apart from those previously produced herein.

Investigation and discovery are ongoing, and Defendants reserve the right to supplement this answer, if necessary, in accordance with the South Carolina Rules of Civil Procedure.

31. In your responsive pleading, you allege that Ron O. Palmer disclosed confidential and proprietary information constituting trade secrets under the South Carolina Trade Secret Act. Please indicate each and every instance you contend Ron O. Palmer disclosed any such trade secrets, the content of the information disclosed, and to whom you contend it was disclosed.

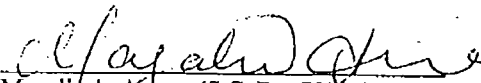
RESPONSE #31: Defendants object to this Interrogatory on the grounds that it is overly broad and unduly burdensome in failing to include an appropriate temporal limitation, not reasonably calculated to lead to the discovery of admissible evidence, and to the extent the information sought is already in Plaintiffs' possession and/or readily available to them. Notwithstanding the foregoing objections, Defendants state that Plaintiff was aware of the oral agreement between Grease Guard, LLC and its main competitor Panacea to not seek each other's business, and knowingly violated said agreement by introducing and facilitating the hiring of Grease Guard's former sales director with Panacea prior to Plaintiff's departure from Grease Guard.

Further responding, Defendants state that they are unable to quantify the damages caused by Plaintiff's interference with Grease Guard's various contracts because the company has been dissolved as a result of Plaintiff's actions. Plaintiffs intend to rely upon the testimony of those witnesses identified in response to Interrogatory 1. Given that the repayment agreement and Defendants' discussions with those witnesses identified in response to Interrogatory 1 were oral in

nature, Defendants are not in possession of responsive documents apart from those previously produced herein.

Investigation and discovery are ongoing, and Defendants reserve the right to supplement this answer, if necessary, in accordance with the South Carolina Rules of Civil Procedure.

FINKEL LAW FIRM LLC


Magalie A. Arcure (S.C. Bar 78855)
Post Office Box 41489
Charleston, SC 29423
Main: (843) 577-5460
Direct: (843) 576-6307
Facsimile: (843) 577-5135
Attorneys for Defendants

Dated: June 10, 2014

STATE OF SOUTH CAROLINA)
)
COUNTY OF LEE)

IN THE COURT OF COMMON PLEAS
THE THIRD JUDICIAL CIRCUIT
Civil Action No.: 2013-CP-31-130

Ernestine N. Palmer, as Trustee of the)
Article IV Trust created under the Will of)
Mary Denman Newman, deceased, Ronald)
O. Palmer, Ernestine N. Palmer, as Trustee)
of the Article IV Trust created under the)
Will of James E. Newman, deceased,)

Plaintiffs,)

vs.)

Hatcham Grove Inc., David H. Lucas,)

Defendants.)

**PLAINTIFFS' RESPONSES TO
DEFENDANTS' FIRST REQUESTS
FOR PRODUCTION**

TO: DEFENDANTS AND THEIR COUNSEL

1. All documents identified in, referred to, or relied upon in your responses to Defendants' First Set of Interrogatories and/or Requests for Admission served simultaneously herewith.

RESPONSE: See documents bates stamped Plaintiffs 0001 - 0520.

2. All non-privileged documents relating in any way to any claim made by Defendants or any allegation, defense, and/or claim in your Complaint and Reply regarding the above-captioned action.

RESPONSE: See documents bates stamped Plaintiffs 0001 - 0520.

3. All exhibits and/or other documents you intend to introduce as evidence or may use as evidence at trial, deposition or any hearing in this action.

RESPONSE: Plaintiffs object to this Request for Production in that it seeks documents which are privileged or attorney work product. Without waiving such objection, see documents bates stamped Plaintiffs 00001 - 0520.

4. All correspondence, communication, or other documentation between you and Defendants regarding the property, Note and/or Mortgage.

RESPONSE: See documents bates stamped Plaintiffs 0001 - 0520.

5. All documents relating to any communication between you and any other person (other than your attorney and his employees) regarding the property, Note and Mortgage.

RESPONSE: None.

6. All correspondence, communication, or other documentation between you and any persons identified in Defendants' response to Interrogatory 1 of Plaintiffs' First Set of Interrogatories.

RESPONSE: None.

7. All documents relating to any communication between you and any persons identified in Defendants' response to Interrogatory 1 of Plaintiffs' First Set of Interrogatories.

RESPONSE: None.

8. All documents relating to payments made in connection with the Mortgage, including but not limited to copies of receipts, mortgage statements, bank statements, cancelled personal checks (both sides) and/or electronic images of cancelled personal checks (both sides), certified check receipts, money orders, online payment transactions, and/or bank or financial statements of any account from which money was used to make payments.

RESPONSE: Defendants admit that no payments were ever made in connection with the subject Promissory Note and Mortgage. Therefore, there are no documents responsive to this request.

9. All documents relating to monies received in connection with Grease Guard, LLC, including but not limited to copies of receipts, mortgage statements, bank statements, cancelled personal checks (both sides) and/or electronic images of cancelled personal checks (both sides), certified check receipts, money orders, online payment transactions, and/or bank or financial statements of any account from which money was used to make payments.

RESPONSE: Plaintiff Ronald Palmer never received any payments or distributions from Grease Guard. On the contrary, said Plaintiff only made capital contributions with no return.

10. All documents relating to monies received in connection with Panacea Biofuels, LLC, including but not limited to copies of receipts, mortgage statements, bank statements, cancelled personal checks (both sides) and/or electronic images of cancelled personal checks (both sides),

certified check receipts, money orders, online payment transactions, and/or bank or financial statements of any account from which money was used to make payments.

RESPONSE: None.

11. All statements of possible witnesses, whether written, oral, summarized, or otherwise reproduced in any manner, relating to the above-captioned action.

RESPONSE: None.

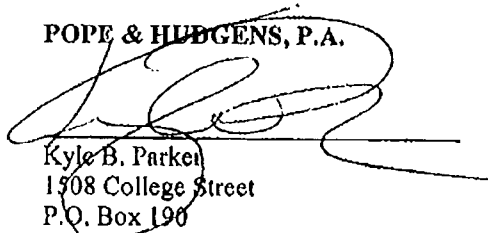
12. The attorney preference form executed by David Lucas in connection with the closing of the subject loan transaction.

RESPONSE: None.

13. The loan origination file for the closing of the subject loan transaction.

RESPONSE: See documents bates stamped Plaintiffs 0001 - 0520.

POPE & HUBGENS, P.A.



Kyle B. Parker
1508 College Street
P.O. Box 190
Newberry, SC 29108
803-276-2532 (Phone)
803-276-8684 (Fax)

Attorneys for Plaintiffs

Newberry, South Carolina
August 15, 2014

MORTGAGE NOTE

\$ 700,000.00

Bishopville, S. C.

September 20, 2007

FOR VALUE RECEIVED, the undersigned promises to pay to **Ernestine N. Palmer, Trustee of the Article IV Trust created under the Will of Mary Denman Newman, Deceased**

or order, the full and just principal sum of Seven Hundred Thousand and 00/100 (\$700,000.00) dollars with interest from date at the rate of Seven (7%) per centum per annum on the unpaid principal balance until paid. The said principal and accrued interest shall be payable to **Ernestine N. Palmer, Trustee of the Article IV Trust created under the Will of Mary Denman Newman, Deceased** at
or at such other place as the holder may designate.

Borrower agrees to pay the principal sum of Seven Hundred Thousand and 00/100 (\$700,000.00) to **Ernestine N. Palmer, Trustee of the Article IV Trust created under the Will of Mary Denman Newman, Deceased**, and any unpaid accrued interest at an interest rate of seven (7%) per centum per annum in one lump sum payment of principal and accrued interest due and payable September 20, 2012. Purchaser may prepay the principal amount and interest outstanding in full or in part at any time without penalty. Any prepayments will be applied first to any unpaid accrued interest and then to principal. Any interest not paid annually is to become a part of the principal and thereafter bear interest at the same rate.

To secure this note the undersigned has executed a mortgage of even date herewith and for a like amount covering real property situate in Lee County, South Carolina.

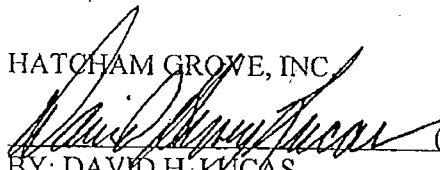
If default be made in the payment of this note or any installment thereof, or if this note is declared due because of the violation of any of the covenants contained in the mortgage or mortgages securing this note, the entire principal sum and accrued interest shall at once become due and payable without notice at the option of the holder of this note. Failure to exercise this option shall not constitute a waiver of the right to exercise the same in the event of any subsequent default. In the event of default in the payment of this note, and if it is placed in the hands of an attorney at law for collection, the undersigned hereby agrees to pay all costs of collection, including a reasonable attorney's fee.

All parties to this note including sureties, endorsers, and guarantors, hereby severally waive presentment for payment, notice of non-payment, protest and notice of protest and diligence in bringing suit against any party hereto, and hereby consent that time of payment may be extended after maturity without notice.

Witness the hand and seal of the undersigned.

HATCHAM GROVE, INC.

\$ 700,000.00

 (SEAL)
BY: DAVID H. LUCAS
ITS: PRESIDENT

Address:

PALMER - 0463

WHEN RECORDED MAIL TO
Stuckey, Fata & Segars, LLC
P.O. Drawer 568
Bishopville, SC 29010
File # 07-598

1907 BK422 PG80

000001907 BK: 00422 PG: 00080
09/21/2007 12:15:10PM
James I. Davis, Clerk of Court
Lee County SC
REC FEE:12.00

SPACE ABOVE THIS LINE FOR RECORDER'S USE

MORTGAGE

THIS MORTGAGE ("Security Instrument") is given on September 20, 2007. The mortgagor is **HATCHAM GROVE, INC. and ERNESTINE N. PALMER, TRUSTEE OF THE ARTICLE VI TRUST CREATED UNDER THE WILL OF JAMES E. NEWMAN, DECEASED**. This Security Instrument is given to **ERNESTINE N. PALMER, TRUSTEE OF THE ARTICLE IV TRUST CREATED UNDER THE WILL OF MARY DENMAN NEWMAN, DECEASED**, and whose address is 139 Hickory Ridge, Houston, Texas 77024 ("Lender").

The term Borrower as used throughout this document refers only to **HATCHAM GROVE, INC.** Borrower owes Lender the principal sum of Seven Hundred Thousand and 00/100 Dollars (U.S. \$700,000.00). This debt is evidenced by Borrower's note dated the same date as this Security Instrument ("Note"), which provides for the full debt, if not paid earlier, due and payable on September 20, 2012. This Security Instrument secures to Lender: (a) the repayment of the debt evidenced by the Note, with interest, and all renewals, extensions and modifications; (b) the payment of all other sums, with interest, advanced under paragraph 7 to protect the security of this Security Instrument; and (c) the performance of Mortgagor's covenants and agreements under this Security Instrument and the Note. For this purpose, Mortgagor does hereby mortgage, grant and convey to Lender and Lender's successors and assigns the following described property located in Lee County, South Carolina:

Tract No. 1: All that certain piece, parcel or tract of land situate, lying and being in the Turkey Creek Township, County of Lee, State of South Carolina, shown as Parcel A and containing 134.02 acres as shown on a plat by Ervin Engineering Co., Inc., dated June 11, 1986, recorded in the office of the Register of Deeds for Lee County in Plat Book V at page 126. Said tract has such shape, metes, courses and distances as is shown on said Survey, and is bounded generally on the Northeast by land now or formerly of David H. Lucas, on which it measures 1721 feet; on the East by land now or formerly of David H. Lucas, on which it measures 2029.7 feet; on the South by land now or formerly of Adline Hopkins, J.R. Kelley and Elizabeth Tarleton, on which it measures 1931.97 feet, and by lands of R.H. Fountain and G.E. Locklair, on which it measures 1039.82 feet; on the West by S.C. Highway 341 by Parcel C and by Parcel B, on which it fronts and measures in the aggregate 2070.86 feet; and on the Northwest by land now or formerly of David H. Lucas and Turkey Creek Land and Cattle Co., on which it measures 1900.48 feet.

Tax Map Number: 008-00-00-010-000

Tract No. 2: All that certain piece, parcel or tract of land with improvements thereon situate, lying and being in the Turkey Creek Community, Lee County, South Carolina, shown as 33.40 acres on a survey by Engineering, Surveying & Planning, Inc. dated March 26, 1991 and recorded in the office of the Register of Deeds for Lee County in Plat Book V at Page 103. Said tract being bounded and described as follows: On the North by lands now or formerly of J.J. Josey and measuring thereon a distance of 2233.55 feet; on the Southeast by lands now or formerly of David H. Lucas and measuring thereon for the aggregate distance 1900.12 feet; on the southwest by S.C. Highway No. 341 and measuring thereon for the aggregate distance of 1541.86 feet; all measurements being a little more or less;

CERTIFIED as a TRUE COPY
of ORIGINAL filed in this Office
Date: 09/21/2007
James I. Davis, Clerk of Court
Lee County, SC

LESS, HOWEVER, a 1.16 acre tract, deeded to Sonja T. Lucas by deed recorded in the office of the Register of Deeds for Lee County in Deed Book C-8 at Page 268 as shown on a plat by Franklin D. Cooper, Jr., dated May 25, 1996 and recorded in Plat Book E-1 at Page 25. Pursuant to section 30-5-250 of the Code of laws of South Carolina, 1976 as amended, reference to said plat is hereby craved for metes, bounds, courses and or distances of said plat.

Tax Map Number: 008-00-00-009-000

The above two tracts being the same property conveyed to Hatcham Grove, Inc. and Ernestine N. Palmer, Trustee of the Article VI Trust created under the Will of James E. Newman, Deceased by deed of John J. Stucker and April Lucas executed September 19, 2007 and recorded September 20, 2007 in Book 0228 at page 182 in the office of the Register of deeds for Lee County South Carolina.

This conveyance is subject to all visible and/or recorded easements, restrictions, covenants, rights-of-way and zoning ordinances which affect said property including but not limited to the following:

A perpetual, non-exclusive thirty (30) foot easement given by Hatcham Grove, Inc. to Charles K. Young as shown by deed recorded in Deed Book D-111 at page 6 in the office of the Register of Deeds for Lee County SC.

which has the address of , 3760 Bethune Highway , Bishopville
[Street] [City]
South Carolina 29010 ("Property Address");
[Zip Code]

TO HAVE AND TO HOLD such property unto Lender and Lender's successors and assigns, forever, together with all the improvements now or hereafter erected on the property, and all easements, rights, appurtenances, rents, royalties, mineral, oil and gas rights and profits, water rights and stock and all fixtures now or hereafter a part of the property. All replacements and additions shall also be covered by this Security Instrument. All of the foregoing is referred to in this Security Instrument as the "Property".

MORTGAGOR COVENANTS that Mortgagor is lawfully seized of the estate hereby conveyed and has the right to mortgage, grant and convey the Property and that the Property is unencumbered, except for encumbrances of record. Mortgagor warrants and will defend generally the title to the Property against all claims and demands, subject to any encumbrances of record.

THIS SECURITY INSTRUMENT combines uniform covenants for national use and non-uniform covenants with limited variations by jurisdiction to constitute a uniform security instrument covering real property.

UNIFORM COVENANTS. Mortgagor and Lender covenant and agree as follows:

1. **Payment of Principal and Interest; Prepayment and Late Charges.** Borrower shall promptly pay when due the principal of and interest on the debt evidenced by the Note and any prepayment and late charges due under the Note.

2. **Funds for Taxes and Insurance.** N/A

3. **Application of Payments.** Unless applicable law provides otherwise, all payments received by Lender under paragraphs 1 and 2 shall be applied: first, to late charges due under the Note; second, to prepayment charges due under the Note; third, to amounts payable under paragraph 2; fourth, to interest due; and last, to principal due.

4. **Charges; Liens.** Borrower shall pay all taxes, assessments, charges, fines and impositions attributable to the Property which may attain priority over this Security Instrument, and leasehold payments or ground rents, if any. Borrower shall pay these obligations in the manner provided in paragraph 2, or if not paid in that manner, Borrower shall pay them on time directly to the person owed payment. Borrower shall promptly furnish to Lender all notices of amounts to be paid under this paragraph. If Borrower makes these payments directly, Borrower shall promptly furnish to Lender receipts evidencing the payments.

Borrower shall promptly discharge any lien which has priority over this Security Instrument unless Borrower: (a) agrees in writing to the payment of the obligation secured by the lien in a manner acceptable to Lender; (b) contests in good faith the lien by, or defends against enforcement of the lien in legal proceedings which in the Lender's opinion operate to prevent the enforcement of the lien or forfeiture of any part of the Property; or (c) secures from the holder of the lien an agreement satisfactory to Lender subordinating the lien to this Security Instrument. If Lender determines that any part of the Property is subject to a lien which may attain priority over this Security Instrument, Lender may give Borrower a notice identifying the lien. Borrower shall satisfy the lien or take one or more of the actions set forth above within 10 days of the giving of notice.

5. **Hazard Insurance.** Borrower shall keep the improvements now existing or hereafter erected on the Property insured against loss by fire, hazards included within the term "extended coverage" and any other hazards for which Lender requires insurance. This insurance shall be maintained in the amounts and for the periods that Lender requires. The insurance carrier providing the insurance shall be chosen by Borrower subject to Lender's approval which shall not be unreasonably withheld.

All insurance policies and renewals shall be acceptable to Lender and shall include a standard mortgage clause. Lender shall have the right to hold the policies and renewals. If Lender requires, Borrower shall promptly give to Lender all receipts of paid premiums and renewal notices. In the event of loss, Borrower shall give prompt notice to the insurance carrier and Lender. Lender may make proof of loss if not made promptly by Borrower.

PALMER-0465

Unless Lender and Borrower otherwise agree in writing, insurance proceeds shall be applied to restoration or repair of the Property damaged, if the restoration or repair is economically feasible and Lender's security is not lessened. If the restoration or repair is not economically feasible or Lender's security would be lessened, the insurance proceeds shall be applied to the sums secured by this Security Instrument, whether or not then due, with any excess paid to Borrower. If Borrower abandons the Property, or does not answer within 30 days a notice from Lender that the insurance carrier has offered to settle a claim, then Lender may collect the insurance proceeds. Lender may use the proceeds to repair or restore the Property or to pay sums secured by this Security Instrument, whether or not then due. The 30-day period will begin when the notice is given.

Unless Lender and Borrower otherwise agree in writing, any application of proceeds to principal shall not extend or postpone the due date of the monthly payments referred to in paragraphs 1 and 2 or change the amount of the payments. If under paragraph 19 the Property is acquired by Lender, Borrower's right to any insurance policies and proceeds resulting from damage to the Property prior to the acquisition shall pass to Lender to the extent of the sums secured by this Security Instrument immediately prior to the acquisition.

6. Preservation and Maintenance of Property; Leaseholds. Mortgagor shall not destroy, damage or substantially change the Property, allow the Property to deteriorate or commit waste. If this Security Instrument is on a leasehold, Borrower shall comply with the provisions of the lease, and if Borrower acquires fee title to the Property, the leasehold and fee title shall not merge unless Lender agrees to the merger in writing.

7. Protection of Lender's Rights in the Property; Mortgage Insurance. If Mortgagor fails to perform the covenants and agreements contained in this Security Instrument, or there is a legal proceeding that may significantly affect Lender's rights in the Property (such as a proceeding in bankruptcy, probate, for condemnation or to enforce laws or regulations) then Lender may do and pay for whatever is necessary to protect the value of the Property and Lender's rights in the Property. Lender's actions may include paying any sums secured by a lien which has priority over this Security Instrument, appearing in court, paying reasonable attorneys' fees and entering on the Property to make repairs. Although Lender may take action under this paragraph 7, Lender does not have to do so.

Any amounts disbursed by Lender under this paragraph 7 shall become additional debt of Borrower secured by this Security Instrument. Unless Borrower and Lender agree to other terms of payment, these amounts shall bear interest from the date of disbursement at the Note rate and shall be payable, with interest, upon notice from Lender to Borrower requesting payment.

If Lender required mortgage insurance as a condition of making the loan secured by this Security Instrument, Borrower shall pay the premiums required to maintain the insurance in effect until such time as the requirement for the insurance terminates in accordance with Borrower's and Lender's written agreement or applicable law.

8. Inspection. Lender or its agent may make reasonable entries upon and inspections of the Property. Lender shall give Mortgagor notice at the time of or prior to an inspection specifying reasonable cause for the inspection.

9. Condemnation. The proceeds of any award or claim for damages, direct or consequential, in connection with any condemnation or other taking of any part of the Property, or for conveyance in lieu of condemnation, are hereby assigned and shall be paid to Lender.

In the event of a total taking of the Property, the proceeds shall be applied to the sums secured by this Security Instrument, whether or not then due, with any excess paid to Borrower. In the event of a partial taking of the Property, unless Borrower and Lender otherwise agree in writing, the sums secured by this Security Instrument shall be reduced by the amount of the proceeds multiplied by the following fraction: (a) the total amount of the sums secured immediately before the taking, divided by (b) the fair market value of the Property immediately before the taking. Any balance shall be paid to Borrower.

If the Property is abandoned by Borrower, or if, after notice by Lender to Borrower that the condemnor offers to make an award or settle a claim for damages, Borrower fails to respond to Lender within 30 days after the date the notice is given, Lender is authorized to collect and apply the proceeds, at its option, either to restoration or repair of the Property or to the sums secured by this Security Instrument, whether or not then due.

Unless Lender and borrower otherwise agree in writing, any application of proceeds to principal shall not extend or postpone the due date of the monthly payments referred to in paragraphs 1 and 2 or change the amount of such payments.

10. Borrower Not Released; Forbearance By Lender Not a Waiver. Extension of the time for payment or modification of amortization of the sums secured by this Security Instrument granted by Lender to any successor in interest of Borrower shall not operate to release the liability of the original Borrower or Borrower's successors in interest. Lender shall not be required to commence proceedings against any successor in interest or refuse to extend time for payment or otherwise modify amortization of the sums secured by this Security Instrument by reason of any demand made by the original Borrower or Borrower's successors in interest. Any forbearance by Lender in exercising any right or remedy shall not be a waiver of or preclude the exercise of any right or remedy.

11. Successors and Assigns Bound; Joint and Several Liability; Co-signers. The covenants and agreements of this Security Instrument shall bind and benefit the successors and assigns of Lender and Borrower, subject to the provisions of paragraph 17. Borrower's covenants and agreements shall be joint and several. Any Mortgagor who co-signs this Security Instrument but does not execute the Note: (a) is co-signing this Security Instrument only to mortgage, grant and convey that Mortgagor's interest in the Property under the terms of this Security Instrument; (b) is not personally obligated to pay the sums secured by this Security Instrument; and (c) agrees that Lender and any other Borrower may agree to extend, modify, forbear or make any accommodations with regard to the terms of this Security Instrument or the Note without that Borrower's consent.

12. Loan Charges. If the loan secured by this Security Instrument is subject to a law which sets n **PAUMER 0466**s, and that law is finally interpreted so that the interest or other loan charges collected or to be collected in connection with

the loan exceed the permitted limits, then: (a) any such loan charge shall be reduced by the amount necessary to reduce the charge to the permitted limit; and (b) any sums already collected from Borrower which exceeded permitted limits will be refunded to Borrower. Lender may choose to make this refund by reducing the principal owed under the Note or by making a direct payment to the Borrower. If a refund reduces principal, the reduction will be treated as a partial prepayment without any prepayment charge under the Note.

13. Legislation Affecting Lender's Rights. If enactment or expiration of applicable laws has the effect of rendering any provision of the Note or this Security Instrument unenforceable according to its terms, Lender, at its option, may require immediate payment in full of all sums secured by this Security Instrument and may invoke any remedies permitted by paragraph 19. If Lender exercises this option, Lender shall take the steps specified in the second paragraph of paragraph 17.

14. Notices. Any notice to Mortgagor provided for in this Security Instrument shall be given by delivering it or by mailing it by first class mail unless applicable law requires use of another method. The notice shall be directed to the Property Address or any other address Mortgagor designates by notice to Lender. Any notice to Lender shall be given by first class mail to Lender's address stated herein or any other address Lender designates by notice to Mortgagor. Any notice provided for in this Security Instrument shall be deemed to have been given to Mortgagor or Lender when given as provided in this paragraph.

15. Governing Law; Severability. This Security Instrument shall be governed by federal laws and the law of the jurisdiction in which the Property is located. In the event that any provision or clause of this Security Instrument or the Note conflicts with applicable law, such conflict shall not affect other provisions of this Security Instrument or the Note which can be given effect without the conflicting provision. To this end the provisions of this Security Instrument and the Note are declared to be severable.

16. Borrower's Copy. Mortgagor shall be given one conformed copy of the Note and of this Security Instrument.

17. Transfer of the Property or a Beneficial Interest in Mortgagor. If all or any part of the Property or any interest in it is sold or transferred (or if a beneficial interest in Mortgagor is sold or transferred and Mortgagor is not a natural person) without Lender's prior written consent, Lender may, at its option, require immediate payment in full of all sums secured by this Security Instrument. However, this option shall not be exercised by Lender if exercise is prohibited by federal laws as of the date of this Security Instrument.

If Lender exercises this option, Lender shall give Mortgagor notice of acceleration. The notice shall provide a period of not less than 30 days from the date the notice is delivered or mailed within which Borrower must pay all sums secured by this Security Instrument. If Borrower fails to pay these sums prior to the expiration of this period, Lender may invoke any remedies permitted by this Security Instrument without further notice or demand on Borrower.

18. Borrower's Right to Reinstate. If Borrower meets certain conditions, Borrower shall have the right to have enforcement of this Security Instrument discontinued at any time prior to the earlier of: (a) 5 days (or such other period as applicable law may specify for reinstatement) before sale of the Property pursuant to any power of sale contained in this Security Instrument; or (b) entry of a judgment enforcing this Security Instrument. Those conditions are that Borrower: (a) pays Lender all sums which then would be due under this Security Instrument and the Note had no acceleration occurred; (b) cures any default of any other covenants or agreements; (c) pays all expenses incurred in enforcing this Security Instrument, including, but not limited to, reasonable attorneys' fees; and (d) takes such action as Lender may reasonably require to assure that the lien of this Security Instrument, Lender's rights in the Property and Borrower's obligation to pay the sums secured by this Security Instrument shall continue unchanged. Upon reinstatement by Borrower, this Security Instrument and the obligations secured hereby shall remain fully effective as if no acceleration had occurred. However, this right to reinstate shall not apply in the case of acceleration under paragraphs 13 or 17.

NON-UNIFORM COVENANTS. Borrower and Lender further covenant and agree as follows:

19. Acceleration; Remedies. Lender shall give notice to Mortgagor prior to acceleration following Borrower's breach of any covenant or agreement in this Security Instrument (but not prior to acceleration under paragraphs 13 and 17 unless applicable law provides otherwise). The notice shall specify: (a) the default; (b) the action required to cure the default; (c) a date, not less than 30 days from the date the notice is given to Mortgagor, by which the default must be cured; and (d) that failure to cure the default on or before the date specified in the notice may result in acceleration of the sums secured by this Security Instrument, foreclosure by judicial proceeding and sale of the Property. The notice shall further inform Mortgagor of the right to reinstate after acceleration and the right to assert in the foreclosure proceeding the non-existence of a default or any other defense of Mortgagor to acceleration and foreclosure. If the default is not cured on or before the date specified in the notice, Lender at its option may require immediate payment in full of all sums secured by this Security Instrument without further demand and may foreclose this Security Instrument by judicial proceeding. Lender shall be entitled to collect all expenses incurred in pursuing the remedies provided in this paragraph 19, including, but not limited to, reasonable attorneys' fees and costs of title evidence, all of which shall be additional sums secured by this Security Instrument.

20. Lender in Possession. Upon acceleration under paragraph 19 or abandonment of Property, Lender (by judicially appointed receiver) shall be entitled to enter upon, take possession of and manage the Property and to collect the rents of the Property including those past due. Any rents collected by Lender or the receiver shall be applied first to payment of the costs of management of the Property and collection of rents, including, but not limited to, receiver's fees, premiums on receiver's bonds and reasonable attorneys' fees, and then to the sums secured by this Security Instrument.

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21. Release. Upon payment of all sums secured by this Security Instrument, this Security Instrument shall become null and void. Lender shall release this Security Instrument without charge to Borrower. Borrower shall pay any recordation costs.

22. Waivers. Borrower waives all rights of homestead exemption in the Property. Borrower waives the right to assert any statute providing appraisal rights which may reduce any deficiency judgment obtained by Lender against Borrower in the event of foreclosure under this Security Instrument.

23. Future Advances. The lien of this Security Instrument shall secure the existing indebtedness under the Note and any future advances made under this Security Instrument up to one hundred fifty percent (150%) of the original principal amount of the Note plus interest thereon, attorneys' fees and court costs.

Riders to this Security Instrument. If one or more riders are executed by Borrower and recorded together with this Security Instrument, the covenants and agreements of each such rider shall be incorporated into and shall amend and supplement the covenants and agreements of this Security Instrument as if the rider(s) were a part of this Security Instrument. [Check applicable box(es)]

- ☐ Adjustable Rate Rider ☐ Condominium Rider ☐ 2-4 Family Rider
☐ Graduated Payment Rider ☐ Planned Unit Development Rider
☐ Other(s) [specify]

BY SIGNING BELOW, Mortgagor accepts and agrees to the terms and covenants contained in this Security Instrument and in any rider(s) executed by Borrower and recorded with it.

Signed, sealed and delivered in the presence of:

Regina G. Marthers
Regina G. Marthers

HATCHAM GROVE, INC.

David H. Lucas (SEAL)
DAVID H. LUCAS, ITS PRESIDENT

STATE OF SOUTH CAROLINA,

County ss: LEE

I, Regina G. Marthers, a Notary Public for the State of South

Carolina, do hereby certify that Hatcham Grove, Inc by David H. Lucas its President personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Sworn before me this 20th day of September, 2007

Regina G. Marthers
Notary Public for South Carolina
My Commission expires 4/12/11

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James E. Newman

Lora Medrano

Ernestine N. Palmer (SEAL)
ERNESTINE N. PALMER, TRUSTEE OF THE ARTICLE
VI TRUST CREATED UNDER THE WILL OF JAMES E.
NEWMAN, DECEASED

STATE OF

County ss:

I, Servando Gonzalez, a Notary Public for the State of
TEXAS,

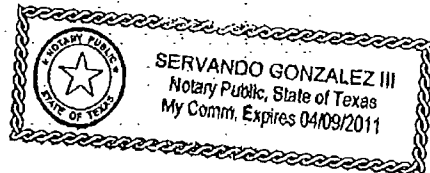
do hereby certify that Ernestine N. Palmer, Trustee of the Article VI Trust created under the Will of James E. Newman

Deceased personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Sworn before me this 20th day of September 2007

Servando Gonzalez III
Notary Public for

My Commission expires 4-9-2011



PALMER - 0469

GUARANTY

Date: September 20, 2007

Bishopville

(City)

SOUTH CAROLINA

(State)

For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and to induce Ernestine N. Palmer, Trustee of The Article IV Trust crested under the Will of Mary Denman Newman, Deceased (herein, with its participants, successors and assigns, called "Lender"), at its option, at any time or from time to time to make loans or extend other accommodations to or for the account of Hatcham Grove, Inc. (herein called "Borrower") or to engage in any other transactions with Borrower, the Undersigned hereby absolutely and unconditionally guarantees to Lender the full and prompt payment when due, whether at maturity or earlier by reason of acceleration or otherwise, of the debts, liabilities and obligations described as follows:

- A. If this [X] is checked, the Undersigned guarantees to Lender the payment and performance of the debt, liability or obligation of Borrower to Lender evidenced by or arising out of the following: Agreement for the payment of \$ 700,000.00 and any extensions, renewals or replacements thereof (hereinafter referred to as the "indebtedness").
- B. If this [] is checked, the Undersigned guarantees to Lender the payment and performance of each and every debt, liability and obligation of every type and description which Borrower may now or at any time hereafter owe to Lender (whether such debt, liability or obligation now exists or is hereafter created or incurred, and whether it is or may be direct or indirect, due or to become due, absolute or contingent, primary or secondary, liquidated or unliquidated, or joint, several, or joint and several; all such debts, liabilities and obligations being hereinafter collectively referred to as the "Indebtedness"). Without limitation, this guaranty includes the following described debt(s) _____

The term "Indebtedness" as used in this guaranty shall not include any obligations entered into between Borrower and Lender after the date hereof (including any extensions, renewals or replacements of such obligations) for which Borrower meets the Lender's standard of creditworthiness based on Borrower's own assets and income without the addition of a guaranty, or for which a guaranty is required but Borrower chooses someone other than the joint Undersigned to guaranty the obligation.

The Undersigned further acknowledges and agrees with Lender that:

1. No act or thing need occur to establish the liability of the Undersigned hereunder, and no act or thing, except full payment and discharge of all indebtedness, shall in any way exonerate the Undersigned or modify, reduce, limit or release the liability of the Undersigned hereunder.
2. This is an absolute, unconditional and continuing guaranty of payment of the Indebtedness and shall continue to be in force and be binding upon the Undersigned, whether or not all Indebtedness is paid in full, until this guaranty is revoked by written notice actually received by the Lender, and such revocation shall not be effective as to Indebtedness existing or committed for at the time of actual receipt of such notice by the Lender, or as to any renewals, extensions and refinancings thereof. If there be more than one Undersigned, such revocation shall be effective only as to the one so revoking. The death or incompetence of the Undersigned shall not revoke this guaranty, except upon actual receipt of written notice thereof by Lender and then only as to the decedent or the incompetent and only prospectively, as to future transactions, as herein set forth.
3. If the Undersigned shall be dissolved, shall die, or shall be or become insolvent (however defined) or revoke this guaranty, then the Lender shall have the right to declare immediately due and payable, and the Undersigned will forthwith pay to the Lender, the full amount of all Indebtedness, whether due and payable or unmatured. If the Undersigned voluntarily commences or there is commenced involuntarily against the Undersigned a case under the United States Bankruptcy Code, the full amount of all Indebtedness, whether due and payable or unmatured, shall be immediately due and payable without demand or notice thereof.
4. The liability of the Undersigned hereunder shall be limited to a principal amount of \$ 700,000.00 (if unlimited or if no amount is stated, the Undersigned shall be liable for all Indebtedness, without any limitation as to

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- amount), plus accrued interest thereon and all attorney's fees, collection costs and enforcement expenses referable thereto. Indebtedness may be created and continued in any amount, whether or not in excess of such principal amount, without affecting or impairing the liability of the Undersigned hereunder. The Lender may apply any sums received by or available to Lender on account of the Indebtedness from Borrower or any other person (except the Undersigned), from their properties, out of any collateral security or from any other source to payment of the excess. Such application of receipts shall not reduce, affect or impair the liability of the Undersigned hereunder. If the liability of the Undersigned is limited to a stated amount pursuant to this paragraph 4, any payment made by the Undersigned under this guaranty shall be effective to reduce or discharge such liability only if accompanied by a written transmittal document, received by the Lender, advising the Lender that such payment is made under this guaranty for such purpose.
5. The Undersigned will pay or reimburse Lender for all costs and expenses (including reasonable attorneys' fees and legal expenses) incurred by lender in connection with the protection, defense or enforcement of this guaranty in any litigation or bankruptcy or insolvency proceedings.
 6. Whether or not any existing relationship between the Undersigned and Borrower has been changed or ended and whether or not this guaranty has been revoked, Lender may, but shall not be obligated to, enter into transactions resulting in the creation or continuance of Indebtedness, without any consent or approval by the Undersigned and without any notice to the Undersigned. The liability of the Undersigned shall not be affected or impaired by any of the following acts or things (which Lender is expressly authorized to do, omit or suffer from time to time, both before and after revocation of this guaranty, without notice to or approval by the Undersigned): (i) any acceptance of collateral security, guarantors, accommodation parties or sureties for any or all Indebtedness; (ii) any one or more extensions or renewals of Indebtedness (whether or not for longer than the original period) or any modification of the interest rates, maturities or other contractual terms applicable to any Indebtedness; (iii) any waiver, adjustment, forbearance, compromise or indulgence granted to Borrower, any delay or lack of diligence in the enforcement of Indebtedness, or any failure to institute proceedings, file a claim, give any required notices or otherwise protect any Indebtedness; (iv) any full or partial release of, settlement with, or agreement not to sue, Borrower or any other guarantor or other person liable in respect of any Indebtedness; (v) any discharge of any evidence of Indebtedness or the acceptance of any instrument in renewal thereof or substitution therefor; (vi) any failure to obtain collateral security (including rights of setoff) for Indebtedness, or to see to the proper or sufficient creation and perfection thereof, or to establish the priority thereof, or to protect, insure, or enforce any collateral security; or any release, modification, substitution, discharge, impairment, deterioration, waste, or loss of any collateral security; (vii) any foreclosure or enforcement of any collateral security; (viii) any transfer of any Indebtedness or any evidence thereof; (ix) any order of application of any payments or credits upon Indebtedness; (x) any election by the Lender under §1111(b)(2) of the United States Bankruptcy Code.
 7. The Undersigned waives any and all defenses, claims and discharges of Borrower, or any other obligor, pertaining to Indebtedness, except the defense of discharge by payment in full. Without limiting the generality of the foregoing, the Undersigned will not assert, plead or enforce against Lender any defense of waiver, release, statute of limitations, res judicata, statute of frauds, fraud, incapacity, minority, usury, illegality or unenforceability which may be available to Borrower or any other person liable in respect of any Indebtedness, or any setoff available against Lender to Borrower or any such other person, whether or not on account of a related transaction. The Undersigned expressly agrees that the Undersigned shall be and remain liable, to the fullest extent permitted by applicable law, for any deficiency remaining after foreclosure of any mortgage or security interest securing Indebtedness, whether or not the liability of Borrower or any other obligor for such deficiency is discharged pursuant to statute or judicial decision. The undersigned shall remain obligated, to the fullest extent permitted by law, to pay such amounts as though the Borrower's obligations had not been discharged.
 8. The Undersigned further agrees that the Undersigned shall be and remain obligated to pay Indebtedness even though any other person obligated to pay Indebtedness, including Borrower, has such obligation discharged in bankruptcy or otherwise discharged by law. "Indebtedness" shall include post-bankruptcy petition interest and attorneys' fees and any other amounts which Borrower is discharged from paying or which do not

otherwise accrue to Indebtedness due to Borrower's discharge, and the Undersigned shall remain obligated to pay such amounts as though Borrower's obligations had not been discharged.

9. If any payment applied by Lender to Indebtedness is thereafter set aside, recovered, rescinded or required to be returned for any reason (including, without limitation, the bankruptcy, insolvency or reorganization of Borrower or any other obligor), the Indebtedness to which such payment was applied shall for the purposes of this guaranty be deemed to have continued in existence, notwithstanding such application, and this guaranty shall be enforceable as to such Indebtedness as fully as if such application had never been made.
10. The Undersigned waives any claim, remedy or other right which the Undersigned may now have or hereafter acquire against Borrower or any other person obligated to pay Indebtedness arising out of the creation or performance of the Undersigned's obligation under this guaranty, including, without limitation, any right of subrogation, contribution, reimbursement, indemnification, exoneration, and any right to participate in any claim or remedy the Undersigned may have against the Borrower's debts, whether or not such claim, remedy or right arises in equity, or under contract, statute or common law.
11. The Undersigned waives presentment, demand for payment, notice of dishonor or nonpayment, and protest of any instrument evidencing Indebtedness. Lender shall not be required first to resort for payment of the Indebtedness to Borrower or other persons or their properties, or first to enforce, realize upon or exhaust any collateral security for Indebtedness, before enforcing this guaranty.
12. The liability of the Undersigned under this guaranty is in addition to and shall be cumulative with all other liabilities of the Undersigned to Lender as guarantor or otherwise, without any limitation as to amount, unless the instrument or agreement evidencing or creating such other liability specifically provides to the contrary.
13. This guaranty shall be enforceable against each person signing this guaranty, even if only one person signs and regardless of any failure of other persons to sign this guaranty. If there be more than one signer, all agreements and promises herein shall be construed to be, and are hereby declared to be, joint and several in each of every particular and shall be fully binding upon and enforceable against either, any or all the Undersigned. This guaranty shall be effective upon delivery to Lender, without further act, condition or acceptance by Lender, shall be binding upon the Undersigned and the heirs, representatives, successors and assigns of the Undersigned and shall inure to the benefit of Lender and its participants, successors and assigns. Any invalidity or unenforceability of any provision or application of this guaranty shall not affect other lawful provisions and application hereof, and to this end the provisions of this guaranty are declared to be severable. Except as authorized by the terms herein, this guaranty may not be waived, modified, amended, terminated, released or otherwise changed except by a writing signed by the Undersigned and Lender. This guaranty shall be governed by the laws of the State in which it is executed. The Undersigned waives notice of Lender's acceptance hereof.

This guaranty includes the additional provisions on the following page, all of which are made a part hereof. This guaranty is ☒ unsecured; ☐ secured by a mortgage or security agreement dated _____; ☐ secured by _____.

IN WITNESS WHEREOF, this guaranty has been duly executed by the Undersigned the day and year first above written.


DAVID H. LUCAS-INDIVIDUALLY

PALMER - 0472

A. U.S. DEPARTMENT OF HOUSING & URBAN DEVELOPMENT SETTLEMENT STATEMENT	B. TYPE OF LOAN			
	1. ☐ FHA 2. ☐ FmHA		3. ☐ CONV. UNINS. 4. ☐ VA 5. ☒ CONV. INS.	
	6. FILE NUMBER 07-688		7. LOAN NUMBER	
	8. MORTGAGE INS CASE NUMBER			

C. NOTE: This form is furnished to give you a statement of actual settlement costs. Amounts paid to and by the settlement agent are shown. Items marked "PDOP" were paid outside the closing; they are shown here for informational purposes and are not included in the totals.

D. NAME AND ADDRESS OF BORROWER Hatcham Grove, Inc Ernestine N. Palmer, Trustee under the Article VI Trust created under the Will of James E. Newman 3760 Bethune Highway Blenheim SC 29011	E. NAME AND ADDRESS OF SELLER John J. Stucker and April Lucas aka April C. Lucas 811 Laurens Street Columbia, SC 29201	F. NAME AND ADDRESS OF LENDER Ernestine N. Palmer, Trustee of the Article IV Trust created under Will of Mary Danman Newman, Deceased 139 Hickory Ridge Houston, Texas 77024
G. PROPERTY LOCATION Tract 1- 134.02 acres and Tract 2- 33.40 acre less however 1.16 acre Lee County	H. SETTLEMENT AGENT 57-0848823 Sluckey, Fete & Segars, LLC PLACE OF SETTLEMENT 116 East Church Street Blenheim, SC 29010	I. SETTLEMENT DATE September 20, 2007

J. SUMMARY OF BORROWER'S TRANSACTION		K. SUMMARY OF SELLER'S TRANSACTION	
100. GROSS AMOUNT DUE FROM BORROWER:		400. GROSS AMOUNT DUE TO SELLER:	
101. Contract Sales Price	600,000.00	401. Contract Sales Price	600,000.00
102. Personal Property		402. Personal Property	
103. Settlement Charges to Borrower (Line 1400)	4,652.60	403.	
104.		404.	
105.		405.	
Adjustments For Items Paid By Seller in advance		Adjustments For Items Paid By Seller in advance	
106. City/Town Taxes to		406. City/Town Taxes to	
107. County Taxes to		407. County Taxes to	
108. Assessments to		408. Assessments to	
109. Reimburse for Legal Counsel to Seller	876.00	409. Reimburse for Legal Counsel to Seller	876.00
110. Reimburse for Sept payment to Seller	3,088.66	410. Reimburse for Sept payment to Seller	3,088.66
111. Reimburse for Sept Interest to Seller	1,260.20	411. Reimburse for Sept Interest to Seller	1,260.20
112.		412.	
120. GROSS AMOUNT DUE FROM BORROWER	608,844.25	420. GROSS AMOUNT DUE TO SELLER	606,181.78
200. AMOUNTS PAID BY OR IN BEHALF OF BORROWER:		500. REDUCTIONS IN AMOUNT DUE TO SELLER:	
201. Deposit or earnest money		501. Excess Deposit (See Instructions)	
202. Principal Amount of New Loan(s)	700,000.00	502. Settlement Charges to Seller (Line 1400)	
203. Existing loan(s) taken subject to		503. Existing loan(s) taken subject to	
204.		504. Payoff of first Mortgage to Arbor One	361,195.10
205.		505. Payoff of second Mortgage	
206.		506.	
207.		507.	
208.		508.	
209.		509.	
Adjustments For Items Unpaid By Seller		Adjustments For Items Unpaid By Seller	
210. City/Town Taxes to		510. City/Town Taxes to	
211. County Taxes to		511. County Taxes to	
212. Assessments to		512. Assessments to	
213.		513.	
214.		514.	
215.		515.	
216.		516.	
217.		517.	
218.		518.	
219.		519.	
220. TOTAL PAID BY/FOR BORROWER	700,000.00	520. TOTAL REDUCT. AMT DUE SELLER	361,195.10
300. CASH AT SETTLEMENT FROM/TO BORROWER:		600. CASH AT SETTLEMENT TO/FROM SELLER:	
301. Gross Amount Due From Borrower (Line 120)	608,844.25	601. Gross Amount Due To Seller (Line 420)	606,181.78
302. Less Amount Paid By/For Borrower (Line 220)	(700,000.00)	602. Less Reductions Due Seller (Line 520)	(361,195.10)
303. CASH (FROM) (X TO) BORROWER	88,844.25	603. CASH (X TO) (FROM) SELLER	253,986.68

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L. SETTLEMENT CHARGES

700. TOTAL COMMISSION Based on Price \$ @ %		PAY FROM BORROWER'S FUNDS AT SETTLEMENT	PAY FROM SELLER'S FUNDS AT SETTLEMENT
Division of Commission (line 700) as follows:			
701. \$	to		
702. \$	to		
703. Commission Paid at Settlement			
704.	to		
800. ITEMS PAYABLE IN CONNECTION WITH LOAN			
801. Loan Origination Fee	% to		
802. Loan Discount	% to		
803. Appraisal Fee	to		
804. Credit Report	to		
805. Lender's Inspection Fee	to		
806. Mortgage Ins. App. Fee	to		
807. Assumption Fee	to		
808.			
809.			
810.			
811.			
900. ITEMS REQUIRED BY LENDER TO BE PAID IN ADVANCE			
901. Interest From 09/20/07 to 10/01/07 @ \$	/day (11 days %)		
902. Mortgage Insurance Premium	months		
903. Hazard Insurance Premium	1.0 years		
904.			
905.			
1000. RESERVES DEPOSITED WITH LENDER			
1001. Hazard Insurance	months @ \$ per month		
1002. Mortgage Insurance	months @ \$ per month		
1003. City/Town Taxes	months @ \$ per month		
1004. County Taxes	months @ \$ per month		
1005. Assessments	months @ \$ per month		
1006.	months @ \$ per month		
1007.	months @ \$ per month		
1008.	months @ \$ per month		
1100. TITLE CHARGES			
1101. Settlement or Closing Fee	to		
1102. Abstract or Title Search	to Bluckey, Fale & Segars, LLC	185.00	
1103. Title Examination	to		
1104. Title Insurance Binder	to Title Insurance Products & Services Agency	100.00	
1105. Document Preparation	to Bluckey, Fale & Segars, LLC Deed, mlg, note, option, Assignment	275.00	
1106. Notary Fees	to		
1107. Attorney's Fees	to Bluckey, Fale & Segars, LLC	600.00	
(includes above item numbers:)			
1108. Title Insurance	to Title Ins. Products & Services Agency, LLC/CTIC	948.50	
(includes above item numbers:)			
1109. Lender's Coverage	\$ 700,000.00	871.50	
1110. Owner's Coverage	\$ 600,000.00	75.00	
1111.			
1112.			
1113.			
1200. GOVERNMENT RECORDING AND TRANSFER CHARGES			
1201. Recording Fees: Deed \$ 10.00; Mortgage \$ 11.00; Releases \$		21.00	
1202. City/County Tax/Stamp: Deed ; Mortgage			
1203. State Tax/Stamp: Deed Stamp 2,220.00; Mortgage		2,220.00	
1204. Recording Assignment & Option to Lee County Register of Deeds		20.00	
1205.			
1300. ADDITIONAL SETTLEMENT CHARGES			
1301. Survey	to		
1302. Pest Inspection	to		
1303. Wire Fee	to Bluckey, Fale & Segars, LLC 2 wires Payoff/proceeds	70.00	
1304. Satisfaction Processing Fee	to Bluckey, Fale & Segars, LLC	5.00	
1305.			
1400. TOTAL SETTLEMENT CHARGES (Enter on Lines 103, Section J and 502, Section K)		4,852.50	

By signing page 1 of this statement, the signatories acknowledge receipt of a completed copy of page 2 of this two page statement.

Certified to be a true copy.

Bluckey, Fale & Segars, LLC
Settlement Agent

PALMER - 0474

ACKNOWLEDGMENT OF RECEIPT OF SETTLEMENT STATEMENT

Borrower: Hatcham Grove, Inc
Ernestine N. Palmer, Trustee Under the Article VI Trust created under the Will of James E. Ne
Seller: John J. Stucker and April Lucas a/k/a April C. Lucas
Lender: Ernestine N. Palmer, Trustee Article IV Trust created under Will of Mary Danman Newman
Settlement Agent: Stuckey, Fata & Segars, LLC
(803) 484-5409
Place of Settlement: 115 East Church Street
Blehcpville, SC 29010
Settlement Date: September 20, 2007
Property Location: Tract 1- 134.02 acres and Tract 2- 33.40 acre
less however 1.18 acre
Lee County

I have carefully reviewed the HUD-1 Settlement Statement and to the best of my knowledge and belief, it is a true and accurate statement of all receipts and disbursements made on my account or by me in this transaction. I further certify that I have received a copy of the HUD-1 Settlement Statement.

Hatcham Grove, Inc

John J. Stucker

Ernestine N. Palmer, Trustee Under the Article VI Trust
created under the Will of James E. Newman, Deceased

April Lucas a/k/a April C. Lucas

BY: Ernestine N. Palmer

To the best of my knowledge, the HUD-1 Settlement Statement which I have prepared is a true and accurate account of the funds which were received and have been or will be disbursed by the undersigned as part of the settlement of this transaction.

Stuckey, Fata & Segars, LLC
Settlement Agent

WARNING: It is a crime to knowingly make false statements to the United States on this or any similar form. Penalties upon conviction can include a fine and imprisonment. For details see: Title 18 U.S. Code Section 1001 and Section 1010.

PALMER - 0475

HUD-1 (3-18) REG/PA, M&A/002

A. U.S. DEPARTMENT OF HOUSING & URBAN DEVELOPMENT SETTLEMENT STATEMENT	B. TYPE OF LOAN			
	1. ☐ FHA 2. ☐ FmHA 3. ☐ CONV. UNINS. 4. ☐ VA 5. ☒ CONV. INS.			
	6. FILE NUMBER 07-598		7. LOAN NUMBER	
	8. MORTGAGE INS CASE NUMBER			

C. NOTE: This form is furnished to give you a statement of actual settlement costs. Amounts paid to and by the settlement agent are shown. Items marked "POC" were paid outside the closing; they are shown here for informational purposes and are not included in the totals. (HATCHAM GROVE PFD 07-598/18)

D. NAME AND ADDRESS OF BORROWER Hatcham Grove, Inc Ernestine N. Pakner, Trustee under the Article VI Trust created under the Will of James E. Newman 3760 Belhune Highway Bishopville SC 29011	E. NAME AND ADDRESS OF SELLER John J. Stucker and April Lucas a/k/a April C. Lucas 911 Laurens Street Columbia, SC 29201	F. NAME AND ADDRESS OF LENDER Ernestine N. Palmer, Trustee of the Article IV Trust created under Will of Mary Denman Newman, Deceased 139 Hickory Ridge Houston, Texas 77024
	G. PROPERTY LOCATION Tract 1- 134.02 acres and Tract 2- 33.40-acre less however 1.16 acre Lee County	
H. SETTLEMENT AGENT 57-0849826 Stuckey, Fata & Segers, LLC PLACE OF SETTLEMENT 115 East Church Street Bishopville, SC 29010		I. SETTLEMENT DATE September 20, 2007

J. SUMMARY OF BORROWER'S TRANSACTION		K. SUMMARY OF SELLER'S TRANSACTION	
100. GROSS AMOUNT DUE FROM BORROWER:		400. GROSS AMOUNT DUE TO SELLER:	
101. Contract Sales Price	600,000.00	401. Contract Sales Price	800,000.00
102. Personal Property		402. Personal Property	
103. Settlement Charges to Borrower (Line 1400)	4,652.50	403.	
104.		404.	
105.		405.	
<i>Adjustments For Items Paid By Seller in advance</i>		<i>Adjustments For Items Paid By Seller in advance</i>	
106. City/Town Taxes to		406. City/Town Taxes to	
107. County Taxes to		407. County Taxes to	
108. Assessments to		408. Assessments to	
109. Reimburse for Legal Counsel to Seller	875.00	409. Reimburse for Legal Counsel to Seller	875.00
110. Reimburse for Sept payment to Seller	3,066.55	410. Reimburse for Sept payment to Seller	3,066.55
111. Reimburse for Sept Interest to Seller	1,260.20	411. Reimburse for Sept Interest to Seller	1,260.20
112.		412.	
120. GROSS AMOUNT DUE FROM BORROWER	609,844.25	420. GROSS AMOUNT DUE TO SELLER	605,191.75
200. AMOUNTS PAID BY OR IN BEHALF OF BORROWER:		500. REDUCTIONS IN AMOUNT DUE TO SELLER:	
201. Deposit or earnest money		501. Excess Deposit (See Instructions)	
202. Principal Amount of New Loan(s)	700,000.00	502. Settlement Charges to Seller (Line 1400)	
203. Existing loan(s) taken subject to		503. Existing loan(s) taken subject to	
204.		504. Payoff of first Mortgage to Arbor One	351,195.10
205.		505. Payoff of second Mortgage	
206.		506.	
207.		507.	
208.		508.	
209.		509.	
<i>Adjustments For Items Unpaid By Seller</i>		<i>Adjustments For Items Unpaid By Seller</i>	
210. City/Town Taxes to		510. City/Town Taxes to	
211. County Taxes to		511. County Taxes to	
212. Assessments to		512. Assessments to	
213.		513.	
214.		514.	
215.		515.	
216.		516.	
217.		517.	
218.		518.	
219.		519.	
220. TOTAL PAID BY/FOR BORROWER	700,000.00	520. TOTAL REDUCT. AMT DUE SELLER	351,195.10
300. CASH AT SETTLEMENT FROM/TO BORROWER:		600. CASH AT SETTLEMENT TO/FROM SELLER:	
301. Gross Amount Due From Borrower (Line 120)	609,844.25	601. Gross Amount Due To Seller (Line 420)	605,191.75
302. Less Amount Paid By/FOR Borrower (Line 220)	(700,000.00)	602. Less Reductions Due Seller (Line 520)	(351,195.10)
303. CASH (FROM) (X TO) BORROWER	90,165.75	603. CASH (X TO) (FROM) SELLER	253,896.65

PALMER - 0476

HUD-1 (2-99) RESPA 1081002

L. SETTLEMENT CHARGES						PAID FROM BORROWERS FUNDS AT SETTLEMENT	PAID FROM SELLERS FUNDS AT SETTLEMENT
700. TOTAL COMMISSION Based on Price \$ @ %							
Division of Commission (Line 700) as Follows:							
701. \$ to							
702. \$ to							
703. Commission Paid at Settlement							
704. to							
800. ITEMS PAYABLE IN CONNECTION WITH LOAN							
801. Loan Origination Fee % to							
802. Loan Discount % to							
803. Appraisal Fee to							
804. Credit Report to							
805. Lender's Inspection Fee to							
806. Mortgage Ins. App. Fee to							
807. Assumption Fee to							
808.							
809.							
810.							
811.							
900. ITEMS REQUIRED BY LENDER TO BE PAID IN ADVANCE							
901. Interest From 09/20/07 to 10/01/07 @ \$ /day (11 days %)							
902. Mortgage Insurance Premium months							
903. Hazard Insurance Premium 1.0 years							
904.							
905.							
1000. RESERVES DEPOSITED WITH LENDER							
1001. Hazard Insurance months @ \$ per month							
1002. Mortgage Insurance months @ \$ per month							
1003. City/Town Taxes months @ \$ per month							
1004. County Taxes months @ \$ per month							
1005. Assessments months @ \$ per month							
1006. months @ \$ per month							
1007. months @ \$ per month							
1008. months @ \$ per month							
1100. TITLE CHARGES							
1101. Settlement or Closing Fee to							
1102. Abstract or Title Search to Stuckey, Fata & Segars, LLC						195.00	
1103. Title Examination to							
1104. Title Insurance Binder to Title Insurance Products & Services Agency						100.00	
1105. Document Preparation to Stuckey, Fata & Segars, LLC Deed, mfg, note, option, Assignment						275.00	
1106. Notary Fees to							
1107. Attorney's Fees to Stuckey, Fata & Segars, LLC						800.00	
(includes above item numbers:)							
1108. Title Insurance to Title Ins. Products & Services Agency, LLC/CTIC						848.60	
(includes above item numbers:)							
1109. Lender's Coverage \$ 700,000.00 871.80							
1110. Owner's Coverage \$ 600,000.00 75.00							
1111.							
1112.							
1113.							
1200. GOVERNMENT RECORDING AND TRANSFER CHARGES							
1201. Recording Fees: Deed \$ 10.00; Mortgage \$ 11.00; Releases \$						21.00	
1202. City/County Tax/Stamp: Deed Mortgage							
1203. State Tax/Stamp: Deed Stamp 2,220.00; Mortgage						2,220.00	
1204. Recording Assignment & Option to Lee County Register of Deeds						20.00	
1205.							
1300. ADDITIONAL SETTLEMENT CHARGES							
1301. Survey to							
1302. Pest Inspection to							
1303. Wire Fee to Stuckey, Fata & Segars, LLC 2 wires Payoff/proceeds						70.00	
1304. Satisfaction Processing Fee to Stuckey, Fata & Segars, LLC						8.00	
1305.							
1400. TOTAL SETTLEMENT CHARGES (Enter on Lines 103, Section J and 502, Section K)						4,652.50	

By signing page 1 of this statement, the signatories acknowledge receipt of a completed copy of page 2 of this two page statement.

Certified to be a true copy.

Stuckey, Fata & Segars, LLC
Settlement Agent

PALMER - 0477

(07-598 / 07-598 / 16)

ACKNOWLEDGMENT OF RECEIPT OF SETTLEMENT STATEMENT

Borrower: Hatcham Grove, Inc
Ernestine N. Palmer, Trustee Under the Article VI Trust created under the Will of James E. Ne
Seller: John J. Stucker and April Lucas a/k/a April C. Lucas
Lender: Ernestine N. Palmer, Trustee Article IV Trust created under Will of Mary Denman Newman
Settlement Agent: Stuckey, Fata & Segars, LLC
(803)484-8409
Place of Settlement: 116 East Church Street
Blahopville, SC 29010
Settlement Date: September 20, 2007
Property Location: Tract 1- 134.02 acres and Tract 2- 33.40 acre
less however 1.18 acre
Lee County

I have carefully reviewed the HUD-1 Settlement Statement and to the best of my knowledge and belief, it is a true and accurate statement of all receipts and disbursements made on my account or by me in this transaction. I further certify that I have received a copy of the HUD-1 Settlement Statement.

Hatcham Grove, Inc:

Ernestine N. Palmer, Trustee Under the Article VI Trust
created under the Will of James E. Newman, Deceased

BY: _____

John J. Stucker

April Lucas a/k/a April C. Lucas

To the best of my knowledge, the HUD-1 Settlement Statement which I have prepared is a true and accurate account of the funds which were received and have been or will be disbursed by the undersigned as part of the settlement of this transaction.

Stuckey, Fata & Segars, LLC
Settlement Agent

WARNING: It is a crime to knowingly make false statements to the United States on this or any similar form. Penalties upon conviction can include a fine and imprisonment. For details see: Title 18 U.S. Code Section 1001 and Section 1010.

PALMER - 0478

HUD-1 (3-06) RESPA, NO 13052

U.S. DEPARTMENT OF HOUSING & URBAN DEVELOPMENT SETTLEMENT STATEMENT	B. TYPE OF LOAN				
	1. ☐ FHA 2. ☐ FmHA 3. ☐ CONV. UNINS. 4. ☐ VA 5. ☒ CONV. INS.				
	6. FILE NUMBER 07-598		7. LOAN NUMBER		
	8. MORTGAGE INS CASE NUMBER				

NOTE: This form is furnished to give you a statement of actual settlement costs. Amounts paid to and by the settlement agent are shown. Items marked "POC" were paid outside the closing; they are shown here for informational purposes and are not included in the totals.

1.0 3/98

(HATCHAM GROVE, PFD/07-598/18)

NAME AND ADDRESS OF BORROWER atcham Grove, Inc Ernestine N. Palmer, Trustee under the Title VI Trust created under the Will of James E. Newman 160 Bethune Highway Bishopville SC 29011		E. NAME AND ADDRESS OF SELLER John J. Stucker and April Lucas a/k/a April C. Lucas 911 Laurens Street Columbia, SC 29201		F. NAME AND ADDRESS OF LENDER Ernestine N. Palmer, Trustee of the Article IV Trust created under Will of Mary Denman Newman, Deceased 139 Hickory Ridge Houston, Texas 77024	
G. PROPERTY LOCATION Tract 1- 134.02 acres and Tract 2- 33.40 acre less however 1.16 acre in County		H. SETTLEMENT AGENT 57-0849826 Stuckey, Fala & Segars, LLC		I. SETTLEMENT DATE September 20, 2007	
		PLACE OF SETTLEMENT 115 East Church Street Bishopville, SC 29010			

J. SUMMARY OF BORROWER'S TRANSACTION				K. SUMMARY OF SELLER'S TRANSACTION			
10. GROSS AMOUNT DUE FROM BORROWER:				400. GROSS AMOUNT DUE TO SELLER:			
11. Contract Sales Price	600,000.00	401. Contract Sales Price	600,000.00				
12. Personal Property		402. Personal Property					
13. Settlement Charges to Borrower (Line 1400)	4,852.50	403.					
14.		404.					
15.		405.					
<i>Adjustments For Items Paid By Seller in advance</i>				<i>Adjustments For Items Paid By Seller in advance</i>			
16. City/Town Taxes to		406. City/Town Taxes to					
17. County Taxes to		407. County Taxes to					
18. Assessments to		408. Assessments to					
19. Reimburse for Legal Counsel to Seller	875.00	409. Reimburse for Legal Counsel to Seller	875.00				
20. Reimburse for Sept payment to Seller	3,066.65	410. Reimburse for Sept payment to Seller	3,066.65				
21. Reimburse for Sept Interest to Seller	1,250.20	411. Reimburse for Sept Interest to Seller	1,250.20				
22.		412.					
20. GROSS AMOUNT DUE FROM BORROWER	609,844.25	420. GROSS AMOUNT DUE TO SELLER	605,191.75				
10. AMOUNTS PAID BY OR IN BEHALF OF BORROWER:				500. REDUCTIONS IN AMOUNT DUE TO SELLER:			
21. Deposit or earnest money		501. Excess Deposit (See Instructions)					
22. Principal Amount of New Loan(s)	700,000.00	502. Settlement Charges to Seller (Line 1400)					
23. Existing loan(s) taken subject to		503. Existing loan(s) taken subject to					
24.		504. Payoff of first Mortgage to Arbor One	351,195.10				
25.		505. Payoff of second Mortgage					
26.		506.					
27.		507.					
28.		508.					
29.		509.					
<i>Adjustments For Items Unpaid By Seller</i>				<i>Adjustments For Items Unpaid By Seller</i>			
30. City/Town Taxes to		510. City/Town Taxes to					
31. County Taxes to		511. County Taxes to					
32. Assessments to		512. Assessments to					
33.		513.					
34.		514.					
35.		515.					
36.		516.					
37.		517.					
38.		518.					
39.		519.					
20. TOTAL PAID BY/FOR BORROWER	700,000.00	520. TOTAL REDUCT. AMT DUE SELLER	351,195.10				
10. CASH AT SETTLEMENT FROM/TO BORROWER:				600. CASH AT SETTLEMENT TO/FROM SELLER:			
11. Gross Amount Due From Borrower (Line 120)	609,844.25	601. Gross Amount Due To Seller (Line 420)	605,191.75				
12. Less Amount Paid By/For Borrower (Line 220)	(700,000.00)	602. Less Reductions Due Seller (Line 520)	(351,195.10)				
23. CASH (FROM) (X TO) BORROWER	90,165.75	603. CASH (X TO) (FROM) SELLER	253,996.65				



PALMER - 0479

L. SETTLEMENT CHARGES				PAID FROM BORROWER'S FUNDS AT SETTLEMENT	PAID FROM SELLER'S FUNDS AT SETTLEMENT
10. TOTAL COMMISSION Based on Price \$ @ %					
Division of Commission (line 700) as Follows:					
11. \$	to				
12. \$	to				
13. Commission Paid at Settlement					
14.	to				
10. ITEMS PAYABLE IN CONNECTION WITH LOAN					
11. Loan Origination Fee	%	to			
12. Loan Discount	%	to			
13. Appraisal Fee		to			
14. Credit Report		to			
15. Lender's Inspection Fee		to			
16. Mortgage Ins. App. Fee		to			
17. Assumption Fee		to			
18.					
19.					
0.					
1.					
10. ITEMS REQUIRED BY LENDER TO BE PAID IN ADVANCE					
11. Interest From	09/20/07 to 10/01/07	@ \$	/day (11 days %)		
12. Mortgage Insurance Premium	months				
13. Hazard Insurance Premium	1.0 years				
14.					
15.					
100. RESERVES DEPOSITED WITH LENDER					
01. Hazard Insurance	months @ \$		per month		
02. Mortgage Insurance	months @ \$		per month		
03. City/Town Taxes	months @ \$		per month		
04. County Taxes	months @ \$		per month		
05. Assessments	months @ \$		per month		
06.	months @ \$		per month		
07.	months @ \$		per month		
08.	months @ \$		per month		
00. TITLE CHARGES					
01. Settlement or Closing Fee	to				
02. Abstract or Title Search	to Stuckey, Fata & Segars, LLC			195.00	
03. Title Examination	to				
04. Title Insurance Binder	to Title Insurance Products & Services Agency			100.00	
05. Document Preparation	to Stuckey, Fata & Segars, LLC	Deed, mtg, note, option, Assignment		275.00	
06. Notary Fees	to				
07. Attorney's Fees	to Stuckey, Fata & Segars, LLC			800.00	
(includes above item numbers:)					
08. Title Insurance	to Title Ins. Products & Services Agency, LLC/CTIC			946.50	
(includes above item numbers:)					
09. Lender's Coverage	\$ 700,000.00		871.50		
10. Owner's Coverage	\$ 600,000.00		75.00		
11.					
12.					
13.					
00. GOVERNMENT RECORDING AND TRANSFER CHARGES					
01. Recording Fees: Deed \$ 10.00; Mortgage \$ 11.00; Releases \$				21.00	
02. City/County Tax/Stamp: Deed ; Mortgage					
03. State Tax/Stamp: Deed Stamps 2,220.00; Mortgage				2,220.00	
04. Recording Assignment & Option to Lee County Register of Deeds				20.00	
05.					
00. ADDITIONAL SETTLEMENT CHARGES					
01. Survey	to				
02. Pest. Inspection	to				
03. Wire Fee	to Stuckey, Fata & Segars, LLC	2 wires	Payoff/proceeds	70.00	
04. Satisfaction Processing Fee	to Stuckey, Fata & Segars, LLC			5.00	
05.					
00. TOTAL SETTLEMENT CHARGES (Enter on Lines 103, Section J and 502, Section K)				4,652.50	

signing page 1 of this statement, the signatories acknowledge receipt of a completed copy of page 2 of this two page statement.

ritified to be a true copy.

Handwritten signature

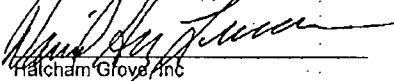
Stuckey, Fata & Segars, LLC
Settlement Agent

PALMER - 0480

ACKNOWLEDGMENT OF RECEIPT OF SETTLEMENT STATEMENT

Borrower: Hatcham Grove, Inc
Ernestine N. Palmer, Trustee Under the Article VI Trust created under the Will of James E. Ne
Seller: John J. Stucker and April Lucas a/k/a April C. Lucas
Lender: Ernestine N. Palmer, Trustee Article IV Trust created under Will of Mary Denman Newman
Settlement Agent: Stuckey, Fala & Segars, LLC
(803)484-5409
Place of Settlement: 115 East Church Street
Bishopville, SC 29010
Settlement Date: September 20, 2007
Property Location: Tract 1- 134.02 acres and Tract 2- 33.40 acre
less however 1.18 acre
Lee County

I have carefully reviewed the HUD-1 Settlement Statement and to the best of my knowledge and belief, it is a true and accurate statement of all receipts and disbursements made on my account or by me in this transaction. I further certify that I have received a copy of the HUD-1 Settlement Statement.


Hatcham Grove, Inc

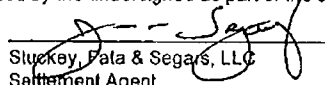
Ernestine N. Palmer, Trustee Under the Article VI Trust
created under the Will of James E. Newman, Deceased

John J. Stucker

April Lucas a/k/a April C. Lucas

BY: _____

To the best of my knowledge, the HUD-1 Settlement Statement which I have prepared is a true and accurate account of the funds which were received and have been or will be disbursed by the undersigned as part of the settlement of this transaction.


Stuckey, Fala & Segars, LLC
Settlement Agent

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PALMER - 0481

1901 BKD0228 PG182

000001901
RECORDED 09/20/2007 01:38:50PM
Bk:00228 Pg:00182 Pages:3
Fee:10.00 State:1360.00
COUNTY:660.00 Exempt:-----
James I. Davis, Clerk of Court
Lee County, SC

Stuckey, Fata & Segars
File# 07-598

CERTIFIED as a TRUE COPY
of ORIGINAL filed in this Office
Date:09/20/2007
James I. Davis, Clerk of Court
Lee County, SC

THE STATE OF SOUTH CAROLINA,

COUNTY OF LEE

QUIT CLAIM DEED

KNOW ALL MEN BY THESE PRESENTS, That We, JOHN J. STUCKER and
APRIL LUCAS a/k/a APRIL C. LUCAS, in the State aforesaid, for and in consideration of the sum of
Six Hundred Thousand and 00/100 (\$600,000.00) dollars to us paid by HATCHAM GROVE, INC. and
ERNESTINE N. PALMER, TRUSTEE OF THE ARTICLE VI TRUST CREATED UNDER THE
WILL OF JAMES E. NEWMAN, DECEASED in the state aforesaid, the receipt whereof is hereby
acknowledged, have granted, bargained, sold and released, and by these presents do grant, bargain,
sell and release unto the said HATCHAM GROVE, INC. and ERNESTINE N. PALMER, TRUSTEE
OF THE ARTICLE VI TRUST CREATED UNDER THE WILL OF JAMES E. NEWMAN,
DECEASED, their successors and assigns forever, the following described property, to wit:

Tract No. 1: All that certain piece, parcel or tract of land situate, lying and being in the Turkey Creek
Township, County of Lee, State of South Carolina, shown as Parcel A and containing 134.02 acres as shown
on a plat by Bryn Engineering Co., Inc., dated June 11, 1986, recorded in the office of the Register of Deeds
for Lee County in Plat Book V at page 126. Said tract has such shape, metes, courses and distances as is
shown on said Survey, and is bounded generally on the Northeast by land now or formerly of David H. Lucas,
on which it measures 1721 feet; on the East by land now or formerly of David H. Lucas, on which it measures
2029.7 feet; on the South by land now or formerly of Adline Hopkins, J.R. Kelley and Elizabeth Tarleton, on
which it measures 1931.97 feet, and by lands now or formerly of R.H. Fountain and G.E. Locklair, on which it
measures 1039.82 feet; on the West by S.C. Highway 341 by Parcel C and by Parcel B, on which it fronts and
measures in the aggregate 2070.86 feet; and on the Northwest by land now or formerly of David H. Lucas and
Turkey Creek Land and Cattle Co., on which it measures 1900.48 feet.

Tax Map Number: 008-00-00-010-000

PALMER - 0482

Tract No. 2: All that certain piece, parcel or tract of land with improvements thereon situate, lying and being in the Turkey Creek Community, Lee County, South Carolina, shown as 33.40 acres on a survey by Engineering, Surveying & Planning, Inc. dated March 26, 1991 and recorded in the office of the Register of Deeds for Lee County in Plat Book V at Page 103. Said tract being bounded and described as follows: On the North by lands now or formerly of J.J. Josey and measuring thereon a distance of 2233.55 feet; on the Southeast by lands now or formerly of David H. Lucas and measuring thereon for the aggregate distance 1900.12 feet; on the southwest by S.C. Highway No. 341 and measuring thereon for the aggregate distance of 1541.86 feet; all measurements being a little more or less;

LESS, HOWEVER, a 1.16 acre tract, deeded to Sonja T. Lucas by deed recorded in the office of the Register of Deeds for Lee County in Deed Book C-8 at Page 268 as shown on a plat by Franklin D. Cooper, Jr., dated May 25, 1996 and recorded in Plat Book E-1 at Page 25. Pursuant to section 30-5-250 of the Code of laws of South Carolina, 1976 as amended, reference to said plat is hereby craved for metes, bounds, courses and or distances of said plat.

Tax Map Number: 008-00-00-009-000

The above two tracts being the same property conveyed to John J. Stucker and April Lucas by deed of Hatcham-Grove, Inc., executed October 24, 2006, and recorded October 24, 2006, in Book D0214 at Page 172 in the office of the Register of Deeds for Lee County South Carolina.

This conveyance is subject to all visible and/or recorded easements, restrictions, covenants, rights-of-way and zoning ordinances which affect said property including but not limited to the following:

A perpetual, non-exclusive thirty (30) foot easement given by Hatcham Grove, Inc. to Charles K. Young as shown by deed recorded in Deed Book D-111 at page 6 in the office of the Register of Deeds for Lee County SC.

GRANTEE'S ADDRESS: 3760 Bethune Highway, Bishopville, SC 29010

Together with all and singular, the rights, members, hereditaments and appurtenances to the said premises belonging or in anywise incident or appertaining.

TO HAVE AND TO HOLD all and singular the said premises before mentioned unto the said **HATCHAM GROVE, INC. and ERNESTINE N. PALMER, TRUSTEE OF THE ARTICLE VI TRUST CREATED UNDER THE WILL OF JAMES E. NEWMAN, DECEASED**, their successors and assigns, forever--so that neither We the said John J. Stucker and April Lucas a/k/a April C. Lucas nor our heirs, nor any other person or persons, claiming under us or them, shall at any time hereafter, by any way or means, have, claim or demand any right or title to the aforesaid premises or appurtenances, or any part or parcel thereof, forever.

PALMER - 0483

WITNESS my Hand(s) and Seal(s) this 19th day of September in the year of
our Lord two thousand seven and in the two hundred thirty first year of the Sovereignty and
Independence of the United States of America.

Signed, Sealed and Delivered
in the presence of

Jill C. Prater
Kathleen Allen

John J. Stucker (SEAL)
JOHN J. STUCKER

Jill C. Prater
Kathleen Allen

April C. Lucas (SEAL)
APRIL LUCAS

Jill C. Prater
Kathleen Allen

April C. Lucas (SEAL)
APRIL C. LUCAS

STATE OF SOUTH CAROLINA)
COUNTY OF Richland)

PROBATE

I, Jill C. Prater, a Notary Public for the State of
South Carolina, do hereby certify that JOHN J. STUCKER and APRIL LUCAS n/k/a APRIL C.
LUCAS personally appeared before me this day and acknowledged the due execution of the foregoing
Instrument.

Witness my hand and official seal this 19 day of September 2007.

Jill C. Prater
NOTARY PUBLIC FOR South Carolina
MY COMMISSION EXPIRES 11-13-2008

PALMER - 0484

STATE OF SOUTH CAROLINA)

COUNTY OF LEE)

CORPORATE RESOLUTION

I, David H. Lucas, do hereby certify that I am the President of Hatcham Grove, Inc., a corporation organized and existing under and by virtue of the laws of the State of South Carolina having its principal place of business in the City of Bishopville, State of South Carolina.

That at a special meeting of the Board of Directors of said corporation, duly and regularly called, convened and held in accordance with its bylaws and laws of said State on the 3rd day of September, 2007, at which a quorum for the transaction of business was present and acting throughout, the following resolution was duly and regularly adopted:

BE IT RESOLVED that David H. Lucas, President of Hatcham Grove, Inc., is authorized for, on behalf of, and in the name of this Corporation to:

- A. Negotiate and purchase 167.42 acres, more or less, located in the Turkey Creek Township from John J. Stucker and April Lucas, their Heirs and assigns, for a sales price of Six Hundred Thousand and no/100 (\$600,000.00) dollars; and
- B. To execute any such forms as may be required to effect the purchase of the above described property; and to have said property titled in the name of Hatcham Grove, Inc. and Ernestine N. Palmer, Trustee of The Article VI Trust created under the Will of James E. Newman, Deceased.; and
- C. Hatcham Grove, Inc. is hereby authorized to borrow the sum of Seven Hundred Thousand and no/100 (\$700,000.00) dollars from Ernestine N. Palmer, Trustee of The Article IV Trust created under the Will of Mary Denman Newman, Deceased at an interest rate of seven (7%) percent. David H. Lucas is hereby authorized to execute any and all documents required to effectuate the closing of this loan.

RESOLVED FURTHER that the said Hatcham Grove, Inc., be and is hereby authorized and

PALMER - 0485

directed to pay the proceeds of any such purchase to the order of John J. Stucker and April Lucas.

RESOLVED FURTHER that David H. Lucas, as President, warrants and represents that he may effect such purchase and execute any instruments necessary and required to comply with terms of this resolution by his signature alone, and that no other signatures are required; and

I DO FURTHER HEREBY CERTIFY that the following named person has been duly authorized and appointed as President of this Corporation and that he continues to hold said office at the present time, and that my signature appearing hereon is original.

Witness:

Regina D. Mathew

HATCHAM GROVE, INC

David H. Lucas
BY: DAVID H. LUCAS
ITS PRESIDENT

PALMER - 0486

STATE OF SOUTH CAROLINA)
 :
COUNTY OF LEE)

CORPORATE RESOLUTION

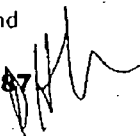
I, David H. Lucas, do hereby certify that I am the President of Hatcham Grove, Inc., a corporation organized and existing under and by virtue of the laws of the State of South Carolina having its principal place of business in the City of Bishopville, State of South Carolina.

That at a special meeting of the Board of Directors of said corporation, duly and regularly called, convened and held in accordance with its bylaws and laws of said State on the 3rd day of September, 2007, at which a quorum for the transaction of business was present and acting throughout, the following resolution was duly and regularly adopted:

BE IT RESOLVED that David H. Lucas, President of Hatcham Grove, Inc., is authorized for, on behalf of, and in the name of this Corporation to:

- A. Negotiate and purchase 167.42 acres, more or less, located in the Turkey Creek Township from John J. Stucker and April Lucas, their Heirs and assigns, for a sales price of Six Hundred Thousand and no/100 (\$600,000.00) dollars; and
- B. To execute any such forms as may be required to effect the purchase of the above described property; and to have said property titled in the name of Hatcham Grove, Inc. and Ernestine N. Palmer, Trustee of The Article VI Trust created under the Will of James E. Newman, Deceased.; and
- C. Hatcham Grove, Inc. is hereby authorized to borrow the sum of Seven Hundred Thousand and no/100 (\$700,000.00) dollars from Ernestine N. Palmer, Trustee of The Article IV Trust created under the Will of Mary Denman Newman, Deceased at an interest rate of seven (7%) percent. David H. Lucas is hereby authorized to execute any and all documents required to effectuate the closing of this loan.

RESOLVED FURTHER that the said Hatcham Grove, Inc., be and is hereby authorized and

PALMER - 0487 

directed to pay the proceeds of any such purchase to the order of John J. Stucker and April Lucas.

RESOLVED FURTHER that David H. Lucas, as President, warrants and represents that he may effect such purchase and execute any instruments necessary and required to comply with terms of this resolution by his signature alone, and that no other signatures are required; and

I DO FURTHER HEREBY CERTIFY that the following named person has been duly authorized and appointed as President of this Corporation and that he continues to hold said office at the present time, and that my signature appearing hereon is original.

Witness:

Regina D. Mathews

HATCHAM GROVE, INC.

David H. Lucas
BY: DAVID H. LUCAS
ITS PRESIDENT

PALMER - 0488

000001908

RECORDED 09/21/2007 12:24:18PM

Bk:00228 Pg:00185 Pages:4

Fee:10.00 State:0.00

OPTION TO PURCHASE Exempt: _____

James I. Davis, Clerk of Court
Lee County, SCSTATE OF SOUTH CAROLINA)
COUNTY OF LEE)This Option to Purchase ("Option") made the 20th day of September 2007, between, Ernestine

N. Palmer, Trustee of The Article VI Trust created under the Will of James E. Newman,

Deceased as Seller ("Optionor"), and, Hatcham Grove, Inc. as Buyer ("Optionee"),

WITNESSETH, that Optionor, for and in consideration of the sum of Five and 00/100 (\$5.00)

dollars and other valuable consideration (the "Option Money") to Optionor in hand paid by the

Optionee, receipt of which is hereby acknowledged, does hereby give and grant unto the Optionee,

Optionee's heirs, successors, assigns or representatives, the exclusive right and option to purchase all

of Optionor's interest in that certain plot, piece or parcel of land, together with all improvements

located thereon, in the County of Lee, State of South Carolina, being known as, and more particularly

described as follows:

Tract No. 1: All that certain piece, parcel or tract of land situate, lying and being in the Turkey Creek Township, County of Lee, State of South Carolina, shown as Parcel A and containing 134.02 acres as shown on a plat by Ervin Engineering Co., Inc., dated June 11, 1986, recorded in the office of the Register of Deeds for Lee County in Plat Book V at page 126. Said tract has such shape, metes, courses and distances as is shown on said Survey, and is bounded generally on the Northeast by land now or formerly of David H. Lucas, on which it measures 1721 feet; on the East by land now or formerly of David H. Lucas, on which it measures 2029.7 feet; on the South by land now or formerly of Adline Hopkins, J.R. Kelley and Elizabeth Tarleton, on which it measures 1931.97 feet, and by lands of R.H. Fountain and G.E. Locklair, on which it measures 1039.82 feet; on the West by S.C. Highway 341 by Parcel C and by Parcel B, on which it fronts and measures in the aggregate 2070.86 feet; and on the Northwest by land now or formerly of David H. Lucas and Turkey Creek Land and Cattle Co., on which it measures 1900.48 feet.

Tax Map Number: 008-00-00-010-000

Tract No. 2: All that certain piece, parcel or tract of land with improvements thereon situate, lying and being in the Turkey Creek Community, Lee County, South Carolina, shown as 33.40 acres on a survey by Engineering, Surveying & Planning, Inc. dated March 26, 1991 and recorded in the office of the Register of Deeds for Lee County in Plat Book V at Page 103. Said tract being bounded and described as follows: On the North by lands now or formerly of J.J. Josey and measuring thereon a distance of 2233.55 feet; on the Southeast by lands now or formerly of David H. Lucas and measuring thereon for the aggregate distance 1900.12 feet; on the southwest by S.C. Highway No. 341 and measuring thereon for the aggregate distance of 1541.86 feet; all measurements being a little more or less;

LESS, HOWEVER, a 1.16 acre tract, deeded to Sonja T. Lucas by deed recorded in the office of the Register of Deeds for Lee County in Deed Book C-8 at Page 268 as shown on a plat by Franklin D. Cooper, Jr., dated May 25, 1996 and recorded in Plat Book E-1 at Page 25. Pursuant to section 30-5-250 of the Code of laws of South Carolina, 1976 as amended, reference to said plat is hereby craved for metes, bounds, courses and or distances of said plat.

CERTIFIED as a TRUE COPY
of ORIGINAL filed in this Office
Date: 09/21/2007
James I. Davis, **PALMER** - 0489
Lee County, SC

Tax Map Number: 008-00-00-009-000

The above two tracts being the same property conveyed to Hatcham Grove, Inc. and Ron O. Palmer, Trustee of the Article VI Trust created under the Will of James E. Newman, Deceased by deed of John J. Stucker and April Lucas executed September 19, 2007 and recorded September 20, 2007 in Book D228 at page 182 in the office of the Register of deeds for Lee County South Carolina.

This conveyance is subject to all visible and/or recorded easements, restrictions, covenants, rights-of-way and zoning ordinances which affect said property including but not limited to the following:

A perpetual, non-exclusive thirty (30) foot easement given by Hatcham Grove, Inc. to Charles K. Young as shown by deed recorded in Deed Book D-111 at page 6 in the office of the Register of Deeds for Lee County SC.

The terms and conditions of this Option are as follows:

1. **Option Period:** This Option shall exist and continue until 11:59 o'clock p.m. on the 20th day of September, 2012, ("Option Period"). Time is of the Essence.
2. **Exercise:** At any time during the Option Period, Optionee may exercise this Option by hand delivery or deposit or written notice by certified or registered mail, return receipt requested, to Optionor at the following address:

Optionor: Ernestine N. Palmer, Trustee of The Article VI Trust created under the Will of James E. Newman, Deceased
Address: 139 Hickory Ridge, Houston, Texas 77024
Telephone Number:

3. **Contract Upon Exercise:** Upon exercise of this Option, the terms of purchase and sale shall be as follows:
 - (a) The purchase price shall be Five and 00/100 (\$5.00) dollars paid to Optionor, and the payment by Hatcham Grove, Inc. to Ernestine N. Palmer, Trustee of the Article IV Trust created under the Will of Mary Denman Newman, of all unpaid principal and interest due under its Note dated September 20, 2007 for which the above described property is mortgaged.
 - (b) Optionee shall pay for all closing costs.
4. **Other Conditions:** If Hatcham Grove, Inc. fails to exercise its option to purchase from Ernestine N. Palmer, Trustee of The Article VI Trust created under the Will of James E. Newman, Deceased, within said option period, or after the expiration of the five (5) year option period, then in either event, the property will be sold to a third party, and Hatcham Grove, Inc. and Ernestine N. Palmer, Trustee of The Article VI Trust created under the Will of James E. Newman will split net proceeds equally after payment of all unpaid principal and accrued interest and any other expenses associated with the transaction to Ernestine N. Palmer, Trustee of The Article IV Trust created under the Will of Mary Denman Newman, Deceased, the mortgagee, or its assigns.

IN WITNESS WHEREOF, Optionor has hereunto set his/her Hand and Seal, the date and year first above written.

PALMER - 0490

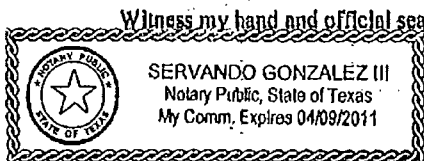
Witness
Donna Madano

Ernestine N. Palmer
Ernestine N. Palmer, Trustee of The Article
VI Trust created under the Will of James E.
Newman, Deceased /Optionor

STATE OF Texas)
COUNTY OF Harris)

PROBATE

I, Servando Gonzalez III, a Notary Public for the State of
Texas, do hereby certify that ERNESTINE N. PALMER, TRUSTEE OF THE ARTICLE
VI TRUST CREATED UNDER THE WILL OF JAMES E. NEWMAN, DECEASED personally appeared
before me this day and acknowledged the due execution of the foregoing instrument.



NOTARY PUBLIC FOR
MY COMMISSION EXPIRES 4-9-2011

Witness

SEE NEXT PAGE FOR SIGNATURE
HATCHAM GROVE, INC./Optionee

STATE OF _____)
COUNTY OF _____)

PROBATE

I, _____, a Notary Public for the State of
_____, do hereby certify that HATCHAM GROVE, INC. by DAVID H. LUCAS its
PRESIDENT personally appeared before me this day and acknowledged the due execution of the foregoing
instrument.

Witness my hand and official seal this _____ day of _____, 2007.

NOTARY PUBLIC FOR _____
MY COMMISSION EXPIRES _____

PALMER - 0491

(SEE PRIOR PAGE)

Witness

Ernestine N. Palmer, Trustee of The Article
VI Trust created under the Will of James E.
Newman, Deceased /Optionor

STATE OF

PROBATE

COUNTY OF

I, _____, a Notary Public for the State of
_____, do hereby certify that ERNESTINE N. PALMER, TRUSTEE OF THE ARTICLE
VI TRUST CREATED UNDER THE WILL OF JAMES E. NEWMAN, DECEASED personally appeared
before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and official seal this _____ day of _____, 2007.

NOTARY PUBLIC FOR
MY COMMISSION EXPIRES

HATCHAM GROVE, INC/Optionee

Witness

STATE OF

PROBATE

COUNTY OF

I, Regina G. Mathers, a Notary Public for the State of

South Carolina, do hereby certify that HATCHAM GROVE, INC. by DAVID H. LUCAS its
PRESIDENT personally appeared before me this day and acknowledged the due execution of the foregoing
instrument.

Witness my hand and official seal this 20th day of September, 2007.

NOTARY PUBLIC FOR South Carolina
MY COMMISSION EXPIRES 4/12/11

Please Return To:
Stuckey, Fata, & Segars
Attorneys At Law
P.O. Drawer 568
Bishopville, S.C. 29010

PALMER - 0492

1900 BK00228 PG181

000001900
RECORDED 09/20/2007 01:38:20PM
Bk:00228 Pg:00181 Pages:1
Fee:6.00 State:0.00
COUNTY:0.00 Exempt:-----
James I. Davis, Clerk of Court
Lee County, SC

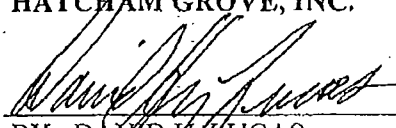
STATE OF SOUTH CAROLINA)

COUNTY OF LEE)

ASSIGNMENT OF LEASE AGREEMENT
AND OPTION TO PURCHASE

For value received, **HATCHAM GROVE, INC.**, hereby sells, assigns, and transfers to **Ernestine N. Palmer, Trustee of The Article VI Trust created by the Will of James E. Newman, Deceased**, an undivided $\frac{1}{2}$ right, title and interest in that Lease Agreement and Option to Purchase representing Tract 1, Parcel A containing 134.02 acres and Tract 2, containing 33.40 acres; less however the 1.16 acres conveyed to Sonja T. Lucas, between April C. Lucas and John J. Stucker, Landlord and Hatcham Grove, Inc., Tenant, recorded October 25, 2006 in Book D0214 at page 191 in the office of the Register of Deeds for Lee County.

HATCHAM GROVE, INC.


BY: DAVID H. LUCAS
ITS: PRESIDENT

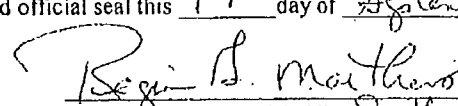
STATE OF SOUTH CAROLINA)

COUNTY OF Lee)

PROBATE

I, Regina G. Marthers, a Notary Public for the State of South Carolina, do hereby certify that **HATCHAM GROVE, INC.** by **DAVID H. LUCAS** its **PRESIDENT** personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and official seal this 19th day of September, 2007.


NOTARY PUBLIC FOR South Carolina
MY COMMISSION EXPIRES 4/12/11

07-598

CERTIFIED as a TRUE COPY
of ORIGINAL filed in this Office
Date: 09/20/2007
James I. Davis, **PALMER** 0493
Lee County, SC

AMERICAN LAND TITLE ASSOCIATION COMMITMENT - 1966

CHICAGO TITLE INSURANCE COMPANY

COMMITMENT FOR TITLE INSURANCE

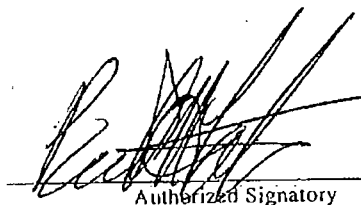
CHICAGO TITLE INSURANCE COMPANY, a corporation of Missouri, herein called the Company, for a valuable consideration, hereby commits to issue its policy or policies of title insurance, as identified in Schedule A, in favor of the proposed Insured named in Schedule A, as owner or mortgagee of the estate or interest covered hereby in the land described or referred to in Schedule A, upon payment of the premiums and charges therefore; all subject to the provisions of Schedules A and B and to the Conditions and Stipulations hereof.

This Commitment shall be effective only when the identity of the proposed Insured and the amount of the policy or policies committed for have been inserted in Schedule A hereof by the Company, either at the time of the issuance of this Commitment or by subsequent endorsement.

This Commitment is preliminary to the issuance of such policy or policies of title insurance and all liability and obligations hereunder shall cease and terminate six months after the effective date hereof or when the policy or policies committed for shall issue, whichever first occurs, provided that the failure to issue such policy or policies is not the fault of the Company.

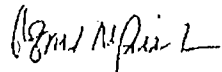
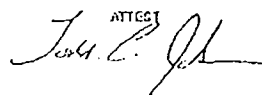
IN WITNESS WHEREOF, Chicago Title Insurance Company has caused this Commitment to be signed and sealed as of the effective date of Commitment shown in Schedule A, the Commitment to become valid when countersigned by an authorized signatory.

SC2286
Title Insurance Products & Services Agency
115 East Church Street
Bishopville, SC 29010
Tel: (803) 484-5409
Fax: (803) 484-9239


Authorized Signatory
Paul M. Fata



CHICAGO TITLE INSURANCE COMPANY


ATTEST

Secretary

A.L.T.A. COMMITMENT
CHICAGO TITLE INSURANCE COMPANY
3700 Forest Drive, Suite 201, Columbia, SC 29204
Issued by: Title Insurance Products & Services Agency, 115 East Church Street, Bishopville, SC 29010
SCHEDULE A

Office File Number 07-598

Commitment Number
07-598

1. Effective Date: September 6, 2007 at 9:00am

2. Policy or Policies to be issued: Amount

a. ALTA OWNER'S POLICY, Form ALTA Own. Policy (10/17/92)\$600,000.00
Proposed Insured:

Hatcham Grove, Inc and Ernestine N. Palmer, Trustee Under the Article VI Trust created under the Will of James E. Newman, Deceased

b. ALTA LOAN POLICY, Form (6-17-06) \$700,000.00
Proposed Insured:

Ernestine N. Palmer, Trustee of the Article IV Trust created under Will of Mary Denman Newman, Deceased, its successors and/or assigns as their respective interests may appear.

3. The estate or interest in the land described or referred to in this Commitment is fee simple.

4. Title to the fee simple estate or interest in the land is at the Effective Date vested in:

John J. Stucker and April Lucas a/k/a April C. Lucas

5. The Land referred to in this Commitment is described as follows:

Tract No. 1: All that certain piece, parcel or tract of land situate, lying and being in the Turkey Creek Township, County of Lee, State of South Carolina, shown as Parcel A and containing 134.02 acres as shown on a plat by Ervin Engineering Co., Inc., dated June 11, 1986, recorded in the office of the Register of Deeds for Lee County in Plat Book V at page 126. Said tract has such shape, metes, courses and distances as is shown on said Survey, and is bounded generally on the Northeast by land now or formerly of David H. Lucas, on which it measures 1721 feet; on the East by land now or formerly of David H. Lucas, on which it measures 2029.7 feet; on the South by land now or formerly of Adline Hopkins, J.R. Kelley and Elizabeth Tarleton, on which it measures 1931.97 feet, and by lands now or formerly of R.H. Fountain and G.E. Locklair, on which it measures 1039.82 feet; on the West by S.C. Highway 341 by Parcel C and by Parcel B, on which it fronts and measures in the aggregate 2070.86 feet; and on the Northwest by land now or formerly of David H. Lucas and Turkey Creek Land and Cattle Co., on which it measures 1900.48 feet.

Tract No. 2: All that certain piece, parcel or tract of land with improvements thereon situate, lying and being in the Turkey Creek Community, Lee County, South Carolina, shown as 33.40 acres on a survey by Engineering, Surveying & Planning, Inc. dated March 26, 1991 and recorded in the office of the Register of Deeds for Lee County in Plat Book V at Page 103. Said tract being bounded and described as follows: On the North by lands now or formerly of J.J. Josey and measuring thereon a distance of 2233.55 feet; on the Southeast by lands now or formerly of David H. Lucas and measuring thereon for the

Note: This Commitment consists of insert pages labeled in Schedule A, Schedule B-Section 1, and Schedule B-Section 2. This Commitment is of no force and effect unless all schedules are included, along with any Rider pages incorporated by reference in the insert pages.

aggregate distance 1900.12 feet; on the southwest by S.C. Highway No. 341 and measuring thereon for the aggregate distance of 1541.86 feet; all measurements being a little more or less;

LESS, HOWEVER, a 1.16-acre tract, deeded to Sonja T. Lucas by deed recorded in the office of the Register of Deeds for Lee County in Deed Book C-8 at Page 268 as shown on a plat by Franklin D. Cooper, Jr., dated May 25, 1996 and recorded in Plat Book E-1 at Page 25. Pursuant to section 30-5-250 of the Code of laws of South Carolina, 1976 as amended, reference to said plat is hereby craved for metes, bounds, courses and or distances of said plat.

This conveyance is subject to all visible and/or recorded easements, restrictions, covenants, rights-of-way and zoning ordinances which affect said property including but not limited to the following:

A perpetual, non-exclusive thirty (30) foot easement given by Hatcham Grove, Inc. to Charles K. Young as shown by deed recorded in Deed Book D-111 at page 6 in the office of the Register of Deeds for Lee County SC.

Note: This Commitment consists of insert pages labeled in Schedule A, Schedule B-Section 1, and Schedule B-Section 2. This Commitment is of no force and effect unless all schedules are included, along with any Rider pages incorporated by reference in the insert pages.

F. 1895

PALMER - 0496

**A.L.T.A. COMMITMENT
CHICAGO TITLE INSURANCE COMPANY
SCHEDULE B - Section 1**

Commitment Number 07-598

Requirements

The following are the requirements to be complied with:

1. Instrument(s) creating the estate or interest to be insured must be approved, executed and filed for record, to wit:
 - (a) Deed from John J. Stucker and April Lucas a/k/a April C. Lucas to Hatcham Grove, Inc and Ernestine N. Palmer, Trustee Under the Article VI Trust created under the Will of James E. Newman, Deceased, conveying the Land set forth under Schedule A, Item 5.
 - (b) Mortgage from Hatcham Grove, Inc and Ernestine N. Palmer, Trustee Under the Article VI Trust created under the Will of James E. Newman, Deceased to Ernestine N. Palmer, Trustee of the Article IV Trust created under Will of Mary Denman Newman, Deceased covering the Land set forth under Schedule A, Item 5.
2. Payment of the full consideration to, or for the account of, the grantors or mortgagors.
3. Payment of all taxes, charges, assessments, levied and assessed against the Land, which are due and payable.
4. Satisfactory evidence should be had that improvements and/or repairs or alterations thereto are completed; that contractor, subcontractor, labor and materialmen are all paid.
5. Seller/Mortgagor Affidavit (Form 3049) must be executed and returned to the Company.
6. Disclosures required by the South Carolina Department of Insurance are to be made in writing on CTIC Form 2781 (Rev. 4/90) and copy thereof returned to the Company.
7. Exception 2 may be deleted, altered or amended when the Company receives its Form Number 3049 completely executed.
8. Exceptions 3 and 4 may be deleted, altered or amended when the Company receives a satisfactory survey and/or inspection of the Land.
9. The mechanics' lien, exception 5, maybe be deleted, altered or amended when the Company receives its Form Number (3049/3053) completely executed.
10. Payment, cancellation and satisfaction of record of the Pee Dee Farm Credit ACA n/k/a Arbor One dated December 6, 2002, and recorded in Mortgage Book 314 at page 197 in the office of the Register of Deeds for Lee County, South Carolina.

The following ALTA endorsements will be attached to the final policy upon completion of the Company's requirement for issuance: **PALMER - 8497**

**A.L.T.A. COMMITMENT
CHICAGO TITLE INSURANCE COMPANY
SCHEDULE B - Section 2**

Commitment Number 07-598

Exceptions

Schedule B of the policy or policies to be issued will contain exceptions to the following matters unless the same are disposed of to the satisfaction of the Company.

1. Defects, liens, encumbrances, adverse claims or other matters, if any, created, first appearing in the Public Records or attaching subsequent to the effective date hereto but prior to the date the proposed Insured acquires for value of record the estate or interest or mortgage thereon covered by this Commitment.
2. Rights or claims of parties in possession not shown by the Public Records.
3. Any encroachment, encumbrance, violation or adverse circumstances affecting the Title that would be disclosed by an accurate and complete land survey of the Land.
4. Easements or claims of easements not shown by the Public Records.
5. Any lien or right to lien, for services, labor or materials heretofore furnished, imposed by law and not shown by the Public Records.
6. Taxes or special assessments which are not shown as existing liens by the Public Records.
7. Taxes and assessments for the year 2007, and subsequent years, which are a lien but are not yet due and payable.
8. Subject to a perpetual, non-exclusive thirty (30) foot easement given by Hatcham Grove, Inc. to Charles K. Young as shown by deed recorded in Deed Book D-111 at page 6 in the office of the Register of Deeds for Lee County SC.
9. Subject to that Lease Agreement and Option to Purchase between April C. Lucas and John J. Stucker and Hatcham Grove, Inc. executed October 16, 2006 and recorded October 25, 2006 in Deed Book D0214 at page 191 in the aforesaid records. (Option will terminate with this purchase)
10. Any taxes assessed under the rollback provisions of Section 12-43-220 (D-4) South Carolina Code of Laws 1976 as amended.

PALMER - 0498

STANDARD EXCEPTIONS FOR OWNER'S POLICY

The owner's policy will be subject to the mortgage, if any, noted under item one of Section 1 of Schedule B hereof and to the following exceptions: (1) rights or claims of parties in possession not shown by the public records; (2) encroachments, overlaps, boundary line disputes, and any matters which would be disclosed by an accurate survey and inspection of the premises; (3) easements, or claims of easements, not shown by the public records; (4) any lien, or right to a lien, for services, labor, or material heretofore or hereafter furnished, imposed by law and not shown by the public records; (5) taxes or special assessments which are not shown as existing liens by the public records.

CONDITIONS AND STIPULATIONS

1. The term "mortgage," when used herein, shall include deed of trust, trust deed, or other security instrument.
2. If the proposed Insured has or acquires actual knowledge of any defect, lien, encumbrance, adverse claim or other matter affecting the estate or interest or mortgage thereon covered by this Commitment other than those shown in Schedule B hereof, and shall fail to disclose such knowledge to the Company in writing, the Company shall be relieved from liability for any loss or damage resulting from any act of reliance hereon to the extent the Company is prejudiced by failure to so disclose such knowledge. If the proposed Insured shall disclose such knowledge to the Company, or if the Company otherwise acquires actual knowledge of any such defect, lien, encumbrance, adverse claim or other matter, the Company at its option may amend Schedule B of this Commitment accordingly, but such amendment shall not relieve the Company from liability previously incurred pursuant to paragraph 3 of these Conditions and Stipulations.
3. Liability of the Company under this Commitment shall be only to the named proposed Insured and such parties included under the definition of Insured in the form of policy or policies committed for and only for actual loss incurred in reliance hereon in undertaking in good faith (a) to comply with the requirements hereof, or (b) to eliminate exceptions shown in Schedule B, or (c) to acquire or create the estate or interest or mortgage thereon covered by this Commitment. In no event shall such liability exceed the amount stated in Schedule A for the policy or policies committed for and such liability is subject to the insuring provisions, the Exclusions from Coverage and the Conditions and Stipulations of the form of policy or policies committed for in favor of the proposed Insured which are hereby incorporated by reference and are made a part of this Commitment except as expressly modified herein.
4. Any action or actions or rights of action that the proposed Insured may have or may bring against the Company arising out of the status of the title to the estate or interest or the status of the mortgage thereon covered by this Commitment must be based on and are subject to the provisions of this Commitment.

HYPOTHECATION AGREEMENT

To: Ernestine N. Palmer, Trustee of the Article IV Trust created under the Will of Mary Denman Newman, Deceased

Date: September 20, 2007

In consideration of making, renewing, or extending a loan or loans to Hatcham Grove, Inc., hereinafter referred to as "Borrower", for which the following property, including all proceeds, additions, and substitutions, belonging to me has been tendered to Ernestine N. Palmer, Trustee of the Article IV Trust created under the Will of Mary Denman Newman, Deceased as collateral to wit:

Tract No. 1: All that certain piece, parcel or tract of land situate, lying and being in the Turkey Creek Township, County of Lee, State of South Carolina, shown as Parcel A and containing 134.02 acres as shown on a plat by Ervin Engineering Co., Inc., dated June 11, 1986, recorded in the office of the Register of Deeds for Lee County in Plat Book V at page 126. Said tract has such shape, metes, courses and distances as is shown on said Survey, and is bounded generally on the Northeast by land now or formerly of David H. Lucas, on which it measures 1721 feet; on the East by land now or formerly of David H. Lucas, on which it measures 2029.7 feet; on the South by land now or formerly of Adline Hopkins, J.R. Kelley and Elizabeth Tarleton, on which it measures 1931.97 feet, and by lands of R.H. Fountain and O.E. Locklair, on which it measures 1039.82 feet; on the West by S.C. Highway 341 by Parcel C and by Parcel B, on which it fronts and measures in the aggregate 2070.86 feet; and on the Northwest by land now or formerly of David H. Lucas and Turkey Creek Land and Cattle Co., on which it measures 1900.48 feet.

Tax Map Number: 008-00-00-010-000

Tract No. 2: All that certain piece, parcel or tract of land with improvements thereon situate, lying and being in the Turkey Creek Community, Lee County, South Carolina, shown as 33.40 acres on a survey by Engineering, Surveying & Planning, Inc. dated March 26, 1991 and recorded in the office of the Register of Deeds for Lee County in Plat Book V at Page 103. Said tract being bounded and described as follows: On the North by lands now or formerly of J.J. Josey and measuring thereon a distance of 2233.55 feet; on the Southeast by lands now or formerly of David H. Lucas and measuring thereon for the aggregate distance 1900.12 feet; on the southwest by S.C. Highway No. 341 and measuring thereon for the aggregate distance of 1541.86 feet; all measurements being a little more or less;

LESS, HOWEVER, a 1.16 acre tract, deeded to Sonja T. Lucas by deed recorded in the office of the Register of Deeds for Lee County in Deed Book C-8 at Page 268 as shown on a plat by Franklin D. Cooper, Jr., dated May 25, 1996 and recorded in Plat Book E-1 at Page 25, Pursuant to section 30-5-250 of the Code of laws of South Carolina, 1976 as amended, reference to said plat is hereby craved for metes, bounds, courses and or distances of said plat.

Tax Map Number: 008-00-00-009-000

This conveyance is subject to all visible and/or recorded easements, restrictions, covenants, rights-of-way and zoning ordinances which affect said property including but not limited to the following:

A perpetual, non-exclusive thirty (30) foot easement given by Hatcham Grove, Inc. to Charles K. Young as shown by deed recorded in Deed Book D-111 at page 6 in the office of the Register of Deeds for Lee County SC.

This being the same property conveyed to Hatcham Grove, Inc. and Ernestine N. Palmer, Trustee of the Article VI Trust created under the Will of James E. Newman, Deceased by deed of John J. Stucker and April Lucas executed September 19, 2007 and recorded September 20, 2007 in Book 228 at page 182 in the office of the Register of deeds for Lee County South Carolina.

PALMER - 0500

and for the purpose of enabling Borrower to obtain credit therefor, I hereby certify and warrant that the said property is completely free of all security interest, except such as may be created hereunder and has been duly assigned, released, transferred and delivered by me to Borrower and by those present, I do hereby assign, release and transfer unto said Borrower all my right, title and interest in and to said property, and hereby expressly authorize Borrower to pledge or hypothecate all or any part of said property for the indebtedness aforesaid, and all renewals and extensions thereof, and also for any and all other indebtedness of the Borrower to Ernestine N. Palmer, Trustee of the Article IV Trust created under the Will of Mary Denman Newman, Deceased whether alone or with others, direct or indirect, absolute or contingent and howsoever acquired by Ernestine N. Palmer, Trustee of the Article IV Trust created under the Will of Mary Denman Newman, Deceased created and any time before receipt by Ernestine N. Palmer, Trustee of the Article IV Trust created under the Will of Mary Denman Newman, Deceased of written revocation of this authorization, and all renewals and extensions thereof, and I hereby waive notice and statements of all or any such indebtedness or extensions of renewal thereof.

If, with respect to any collateral, a stock dividend is declared, or any stock split made, or any right to subscribe is issued, all certificates for shares representing such stock dividend or stock split, or right to subscribe, will be immediately delivered, duly endorsed, to Ernestine N. Palmer, Trustee of the Article IV Trust created under the Will of Mary Denman Newman, Deceased as additional collateral to this agreement.

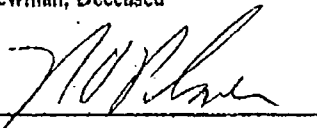
Furthermore, I request that Ernestine N. Palmer, Trustee of the Article IV Trust created under the Will of Mary Denman Newman, Deceased give or continue to give to Borrower credit in the form of loans, renewals or extensions as aforesaid, and in consideration of all or any such credit so granted by Ernestine N. Palmer, Trustee of the Article IV Trust created under the Will of Mary Denman Newman, Deceased. I agree that all or any property pledged or hypothecated as aforesaid, shall be subjected in the hands Ernestine N. Palmer, Trustee of the Article IV Trust created under the Will of Mary Denman Newman, Deceased or those of its assignees, or pledgee or pledgees, to all powers and rights which would apply thereto by contract or otherwise of said property in fact so pledged or hypothecated stood in the name of Borrower himself, and not in my name. You are expressly authorized to give to the Borrower (who is hereby appointed my agent for any and all such purposes) any required notice with respect to the collateral or any substitutions or additions thereto, and the same shall be regarded as notice to me, and to accept and act upon any or all instructions of Borrower regarding any disposition of any or all of the collateral, or any substitutions therefore or additions thereto or proceeds thereof, including any surplus upon sale or other disposition of such collateral or any part thereof, and including, also the delivery or payment of the same or any part thereof to Borrower, or upon his order and you shall have no responsibility for any action taken or omitted at the direction of or on authority from Borrower.

This agreement shall be binding on my heirs, executors, administrators and assignees and shall inure to the benefits of your successors and assignees.

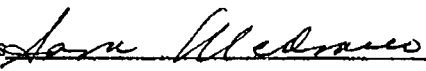

(SEAL)
ERNESTINE N. PALMER, Trustee
of The Article VI Trust Created under the Will
of James E. Newman, Deceased

(SEAL)

Witness



Witness



PALMER - 0501



Chicago Title Insurance Company

POLICY NO.: SC2286-46-07-598-2007.7230640-74484917

OWNER'S POLICY OF TITLE INSURANCE

Issued by

Chicago Title Insurance Company

NOTICE IS HEREBY GIVEN THAT THIS POLICY IS SUBJECT TO ARBITRATION PURSUANT TO THE PROVISIONS OF CHAPTER 48 OF TITLE 15 (SEC. 15-48 ET SEQ.) OF THE SOUTH CAROLINA CODE OF LAWS, 1976, AS AMENDED.

Any notice of claim and any other notice or statement in writing required to be given the Company under this Policy must be given to the Company at the address shown in Section 18 of the Conditions.

COVERED RISKS

SUBJECT TO THE EXCLUSIONS FROM COVERAGE, THE EXCEPTIONS FROM COVERAGE CONTAINED IN SCHEDULE B, AND THE CONDITIONS, CHICAGO TITLE INSURANCE COMPANY, a Missouri corporation (the "Company") insures, as of Date of Policy and, to the extent stated in Covered Risks 9 and 10, after Date of Policy, against loss or damage, not exceeding the Amount of Insurance, sustained or incurred by the Insured by reason of:

1. Title being vested other than as stated in Schedule A.
2. Any defect in or lien or encumbrance on the Title. This Covered Risk includes but is not limited to insurance against loss from:
 - (a) A defect in the Title caused by:
 - (i) forgery, fraud, undue influence, duress, incompetency, incapacity, or impersonation;
 - (ii) failure of any person or Entity to have authorized a transfer or conveyance;
 - (iii) a document affecting Title not properly created, executed, witnessed, sealed, acknowledged, notarized, or delivered;
 - (iv) failure to perform those acts necessary to create a document by electronic means authorized by law;
 - (v) a document executed under a falsified, expired, or otherwise invalid power of attorney;
 - (vi) a document not properly filed, recorded, or indexed in the Public Records including failure to perform those acts by electronic means authorized by law; or
 - (vii) a defective judicial or administrative proceeding.
 - (b) The lien of real estate taxes or assessments imposed on the Title by a governmental authority due or payable, but unpaid.
 - (c) Any encroachment, encumbrance, violation, variation, or adverse circumstance affecting the Title that would be disclosed by an accurate and complete land survey of the Land. The term "encroachment" includes encroachments of existing improvements located on the Land onto adjoining land, and encroachments onto the Land of existing improvements located on adjoining land.
3. Unmarketable Title.
4. No right of access to and from the Land.
5. The violation or enforcement of any law, ordinance, permit, or governmental regulation (including those relating to building and zoning) restricting, regulating, prohibiting, or relating to:
 - (a) the occupancy, use, or enjoyment of the Land;
 - (b) the character, dimensions, or location of any improvement erected on the Land;
 - (c) the subdivision of land; or
 - (d) environmental protection
 if a notice, describing any part of the Land, is recorded in the Public Records setting forth the violation or intention to enforce, but only to the extent of the violation or enforcement referred to in that notice.
6. An enforcement action based on the exercise of a governmental police power not covered by Covered Risk 5 if a notice of the enforcement action, describing any part of the Land, is recorded in the Public Records, but only to the extent of the enforcement referred to in that notice.
7. The exercise of the rights of eminent domain if a notice of the exercise, describing any part of the Land, is recorded in the Public Records.
8. Any taking by a governmental body that has occurred and is binding on the rights of a purchaser for value without knowledge.
9. Title being vested other than as stated Schedule A or being defective:
 - (a) as a result of the avoidance in whole or in part, or from a court order providing an alternative remedy, of a transfer of all or any part of the title to or any interest in the Land occurring prior to the transaction vesting Title as shown in Schedule A because that prior transfer constituted a fraudulent or preferential transfer under federal bankruptcy, state insolvency, or similar creditors' rights laws; or
 - (b) because the instrument of transfer vesting Title as shown in Schedule A constitutes a preferential transfer under federal bankruptcy, state insolvency, or similar creditors' rights laws by reason of the failure of its recording in the Public Records:
 - (i) to be timely, or
 - (ii) to impart notice of its existence to a purchaser for value or to a judgment or lien creditor.
10. Any defect in or lien or encumbrance on the Title or other matter included in Covered Risks 1 through 9 that has been created or attached or has been filed or recorded in the Public Records subsequent to Date of Policy and prior to the recording of the deed or other instrument of transfer in the Public Records that vests Title as shown in Schedule A.

The Company will also pay the costs, attorneys' fees, and expenses incurred in defense of any matter insured against by this Policy, but only to the extent provided in the Conditions.

IN WITNESS WHEREOF, CHICAGO TITLE INSURANCE COMPANY has caused this policy to be signed and sealed by its duly authorized officers.

Countersigned:

Paul M. Fata
Authorized Signatory
Paul M. Fata

SC2286 07-598
Title Insurance Products & Services Agency
115 East Church Street
Bishopville, SC 29010
Tel: (803) 484-5409
Fax: (803) 484-9239

7230640 (6/06)

CHICAGO TITLE INSURANCE COMPANY



By: *James M. Palmer*
ATTEST
James M. Palmer
Secretary

ALTA Owner's Policy **PALMER 0502** (6/17/06)

**OWNERS FORM
CHICAGO TITLE INSURANCE COMPANY
3700 Forest Drive, Suite 201, Columbia, SC 29204**

Issued by: Title Insurance Products & Services Agency, 115 East Church Street, Bishopville, SC 29010

SCHEDULE A

OFFICE FILE NUMBER: 07-598 **POLICY NUMBER:** 7230640-74484917
ADDRESS REFERENCE: Tract 1- 134.02 acres and Tract 2- 33.40 acres, ,
AMOUNT OF INSURANCE: \$600,000.00
DATE OF POLICY: September 20, 2007, at 12:24pm

1. Name of Insured:

Hatcham Grove, Inc and Ernestine N. Palmer, Trustee Under the Article VI Trust created under the Will of James E. Newman, Deceased

2. The estate or interest in the Land covered by this policy is:

Fee Simple

3. Title is vested in:

Hatcham Grove, Inc and Ernestine N. Palmer, Trustee Under the Article VI Trust created under the Will of James E. Newman, Deceased.

4. The land referred to in this policy is described as follows:

Tract No. 1: All that certain piece, parcel or tract of land situate, lying and being in the Turkey Creek Township, County of Lee, State of South Carolina, shown as Parcel A and containing 134.02 acres as shown on a plat by Ervin Engineering Co., Inc., dated June 11, 1986, recorded in the office of the Register of Deeds for Lee County in Plat Book V at page 126. Said tract has such shape, metes, courses and distances as is shown on said Survey, and is bounded generally on the Northeast by land now or formerly of David H. Lucas, on which it measures 1721 feet; on the East by land now or formerly of David H. Lucas, on which it measures 2029.7 feet; on the South by land now or formerly of Adline Hopkins, J.R. Kelley and Elizabeth Tarleton, on which it measures 1931.97 feet, and by lands now or formerly of R.H. Fountain and G.E. Locklair, on which it measures 1039.82 feet; on the West by S.C. Highway 341 by Parcel C and by Parcel B, on which it fronts and measures in the aggregate 2070.86 feet; and on the Northwest by land now or formerly of David H. Lucas and Turkey Creek Land and Cattle Co., on which it measures 1900.48 feet.

Tract No. 2: All that certain piece, parcel or tract of land with improvements thereon situate, lying and being in the Turkey Creek Community, Lee County, South Carolina, shown as 33.40 acres on a survey by Engineering, Surveying & Planning, Inc. dated March 26, 1991 and recorded in the office of the Register of Deeds for Lee County in Plat Book V at Page 103. Said tract being bounded and described as follows: On the North by lands now or formerly of J.J. Josey and measuring thereon a distance of 2233.55 feet; on the Southeast by lands now or formerly of David H. Lucas and measuring thereon for the aggregate distance 1900.12 feet; on the southwest by S.C. Highway No. 341 and measuring thereon for the aggregate distance of 1541.86 feet; all measurements being a little more or less;

LESS, HOWEVER, a 1.16 acre tract, deeded to Sonja T. Lucas by deed recorded in the office of the

This Policy valid only if Schedule B is attached.

SCHEDULE A
Owners Form
(Rev. 6/06)

PALMER - 0503

Register of Deeds for Lee County in Deed Book C-8 at Page 268 as shown on a plat by Franklin D. Cooper, Jr., dated May 25, 1996 and recorded in Plat Book E-1 at Page 25. Pursuant to section 30-5-250 of the Code of laws of South Carolina, 1976 as amended, reference to said plat is hereby craved for metes, bounds, courses and or distances of said plat.

This conveyance is subject to all visible and/or recorded easements, restrictions, covenants, rights-of-way and zoning ordinances which affect said property including but not limited to the following:
A perpetual, non-exclusive thirty (30) foot easement given by Hatcham Grove, Inc. to Charles K. Young as shown by deed recorded in Deed Book D-111 at page 6 in the office of the Register of Deeds for Lee County SC.

**OWNERS FORM
CHICAGO TITLE INSURANCE COMPANY
SCHEDULE B**

OFFICE FILE NUMBER: 07-598

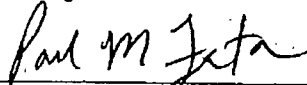
POLICY NUMBER: 7230640-74484917

EXCEPTIONS FROM COVERAGE

This policy does not insure against loss or damage (and the Company will not pay costs, attorneys' fees or expenses) that arise by reason of:

1. Rights or claims of parties in possession not shown by the Public Records.
2. Any encroachment, encumbrance, violation or adverse circumstances affecting the Title that would be disclosed by an accurate and complete land survey of the Land.
3. Easements, or claims of easements, not shown by the Public Records.
4. Any lien, or right to a lien, for services, labor, or material heretofore or hereafter furnished, imposed by law and not shown by the Public Records.
5. Taxes or special assessments which are not shown as existing liens by the public records.
6. Mortgage from Hatcham Grove, Inc and Ernestine N. Palmer, Trustee Under the Article VI Trust created under the Will of James E. Newman, Deceased to Ernestine N. Palmer, Trustee of the Article IV Trust created under Will of Mary Denman Newman, Deceased dated 09/20/07, in the original principal amount of \$700,000.00, recorded on 09/20/07, at 12:15pm in Mortgage Book 422 at Page 80, Lee County Records.
7. Taxes and assessments for the year 2007, and subsequent years, which are a lien, but are not yet due and payable.
8. Option to Purchase recorded September, 21, 2007 in Deed Book D228 at Page 185 in the office of the Register for Deeds for Lee County.
9. Subject to a perpetual, non-exclusive thirty (30) foot easement given by Hatcham Grove, Inc. to Charles K. Young as shown by deed recorded in Deed Book D-111 at page 6 in the office of the Register of Deeds for Lee County SC.
10. Any taxes assessed under the rollback provisions of Section 12-43-220 (D-4) South Carolina Code of Laws 1976 as amended.

Countersigned



Authorized Signatory

Schedule B of this Policy consists of 2 page(s).

SCHEDULE B
Owners Form
(Rev. 6/06)

PALMER - 0505

EXCLUSIONS FROM COVERAGE

The following matters are expressly excluded from the coverage of this policy, and the Company will not pay loss or damage, costs, attorneys' fees, or expenses that arise by reason of:

1. (a) Any law, ordinance, permit, or governmental regulation (including those relating to building and zoning) restricting, regulating, prohibiting, or relating to
 - (i) the occupancy, use, or enjoyment of the Land;
 - (ii) the character, dimensions or location of any improvement erected on the Land;
 - (iii) the subdivision of land; or
 - (iv) environmental protection;
 or the effect of any violation of these laws, ordinances, or governmental regulations. This Exclusion 1(a) does not modify or limit the coverage provided under Covered Risk 5.
- (b) Any governmental police power. This Exclusion 1(b) does not modify or limit the coverage provided under Covered Risk 6.
2. Rights of eminent domain. This Exclusion does not modify or limit the coverage provided under Covered Risk 7 or 8.
3. Defects, liens, encumbrances, adverse claims, or other matters:
 - (a) created, suffered, assumed, or agreed to by the Insured Claimant;
 - (b) not Known to the Company, not recorded in the Public Records at Date of Policy, but Known to the Insured Claimant and not disclosed in writing to the Company by the Insured Claimant prior to the date the Insured Claimant became an Insured under this policy;
 - (c) resulting in no loss or damage to the Insured Claimant;
 - (d) attaching or created subsequent to Date of Policy (however, this does not modify or limit the coverage provided under Covered Risk 9 and 10); or
 - (e) resulting in loss or damage that would not have been sustained if the Insured Claimant had paid value for the Title.
4. Any claim, by reason of the operation of federal bankruptcy, state insolvency, or similar creditors' rights laws, that the transaction vesting the Title as shown in Schedule A, is
 - (a) a fraudulent conveyance or fraudulent transfer; or
 - (b) a preferential transfer for any reason not stated in Covered Risk 9 of this policy.
5. Any lien on the Title for real estate taxes or assessments imposed by governmental authority and created or attaching between Date of Policy and the date of recording of the deed or other instrument of transfer in the Public Records that vests Title as shown in Schedule A.

CONDITIONS

1. DEFINITION OF TERMS

The following terms when used in this policy mean:

(a) "Amount of Insurance": The amount stated in Schedule A, as may be increased or decreased by endorsement to this policy, increased by Section 8(b), or decreased by Sections 10 and 11 of these Conditions.

(b) "Date of Policy": The date designated as "Date of Policy" in Schedule A.

(c) "Entity": A corporation, partnership, trust, limited liability company, or other similar legal entity.

(d) "Insured": The Insured named in Schedule A.

(i) The term "Insured" also includes

(A) successors to the Title of the Insured by operation of law as distinguished from purchase, including heirs, devisees, survivors, personal representatives, or next of kin;

(B) successors to an Insured by dissolution, merger, consolidation, distribution, or reorganization;

(C) successors to an Insured by its conversion to another kind of Entity;

(D) a grantee of an Insured under a deed delivered without payment of actual valuable consideration conveying the Title

(1) if the stock, shares, memberships, or other equity interests of the grantee are wholly-owned by the named Insured,

(2) if the grantee wholly owns the named Insured,

(3) if the grantee is wholly-owned by an affiliated Entity of the named Insured, provided the affiliated Entity and the named Insured are both wholly-owned by the same person or Entity, or

(4) if the grantee is a trustee or beneficiary of a trust created by a written instrument established by the Insured named in Schedule A for estate planning purposes.

(ii) With regard to (A), (B), (C), and (D) reserving, however, all rights and defenses as to any successor that the Company would have had against any predecessor Insured.

(e) "Insured Claimant": An Insured claiming loss or damage.

(f) "Knowledge" or "Known": Actual knowledge, not constructive knowledge or notice that may be imputed to an Insured by reason of the Public Records or any other records that impart constructive notice of matters affecting the Title.

(g) "Land": The land described in Schedule A, and affixed improvements that by law constitute real property. The term "Land" does not include any property beyond the lines of the area described in Schedule A, nor any right, title, interest, estate, or easement in abutting streets, roads, avenues, alleys, lanes, ways, or waterways, but this does not modify or limit the extent that a right of access to and from the Land is insured by this policy.

(h) "Mortgage": Mortgage, deed of trust, trust deed, or other security instrument, including one evidenced by electronic means authorized by law.

(i) "Public Records": Records established under state statutes at Date of Policy for the purpose of imparting constructive notice of matters relating to real property to purchasers for value and without Knowledge. With respect to Covered Risk 5(d), "Public Records" shall also include environmental protection liens filed in the records of the clerk of the United States District Court for the district where the Land is located.

(j) "Title": The estate or interest described in Schedule A.

(k) "Unmarketable Title": Title affected by an alleged or apparent matter that would permit a prospective purchaser or lessee of the Title or lender on the Title to be released

from the obligation to purchase, lease, or lend if there is a contractual condition requiring the delivery of marketable title.

2. CONTINUATION OF INSURANCE

The coverage of this policy shall continue in force as of Date of Policy in favor of an Insured, but only so long as the Insured retains an estate or interest in the Land, or holds an obligation secured by a purchase money Mortgage given by a purchaser from the Insured, or only so long as the Insured shall have liability by reason of warranties in any transfer or conveyance of the Title. This policy shall not continue in force in favor of any purchaser from the Insured of either (i) an estate or interest in the Land, or (ii) an obligation secured by a purchase money Mortgage given to the Insured.

3. NOTICE OF CLAIM TO BE GIVEN BY INSURED CLAIMANT

The Insured shall notify the Company promptly in writing (i) in case of any litigation as set forth in Section 5(a) of these Conditions, (ii) in case Knowledge shall come to an Insured hereunder of any claim of title or interest that is adverse to the Title, as insured, and that might cause loss or damage for which the Company may be liable by virtue of this policy, or (iii) if the Title, as insured, is rejected as Unmarketable Title. If the Company is prejudiced by the failure of the Insured Claimant to provide prompt notice, the Company's liability to the Insured Claimant under the policy shall be reduced to the extent of the prejudice.

4. PROOF OF LOSS

In the event the Company is unable to determine the amount of loss or damage, the Company may, at its option, require as a condition of payment that the Insured Claimant furnish a signed proof of loss. The proof of loss must describe the defect, lien, encumbrance, or other matter insured against by this policy that constitutes the basis of loss or damage and shall state, to the extent possible, the basis of calculating the amount of the loss or damage.

5. DEFENSE AND PROSECUTION OF ACTIONS

(a) Upon written request by the Insured, and subject to the options contained in Section 7 of these Conditions, the Company, at its own cost and without unreasonable delay, shall provide for the defense of an Insured in litigation in which any third party asserts a claim covered by this policy adverse to the Insured. This obligation is limited to only those stated causes of action alleging matters insured against by this policy. The Company shall have the right to select counsel of its choice (subject to the right of the Insured to object for reasonable cause) to represent the Insured as to those stated causes of action. It shall not be liable for and will not pay the fees of any other counsel. The Company will not pay any fees, costs, or expenses incurred by the Insured in the defense of those causes of action that allege matters not insured against by this policy.

(b) The Company shall have the right, in addition to the options contained in Section 7 of these Conditions, at its own cost, to institute and prosecute any action or proceeding or to do any other act that in its opinion may be necessary or desirable to establish the Title, as insured, or to prevent or reduce loss or damage to the Insured. The Company may take any appropriate action under the terms of this policy, whether or not it shall be liable to the Insured. The exercise of these rights shall not be an admission of liability or waiver of any provision of this policy. If the Company exercises its rights under this subsection, it must do so diligently.

(c) Whenever the Company brings an action or asserts a defense as required or permitted by this policy, the Company may pursue the litigation to a final determination by a court of competent jurisdiction, and it expressly reserves the right, in its sole discretion, to appeal from any adverse judgment or order.

6. DUTY OF INSURED CLAIMANT TO COOPERATE

(a) In all cases where this policy permits or requires the Company to prosecute or provide for the defense of any action or proceeding and any appeals, the Insured shall secure to the Company the right to so prosecute or provide defense in the action or proceeding, including the right to use, at its option, the name of the Insured for this purpose. Whenever requested by the Company, the Insured, at the Company's expense, shall give the Company all reasonable aid (i) in securing evidence, obtaining witnesses, prosecuting or defending the action or proceeding, or effecting settlement, and (ii) in any other lawful act that in the opinion of the Company may be necessary or desirable to establish the Title or any other matter as insured. If the Company is prejudiced by the failure of the Insured to furnish the required cooperation, the Company's obligations to the Insured under the policy shall terminate, including any liability or obligation to defend, prosecute, or continue any litigation, with regard to the matter or matters requiring such cooperation.

(b) The Company may reasonably require the Insured Claimant to submit to examination under oath by any authorized representative of the Company and to produce for examination, inspection, and copying, at such reasonable times and places as may be designated by the authorized representative of the Company, all records, in whatever medium maintained, including books, ledgers, checks, memoranda, correspondence, reports, e-mails, disks, tapes, and videos whether bearing a date before or after Date of Policy, that reasonably pertain to the loss or damage. Further, if requested by any authorized representative of the Company, the Insured Claimant shall grant its permission, in writing, for any authorized representative of the Company to examine, inspect, and copy all of these records in the custody or control of a third party that reasonably pertain to the loss or damage. All information designated as confidential by the Insured Claimant provided to the Company pursuant to this Section shall not be disclosed to others unless, in the reasonable judgment of the Company, it is necessary in the administration of the claim. Failure of the Insured Claimant to submit for examination under oath, produce any reasonably requested information, or grant permission to secure reasonably necessary information from third parties as required in this subsection, unless prohibited by law or governmental regulation, shall terminate any liability of the Company under this policy as to that claim.

7. OPTIONS TO PAY OR OTHERWISE SETTLE CLAIMS; TERMINATION OF LIABILITY

In case of a claim under this policy, the Company shall have the following additional options:

(a) To Pay or Tender Payment of the Amount of Insurance.

To pay or tender payment of the Amount of Insurance under this policy together with any costs, attorneys' fees, and expenses incurred by the Insured Claimant that were authorized by the Company up to the time of payment or tender of payment and that the Company is obligated to pay.

Upon the exercise by the Company of this option, all liability and obligations of the Company to the Insured under this policy, other than to make the payment required in this subsection, shall terminate, including any liability or obligation to defend, prosecute, or continue any litigation.

(b) To Pay or Otherwise Settle With Parties Other Than the Insured or With the Insured Claimant.

(i) To pay or otherwise settle with other parties for or in the name of an Insured Claimant any claim insured against under this policy. In addition, the Company will pay any costs, attorneys' fees, and expenses incurred by the Insured Claimant that were authorized by the Company up to the time of payment and that the Company is obligated to pay; or

(ii) To pay or otherwise settle with the Insured Claimant the loss or damage provided for under this policy, together with any costs, attorneys' fees, and expenses incurred by the Insured Claimant that were authorized by the Company up to the time of payment and that the Company is obligated to pay.

Upon the exercise by the Company of either of the options provided for in subsections (b)(i) or (ii), the Company's obligations to the Insured under this policy for the claimed loss or damage, other than the payments required to be made, shall terminate, including any liability or obligation to defend, prosecute, or continue any litigation.

8. DETERMINATION AND EXTENT OF LIABILITY

This policy is a contract of indemnity against actual monetary loss or damage sustained or incurred by the Insured Claimant who has suffered loss or damage by reason of matters insured against by this policy.

(a) The extent of liability of the Company for loss or damage under this policy shall not exceed the lesser of

(i) the Amount of Insurance; or

(ii) the difference between the value of the Title as insured and the value of the Title subject to the risk insured against by this policy.

(b) If the Company pursues its rights under Section 5 of these Conditions and is unsuccessful in establishing the Title, as insured,

(i) the Amount of Insurance shall be increased by 10%, and

(ii) the Insured Claimant shall have the right to have the loss or damage determined either as of the date the claim was made by the Insured Claimant or as of the date it is settled and paid.

(c) In addition to the extent of liability under (a) and (b), the Company will also pay those costs, attorneys' fees, and expenses incurred in accordance with Sections 5 and 7 of these Conditions.

9. LIMITATION OF LIABILITY

(a) If the Company establishes the Title, or removes the alleged defect, lien or encumbrance, or cures the lack of a right of access to or from the Land, or cures the claim of Unmarketable Title, all as insured, in a reasonably diligent manner by any method, including litigation and the completion of any appeals, it shall have fully performed its obligations with respect to that matter and shall not be liable for any loss or damage caused to the Insured.

(b) In the event of any litigation, including litigation by the Company or with the Company's consent, the Company shall have no liability for loss or damage until there has been a final determination by a court of competent jurisdiction, and disposition of all appeals, adverse to the Title, as insured.

(c) The Company shall not be liable for loss or damage to the Insured for liability voluntarily assumed by the Insured in settling any claim or suit without the prior written consent of the Company.

10. REDUCTION OF INSURANCE; REDUCTION OR TERMINATION OF LIABILITY

All payments under this policy, except payments made for costs, attorneys' fees, and expenses, shall reduce the Amount of Insurance by the amount of the payment.

11. LIABILITY NONCUMULATIVE

The Amount of Insurance shall be reduced by any amount the Company pays under any policy insuring a Mortgage to which exception is taken in Schedule B or to which the Insured has agreed, assumed, or taken subject, or which is executed by an Insured after Date of Policy and which is a charge or lien on the Title, and the amount so paid shall be deemed a payment to the Insured under this policy.

12. PAYMENT OF LOSS

When liability and the extent of loss or damage have been definitely fixed in accordance with these Conditions, the payment shall be made within 30 days.

13. RIGHTS OF RECOVERY UPON PAYMENT OR SETTLEMENT

(a) Whenever the Company shall have settled and paid a claim under this policy, it shall be subrogated and entitled to the rights of the Insured Claimant in the Title and all other rights and remedies in respect to the claim that the Insured Claimant has against any person or property, to the extent of the amount of any loss, costs, attorneys' fees, and expenses paid by the Company. If requested by the Company, the Insured Claimant shall execute documents to evidence the transfer to the Company of these rights and remedies. The Insured Claimant shall permit the Company to sue, compromise, or settle in the name of the Insured Claimant and to use the name of the Insured Claimant in any transaction or litigation involving these rights and remedies.

If a payment on account of a claim does not fully cover the loss of the Insured Claimant, the Company shall defer the exercise of its right to recover until after the Insured Claimant shall have recovered its loss.

(b) The Company's right of subrogation includes the rights of the Insured to indemnities, guaranties, other policies of insurance, or bonds, notwithstanding any terms or conditions contained in those instruments that address subrogation rights.

14. ARBITRATION

Either the Company or the Insured may demand that the claim or controversy shall be submitted to arbitration pursuant to the Title Insurance Arbitration Rules of the American Land Title Association ("Rules"). Except as provided in the Rules, there shall be no joinder or consolidation with claims or controversies of other persons. Arbitrable matters may include, but are not limited to, any controversy or claim between the Company and the Insured arising out of or relating to this policy, any service in connection with its issuance or the breach of a policy provision, or to any other controversy or claim arising out of the transaction giving rise to this policy. All arbitrable matters when the Amount of Insurance is \$2,000,000 or less shall be arbitrated at the option of either the Company or the Insured. All arbitrable matters when the Amount of Insurance is in excess of \$2,000,000 shall be arbitrated only when agreed to by both the Company and the Insured. Arbitration pursuant to this policy and under the Rules shall be binding upon the parties. Judgment upon the award rendered by the Arbitrator(s) may be entered in any court of competent jurisdiction.

15. LIABILITY LIMITED TO THIS POLICY; POLICY ENTIRE CONTRACT

(a) This policy together with all endorsements, if any, attached to it by the Company is the entire policy and contract between the Insured and the Company. In interpreting any provision of this policy, this policy shall be construed as a whole.

(b) Any claim of loss or damage that arises out of the status of the Title or by any action asserting such claim shall be restricted to this policy.

(c) Any amendment of or endorsement to this policy must be in writing and authenticated by an authorized person, or expressly incorporated by Schedule A of this policy.

(d) Each endorsement to this policy issued at any time is made a part of this policy and is subject to all of its terms and provisions. Except as the endorsement expressly states, it does not (i) modify any of the terms and provisions of the policy, (ii) modify any prior endorsement, (iii) extend the Date of Policy, or (iv) increase the Amount of Insurance.

16. SEVERABILITY

In the event any provision of this policy, in whole or in part, is held invalid or unenforceable under applicable law, the policy shall be deemed not to include that provision or such part held to be invalid, but all other provisions shall remain in full force and effect.

17. CHOICE OF LAW; FORUM

(a) Choice of Law: The Insured acknowledges the Company has underwritten the risks covered by this policy and determined the premium charged therefor in reliance upon the law affecting interests in real property and applicable to the interpretation, rights, remedies, or enforcement of policies of title insurance of the jurisdiction where the Land is located.

Therefore, the court or an arbitrator shall apply the law of the jurisdiction where the Land is located to determine the validity of claims against the Title that are adverse to the

Insured and to interpret and enforce the terms of this policy. In neither case shall the court or arbitrator apply its conflicts of law principles to determine the applicable law.

(b) Choice of Forum: Any litigation or other proceeding brought by the Insured against the Company must be filed only in a state or federal court within the United States of America or its territories having appropriate jurisdiction.

18. NOTICES, WHERE SENT

Any notice of claim and any other notice or statement in writing required to be given to the Company under this policy must be given to the Company at Chicago Title Insurance Company, Attn: Claims Department, P. O. Box 45023, Jacksonville, Florida 32232-5023.



Chicago Title Insurance Company

POLICY NO.: SC2286-46-07-598-2007.7230740-74484907

LOAN POLICY OF TITLE INSURANCE

Issued by

Chicago Title Insurance Company

NOTICE IS HEREBY GIVEN THAT THIS POLICY IS SUBJECT TO ARBITRATION PURSUANT TO THE PROVISIONS OF CHAPTER 48 OF TITLE 15 (SEC. 15-48-10 ET SEQ.) OF THE SOUTH CAROLINA CODE OF LAWS, 1976, AS AMENDED.

Any notice of claim and any other notice or statement in writing required to be given to the Company under this Policy must be given to the Company at the address shown in Section 17 of the Conditions.

COVERED RISKS

SUBJECT TO THE EXCLUSIONS FROM COVERAGE, THE EXCEPTIONS FROM COVERAGE CONTAINED IN SCHEDULE B, AND THE CONDITIONS, CHICAGO TITLE INSURANCE COMPANY, a Missouri corporation (the "Company") insures as of Date of Policy and, to the extent stated in Covered Risks 11, 13, and 14, after Date of Policy, against loss or damage, not exceeding the Amount of Insurance, sustained or incurred by the Insured by reason of:

1. Title being vested other than as stated in Schedule A.
2. Any defect in or lien or encumbrance on the Title. This Covered Risk includes but is not limited to insurance against loss from
 - (a) A defect in the Title caused by
 - (i) forgery, fraud, undue influence, duress, incompetency, incapacity, or impersonation;
 - (ii) failure of any person or Entity to have authorized a transfer or conveyance;
 - (iii) a document affecting Title not properly created, executed, witnessed, sealed, acknowledged, notarized, or delivered;
 - (iv) failure to perform those acts necessary to create a document by electronic means authorized by law;
 - (v) a document executed under a falsified, expired, or otherwise invalid power of attorney;
 - (vi) a document not properly filed, recorded, or indexed in the Public Records including failure to perform those acts by electronic means authorized by law; or
 - (vii) a defective judicial or administrative proceeding.
 - (b) The lien of real estate taxes or assessments imposed on the Title by a governmental authority due or payable, but unpaid.
 - (c) Any encroachment, encumbrance, violation, variation, or adverse circumstance affecting the Title that would be disclosed by an accurate and complete land survey of the Land. The term "encroachment" includes encroachments of existing improvements located on the Land onto adjoining land, and encroachments onto the Land of existing improvements located on adjoining land.
3. Unmarketable Title.
4. No right of access to and from the Land.
5. The violation or enforcement of any law, ordinance, permit, or governmental regulation (including those relating to building and zoning) restricting, regulating, prohibiting, or relating to
 - (a) the occupancy, use, or enjoyment of the Land;
 - (b) the character, dimensions, or location of any improvement erected on the Land;
 - (c) the subdivision of land; or
 - (d) environmental protection
 if a notice, describing any part of the Land, is recorded in the Public Records setting forth the violation or intention to enforce, but only to the extent of the violation or enforcement referred to in that notice.
6. An enforcement action based on the exercise of a governmental police power not covered by Covered Risk 5 if a notice of the enforcement action, describing any part of the Land, is recorded in the Public Records, but only to the extent of the enforcement referred to in that notice.
7. The exercise of the rights of eminent domain if a notice of the exercise, describing any part of the Land, is recorded in the Public Records.
8. Any taking by a governmental body that has occurred and is binding on the rights of a purchaser for value without Knowledge.
9. The invalidity or unenforceability of the lien of the Insured Mortgage upon the Title. This Covered Risk includes but is not limited to insurance against loss from any of the following impairing the lien of the Insured Mortgage
 - (a) forgery, fraud, undue influence, duress, incompetency, incapacity, or impersonation;
 - (b) failure of any person or Entity to have authorized a transfer or conveyance;
 - (c) the Insured Mortgage not being properly created, executed, witnessed, sealed, acknowledged, notarized, or delivered;
 - (d) failure to perform those acts necessary to create a document by electronic means authorized by law;
 - (e) a document executed under a falsified, expired, or otherwise invalid power of attorney;
 - (f) a document not properly filed, recorded, or indexed in the Public Records including failure to perform those acts by electronic means authorized by law; or
 - (g) a defective judicial or administrative proceeding.
10. The lack of priority of the lien of the Insured Mortgage upon the Title over any other lien or encumbrance.
11. The lack of priority of the lien of the Insured Mortgage upon the Title
 - (a) as security for each and every advance of proceeds of the loan secured by the Insured Mortgage over any statutory lien for services, labor, or material arising from construction of an improvement or work related to the Land when the improvement or work is either
 - (i) contracted for or commenced on or before Date of Policy; or
 - (ii) contracted for, commenced or continued after Date of Policy if the construction is financed, in whole or in part, by proceeds of the loan secured by the Insured Mortgage that the Insured has advanced or is obligated on Date of Policy to advance; and
 - (b) over the lien of any assessments for street improvements under construction or completed at Date of Policy.

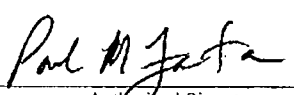
12. The invalidity or unenforceability of any assignment of the Insured Mortgage, provided the assignment is shown in Schedule A, or the failure of the assignment shown in Schedule A to vest title to the Insured Mortgage in the named Insured assignee free and clear of all liens.
13. The invalidity, unenforceability, lack of priority, or avoidance of the lien of the Insured Mortgage upon the Title
- (a) resulting from the avoidance in whole or in part, or from a court order providing an alternative remedy, of any transfer of all or any part of the title to or any interest in the Land occurring prior to the transaction creating the lien of the Insured Mortgage because that prior transfer constituted a fraudulent or preferential transfer under federal bankruptcy, state insolvency, or similar creditors' rights laws; or
 - (b) because the Insured Mortgage constitutes a preferential transfer under federal bankruptcy, state insolvency, or similar creditors' rights laws by reason of the failure of its recording in the Public Records
 - (i) to be timely, or
 - (ii) to impart notice of its existence to a purchaser for value or to a judgment or lien creditor.
14. Any defect in or lien or encumbrance on the Title or other matter included in Covered Risks 1 through 13 that has been created or attached or has been filed or recorded in the Public Records subsequent to Date of Policy and prior to the recording of the Insured Mortgage in the Public Records.

The Company will also pay the costs, attorneys' fees, and expenses incurred in defense of any matter insured against by this Policy, but only to the extent provided in the Conditions.

IN WITNESS WHEREOF, CHICAGO TITLE INSURANCE COMPANY has caused this policy to be signed and sealed by its duly authorized officers.

CHICAGO TITLE INSURANCE COMPANY

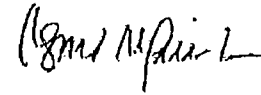
Countersigned:


Authorized Signatory
Paul M. Fata

SC2286 07-598
Title Insurance Products & Services Agency
115 East Church Street
Bishopville, SC 29010
Tel: (803) 484-5409
Fax: (803) 484-9239

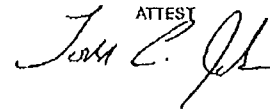


By:



President

ATTEST



Secretary

LOAN FORM
CHICAGO TITLE INSURANCE COMPANY
3700 Forest Drive, Suite 201, Columbia, SC 29204
Issued by: Title Insurance Products & Services Agency, 115 East Church Street, Bishopville, SC 29010
SCHEDULE A

OFFICE FILE NUMBER: 07-598 **POLICY NUMBER:** 7230740-74484907
LOAN NUMBER:
ADDRESS REFERENCE: 3760 Bethune Highway, Bishopville, South Carolina 29010
AMOUNT OF INSURANCE: \$700,000.00 **PREMIUM:** \$871.50
DATE OF POLICY: 09/20/07 at 12:24pm

1. Name of Insured:

Ernestine N. Palmer, Trustee of the Article IV Trust created under Will of Mary Denman Newman, Deceased, its successors and/or assigns as their respective interests may appear.

2. The estate or interest in the Land which is encumbered by the Insured Mortgage is:

Fee Simple

3. Title is vested in:

Hatcham Grove, Inc and Ernestine N. Palmer, Trustee Under the Article VI Trust created under the Will of James E. Newman, Deceased

4. The Insured Mortgage, and its assignments, if any, are described as follows:

Mortgage from Hatcham Grove, Inc and Ernestine N. Palmer, Trustee Under the Article VI Trust created under the Will of James E. Newman, Deceased to Ernestine N. Palmer, Trustee of the Article IV Trust created under Will of Mary Denman Newman, Deceased dated 09/20/07, in the original principal amount of \$700,000.00, recorded on 09/20/07, at 12:15pm in Mortgage Book 422 at Page 80, Lee County Records.

5. The Land referred to in this Policy is described as follows:

Tract No. 1: All that certain piece, parcel or tract of land situate, lying and being in the Turkey Creek Township, County of Lee, State of South Carolina, shown as Parcel A and containing 134.02 acres as shown on a plat by Ervin Engineering Co., Inc., dated June 11, 1986, recorded in the office of the Register of Deeds for Lee County in Plat Book V at page 126. Said tract has such shape, metes, courses and distances as is shown on said Survey, and is bounded generally on the Northeast by land now or formerly of David H. Lucas, on which it measures 1721 feet; on the East by land now or formerly of David H. Lucas, on which it measures 2029.7 feet; on the South by land now or formerly of Adline Hopkins, J.R. Kelley and Elizabeth Tarleton, on which it measures 1931.97 feet, and by lands now or formerly of R.H. Fountain and G.E. Locklair, on which it measures 1039.82 feet; on the West by S.C. Highway 341 by Parcel C and by Parcel B, on which it fronts and measures in the aggregate 2070.86 feet; and on the Northwest by land now or formerly of David H. Lucas and Turkey Creek Land and Cattle Co., on which it measures 1900.48 feet.

Tract No. 2: All that certain piece, parcel or tract of land with improvements thereon situate, lying and being in the Turkey Creek Community, Lee County, South Carolina, shown as 33.40 acres on a survey by Engineering, Surveying & Planning, Inc. dated March 26, 1991 and recorded in the office of the Register of Deeds for Lee County in Plat Book V at Page 103. Said tract being bounded and described as follows: On the North by lands now or formerly of J.J. Josey and measuring thereon a distance of 2233.55 feet; on the Southeast by lands now or formerly of David H. Lucas and measuring thereon for the aggregate distance

SCHEDULE A
Loan Form (Rev. 6/06)

This Policy valid only if Schedule B is attached.

PALMER - 0511

1900.12 feet; on the southwest by S.C. Highway No. 341 and measuring thereon for the aggregate distance of 1541.86 feet; all measurements being a little more or less;

LESS, HOWEVER, a 1.16 acre tract, deeded to Sonja T. Lucas by deed recorded in the office of the Register of Deeds for Lee County in Deed Book C-8 at Page 268 as shown on a plat by Franklin D. Cooper, Jr., dated May 25, 1996 and recorded in Plat Book E-1 at Page 25. Pursuant to section 30-5-250 of the Code of laws of South Carolina, 1976 as amended, reference to said plat is hereby craved for metes, bounds, courses and or distances of said plat.

This conveyance is subject to all visible and/or recorded easements, restrictions, covenants, rights-of-way and zoning ordinances which affect said property including but not limited to the following:

A perpetual, non-exclusive thirty (30) foot easement given by Hatcham Grove, Inc. to Charles K. Young as shown by deed recorded in Deed Book D-111 at page 6 in the office of the Register of Deeds for Lee County SC.

6. This Policy incorporates by reference those ALTA endorsements selected below:

- | | |
|--|---|
| ☐ 4-06 | (Condominium) |
| ☐ 5-06 | (Planned Unit Development) |
| ☐ 6-06 | (Variable Rate) |
| ☐ 6.2-06 | (Variable Rate – Negative Amortization) |
| ☒ 8.1-06 | (Environmental Protection Lien) Paragraph b refers to the following state statute(s): NONE |
| ☐ 9-06 | (Restrictions, Encroachments, Minerals) |
| ☐ 13.1-06 | (Leasehold) |
| ☐ 14-06 | (Future Advance – Priority) |
| ☐ 14.1-06 | (Future Advance – Knowledge) |
| ☐ 14.3-06 | (Future Advance – Reverse Mortgage) |
| ☐ 22-06 | (Location) The type of improvement is a _____ and the street address is as shown above. |

LOAN FORM
CHICAGO TITLE INSURANCE COMPANY
SCHEDULE B

OFFICE FILE NUMBER: 07-598

POLICY NUMBER: 7230740-74484907

EXCEPTIONS FROM COVERAGE

Except as provided in Schedule B – Part II, this policy does not insure against loss or damage (and the Company will not pay costs, attorneys' fees or expenses) which arise by reason of:

PART I

1. Rights or claims of parties in possession not shown by Public Records.
2. Any encroachment, encumbrance, violation or adverse circumstances affecting the Title that would be disclosed by an accurate and complete land survey of the Land.
3. Easements or claims of easements not shown by the Public Records.
4. Any lien or right to lien, for services, labor, or minerals heretofore furnished, imposed by law and not shown by the Public Records.
5. Taxes or special assessments which are not shown as existing liens by the Public Records.

NOTE: EXCEPTIONS 1-5 ABOVE ARE DELETED.

6. Taxes and assessments for the year 2007, and subsequent years, which are a lien, but are not yet due and payable.
7. Option to Purchase recorded September, 21, 2007 in Deed Book D228 at Page 185 in the office of the Register for Deeds for Lee County.
8. Subject to a perpetual, non-exclusive thirty (30) foot easement given by Hatcham Grove, Inc. to Charles K. Young as shown by deed recorded in Deed Book D-111 at page 6 in the office of the Register of Deeds for Lee County SC.
9. Any taxes assessed under the rollback provisions of Section 12-43-220 (D-4) South Carolina Code of Laws 1976 as amended.

Countersigned



Authorized Signatory

Schedule B of this Policy consists of 2 page(s).

SCHEDULE B(EXTENDED COVERAGE)

Loan Form - 2006 (Rev. 6/06)

PALMER - 0513

8.

**LOAN FORM
CHICAGO TITLE INSURANCE COMPANY
SCHEDULE B**

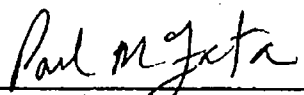
OFFICE FILE NUMBER: 07-598 POLICY NUMBER: 7230740-74484907

PART-II

In addition to the matters set forth in Part I of this Schedule, the Title is subject to the following matters and the Company insures against loss or damage sustained in the event that they are not subordinate to the lien of the Insured Mortgage:

NONE

Countersigned



Authorized Signatory

Schedule B of this Policy consists of 2 page(s).

SCHEDULE B(EXTENDED COVERAGE)
Loan Form - 2006 (Rev. 6/06)

PALMER - 0514

EXCLUSIONS FROM COVERAGE

The following matters are expressly excluded from the coverage of this policy, and the Company will not pay loss or damage, costs, attorneys' fees, or expenses that arise by reason of:

1. (a) Any law, ordinance, permit, or governmental regulation (including those relating to building and zoning) restricting, regulating, prohibiting, or relating to
 - (i) the occupancy, use, or enjoyment of the Land;
 - (ii) the character, dimensions, or location of any improvement erected on the Land;
 - (iii) the subdivision of land; or
 - (iv) environmental protection;
 or the effect of any violation of these laws, ordinances, or governmental regulations. This Exclusion 1(a) does not modify or limit the coverage provided under Covered Risk 5.
- (b) Any governmental police power. This Exclusion 1(b) does not modify or limit the coverage provided under Covered Risk 6.
2. Rights of eminent domain. This Exclusion does not modify or limit the coverage provided under Covered Risk 7 or 8.
3. Defects, liens, encumbrances, adverse claims, or other matters
 - (a) created, suffered, assumed, or agreed to by the Insured Claimant;
 - (b) not known to the Company, not recorded in the Public Records at Date of Policy, but known to the Insured Claimant and not disclosed in writing to the Company by the Insured Claimant prior to the date the Insured Claimant became an Insured under this policy;
 - (c) resulting in no loss or damage to the Insured Claimant;
 - (d) attaching or created subsequent to Date of Policy (however, this does not modify or limit the coverage provided under Covered Risk 11, 13, or 14); or
 - (e) resulting in loss or damage that would not have been sustained if the Insured Claimant had paid value for the Insured Mortgage.
4. Unenforceability of the lien of the Insured Mortgage because of the inability or failure of an insured to comply with applicable doing-business laws of the state where the Land is situated.
5. Invalidity or unenforceability in whole or in part of the lien of the Insured Mortgage that arises out of the transaction evidenced by the Insured Mortgage and is based upon usury or any consumer credit protection or truth-in-lending law.
6. Any claim, by reason of the operation of federal bankruptcy, state insolvency, or similar creditors' rights laws, that the transaction creating the lien of the Insured Mortgage, is
 - (a) a fraudulent conveyance or fraudulent transfer, or
 - (b) a preferential transfer for any reason not stated in Covered Risk 13(b) of this policy.
7. Any lien on the Title for real estate taxes or assessments imposed by governmental authority and created or attaching between Date of Policy and the date of recording of the Insured Mortgage in the Public Records. This exclusion does not modify or limit the coverage provided under Covered Risk 11(b).

CONDITIONS

1. DEFINITION OF TERMS

The following terms when used in this policy mean:

(a) "Amount of Insurance": The amount stated in Schedule A, as may be increased or decreased by endorsement to this policy, increased by Section 8(b) or decreased by Section 10 of these Conditions.

(b) "Date of Policy": The date designated as "Date of Policy" in Schedule A.

(c) "Entity": A corporation, partnership, trust, limited liability company, or other similar legal entity.

(d) "Indebtedness": The obligation secured by the Insured Mortgage including one evidenced by electronic means authorized by law, and if that obligation is the payment of a debt, the Indebtedness is the sum of

- (i) the amount of the principal disbursed as of Date of Policy;
- (ii) the amount of the principal disbursed subsequent to Date of Policy;
- (iii) the construction loan advances made subsequent to Date of Policy for the purpose of financing in whole or in part the construction of an improvement to the Land or related to the Land that the Insured was and continued to be obligated to advance at Date of Policy and at the date of the advance;
- (iv) interest on the loan;
- (v) the prepayment premiums, exit fees, and other similar fees or penalties allowed by law;
- (vi) the expenses of foreclosure and any other costs of enforcement;
- (vii) the amounts advanced to assure compliance with laws or to protect the lien or the priority of the lien of the Insured Mortgage before the acquisition of the estate or interest in the Title;
- (viii) the amounts to pay taxes and insurance; and
- (ix) the reasonable amounts expended to prevent deterioration of improvements;

but the Indebtedness is reduced by the total of all payments and by any amount forgiven by an Insured.

(viii) the amounts to pay taxes and insurance; and

(ix) the reasonable amounts expended to prevent deterioration of improvements; but the Indebtedness is reduced by the total of all payments and by any amount forgiven by an Insured.

(e) "Insured": The Insured named in Schedule A.

(i) The term "Insured" also includes

(A) the owner of the Indebtedness and each successor in ownership of the Indebtedness, whether the owner or successor owns the Indebtedness for its own account or as a trustee or other fiduciary, except a successor who is an obligor under the provisions of Section 12(c) of these Conditions;

(B) the person or Entity who has "control" of the "transferable record," if the Indebtedness is evidenced by a "transferable record," as these terms are defined by applicable electronic transactions law;

(C) successors to an Insured by dissolution, merger, consolidation, distribution, or reorganization;

(D) successors to an Insured by its conversion to another kind of Entity;

(E) a grantee of an Insured under a deed delivered without payment of actual valuable consideration conveying the Title.

(1) if the stock, shares, memberships, or other equity interests of the grantee are wholly-owned by the named Insured,

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(2) if the grantee wholly owns the named Insured, or

(3) if the grantee is wholly-owned by an affiliated Entity of the named Insured, provided the affiliated Entity and the named Insured are both wholly-owned by the same person or Entity;

(F) any government agency or instrumentality that is an insurer or guarantor under an insurance contract or guaranty insuring or guaranteeing the Indebtedness secured by the Insured Mortgage, or any part of it, whether named as an Insured or not;

(ii) With regard to (A), (B), (C), (D), and (E) reserving, however, all rights and defenses as to any successor that the Company would have had against any predecessor Insured, unless the successor acquired the Indebtedness as a purchaser for value without Knowledge of the asserted defect, lien, encumbrance, or other matter insured against by this policy.

(f) "Insured Claimant": An Insured claiming loss or damage.

(g) "Insured Mortgage": The Mortgage described in paragraph 4 of Schedule A.

(h) "Knowledge" or "Known": Actual knowledge, not constructive knowledge or notice that may be imputed to an Insured by reason of the Public Records or any other records that impart constructive notice of matters affecting the Title.

(i) "Land": The land described in Schedule A, and affixed improvements that by law constitute real property. The term "Land" does not include any property beyond the lines of the area described in Schedule A, nor any right, title, interest, estate, or easement in abutting streets, roads, avenues, alleys, lanes, ways or waterways, but this does not modify or limit the extent that a right of access to and from the Land is insured by this policy.

(j) "Mortgage": Mortgage, deed of trust, trust deed, or other security instrument, including one evidenced by electronic means authorized by law.

(k) "Public Records": Records established under state statutes at Date of Policy for the purpose of imparting constructive notice of matters relating to real property to purchasers for value and without Knowledge. With respect to Covered Risk 5(d), "Public Records" shall also include environmental protection liens filed in the records of the clerk of the United States District Court for the district where the Land is located.

(l) "Title": The estate or interest described in Schedule A.

(m) "Unmarketable Title": Title affected by an alleged or apparent matter that would permit a prospective purchaser or lessee of the Title or lender on the Title or a prospective purchaser of the Insured Mortgage to be released from the obligation to purchase, lease, or lend if there is a contractual condition requiring the delivery of marketable title.

2. CONTINUATION OF INSURANCE

The coverage of this policy shall continue in force as of Date of Policy in favor of an Insured after acquisition of the Title by an Insured or after conveyance by an Insured, but only so long as the Insured retains an estate or interest in the Land, or holds an obligation secured by a purchase money Mortgage given by a purchaser from the Insured, or only so long as the Insured shall have liability by reason of warranties in any

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transfer or conveyance of the Title. This policy shall not continue in force in favor of any purchaser from the Insured of either (i) an estate or interest in the Land, or (ii) an obligation secured by a purchase money Mortgage given to the Insured.

3. NOTICE OF CLAIM TO BE GIVEN BY INSURED CLAIMANT

The Insured shall notify the Company promptly in writing (i) in case of any litigation as set forth in Section 5(a) of these Conditions, (ii) in case Knowledge shall come to an Insured of any claim of title or interest that is adverse to the Title or the lien of the Insured Mortgage, as insured, and that might cause loss or damage for which the Company may be liable by virtue of this policy, or (iii) if the Title or the lien of the Insured Mortgage, as insured, is rejected as Unmarketable Title. If the Company is prejudiced by the failure of the Insured Claimant to provide prompt notice, the Company's liability to the Insured Claimant under the policy shall be reduced to the extent of the prejudice.

4. PROOF OF LOSS

In the event the Company is unable to determine the amount of loss or damage, the Company may, at its option, require as a condition of payment that the Insured Claimant furnish a signed proof of loss. The proof of loss must describe the defect, lien, encumbrance, or other matter insured against by this policy that constitutes the basis of loss or damage and shall state, to the extent possible, the basis of calculating the amount of the loss or damage.

5. DEFENSE AND PROSECUTION OF ACTIONS

(a) Upon written request by the Insured, and subject to the options contained in Section 7 of these Conditions, the Company, at its own cost and without unreasonable delay, shall provide for the defense of an Insured in litigation in which any third party asserts a claim covered by this policy adverse to the Insured. This obligation is limited to only those stated causes of action alleging matters insured against by this policy. The Company shall have the right to select counsel of its choice (subject to the right of the Insured to object for reasonable cause) to represent the Insured as to those stated causes of action. It shall not be liable for and will not pay the fees of any other counsel. The Company will not pay any fees, costs, or expenses incurred by the Insured in the defense of those causes of action that allege matters not insured against by this policy.

(b) The Company shall have the right, in addition to the options contained in Section 7 of these Conditions, at its own cost, to institute and prosecute any action or proceeding or to do any other act that in its opinion may be necessary or desirable to establish the Title or the lien of the Insured Mortgage, as insured, or to prevent or reduce loss or damage to the Insured. The Company may take any appropriate action under the terms of this policy, whether or not it shall be liable to the Insured. The exercise of these rights shall not be an admission of liability or waiver of any provision of this policy. If the Company exercises its rights under this subsection, it must do so diligently.

(c) Whenever the Company brings an action or asserts a defense as required or permitted by this policy, the Company may pursue the litigation to a final determination by a court of competent jurisdiction, and it expressly reserves the right, in its sole discretion, to appeal from any adverse judgment or order.

6. DUTY OF INSURED CLAIMANT TO COOPERATE

(a) In all cases where this policy permits or requires the Company to prosecute or provide for the defense of any action or proceeding and any appeals, the Insured shall secure to the Company the right to so prosecute or provide defense in the action or proceeding, including the right to use, at its option, the name of the Insured for this purpose. Whenever requested by the Company, the Insured, at the Company's expense, shall give the Company all reasonable aid (i) in securing evidence, obtaining witnesses, prosecuting or defending the action or proceeding, or effecting settlement, and (ii) in any other lawful act that in the opinion of the Company may be necessary or desirable to establish the Title, the lien of the Insured Mortgage, or any other matter as insured. If the Company is prejudiced by the failure of the Insured to furnish the required cooperation, the Company's obligations to the Insured under the policy shall terminate, including any liability or obligation to defend, prosecute, or continue any litigation, with regard to the matter or matters requiring such cooperation.

(b) The Company may reasonably require the Insured Claimant to submit to examination under oath by any authorized representative of the Company and to produce for examination, inspection, and copying, at such reasonable times and places as may be designated by the authorized representative of the Company, all records, in whatever medium maintained, including books, ledgers, checks, memoranda, correspondence, reports, e-mails, disks, tapes, and videos whether bearing a date before or after Date of Policy, that reasonably pertain to the loss or damage. Further, if requested by any authorized representative of the Company, the Insured Claimant shall grant its permission, in writing, for any authorized representative of the Company to examine, inspect, and copy all of these records in the custody or control of a third party that reasonably pertain to the loss or damage. All information designated as confidential by the Insured Claimant provided to the Company pursuant to this Section shall not be disclosed to others unless, in the reasonable judgment of the Company, it is necessary in the administration of the claim. Failure of the Insured Claimant to submit for examination under oath, produce any reasonably requested information, or grant permission to secure reasonably necessary information from third parties as required in

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this subsection, unless prohibited by law or governmental regulation, shall terminate any liability of the Company under this policy as to that claim.

7. OPTIONS TO PAY OR OTHERWISE SETTLE CLAIMS; TERMINATION OF LIABILITY

In case of a claim under this policy, the Company shall have the following additional options:

(a) To Pay or Tender Payment of the Amount of Insurance or to Purchase the Indebtedness.

(i) To pay or tender payment of the Amount of Insurance under this policy together with any costs, attorneys' fees, and expenses incurred by the Insured Claimant that were authorized by the Company up to the time of payment or tender of payment and that the Company is obligated to pay; or

(ii) To purchase the Indebtedness for the amount of the Indebtedness on the date of purchase, together with any costs, attorneys' fees, and expenses incurred by the Insured Claimant that were authorized by the Company up to the time of purchase and that the Company is obligated to pay.

When the Company purchases the Indebtedness, the Insured shall transfer, assign, and convey to the Company the Indebtedness and the Insured Mortgage, together with any collateral security.

Upon the exercise by the Company of either of the options provided for in subsections (a)(i) or (ii), all liability and obligations of the Company to the Insured under this policy, other than to make the payment required in those subsections, shall terminate, including any liability or obligation to defend, prosecute, or continue any litigation.

(b) To Pay or Otherwise Settle With Parties Other Than the Insured or With the Insured Claimant.

(i) to pay or otherwise settle with other parties for or in the name of an Insured Claimant any claim insured against under this policy. In addition, the Company will pay any costs, attorneys' fees, and expenses incurred by the Insured Claimant that were authorized by the Company up to the time of payment and that the Company is obligated to pay; or

(ii) to pay or otherwise settle with the Insured Claimant the loss or damage provided for under this policy, together with any costs, attorneys' fees, and expenses incurred by the Insured Claimant that were authorized by the Company up to the time of payment and that the Company is obligated to pay.

Upon the exercise by the Company of either of the options provided for in subsections (b)(i) or (ii), the Company's obligations to the Insured under this policy for the claimed loss or damage, other than the payments required to be made, shall terminate, including any liability or obligation to defend, prosecute, or continue any litigation.

8. DETERMINATION AND EXTENT OF LIABILITY

This policy is a contract of indemnity against actual monetary loss or damage sustained or incurred by the Insured Claimant who has suffered loss or damage by reason of matters insured against by this policy.

(a) The extent of liability of the Company for loss or damage under this policy shall not exceed the least of

(i) the Amount of Insurance,

(ii) the Indebtedness,

(iii) the difference between the value of the Title as insured and the value of the Title subject to the risk insured against by this policy, or

(iv) if a government agency or instrumentality is the Insured Claimant, the amount it paid in the acquisition of the Title or the Insured Mortgage in satisfaction of its insurance contract or guaranty.

(b) If the Company pursues its rights under Section 5 of these Conditions and is unsuccessful in establishing the Title or the lien of the Insured Mortgage, as insured,

(i) the Amount of Insurance shall be increased by 10%, and

(ii) the Insured Claimant shall have the right to have the loss or damage determined either as of the date the claim was made by the Insured Claimant or as of the date it is settled and paid.

(c) In the event the Insured has acquired the Title in the manner described in Section 2 of these Conditions or has conveyed the Title, then the extent of liability of the Company shall continue as set forth in Section 8(a) of these Conditions.

(d) In addition to the extent of liability under (a), (b), and (c), the Company will also pay those costs, attorneys' fees, and expenses incurred in accordance with Sections 5 and 7 of these Conditions.

9. LIMITATION OF LIABILITY

(a) If the Company establishes the Title, or removes the alleged defect, lien or encumbrance, or cures the lack of a right of access to or from the Land, or cures the claim of Unmarketable Title, or establishes the lien of the Insured Mortgage, all as insured, in a reasonably diligent manner by any method, including litigation and the completion of any appeals, it shall have fully performed its obligations with respect to that matter and shall not be liable for any loss or damage caused to the Insured.

(b) In the event of any litigation, including litigation by the Company or with the Company's consent, the Company shall have no liability for loss or damage until there

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has been a final determination by a court of competent jurisdiction, and disposition of all appeals, adverse to the Title or to the lien of the Insured Mortgage, as insured.

(c) The Company shall not be liable for loss or damage to the Insured for liability voluntarily assumed by the Insured in settling any claim or suit without the prior written consent of the Company.

10. REDUCTION OF INSURANCE; REDUCTION OR TERMINATION OF LIABILITY

(a) All payments under this policy, except payments made for costs, attorneys' fees, and expenses, shall reduce the Amount of Insurance by the amount of the payment. However, any payments made prior to the acquisition of Title as provided in Section 2 of these Conditions shall not reduce the Amount of Insurance afforded under this policy except to the extent that the payments reduce the Indebtedness.

(b) The voluntary satisfaction or release of the Insured Mortgage shall terminate all liability of the Company except as provided in Section 2 of these Conditions.

11. PAYMENT OF LOSS

When liability and the extent of loss or damage have been definitely fixed in accordance with these Conditions, the payment shall be made within 30 days.

12. RIGHTS OF RECOVERY UPON PAYMENT OR SETTLEMENT

(a) The Company's Right to Recover

Whenever the Company shall have settled and paid a claim under this policy, it shall be subrogated and entitled to the rights of the Insured Claimant in the Title or Insured Mortgage and all other rights and remedies in respect to the claim that the Insured Claimant has against any person or property, to the extent of the amount of any loss, costs, attorneys' fees, and expenses paid by the Company. If requested by the Company, the Insured Claimant shall execute documents to evidence the transfer to the Company of these rights and remedies. The Insured Claimant shall permit the Company to sue, compromise, or settle in the name of the Insured Claimant and to use the name of the Insured Claimant in any transaction or litigation involving these rights and remedies.

If a payment on account of a claim does not fully cover the loss of the Insured Claimant, the Company shall defer the exercise of its right to recover until after the Insured Claimant shall have recovered its loss.

(b) The Insured's Rights and Limitations

(i) The owner of the Indebtedness may release or substitute the personal liability of any debtor or guarantor, extend or otherwise modify the terms of payment, release a portion of the Title from the lien of the Insured Mortgage, or release any collateral security for the Indebtedness, if it does not affect the enforceability or priority of the lien of the Insured Mortgage.

(ii) If the Insured exercises a right provided in (b)(i), but has Knowledge of any claim adverse to the Title or the lien of the Insured Mortgage insured against by this policy, the Company shall be required to pay only that part of any losses insured against by this policy that shall exceed the amount, if any, lost to the Company by reason of the impairment by the Insured Claimant of the Company's right of subrogation.

(c) The Company's Rights Against Noninsured Obligors

The Company's right of subrogation includes the Insured's rights against noninsured obligors including the rights of the Insured to indemnities, guaranties, other policies of insurance, or bonds, notwithstanding any terms or conditions contained in those instruments that address subrogation rights.

The Company's right of subrogation shall not be avoided by acquisition of the Insured Mortgage by an obligor (except an obligor described in Section 1(c)(i)(F) of these Conditions) who acquires the Insured Mortgage as a result of an indemnity, guarantee, other policy of insurance, or bond, and the obligor will not be an Insured under this policy.

13. ARBITRATION

Either the Company or the Insured may demand that the claim or controversy shall be submitted to arbitration pursuant to the Title Insurance Arbitration Rules of the

American Land Title Association ("Rules"). Except as provided in the Rules, there shall be no joinder or consolidation with claims or controversies of other persons.

Arbitrable matters may include, but are not limited to, any controversy or claim between the Company and the Insured arising out of or relating to this policy, any service in connection with its issuance or the breach of a policy provision, or to any other controversy or claim arising out of the transaction giving rise to this policy. All arbitrable matters when the Amount of Insurance is \$2,000,000 or less shall be arbitrated at the option of either the Company or the Insured. All arbitrable matters when the Amount of Insurance is in excess of \$2,000,000 shall be arbitrated only when agreed to by both the Company and the Insured. Arbitration pursuant to this policy and under the Rules shall be binding upon the parties. Judgment upon the award rendered by the Arbitrator(s) may be entered in any court of competent jurisdiction.

14. LIABILITY LIMITED TO THIS POLICY; POLICY ENTIRE CONTRACT

(a) This policy together with all endorsements, if any, attached to it by the Company is the entire policy and contract between the Insured and the Company. In interpreting any provision of this policy, this policy shall be construed as a whole.

(b) Any claim of loss or damage that arises out of the status of the Title or lien of the Insured Mortgage or by any action asserting such claim shall be restricted to this policy.

(c) Any amendment of or endorsement to this policy must be in writing and authenticated by an authorized person, or expressly incorporated by Schedule A of this policy.

(d) Each endorsement to this policy issued at any time is made a part of this policy and is subject to all of its terms and provisions. Except as the endorsement expressly states, it does not (i) modify any of the terms and provisions of the policy, (ii) modify any prior endorsement, (iii) extend the Date of Policy, or (iv) increase the Amount of Insurance.

15. SEVERABILITY

In the event any provision of this policy, in whole or in part, is held invalid or unenforceable under applicable law, the policy shall be deemed not to include that provision or such part held to be invalid, but all other provisions shall remain in full force and effect.

16. CHOICE OF LAW; FORUM

(a) Choice of Law: The Insured acknowledges the Company has underwritten the risks covered by this policy and determined the premium charged therefor in reliance upon the law affecting interests in real property and applicable to the interpretation, rights, remedies, or enforcement of policies of title insurance of the jurisdiction where the Land is located.

Therefore, the court or an arbitrator shall apply the law of the jurisdiction where the Land is located to determine the validity of claims against the Title or the lien of the Insured Mortgage that are adverse to the Insured and to interpret and enforce the terms of this policy. In neither case shall the court or arbitrator apply its conflicts of law principles to determine the applicable law.

(b) Choice of Forum: Any litigation or other proceeding brought by the Insured against the Company must be filed only in a state or federal court within the United States of America or its territories having appropriate jurisdiction.

17. NOTICES, WHERE SENT

Any notice of claim and any other notice or statement in writing required to be given to the Company under this policy must be given to the Company at Chicago Title Insurance Company, Attn: Claims Department, P. O. Box 45023, Jacksonville, Florida 32232-5023.

Sept 20, 07

To: GINA MARTENS
803-484-9239

From: Rex A. Palmer

RE: Docs For Lucas Transaction

The following signature pages for the mortgage (individual pages initialed), Settlement Agreement, Hypothecation Agreement and Purchase Option are included in this fax.

I will e-mail for release of funds and Fed-X original docs to Jimmy.

If you have any questions please call (713) 822-1704 or call (713)-724-7790.

Thank
Rex

PALMER - 0518

AMERICAN LAND TITLE ASSOCIATION COMMITMENT - 1966

CHICAGO TITLE INSURANCE COMPANY

COMMITMENT FOR TITLE INSURANCE

CHICAGO TITLE INSURANCE COMPANY, a corporation of Missouri, herein called the Company, for a valuable consideration, hereby commits to issue its policy or policies of title insurance, as identified in Schedule A, in favor of the proposed Insured named in Schedule A, as owner or mortgagee of the estate or interest covered hereby in the land described or referred to in Schedule A, upon payment of the premiums and charges therefore; all subject to the provisions of Schedules A and B and to the Conditions and Stipulations hereof.

This Commitment shall be effective only when the identity of the proposed Insured and the amount of the policy or policies committed for have been inserted in Schedule A hereof by the Company, either at the time of the issuance of this Commitment or by subsequent endorsement.

This Commitment is preliminary to the issuance of such policy or policies of title insurance and all liability and obligations hereunder shall cease and terminate six months after the effective date hereof or when the policy or policies committed for shall issue, whichever first occurs, provided that the failure to issue such policy or policies is not the fault of the Company.

IN WITNESS WHEREOF, Chicago Title Insurance Company has caused this Commitment to be signed and sealed as of the effective date of Commitment shown in Schedule A, the Commitment to become valid when countersigned by an authorized signatory.

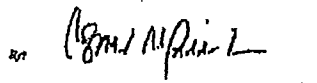
SC2286

Title Insurance Products & Services Agency
115 East Church Street
Bishopville, SC 29010
Tel: (803) 484-5409
Fax: (803) 484-9239


Authorized Signatory
Paul M. Pata

CHICAGO TITLE INSURANCE COMPANY




John E. Palmer
ATTORNEY
Secretary

**A.L.T.A. COMMITMENT
CHICAGO TITLE INSURANCE COMPANY
SCHEDULE B - Section 2**

Commitment Number 07-598

Exceptions

Schedule B of the policy or policies to be issued will contain exceptions to the following matters unless the same are disposed of to the satisfaction of the Company.

1. Defects, liens, encumbrances, adverse claims or other matters, if any, created, first appearing in the Public Records or attaching subsequent to the effective date hereto but prior to the date the proposed insured acquires for value of record the estate or interest or mortgage thereon covered by this Commitment.
2. Rights or claims of parties in possession not shown by the Public Records.
3. Any encroachment, encumbrance, violation or adverse circumstances affecting the Title that would be disclosed by an accurate and complete land survey of the Land.
4. Easements or claims of easements not shown by the Public Records.
5. Any lien or right to lien, for services, labor or materials heretofore furnished, imposed by law and not shown by the Public Records.
6. Taxes or special assessments which are not shown as existing liens by the Public Records.
7. Taxes and assessments for the year 2007, and subsequent years, which are a lien but are not yet due and payable.
8. Subject to a perpetual, non-exclusive thirty (30) foot easement given by Hatcham Grove, Inc. to Charles K. Young as shown by deed recorded in Deed Book D-111 at page 6 in the office of the Register of Deeds for Lee County SC.
9. Subject to that Lease Agreement and Option to Purchase between April C. Lucas and John J. Stucker and Hatcham Grove, Inc. executed October 16, 2006 and recorded October 25, 2006 in Deed Book D0214 at page 191 in the aforesaid records. (Option will terminate with this purchase)
10. Any taxes assessed under the rollback provisions of Section 12-43-220 (D-4) South Carolina Code of Laws 1976 as amended.

PALMER - 0520

IN THE STATE OF SOUTH CAROLINA
In the Court of Appeals

RECEIVED
JUN 01 2015
SC Court of Appeals

APPEAL FROM LEE COUNTY

W. Jeffery Young, Presiding Judge, Third Judicial Circuit

Appellate Case No. 2014-0002451

Ernestine N. Palmer, as Trustee of the
Article IV Trust created under the Will of
Mary Denman Newman, deceased, Ronald
O. Palmer, Ernestine N. Palmer, as Trustee
of the Article IV Trust created under the
Will of James E. Newman, deceased,

Respondents,

v.

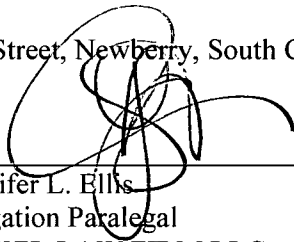
Hatcham Grove, Inc., and David H.
Lucas,

Appellants,

PROOF OF SERVICE

I hereby certify that I have served the Record of Appeal on Ernestine N. Palmer by depositing a copy of it in the United States Mail, postage prepaid, on May 29, 2015, addressed to her attorney of record, Kyle B. Parker, Pope & Hudgens, P.A. 1508 College Street, Newberry, South Carolina 29108.

May 29, 2015



Jennifer L. Ellis
Litigation Paralegal
FINKEL LAW FIRM LLC
Post Office Box 41489
Charleston, South Carolina 29423
843-577-5460

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RECEIVED

JUN 01 2015

SC Court of Appeals

IN THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM LEE COUNTY

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v.

Hatcham Grove, Inc., and David H.
Lucas,

Appellants,

CERTIFICATE OF COUNSEL

The undersigned hereby certifies that the Record on Appeal contains all material proposed to be
included by any of the parties and not any other material.


Magalie A. Arcure (SC Bar No.: 78855)
FINKEL LAW FIRM, LLC
Post Office Box 41489
Charleston, South Carolina 29423
843.577.5460
Attorney for Appellants