

EXHIBIT A

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

RECEIVED

APPEAL FROM CHARLESTON COUNTY
Court Of Common Pleas

NOV 12 2015

SC Court of Appeals

The Honorable R. Markley Dennis, Jr., Circuit Court Judge

Appellate Case No: 2015-01328

Donna Douglass, ... Appellant,

v.

Berkshire on St. Ives, Berkshire Property Advisors, LLC, BVF North Cove LLC, and The
Berkshire Group, ... Respondents.

RESPONDENTS' DESIGNATION OF MATTER
TO BE INCLUDED IN THE RECORD ON APPEAL

Respondents propose the following to be included in the Record on Appeal.

Orders

1. Order Granting Respondents' Summary Judgment filed April 27, 2014
2. Order Denying Appellant's Motion for Reconsideration filed May 29, 2014

Motions

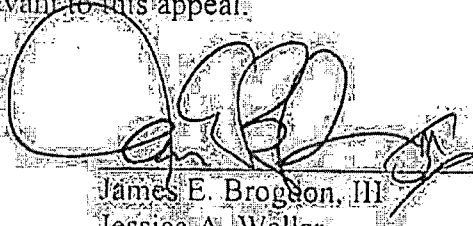
1. Respondents' Motion for Summary Judgment
2. Respondents' Memorandum in Support of Summary Judgment
3. Respondents' Memorandum in Opposition to Rule 59(e) Motion for Reconsideration
4. Appellant's Memorandum in Opposition of Summary Judgment
5. Appellant's Rule 59(e) Motion for Reconsideration

Transcripts

1. Transcript of April 8, 2015 Motion for Summary Judgment Hearing
2. Transcript of Donna Douglass' deposition
3. Transcript of Greg Moran's deposition

Pursuant to Rule 209(c), SCACR, counsel for Respondents certify that this Designation contains no matter that is irrelevant to this appeal.

November 12, 2015



James E. Brogeon, III
Jessica A. Waller
GALLIVAN, WHITE & BOYD, P.A.
Post Office Box 7368
Columbia, South Carolina 29202
Tel: 803.779.1833
Fax: 803.779.1767

ATTORNEYS FOR RESPONDENTS

EXHIBIT B

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

The Honorable R. Markley Dennis, Jr., Circuit Court Judge

Case No.: 2013-CP-10-7133
Appellate Case No.: 2015-01328

Donna Douglass, ... Appellant,

v.

Berkshire on St. Ives,
Berkshire Property Advisors, LLC,
BVF North Cove, LLC, and
The Berkshire Group, ... Respondents.

DESIGNATION OF MATTER
TO BE INCLUDED IN THE RECORD ON APPEAL

Appellant proposes the following to be included in the Record on Appeal:

1. Answer;
1. Burke, et al. vs. Republic (Case No.: 2013-CP-10-1400);
2. Complaint;
3. Cook v. Food Lion, 328 S.C. 324;
4. Folkens v. Hunt, 290 S.C. 194, 348 S.E.2d 839 (Ct. App. 1986);
5. Froneberger v. Smith (S.C. App. 2013) Appellate Case No.: 2011-191306 No. 5168;
6. Hammond v. Scott, 268 S.C. 137, 232 S.E.2d 336, 339 (1977);
7. Henderson vs. St. Francis Community Hospital, 303 S.C. 177, 399 S.E. 2d 767 (1990);
8. Hill v. York County Sheriff's Department, 313 S.C. 303, 437 S.E.2d 179, 182 (Ct. App. 1993);
9. Micronics, Inc. v. S.C. Dep't of Revenue, 345 S.C. 506, 511, 548 S.E.2d 223, 226 (Ct. App. 2001);
10. Order of the Honorable R. Markley Dennis, Jr. dated May 26, 2015;

11. Order of the Honorable R. Markley Dennis, Jr. dated April 23, 2015;
12. Piedmont Engineers, Architects and Planners, Inc. v. First Hartford Realty Corp., 278 S.C. 195, 293 S.E. 2d 706 (1982);
13. Schmidt v. Courtney and Kemper Sports of Crowfield, Inc., Opinion No. 3719 (S.C. App. 12/22/2003) (S.C. App., 2003); Simmons vs. Winn-Dixie Greenville, Inc., 318 S.C. 310;
14. Transcript of Proceedings; and
15. Williams v. Chesterfield Lumber Co., 267 S.C. 607, 230 S.E.2d 447, 448 (1976)

I certify that this designation contains no matter which is irrelevant to this appeal.

September 11, 2015


Jarrel L. Wigger, Esquire, Fed. I.D. # 6345
South Carolina Bar # 011824
8086 Rivers Avenue, Suite A
North Charleston, South Carolina 29406
(843) 553-9800
Attorney for Appellant

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

RECEIVED
SEP 11 2015
SC Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

The Honorable R. Markley Dennis, Jr., Circuit Court Judge

Appellate Case No. 2015-01328

Donna Douglass, Appellant,

v.

Berkshire on St. Ives,
Berkshire Property Advisors, LLC,
BVF North Cove, LLC, and
The Berkshire Group,

Respondents.

PROOF OF SERVICE OF
INITIAL BRIEF AND DESIGNATION OF MATTER
TO BE INCLUDED IN THE RECORD ON APPEAL

I certify that I have served the Appellant's Initial Brief and Designation of Matter to be Included in the Record on Appeal on Defendants, Berkshire on St. Ives, Berkshire Property Advisors, LLC, BVF North Cove, LLC, The Berkshire Group, by depositing a copy of same in the United States Mail, postage prepaid, on September 11, 2015, addressed to their attorney of record, James E. Brogdon, III, Esquire, Gallivan, White & Boyd, P.A., Post Office Box 7368, Columbia, South Carolina 29202. I also certify that I have served the above on the Honorable R. Markley Dennis, Jr., by depositing a copy of same in the United States Mail, postage prepaid, on September 11, 2015, addressed to The Honorable R. Markley Dennis, Jr., Charleston County Court of Common Pleas, 100 Broad Street, Suite 106, Charleston, South Carolina 29401.

September 11, 2015


Jarrel L. Wigger, Esquire, Fed. I.D. # 6345
8086 Rivers Avenue, Suite A
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RECEIVED
SEP 11 2015
SC COURT OF APPEALS

September 11, 2015

South Carolina Court of Appeals

Post Office Box 11629

Columbia, South Carolina 29211

RE: Donna Douglass vs. Berkshires On St. Ives, Berkshire Property Advisors,
LLC, BVF North Cove LLC and The Berkshire Group
Case No.: 2013-CP-10-7133

Dear South Carolina Court of Appeals:

Enclosed you will find an original and three (3) copies of the following documents:

1. Initial Brief;
2. Designation Of Matter To Be Included In The Record On Appeal; And
3. Proof of Service of Initial Brief and Designation of Matter To Be Included In The Record On Appeal.

I would appreciate you filing the originals and returning the filed copies to me in the self-addressed stamped envelope provided.

With kindest regards, I am

Yours Very Truly,



Stephanie Tolppa

Litigation Paralegal to Jarrel L. Wigger

/st

Enclosures

cc: R. Markley Dennis, Jr. (w/encl)

James E. Brogdon, III (w/encl)

EXHIBIT C

Jessica Waller

From: Jessica Waller
Sent: Tuesday, January 05, 2016 12:02 PM
To: "jwigger@wiggerlawfirm.com"
Cc: James Brogdon; Christle Turner
Subject: RE: Douglass v. Berkshires - Record on Appeal

Jarry,

I haven't received a response from regarding this matter. The record on appeal fails to contain some of our designated matters and also contains matters which were not designated by you previously. Please note I will be filing a motion today with the court compel a complete and accurate record on appeal. Please consider these communications my attempt to confer with you on this issue prior to filing the motion.

Thanks,

Jessica



Gallivan, White & Boyd, P.A.
ATTORNEYS AT LAW

Jessica A. Waller
Associate
jwaller@gwblawfirm.com

Gallivan, White & Boyd, P.A.
Office: 1201 Main Street | Suite 1200 | Columbia SC 29201
803 724 1722 Direct | 803 779 1833 Main | 803 779 1767 Fax
Mailing: Post Office Box 7368 | Columbia SC 29202

vCard | BioURL | Website

This message is from the law firm Gallivan, White & Boyd, PA and may be a confidential and privileged legal communication to the named recipient(s). If you receive this message in error or are not the named recipient(s), please notify the sender and delete this email. Thank you.

From: Jessica Waller
Sent: Monday, January 04, 2016 1:27 PM
To: jwigger@wiggerlawfirm.com
Cc: James Brogdon; Christle Turner
Subject: Douglass v. Berkshires - Record on Appeal
Importance: High

Jarry,

I left a message with your office earlier today. I am assisting James Brogdon on this appeal, and I've noticed that the Record on Appeal does not include Respondents' Designation of Matters. Was this an oversight? The rule requires the appellant to create the comprehensive record on appeal, which should include matters designated by both sides. Our brief is due Wednesday. Please respond at your earliest convenience so that we can discuss this matter and the appropriate steps to amend the Record on Appeal to include the Respondents' designated matters pursuant to the Rules.

Thanks in advance,

Jessica



Gallivan, White & Boyd, P.A.
ATTORNEYS AT LAW

Jessica A. Waller
Associate
jwaller@gwblawfirm.com

Gallivan, White & Boyd P.A.
Office 1201 Main Street | Suite 1200 | Columbia SC 29201
803 724 1722 Direct | 803 779 1833 Main | 803 779 1767 Fax
Mailing Post Office Box 7368 | Columbia SC 29202

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EXHIBIT D

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

Donna Douglass,

☐ Plaintiff

v.

Berkshires on St. Ives, Berkshire Property
Advisors, LLC, BVF North Cove LLC and The
Berkshire Group,

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT

CASE NO.
2013-CP-10-7133

MOTION AND ORDER INFORMATION
FORM AND COVER SHEET

☒ Defendant.

Plaintiff's Attorney: Jarrell L. Wigger
Address: 8086 Rivers Avenue, Suite A
North Charleston, SC 29406
phone: (843) 553-9800 fax: (843) 553-1648
e-mail: other:

Defendant's Attorney:
James E. Brogdon, III, Bar No. 79159
Address: P.O. Box 7368, Columbia, SC 29202
phone: (803) 779-1833 fax: (803) 779-1767
e-mail: jbrogdon@gwblawfirm.com other:

- ☒ MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and III)
☐ FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III)
☐ PROPOSED ORDER/CONSENT ORDER (complete SECTIONS II and III)

SECTION I: Hearing Information

Nature of Motion: Motion For Summary Judgment

Estimated Time Needed: 15 minutes Court Reporter Needed: ☒ YES / ☐ NO

SECTION II: Motion/Order Type

- ☒ Written motion/attached
☐ Form Motion/Order

I hereby move for relief or action by the court as set forth in the attached proposed order.

February 23, 2015

Signature of Attorney for ☐ Plaintiff / ☒ Defendant

Date submitted

SECTION III: Motion Fee

- ☒ PAID - AMOUNT: \$25.00
☐ EXEMPT: ☐ Rule to Show Cause in Child or Spousal Support
(check reason) ☐ Domestic Abuse or Abuse and Neglect
☐ Indigent Status ☐ State Agency v. Indigent Party
☐ Sexually Violent Predator Act ☐ Post-Conviction Relief
☐ Motion for Stay in Bankruptcy
☐ Motion for Publication ☐ Motion for Execution (Rule 69, SCRPC)
☐ Proposed order submitted at request of the court; or,
reduced to writing from motion made in open court per judge's instructions
Name of Court Reporter:
☐ Other:

JUDGE'S SECTION

- ☐ Motion Fee to be paid upon filing of the attached
order.
☐ Other:

JUDGE

CODE:

Date:

CLERK'S VERIFICATION

Date Filed:

Collected by: _____

- ☒ MOTION FEE COLLECTED: _____
☐ CONTESTED - AMOUNT DUE: _____

SCCA/233 (11-03)

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

Donna Douglass,

Plaintiff,

vs.

Berkshires on St. Ives, Berkshire Property
Advisors, LLC, BVF North Cove LLC
and The Berkshire Group,

Defendants.

IN THE COURT OF COMMON PLEAS
NINTH JUDICIAL CIRCUIT

CIVIL ACTION NO.: 2013-CP-10-7133

**DEFENDANTS' NOTICE OF MOTION
AND MOTION FOR SUMMARY
JUDGMENT**

TO: JARREL L. WIGGER, ESQ., ATTORNEY FOR PLAINTIFF

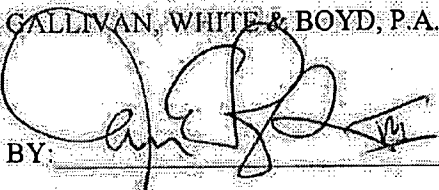
YOU WILL PLEASE TAKE NOTICE that Defendant, by and through its undersigned attorney, will move at a date and time to be set by the Court, but no sooner than ten (10) days after service hereof, for an order pursuant to Rule 56 of the South Carolina Rules of Civil Procedure granting summary judgment in Defendant's favor as to all causes of action listed in Plaintiff's Complaint. The motion is based on the following:

1. Plaintiff has failed to produce any evidence which tends to prove that the Defendant created a dangerous condition which caused Plaintiff's alleged fall and injuries;
2. Plaintiff has failed to produce any evidence which tends to prove that the Defendant failed to properly maintain the alleged condition which caused Plaintiff's alleged fall and injuries;
3. Plaintiff has failed to produce any evidence which tends to prove that Defendant had notice, actual or constructive, of the alleged dangerous condition that Plaintiff claims caused her alleged fall and injuries.

For the foregoing reasons, Defendant hereby moves the Court for an Order Granting its Motion for Summary Judgment as to all of Plaintiff's claims.

This motion is made pursuant to Rule 56 of the South Carolina Rules of Civil Procedure and is based upon the pleadings that have been filed in this action, supporting memoranda of law filed or to be filed prior to hearing, and the applicable common and statutory law of the State of South Carolina. Defendant further reserves the right to supplement this Motion prior to hearing.

GALLIVAN, WHITE & BOYD, P.A.

BY: 

JAMES E. BROGDON, III (SC Bar # 79159)
1201 Main Street, Suite 1200
Post Office Box 7368
Columbia, South Carolina 29202
TEL: (803) 779-1833

ATTORNEYS FOR DEFENDANTS

Columbia, South Carolina
February 23, 2015

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

Donna Douglass,

Plaintiff,

vs.

Berkshires on St. Ives, Berkshire Property
Advisors, LLC, BVF North Cove LLC
and The Berkshire Group.

Defendants.

IN THE COURT OF COMMON PLEAS
NINTH JUDICIAL CIRCUIT

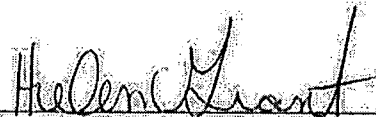
CIVIL ACTION NO.: 2013-CP-10-7133

CERTIFICATE OF SERVICE

FILED
2015 FEB 25 PM 4:33
JULIE A. WASTROHA
CLERK OF COURT

The undersigned hereby certifies that she served a copy of the Defendant's Notice Of Motion And Motion For Summary Judgment on all known counsel of record by placing a copy in the United States Mail, with due and proper postage affixed thereto and addressed as follows:

Jarrell L. Wigger
WIGGER LAW FIRM, INC.
8086 Rivers Avenue, Suite A
North Charleston, SC 29406


Helen Grant

Columbia, SC
February 23, 2015

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

Donna Douglass,

Plaintiff,

v.

Berkshires on St. Ives, Berkshire Property
Advisors, LLC, BVF North Cove LLC
and The Berkshire Group,

Defendants.

IN THE COURT OF COMMON PLEAS
NINTH JUDICIAL CIRCUIT

CIVIL ACTION NO.: 2013-CP-10-7133

MEMORANDUM IN SUPPORT OF
DEFENDANTS' MOTION FOR
SUMMARY JUDGMENT

FILED
2013 APR 13 PM 3:28
CLERK OF COURT

Defendants Berkshires on St. Ives, Berkshire Property Advisors, LLC, BVF North Cove LLC and The Berkshire Group (collectively "Defendants"), by and through their undersigned attorneys, have moved for entry of an Order granting their Motion for Summary Judgment on the grounds that there is no genuine issue of material fact, and Defendants are entitled to summary judgment as a matter of law against Plaintiff Donna Douglass. Defendants submit this Memorandum in Support of their Motion.

I. INTRODUCTION AND BACKGROUND

This case arises out of an alleged trip and fall that occurred on January 6, 2011 at an apartment complex owned by Defendant BVF North Cove, LLC and operated by Defendant Berkshire Property Advisors, LLC. In her Complaint, Plaintiff states she was employed as a pizza delivery person with Pizza Hut at the time of the accident and was at the property to deliver a pizza to a resident of the 700 building when she fell down the stairs due to inadequate lighting. (Compl. ¶ 16). In her deposition, Plaintiff testified that the inadequate lighting was the result of an existing light being "out." (Pls. Dep. 38: 16-21, **Exhibit A**). She also conceded that there were no lighting issues during her previous visits to the 700 building, *Id.*, and that she did not

know (1) when the light went out, (2) what caused the light to go out, (3) whether the outage had been reported to Defendants, or (4) whether a representative of Defendants knew the light was out. (Pls. Dep. 38:22 – 39:13, **Exhibit A**).

In addition to Plaintiff's deposition, the Parties have conducted extensive written discovery, deposed several maintenance supervisors employed by Defendants prior to and at the time of the alleged accident and the Pizza Hut general manager who completed the incident report following Plaintiff's return to work following the accident.

There is no evidence or testimony that Defendants' knew or should have known that a stairwell light in the 700 building was out. Greg Moran, the maintenance supervisor at the time of the accident, testified that he had no knowledge of the light being out prior to Plaintiff's fall on January 6, 2011 either through reports from residents or from other employees (Moran Dep. 16:5-8; 14:2-5, **Exhibit B**). Mr. Moran further testified that he did not have any knowledge regarding how long the light was out or what caused the alleged lighting outage at the 700 building at the time of Plaintiff's alleged fall. (Moran Dep. 16:21-25; 17:1-3, **Exhibit B**). In addition to witness testimony, the documents produced by Defendants do not reveal any reports of lighting problems at the 700 building in the days leading up to the alleged accident. Finally, Plaintiff has not identified any experts to testify regarding the alleged insufficient lighting issues at the 700 building at the time of her fall. The only evidence Plaintiff has produced other than her testimony regarding the lighting condition of the stairwell of building 700 on January 6, 2011 are approximately 6 photographs taken on January 8, 2011 – two days after the accident.

II. SUMMARY JUDGMENT STANDARD

Summary judgment is appropriate where "the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no

genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law." Rule 56(c), SCRPC. "In determining whether any triable issues of fact exist, the evidence and all inferences which can be reasonably drawn from the evidence must be viewed in the light most favorable to the non-moving party." *Koester v. Carolina Rental Ctr., Inc.*, 313 S.C. 490, 493, 443 S.E.2d 392, 394 (1994). However, "[i]t is not sufficient [to defeat a motion for summary judgment] that one create an inference which is not reasonable or an issue of fact that is not genuine." *Shuler v. Tuomey Reg'l Med. Ctr.*, 313 S.C. 225, 437 S.E.2d 128, 129 (Ct. App. 1993). "In order to resist a motion for summary judgment, the non-moving party must come forward with specific facts showing genuine issues necessitating trial." *NationsBank v. Scott Farm*, 320 S.C. 299, 303, 565 S.E.2d 98, 100 (Ct. App. 1995).

III. SOUTH CAROLINA LAW

"The owner of property owes to an invitee or business visitor the duty of exercising reasonable or ordinary care for his safety, and is liable for injuries resulting from the breach of such duty." *Larrimore v. CP&L*, 340 S.C. 438, 444-45, 531 S.E.2d 535, 538 (Ct. App. 2000) (quoting *Israel v. Carolina Bar-B-Que, Inc.*, 292 S.C. 282, 289, 356 S.E.2d 123, 128 (Ct. App. 1987), *cert. denied*, 293 S.C. 406, 360 S.E.2d 824 (1987) (citation omitted)). To recover for injuries caused by a dangerous condition, "a plaintiff must show either (1) that the injury was caused by a specific act of the defendant which created the dangerous condition; or (2) that the defendant had actual or constructive knowledge of the dangerous condition and failed to remedy it." *Wintersteen v. Food Lion*, 344 S.C. 32, 35, 542 S.E.2d 728, 729 (2001). Generally, landowners are under no duty to warn invitee's of open and obvious conditions. *Larimore*, 340 S.C. 438, 445, 521 S.E.2d 535, 539 (Ct. App. 2000).

IV. ARGUMENT

- a. Plaintiff has produced no evidence that Defendants' created or had actual or constructive notice of the defective lighting condition that allegedly caused Plaintiff's fall.

In *Wintersteen*, a plaintiff filed suit against a store owner claiming she suffered injury when she slipped and fell on a clear liquid near a self-service soda machine that was equipped with an ice dispenser at the time of her fall. *Wintersteen*, 344 S.C. at 34. Despite Plaintiff's failure to produce any evidence that any store employee had actual or constructive notice of the presence of the substance on the floor prior to the accident, the trial court denied the store owner's motion for directed verdict holding that the store owner created a foreseeable risk that ice would fall onto the floor and create a dangerous condition. *Id.* In affirming the court of appeals' reversal of the trial court's denial of the store owner's motion for directed verdict, the South Carolina Supreme Court refused to implement a "duty to prevent" rule and held that "although there may be a foreseeable risk that substances will wind up on the floor, there is no specific act of the defendant which causes the substance to arrive there," and "[t]o require shopkeepers to anticipate and prevent the acts of third parties is, in effect to render them the insurers of their customers' safety." *Id.* at 37.

Although Defendants concede the present case does not involve a foreign substance, the factual scenario presented to the Court in *Wintersteen* is directly analogous to this case. As stated in the facts section above and like the plaintiff in *Wintersteen*, Plaintiff has produced no evidence or testimony that even remotely could be construed as evidence that Defendants' created or had actual or constructive notice of the specific light outage that Plaintiff alleges caused her fall. Instead, Plaintiff seemingly attempts to argue that because Defendants' were aware that light bulbs generally burn out over time and that Defendants' procedures did not call for light bulbs to be replaced before they stop working, they should be held responsible for any

injuries that may result when a person claims injury because they could not see where they were walking due to a light outage. Plaintiff's theory defies common sense and does not constitute notice under South Carolina law.

Ignoring the fact that Plaintiff testified she was aware that the light was out before she fell, to extend liability to a landowner or its agents under the Plaintiff's theory would require landowners and their agents to implement procedures to prevent all instances of darkness in stairwells, common areas, etc. that are the result of a light outage. Essentially, Plaintiff is asking the Court to require landowners and their agents to anticipate events that cannot be anticipated, or, as stated in *Wintersteen*, a "duty to prevent." Not only would such a ruling require landowners and their agents to anticipate when a light may have an outage due to normal use, it would require anticipation of light outages that are due to other things such as a malfunction in the light, acts of third parties, weather related outages, and countless other events that can cause a light to stop working. To allow a jury to consider liability under such a theory, would cut against the current state of South Carolina law and find that landowners are, in fact, the insurers of an invitee's safety. That potential is particularly present in this case where Plaintiff has not produced any evidence or testimony, lay or expert, as to what caused the light to stop working.

Finally, while the current case involves a commercial property, a ruling in Plaintiff's favor would expose all landowners, including individual homeowners, to liability for injuries that occur when a light goes out regardless of whether or not the homeowner was aware of the outage. Such an expansion of potential liability is clearly beyond that which the current state of the law intends.

For the reasons stated above, Plaintiffs' claims against all Defendants should be dismissed for failing to produce any evidence that Defendants created the dangerous condition or had actual or constructive notice of its existence.

- b. The alleged dangerous lighting condition was an open and obvious danger and thus Defendants had no duty to warn Plaintiff of its existence.**

In *Larimore*, the plaintiff sued a homeowner and power company after he suffered injury at the homeowners' property when he stepped in a dirt covered trench that was created by the power company. *Id.*, 340 S.C. at 442. In directing a verdict for the homeowner, the trial court held that "the trench was an open and obvious condition on the property and, as such, [the homeowner] owed no duty to warn [plaintiff] of the condition." *Id.* 340 S.C. at 445. On appeal, Plaintiff argued that "a landowner may still be liable for injuries suffered from an open and obvious defect if the landowner should have anticipated the harm." *Larimore*, 340 S.C. at 445-46 (citing *Callander v. Charleston Doughnut Corp.*, 305 S.C. 123, 406 S.E.2d 361 (1991)). In *Callander*, the issue of liability against a restaurant owner was submitted to a jury when an elderly customer was injured when he sat on a stool that lacked a rounded seat cushion. *Callander*, 305 S.C. at 124-125.

The South Carolina Supreme Court in *Larimore* distinguished *Callander* by stating that in *Callander*, the plaintiff produced evidence that the store owner admitted knowing of the stools condition for over two months, that the store was often frequented by senior citizens and its patrons often backed onto the stools to sit down; whereas in *Larimore*, there was no evidence the homeowner was aware of the defect that caused Plaintiff's injury. *Id.* at 446. The court further held that because the homeowner "had no knowledge of the defect's existence prior to the accident, it would be impossible for him to anticipate any harm that might result from it," and to

"impose liability under such a theory would make landowners insurers of their invitee's safety; it is well established in South Carolina that they are not." *Id.* at 447.

As evidenced by Plaintiff's testimony, there can be no dispute that she was aware of dangers created by the light outage when she elected to proceed up the stairwell. She testified that she proceeded up and down the stairs carefully because she noticed the light was out and it was dark. (Pls. Dep. 42:14 – 43:2, **Exhibit A**). Furthermore, like the facts in *Larimore*, there is no evidence that Defendants had actual or constructive knowledge of the specific lighting outage at the 700 building at the time of Plaintiff's fall. Pursuant to the ruling set forth in *Larimore*, Defendants are not liable for Plaintiff's injuries as the alleged specific dangerous lighting condition that caused her fall was an open and obvious condition to which Defendants did not have actual or constructive notice. As a result, Defendants respectfully request the Court grant summary judgment as to all of Plaintiff's claims on the basis that the alleged dangerous condition which caused her fall was open and obvious as a matter of law.

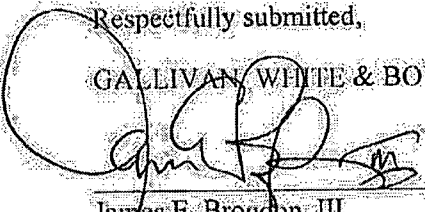
V. CONCLUSION

Based upon the foregoing authorities and argument, Defendants respectfully submit that there is no evidence that they created the alleged dangerous lighting condition or had actual or constructive notice of the alleged dangerous lighting condition prior to Plaintiff's alleged fall and that to the extent a dangerous condition existed, it was open and obvious to Plaintiff. As such, Defendants respectfully request that the Court grant its Motion for Summary Judgment as to all of Plaintiff's claims on the basis that there is no genuine issue of material fact as to any of Plaintiff's causes of action.

[signature page attached]

Respectfully submitted,

GALLIVAN, WHITE & BOYD, P.A.



James E. Brogdon, III
1201 Main Street, Suite 1110
Post Office Box 7368
Columbia, South Carolina 29202
Telephone: 803-724-1728

ATTORNEYS FOR DEFENDANTS

Columbia, South Carolina
April 7, 2015

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

Donna Douglass,

Plaintiff,

v.

Berkshires on St. Ives, Berkshire Property
Advisors, LLC, BVF North Cove LLC
and The Berkshire Group,

Defendants.

IN THE COURT OF COMMON PLEAS
NINTH JUDICIAL CIRCUIT

CIVIL ACTION NO.: 2013-CP-10-7133

CERTIFICATE OF SERVICE

FILED
APR 13 PM 3:28
CLERK OF COURT

The undersigned of Gallivan, White & Boyd, P.A., hereby certifies that she has served the following with the foregoing **MEMORANDUM IN SUPPORT OF DEFENDANT'S MOTION FOR SUMMARY JUDGMENT** by mailing a copy of same, postage prepaid and return address clearly indicated, to the below address as well as emailing a copy of the same to the below electronic mail address below on this 7th day of April, 2015.

Jarrell L. Wigger
WIGGER LAW FIRM, INC.
8086 Rivers Avenue, Suite A
North Charleston, SC 29406
jwigger@wiggerlawfirm.com


Helen Grant, Legal Assistant

EXHIBIT

A

1

COPY

 **SPECTRUM**
COURT REPORTING SERVICES

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1 APPEARANCES

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9 Attorney at Law
10 1201 Main Street
11 Suite 1200
12 Columbia, SC 29201
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21
22

1 A. I haven't speak to them at all.

2 Q. Okay. So you didn't speak with
3 anybody who lived there after the accident; is that
4 right?

5 A. No, sir.

6 Q. Okay. And didn't call and report the
7 accident after it happened; is that right?

8 A. No, sir.

9 Q. Okay. Do you recall on your previous
10 trips to that building whether or not there was any
11 lighting?

12 A. Do I recall?

13 Q. Yeah, was it -- this instance, you said
14 there was -- it was dark, right?

15 A. Yes, sir.

16 Q. Okay. Was it dark in the other
17 instances where you went before this accident?

18 A. No, sir. There was light out there.
19 The light -- I mean, the light was working, the
20 particular 700, it -- the light wasn't -- the light
21 was out.

22 Q. Okay. Do you know when that light went
23 out?

24 A. I couldn't tell you, sir.

25 Q. Okay. Do you know how -- what caused

1 the light to go out?

2 A. I couldn't tell you that either.

3 Q. Okay. Do you know whether or not
4 anyone ever reported the lighting problem to the
5 property manager or anyone who owned the property?

6 A. No, sir. I just deliver, and I just
7 worked there for business, for pizza.

8 Q. Okay. Have you ever spoken with --
9 with anyone who lives at those apartments who told
10 you that, yes, that light frequently goes out and
11 that they had told the property owners or property
12 manager about that problem?

13 A. No, sir.

14 Q. Besides the person who you delivered
15 the pizza to on that night, have you spoken with
16 anyone who lives there since this accident?

17 A. No, sir. I don't know nobody who lives
18 there.

19 Q. Okay. Had you made any other
20 deliveries that day or that night?

21 A. I made other deliveries that night.

22 Q. Okay. How many did you make? Do you
23 know?

24 A. I couldn't tell you, sir.

25 Q. Okay. The first person you called,

1 -- the lights was still -- the light was still
2 out.

3 Q. Okay. Was there anything -- did there
4 appear to be anything wrong with the stairs
5 themselves?

6 A. I'm not sure. I couldn't answer you, I
7 mean..

8 Q. Okay. But you're not claiming that the
9 stairs caused you to fall? It was just that you
10 weren't able to see where you're walking; is that
11 right?

12 A. No. It was too dark. The light --
13 like I said, the light was out.

14 Q. Okay. And I think that you said when
15 you went up to deliver the pizza, the light was
16 also out at that point in time, too; is that
17 correct?

18 A. Yes, sir.

19 Q. As you were proceeding down the stairs,
20 I think you said you did it carefully because you
21 realized that it was dark; is that right?

22 A. I did it careful going up and coming
23 down.

24 Q. Okay. And why did you do it carefully
25 going up and down?

1 A. Because I -- I want to prevent myself
2 from falling.

3 Q. Okay. Why did you feel in that
4 instance you needed to --

5 A. Because you --

6 Q. -- do it carefully?

7 A. Because you couldn't see -- you
8 couldn't -- you couldn't see.

9 Q. Were you able to drive yourself from
10 the apartment complex back to Pizza Hut?

11 A. Yes, sir. I drove myself. I had to
12 use my left foot.

13 Q. Okay. And you drove with your left
14 foot?

15 A. Uh-huh.

16 Q. How far is the Pizza Hut?

17 A. The Pizza Hut from the apartment
18 building?

19 Q. Yeah.

20 A. I don't want to guess how far it is. I
21 can't guess. It's not too far.

22 Q. Okay. At some point, you went to the
23 hospital; is that right?

24 A. Yes, sir.

25 Q. And what hospital did you go?

EXHIBIT

B

Gregory Moran

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

IN THE COURT OF
COMMON PLEAS FOR THE
NINTH JUDICIAL CIRCUIT

DONNA DOUGLASS

Plaintiff,

vs.

BERKSHIRES ON ST. IVES,
BERKSHIRE PROPERTY ADVISORS,
LLC, BVF NORTH COVE, LLC, AND
THE BERKSHIRE GROUP

Defendants,

CIVIL ACTION NO.
2013-CP-10-07133

GREGORY MORAN

DATE TAKEN: MONDAY, APRIL 6, 2015
TIME BEGAN: 10:34 A.M.
TIME ENDED: 11:17 A.M.
LOCATION: THE WIGGER LAW FIRM, INC.
8086 RIVERS AVENUE, SUITE A
NORTH CHARLESTON, SOUTH CAROLINA

REPORTED BY: DEIRDRE J. WEYER, RPR
EVERYWORD, INC.
P.O. BOX 1459
COLUMBIA, SOUTH CAROLINA 29202
803-212-0012

APPEARANCES:

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BY: JAMES E. BROGDON, III, ESQUIRE
1201 Main Street, Suite 1200
Columbia, South Carolina 29201
803.779.1833
jbrogdon@gwblawfirm.com
Representing the Defendants

1 A No.

2 Q Before January 6th of 2011, did you ever
3 receive any reports of problems with the lighting in
4 the stairwell of building 7 -- Phase I, 700 building?

5 A No.

6 Q Around January 6th of 2011 or right before
7 that, in the days before it, did you ever see any
8 work orders to replace any lights being out in the
9 700 building of Phase I?

10 A I would never be able to recall that.

11 Q That's records that would exist, right?

12 A I wouldn't have them. Berkshire took all
13 their stuff when they...

14 Q Is it fair to say that, you know -- if
15 they did have the work orders for around that period
16 of time and there were no work orders in those
17 documents that relate to a light being out, is it
18 fair to state that a light being out was never
19 reported?

20 A Oh, yeah.

21 Q After January 6th, 2011, did you ever go
22 to the 700 building and check the lighting in the
23 stairwell after hearing the report of the fall?

24 A I haven't -- we never knew which building
25 it was. We knew there was a lawsuit.

1 Q You mentioned that in order to check the
2 lights you'd have to cover up the photocell; is that
3 right?

4 A Correct.

5 Q Is that because you don't have anybody
6 working at nighttime?

7 A Correct.

8 Q And what does the photocell do?

9 A It detects darkness and turns the lights
10 on.

11 Q So that's to keep the lights from being on
12 all day; is that right?

13 A Correct.

14 Q How long have you been in property
15 management or doing maintenance for property
16 management?

17 A Seven years. Seven or eight years.

18 Q And the length of time you've been doing
19 that, in terms of lights being out and general
20 maintenance issues, do you rely on residents to
21 report those problems?

22 A No. Just my guys check it.

23 Q In terms of lights being out at night, you
24 would need residents to report those problems -- or
25 you would hope that they would report them if they

1 saw them, right?

2 A Yes. That's our best resource.

3 Q The residents?

4 A Yeah.

5 Q Do you recall any residents ever telling
6 you that there was problems with the lighting before
7 January 6th, 2011, at the 700 building, Phase I?

8 A No.

9 Q Are there other lights around the
10 buildings as well?

11 A Yeah. That light -- that whole inside
12 light well has 16 lights, divided by three -- three
13 floors, there's six on each floor.

14 Q In this case, do you know whether or not
15 it was all the lights or just one that was out?

16 A I wouldn't know.

17 Q Would it be unusual for more than one or
18 two of the lights to be out at the same time?

19 A No.

20 Q Bear with me for one minute.

21 Do you have any knowledge how long the
22 light was out in the stairwell of the 700 building of
23 Phase I before Miss Douglass's alleged accident on
24 January 6th, 2011?

25 A No.

1 Q Do you know what caused the light to be
2 out on January 6th, 2011?

3 A Absolutely not.

4 Q Are there handrails leading up the
5 stairwells of all the buildings?

6 A Yes.

7 Q So I assume there was handrails leading up
8 to the 700 building; is that fair?

9 A Um-hum.

10 Q Yes?

11 A Yes.

12 Q If a visitor or a resident noticed a
13 problem which they thought presented them some
14 danger, what would you expect them to do?

15 A Report it to the office.

16 Q If a visitor or a resident came to a
17 stairwell and noticed that a light was out and the
18 stairwell was dark and saw that to be a dangerous
19 situation, would you expect them to proceed up or
20 down the stairwell regardless of that fact without
21 reporting it?

22 A I would say so. There was still plenty of
23 light.

24 Q But if they felt that it was a dangerous
25 condition or a dangerous situation, would you still

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

Donna Douglass,

Plaintiff,

v.

Berkshires on St. Ives, Berkshire Property
Advisors, LLC, BVF North Cove LLC
and The Berkshire Group,

Defendants.

IN THE COURT OF COMMON PLEAS
NINTH JUDICIAL CIRCUIT

CIVIL ACTION NO.: 2013-CP-10-7133

**MEMORANDUM IN OPPOSITION TO
PLAINTIFF'S MOTION FOR
RECONSIDERATION PURSUANT TO
RULE 59(e)**

FILED
CLERK OF COURT
JULIE A. HUNTER
MAY 11 PM 3:05

This matter is before the Court upon Plaintiff's Motion for Reconsideration regarding this Court's April 23, 2015 Order Granting Defendants' Motion for Summary Judgment. Defendants submit this Memorandum in Opposition to Plaintiff's Motion. Based on the reasons set forth below, Defendants respectfully request that Plaintiff's Motion be denied.

I. INTRODUCTION

In its April 23rd decision, this Court, after consideration of the relevant facts and arguments of counsel and applying the relevant law, properly granted Defendants' Motion for Summary Judgment. In its April 23, 2015 Order, this Court correctly held, among other things:

- The condition that caused Plaintiff's fall was a burned out light bulb.
- Despite Plaintiff's contention, Defendants did not create the condition of a burned out light bulb.
- Under South Carolina law, Plaintiff was required to prove Defendants had actual or constructive notice of the condition that caused her injury. Plaintiff produced no evidence that Defendants' possessed actual or constructive notice of the burned out light bulb at the time of Plaintiff's fall.

- Without notice, Defendants did not owe Plaintiff a duty to warn of or remedy the lighting condition that Plaintiff claims caused her fall. As a result, Plaintiff's causes of action against Defendants must fail as a matter of law.
- As an alternate ground, Plaintiff bears greater than fifty-percent (50%) of the fault for causing her fall by assuming the risk of traversing the dark stairwell despite recognizing the danger associated with doing so prior to her fall. As a result, Plaintiff's causes of action against Defendants must fail as a matter of law.

II. LEGAL STANDARD

Rule 59(e) of the South Carolina Rules of Civil Procedure provides a mechanism for parties to move the court to alter or amend a judgment within ten days following receipt of written notice of the entry of the order. The purpose of a motion to alter or amend is "to request the trial judge to 'reconsider matters properly encompassed in a decision on the merits.'" *Coward Hund Constr. Co., Inc. v. Ball Corp.*, 336 S.C. 1, 4, 518 S.E.2d 56, 58 (Ct. App. 1999); *see also Elam v. S.C. Dep't of Transp.*, 361 S.C. 9, 21, 602 S.E.2d 772, 778 (2004).

A motion for reconsideration is not intended to give the moving party a "second bite of the apple." Under South Carolina law, a motion for reconsideration is governed by Rule 59(e) of the South Carolina Rules of Civil Procedure. Federal case law is also instructive on this issue, as the comments to South Carolina's Rule 59 state that "Rule 59 is substantially the Federal Rule." A motion for reconsideration under Rule 59(e) "should not be granted, absent highly unusual circumstances, unless the ... court is presented with newly discovered evidence, committed clear error, or if there is an intervening change in the controlling law." *See 389 Orange St. Partners v. Arnold*, 179 F.3d 656, 665 (9th Cir. 1999); *McCall v. Williams*, 59 F. Supp.2d 556, 558 (D.S.C. 1999). Motions for reconsideration are not vehicles for providing litigants with the opportunity to re-litigate previously decided issues. *See National Ecological Foundation v. Alexander*, 496 F.3d 466, 477 (6th Cir. 2007).

III. ARGUMENT

Applying the law to the case at bar, it quickly becomes clear that Plaintiff is attempting to use a Rule 59(e) Motion to re-litigate old issues. Plaintiff's Motion indicates that Plaintiff has no basis for her request other than her mere disagreement with how the Court applied the law in this case. Plaintiff's Motion does not present any new evidence that was previously unavailable, nor does it present intervening changes in controlling law. Thus, the only possible basis for Plaintiff's Motion is that the Court made a clear error of law. However, Plaintiff has presented no evidence in this regard.

a. The Court correctly found that Plaintiff failed to prove Defendants owed a duty to Plaintiff.

In her Motion for Reconsideration Plaintiff asserts several unsupported measures she contends Defendants could have taken that may have prevented her fall. Those measures include: (1) "[design] the steps to have (2) lights so if (1) burned out, the other would still be lit"; (2) use a light meter to check the lights more than once a month; and (3) "conduct regular nighttime inspections." This is the first time Plaintiff has attempted to argue specific actions Defendants should have taken despite having ample opportunity to raise these arguments prior to her Motion for Reconsideration. As a result, to consider Plaintiff's argument would be to allow her to re-litigate a previously decided issue.

However, even if the Court reaches the merits of Plaintiff's arguments, it should still deny Plaintiff's Motion for Reconsideration because Plaintiff produced no evidence, expert testimony or otherwise, to show that Defendants had a duty to take the measures Plaintiff asserts in her Motion for Reconsideration. Plaintiff simply lists several measures which she believes may have prevented her fall, and cites for the first time what she purports to be sections of the

International Property Maintenance Code without any supporting evidence, testimony or otherwise, that establishes that the cited language is relevant or authoritative in the present case. Plaintiff also failed to produce any evidence that Defendants' violated the select sections of the cited code language. Without such evidence or testimony, the purported code sections cited by Plaintiff are nothing more than irrelevant words on paper. For these reasons, this Court correctly found that Plaintiff failed to prove Defendants owed a duty to remedy the lighting condition that Plaintiff claims caused her fall.

b. The Court correctly held as an alternate ground that Plaintiff was more than fifty-percent (50%) at-fault for causing her fall.

Plaintiff argues that because she is a person of "diminished capacity," a jury question exists as to whether or not it was reasonable for her to make the conscious decision to traverse the stairwell on the night of her fall. As stated above, Plaintiff had ample opportunity to raise this argument prior to her Motion for Reconsideration but failed to do so. To consider Plaintiff's argument would be to allow her to attempt to re-litigate a previously decided issue.

Regardless, even if the Court reaches the merits of her argument, her argument fails because it is contradicted by her own deposition testimony where Plaintiff clearly states that she attempted to *carefully* traverse the stairwell *after noticing* the dark condition. Defendants submitted this testimony to the Court in support of their Motion for Summary Judgment. Plaintiff's testimony proves that she was of sufficient mental capacity to recognize the condition and the potential danger that it caused.

Plaintiff also argues in her Motion for Reconsideration that she had no option but to traverse the stairwell to deliver the pizza. Once again, Plaintiff had ample opportunity to raise this argument prior to her Motion for Reconsideration but failed to do so. To consider Plaintiff's

argument would be to allow her to attempt to re-litigate a previously decided issue.

However, even were the Court to address the merits of Plaintiff's argument, the argument is contradicted by the testimony of Plaintiff's supervisor at the time of the accident, Richard Fortenberry, who testified that Plaintiff had the ability to call the customer and ask the customer to meet her at the bottom of the building if she did not feel comfortable walking up and down the stairwell. (Fortenberry Dep. 18:12-22, Exhibit A.) Clearly, Plaintiff is grasping at straws to the extent that her new arguments even contradict the evidence in the case.

Based on the evidence and testimony submitted by the Parties, this Court correctly found as an alternate ground that Plaintiff's fault for causing her fall was greater than fifty percent (50%) thus barring her recovery as a matter of law.

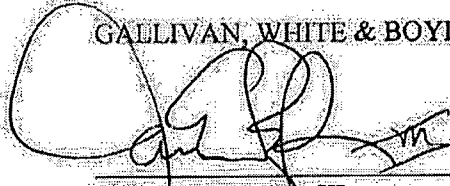
IV. CONCLUSION

There is no clear error of law warranting reconsideration of this Court's April 23rd decision. Plaintiff simply seeks to re-litigate issues that were fully briefed and argued by the Parties and properly decided by this Court. As a result, Defendants respectfully request the Court deny Plaintiff's Motion for Reconsideration.

[signature page attached]

Respectfully submitted,

GALLIVAN, WHITE & BOYD, P.A.

A handwritten signature in black ink, appearing to read 'James E. Brogdon, III', is written over a horizontal line.

James E. Brogdon, III
1201 Main Street, Suite 1200
Post Office Box 7368
Columbia, South Carolina 29202
Telephone: 803-724-1801

ATTORNEYS FOR DEFENDANTS

Columbia, South Carolina
May 7, 2015

EXHIBIT

A

STATE OF SOUTH CAROLINA
IN THE COURT OF COMMON PLEAS
COUNTY OF CHARLESTON
CASE NO. 2013-CP-10-7133

DONNA DOUGLASS,	) DEPOSITION OF:
	) RICHARD FORTENBERRY
Plaintiff,	)
	)
-versus-	)
	)
BERKSHIRES ON ST. IVES,	)
BERKSHIRE PROPERTY ADVISORS,	)
LLC, BVF NORTH COVE, LLC,	)
AND THE BERKSHIRE GROUP,	)
	)
Defendant.	)

DATE:	Monday, April 6, 2015
TIME:	12:56 p.m.
LOCATION:	Wigger Law Firm, Inc. 8086 Rivers Avenue, Suite A North Charleston, SC 29406
REPORTED BY:	JENNIFER M. HUGGINS, Certified Shorthand Reporter

1 Q. -- that type of thing?

2 A. Bad areas of town, dark situations, you
3 know.

4 Q. Sure.

5 A. She's female, you know, definitely have
6 to be cautious.

7 MR. WIGGER: Sure. Okay. Those are
8 all the questions I had.

9 MR. BROGDON: One follow-up to that.

10 RE-EXAMINATION

11 BY MR. BROGDON:

12 Q. If somebody would call you and say, I'm
13 supposed to deliver this pizza up on the second
14 floor, I can't hardly even see the stairs to walk
15 up them, I don't feel safe, what would your
16 response be?

17 A. I would say, call the customer and have
18 them bring the -- you know, come down to the bottom
19 of the stairs and either do that or come back to
20 the restaurant and we'll send somebody else.

21 Q. That's a pretty easy fix, isn't it?

22 A. Yeah. That's a pretty easy fix.

23 MR. BROGDON: That's all I have.

24 RE-EXAMINATION

25 BY MR. WIGGER:

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

Donna Douglass,

Plaintiff,

v.

Berkshires on St. Ives, Berkshire Property
Advisors, LLC, BVF North Cove LLC
and The Berkshire Group,

Defendants.

IN THE COURT OF COMMON PLEAS
NINTH JUDICIAL CIRCUIT

CIVIL ACTION NO.: 2013-CP-10-7133

CERTIFICATE OF SERVICE

FILED
2015 MAY 11 PM 3:05
JULIE J. ARMSTRONG
CLERK OF COURT
BY _____

The undersigned employee of Gallivan, White & Boyd, P.A., attorneys for Defendants, does hereby certify that on the 7th day of May, 2015 service of the Memorandum in Opposition to Plaintiff's Rule 59(e) Motion for Reconsideration in the above-referenced action was made upon all counsel of record by placing same in the United States Mail, first class postage prepaid, addressed to the following:

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8086 Rivers Avenue, Suite A
North Charleston, SC 29406

Counsel for the Plaintiff


Helen Grant, Legal Assistant

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

DONNA DOUGLASS,
Plaintiff,

v.

BERKSHIRES ON ST. IVES, BERKSHIRE
PROPERTY ADVISORS, LLC, BVF
NORTH COVE LLC and THE BERKSHIRE
GROUP,
Defendants.

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICAL CIRCUIT
CASE NO: 2013-CP-10-7133

**MEMORANDUM IN OPPOSITION OF
SUMMARY JUDGMENT**

The Plaintiff, by and through her undersigned counsel, hereby submits her response in opposition to Defendants' Motion for Summary Judgment and states the following:

STATEMENT OF FACTS

Prior to January 6, 2011, the Defendant's built and maintained an apartment complex. Defendants leased to residential apartment dwellers and retained control over many areas. The Defendants were responsible for common areas (which are at issue here), sidewalks, stairs, grass, lawns, parking lots, buildings, plumbing, HVAC, etc.

Neither apartment renters, nor visitors, had the right, responsibility, or ability to do anything to the common areas. Any action by an outside person would be a trespass (see attached deposition excerpts of Greg Moran, page 24, lines -16).

Traversing stairs has long been regarded as an inherently dangerous activity. The International Building Code (IBC), and the Southern Building Code (SBC), etc. have special sections just dealing with stairs. Stairs without lighting have long been recognized to create

inherently hazardous conditions. The maintenance supervisor admitted lighting on the stairs was a safety issue (see attached deposition excerpts of Greg Moran, page 27, lines 7-8).

The owner in this case created the inherently dangerous condition. They would have installed the lights, and controlled their replacement and they created the stairway. As the owner created the hazardous condition, they require no notice if there is a problem. Cook v. Food Lion, Inc., 328 S.C. 324, 327, 491 S.E.2d 690, 691 (Ct. App. 1997). Plaintiff was invited to the premises for a business purpose, and had no choice but to travel through the area of invitation and inherently hazardous area created by the apartment complex (see attached deposition excerpts of Greg Moran, page 30, lines 9-25 and page 31, lines 1-16). Unfortunately, the Defendants did not provide a lighted area for the Plaintiff to traverse in an inherently dangerous area (see attached deposition excerpts of Donna Douglass, page 38, lines 18-21 and page 39, lines 6-7).

On or about January 6, 2011, the Plaintiff was delivering a pizza to a resident located at building 700 on the premises of the Defendants, when she fell down a flight of stairs due to the lack of adequate lighting. Plaintiff was injured during said fall and had to seek medical treatment (see attached deposition excerpts of Donna Douglass, page 44, line 1).

That pursuant to the testimony of the Defendants' Maintenance Supervisor, Greg Moran, he stated that it would not be unusual for more than one or two of the lights to be out at the same time (see attached deposition excerpts of Greg Moran, page 16, lines 18-19). He further testified that lighting was always a safety issue, that he could not delegate a safety issue to a resident, that he buys the lights and that if he saw a lighting issue it was his responsibility to fix it (see attached deposition excerpts of Greg Moran, page 27, lines 1-24). Mr. Moran went on to state in his deposition excerpts that he generally knew the life of a light bulb, that he knew

where to locate the life expectancy of a light bulb (see attached deposition excerpts of Greg Moran, Page 27, line 25 and page 28, lines 1-8). He stated that they would not replace the light bulbs until they were burned out, and that there were no systems in place to systematically replace the light bulbs (see attached deposition excerpts of Greg Moran, page 28, lines 9-22). He went on to state that he knew there was a situation where the lighting would burn out, would wait until either it was reported or see before he would replace it, that it was a safety issue and he was aware that it was going to burn out and he should anticipate replacing it. (see attached deposition excerpts of Greg Moran, page 28, lines 23-25 and page 29, lines 1-20). Further in Mr. Moran would state that there were not any overhead lighting or any lighting that would illuminate the area on the landscape on the particular stairway where the Plaintiff fell (see attached deposition excerpts of Greg Moran, Page 33, lines 2-7). Mr. Moran also stated he was not familiar with any of the building codes regarding the rise and run of the stairways, that they were always repairing the stairs because they were about 30 years old, made out of wood, and would become misshapen or disfigured (see attached deposition excerpts of Greg Moran, page 34, lines 24-25 and page 35, lines 1-18). Mr. Moran further stated that the maintenance guys do not always make an entry in the maintenance log every time they change a light bulb (see attached deposition excerpts of Greg Moran, page 35, lines 19-21). He also stated they only checked for light bulbs about once a month (see attached deposition excerpts of Greg Moran, page 13, lines 14-15). And that only residents or employees could put in a work order (see attached deposition excerpts of Greg Moran, page 10, lines 2-3).

The Defendants' previous service manager has also testified that sometimes a service requests would be written up and sometimes they wouldn't (see attached deposition excerpts of Richard King, page 10, lines 2-4). Mr. King also would advise that if he would walk through

the grounds that if something needed to be fixed, they would just fix it right away (see attached deposition excerpts of Richard King, page 10, lines 19-24). Mr. King stated in his deposition excerpts that maintenance work is the owner of the apartment complex's responsibility, and that if the stairs were wood, that they should be constantly nailed down if they were pulling up (see attached deposition excerpts of Richard King, page 13, lines 1-13).

Pursuant to the deposition excerpts of the Defendants' previous service manager and current maintenance supervisor, it appears as if the Defendants do not have any systems in place for the safety issues regarding lighting, that there wasn't always a written log of if and when lights were replaced, the stairs had to be constantly nailed down, that the stairs had to be repaired and/or replaced, that the building code evidently wasn't an issue because they didn't know what they were, that they knew the life expectancy or knew how to find out the life expectancy of a light bulb, that there were not any overhead lighting or any lighting that would illuminate the area on the landscape on the particular stairway where the Plaintiff fell, and that it was the Defendants' responsibility to provide a safe environment for the tenants and/or visitors on their premises.

The parties have mediated this matter, however, to no avail.

SUMMARY JUDGMENT STANDARD

"Summary judgment is inappropriate when reasonable minds can differ as to any material fact." Williams v. Chesterfield Lumber Co., 267 S.C. 607, 230 S.E.2d 447, 448 (1976).

"Summary Judgment must be denied if there is any genuine dispute between the parties." Hammond v. Scott, 268 S.C. 137, 232 S.E.2d 336, 339 (1977).

"The party seeking summary judgment has the initial responsibility of demonstrating the absence of a genuine issue of material fact." Richardson v. The State Record Co., Inc., 330 S.C.

562, 499 S.E.2d 822, 824-825 (Ct. App. 1998). "At the summary judgment stage of the proceedings, it is only necessary for the nonmoving party to submit a scintilla of evidence warranting determination by a jury for summary judgment to be denied. Hill v. York County Sheriff's Department, 313 S.C. 303, 437 S.E.2d 179, 182 (Ct. App. 1993).

The Plaintiffs, by and through the facts of the case, have established there are genuine issues as to the acts of the Defendants. "In determining whether any triable issue of fact exists, as will preclude summary judgment, the evidence and all inferences which can be reasonably drawn therefrom must be viewed in the light most favorable to the nonmoving party." Koester v. Carolina Rental Ctr. Inc., 313 S.C. 490, 443 S.E.2d 392 (1994); Faile v. South Carolina Department of Juvenile Justice, *Supra*.

"Summary Judgment is not appropriate where further inquiry into the facts of the case is desirable to clarify the application of the law." Tupper v. Dorchester County, 326 S.E.3d 18, 487 S.E.2d 187 (1997); Baugus v. Wessinger, 303 S.C. 412, 401 S.E.2d 169 (1991). Even if the only dispute is how to draw conclusions or determinations from undisputed facts, summary judgment should be denied. Koester, *Supra*; Tupper, *Supra*. At the summary judgment stage, the Plaintiff need not prove her case, only that there is a genuine issue of material fact regarding the merits of her claim. For summary judgment to be granted, it must be perfectly clear no issue of facts is involved. Piedmont Engineers, Architects and Planners, Inc. v. First Hartford Realty Corp., 278 S.C. 195, 293 S.E.2d 706 (1982).

Defendant's Motion should be denied due to the fact that South Carolina is now a scintilla of evidence State. Froneberger v. Smith, 406 S.C. 37, 748 S.E.2d 625 (S.C. App. 2013). In Froneberger, the court concluded that the Plaintiff presented sufficient evidence to satisfy the scintilla of evidence requirement that is needed to defeat summary judgment. "However, given

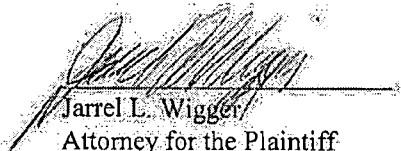
the minimal amount of discovery the parties had conducted at the time summary judgment was granted, we find the Smiths' answers created a mere scintilla of evidence that precluded summary judgment." Froneberger at 406 S.C. at 51, 748 S.E.2d at 632. South Carolina has now universally adopted this standard. The Plaintiff opposes this motion on the grounds that based on the facts, taken in the light most favorable to the Plaintiff, do not entitle the Defendant to judgment as a matter of law. Moreover, there are issues of material fact which make the matter one for a jury.

CONCLUSION

It is clear, based on the facts of the case and applicable standards and law that the Plaintiff's injury was caused by the negligence, gross negligence, breach of duty of care, of the premises owned by the Defendants. Additional discovery and deposition excerpts will need to be completed. Based on the facts and law as set out in this memorandum and the fact that the Defendants' motion has no merit, the Plaintiff respectfully requests this Honorable Court to deny the Defendants' Motion for Summary Judgment.

Respectfully Submitted,

WIGGER LAW FIRM, INC.


Jarrel L. Wigger
Attorney for the Plaintiff
8086 Rivers Avenue, Suite A
North Charleston, SC 29406
Telephone: (843) 553-9800
Facsimile: (843) 553-1648

North Charleston, South Carolina
This 8th day of April, 2015.

Gregory Moran

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

IN THE COURT OF
COMMON PLEAS FOR THE
NINTH JUDICIAL CIRCUIT

DONNA DOUGLASS

Plaintiff,

VS.

BERKSHIRES ON ST. IVES,
BERKSHIRE PROPERTY ADVISORS,
LLC, BVF NORTH COVE, LLC, AND
THE BERKSHIRE GROUP

Defendants,

CIVIL ACTION NO.
2013-CP-10-07133

GREGORY MORAN

DATE TAKEN:
TIME BEGAN:
TIME ENDED:
LOCATION:

MONDAY, APRIL 6, 2015
10:34 A.M.
11:17 A.M.
THE WIGGER LAW FIRM, INC.
8086 RIVERS AVENUE, SUITE A
NORTH CHARLESTON, SOUTH CAROLINA

REPORTED BY:

DEIRDRE J. WEYER, RPR
EVERYWORD, INC.
P.O. BOX 1459
COLUMBIA, SOUTH CAROLINA 29202
803-212-0012

1 specific light bulb, the time that they last could
2 vary; is that right?

3 A Correct.

4 Q Besides reports from residents or anyone
5 else who happened to be or y'all just making rounds
6 through the property and noticing a light being out,
7 are there any other procedures that you use to check
8 lights?

9 A Yes. The property's divided into sections
10 and everyone's responsible for their own section.
11 And they would tape up the photocell, because it's
12 daylight, and check the light. Do a light check.

13 Q And how often was that done?

14 A There wasn't a set time. Maybe once a
15 month. Every so often.

16 Q Do you know who was responsible for the
17 700 building of Phase I?

18 A Not at that time.

19 Q Sitting here today, do you have any reason
20 to believe that the light checks that you just
21 mentioned were not done around the time of the
22 accident?

23 A Were not done?

24 Q Do you have reason to believe they were
25 not done around the time of the accident?

1 saw them, right?

2 A Yes. That's our best resource.

3 Q The residents?

4 A Yeah.

5 Q Do you recall any residents ever telling
6 you that there was problems with the lighting before
7 January 6th, 2011, at the 700 building, Phase I?

8 A No.

9 Q Are there other lights around the
10 buildings as well?

11 A Yeah. That light -- that whole inside
12 light well has 16 lights, divided by three -- three
13 floors, there's six on each floor.

14 Q In this case, do you know whether or not
15 it was all the lights or just one that was out?

16 A I wouldn't know.

17 Q Would it be unusual for more than one or
18 two of the lights to be out at the same time?

19 A No.

20 Q Bear with me for one minute.

21 Do you have any knowledge how long the
22 light was out in the stairwell of the 700 building of
23 Phase I before Miss Douglass's alleged accident on
24 January 6th, 2011?

25 A No.

1 A Other than an outside ramp or a different
2 toilet -- higher toilets. Something like that.

3 Q Okay. What about if a visitor is there
4 visiting one of the apartment complex residents, do
5 they have the ability to request any changes to be
6 made?

7 A No, not if they don't have a lease.

8 Q In fact, if they did start making
9 alterations to the property, would that be considered
10 a trespass?

11 A Some violation. Some kind of a violation.

12 Q Okay. Sure. I mean, you wouldn't want
13 somebody coming up and changing your sprinkler
14 systems or moving bushes or changing light bulbs or
15 anything like that, right?

16 A Right.

17 Q So would it be fair to say then -- or
18 would it be a fair characterization to say that a
19 visitor has no ability to make changes when they come
20 onto the property?

21 A I would say that's fair to say.

22 Q Yeah. Now, would you agree also as your
23 job as a maintenance person there are some things
24 that are safety related and some things that are
25 aesthetically related?

1 Q And you can't delegate to a resident to
2 fix that, can you?

3 A Not at all.

4 Q Okay. So some safety issues cannot be
5 delegated to residents. Is that fair to say?

6 A Correct.

7 Q Is lighting a safety issues?

8 A Always.

9 Q Okay. And is it fair to say you can't
10 delegate a safety issue regarding lighting to one of
11 the residents?

12 A No, but we can ask them to report.

13 Q Right. But if you see a lighting issue,
14 that's your responsibility to fix, right?

15 A Correct.

16 Q Okay. Have you ever read any of the
17 building codes that are applicable to those
18 apartments regarding lighting issues?

19 A No.

20 Q And you were asked about doing things to
21 prevent this situation. You guys when you -- do you
22 buy the light bulbs or does the company just send
23 them to you?

24 A I buy them.

25 Q Okay. And you know what the life of those

1 bulbs is generally, right?

2 A Generally.

3 Q Sometimes they burn hot?

4 A Yep.

5 Q But is there an expected life expectancy
6 within any of the bulbs that you buy?

7 A I think on that page it tells you how many
8 hours you can expect.

9 Q Right. Is it fair to say there's no
10 system in place -- or there was no system in place in
11 2011 to replace the bulbs prior to the time that they
12 burned out?

13 MR. BROGDON: Object to the form.

14 THE WITNESS: We wouldn't replace them
15 until they burned out.

16 BY MR. WIGGER:

17 Q Right. You would wait till they burned
18 out before you replaced them, right?

19 A Yes.

20 Q So there was no system in place to replace
21 them prior to the time they burned out, was there?

22 A No.

23 Q Right. So what you had was a situation
24 where you knew that the lighting would burn out at
25 some point and then you would wait until it was

1 Q And I'm not even talking about
2 Donna Douglass's situation. I'm asking you in
3 general. You had a situation set up where you waited
4 until the light burned out, you knew it was a safety
5 issue, yet you waited till it burned out before
6 replacing it, right?

7 A I just -- I don't replace light bulbs that
8 are still lit.

9 Q Yeah. Now, as maintenance folks in the
10 apartment complex, you guys knew visitors came to the
11 apartment complex, right?

12 A Always.

13 Q And have you ever seen any pizza delivery
14 people come to the apartments?

15 A Every kind of delivery service comes in.

16 Q Sure. Chinese food, people delivering
17 furniture. All kind of stuff, right?

18 A Right.

19 Q So you can anticipate those types of users
20 for your facilities, right?

21 A Um-hum.

22 Q Is that right?

23 A Yes.

24 Q So it's fair to say that Miss Douglass was
25 an anticipated user of y'all's facilities --

1 A Something like that, yes.

2 Q What about any overhead lighting, is there
3 any overhead lighting on this particular stairway?

4 A No.

5 Q How about any lighting down below? Any
6 lighting that would illuminate this area?

7 A The landscaping? No.

8 Q And is that designed that way or is it
9 something that lights were burned out?

10 A What do you mean, "lights were burned
11 out"?

12 Q I'm just asking is this a accurate picture
13 of the way these stairways always are, or is it that
14 dark because the lights were burned out?

15 A It's not -- it doesn't look as dark as
16 this picture.

17 Q Yeah?

18 A The picture's darker than it looks.

19 Q Yeah. Where would other lighting be, if
20 any, relative to this picture?

21 A The next floor up above these
22 (indicating).

23 Q Okay. So on the next landing there would
24 be two lights kinda equivalent to these two lights
25 down here?

1 A There's three floors would be that way.

2 Q Okay. Is it fair to say there's no direct
3 light that comes down on the particular stairway
4 itself?

5 A Well, there's a light up here that would
6 shine down to it (indicating).

7 Q Okay. So when you're pointing, you're
8 pointing up north of where the stairway goes to --

9 A Right here's the floor (indicating). It's
10 going to be right (indicating).

11 Q Okay. So there's a light up in this area
12 somewhere (indicating)?

13 A And they all have their own door light.
14 That's their own private light to turn on at their
15 front door.

16 Q For the -- like, the residents?

17 A Right.

18 Q Yeah. Now, looking at this picture, does
19 it look like the light that would have been up here,
20 north, is out?

21 A I couldn't say because I'm not seeing that
22 floor that well. This picture is darker than I would
23 imagine it to be though.

24 Q Yeah. Are you familiar with any of the
25 building codes regarding rise and run of stairways?

1 A No. Whatever the code was when they built
2 that building, I would assume that's how it was
3 built.

4 Q Do you know if the rise and run is
5 consistent on this particular stairway?

6 A Yes.

7 Q Is that because you've actually measured
8 it or --

9 A No. We're always repairing stairs.

10 Q Yeah? Why are the stairs always be being
11 repaired?

12 A Because they're about 30 years old.

13 Q And they're made out of wood?

14 A Pressure-treated wood.

15 Q So the wood sometimes becomes misshapen or
16 disfigured?

17 A Yeah. People moving damage them from time
18 to time.

19 Q Now, every time a light bulb is changed,
20 do you guys make an entry on the maintenance log?

21 A No.

22 Q Is that one of those things that just if
23 you come across it, you change it out and it's --

24 A It's changed.

25 Q So even if we have the Berkshire records,

1 A No. Whatever the code was when they built
2 that building, I would assume that's how it was
3 built.

4 Q Do you know if the rise and run is
5 consistent on this particular stairway?

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11 repaired?

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16 disfigured?

17 A Yeah.. People moving damage them from time
18 to time.

19 Q Now, every time a light bulb is changed,
20 do you guys make an entry on the maintenance log?

21 A No.

22 Q Is that one of those things that just if
23 you come across it, you change it out and it's --

24 A It's changed.

25 Q So even if we have the Berkshire records,

1 You're welcome to read it over and make
2 sure.

3 A You can go on.

4 Q Okay. As a maintenance supervisor, would
5 you agree that part of your job deals with safety?

6 A Correct.

7 Q Would you agree with the safety principle
8 that any risk of serious injury is unreasonable if
9 reasonable accident prevention measures can prevent
10 it?

11 MR. BROGDON: Object to the form.

12 THE WITNESS: Can you rephrase that a
13 little bit?

14 BY MR. WIGGER:

15 Q Sure. Would you agree with the safety
16 principle that any risk of serious injury is
17 unreasonable if you can use reasonable acts and
18 measures to prevent it?

19 MR. BROGDON: Objection.

20 THE WITNESS: Yeah.

21 BY MR. WIGGER:

22 Q Okey-doke. I think those are all the
23 questions I have. Mr. Brogdon may have some more.

24 MR. BROGDON: No, that's it. You're done.

25

STATE OF SOUTH CAROLINA
IN THE COURT OF COMMON PLEAS
COUNTY OF CHARLESTON
CASE NO. 2013-CP-10-7133

DONNA DOUGLASS,	)	DEPOSITION OF:
	)	DONNA DOUGLASS
Plaintiff,	)	
	)	
-versus-	)	
	)	
BERKSHIRES ON ST. IVES,	)	
BERKSHIRE PROPERTY ADVISORS,	)	
LLC, BVF NORTH COVE, LLC	)	
AND THE BERKSHIRE GROUP,	)	
	)	
Defendants.	)	
	)	

DATE:	Tuesday, November 11, 2014
TIME:	9:57 a.m.
LOCATION:	Wigger Law Firm, Inc. 8086 Rivers Avenue North Charleston, SC 294406
REPORTED BY:	JENNIFER M. HUGGINS, Certified Shorthand Reporter

1 A. I haven't speak to them at all.

2 Q. Okay. So you didn't speak with
3 anybody who lived there after the accident; is that
4 right?

5 A. No, sir.

6 Q. Okay. And didn't call and report the
7 accident after it happened; is that right?

8 A. No, sir.

9 Q. Okay. Do you recall on your previous
10 trips to that building whether or not there was any
11 lighting?

12 A. Do I recall?

13 Q. Yeah, was it -- this instance, you said
14 there was -- it was dark, right?

15 A. Yes, sir.

16 Q. Okay. Was it dark in the other
17 instances where you went before this accident?

18 A. No, sir. There was light out there.
19 The light -- I mean, the light was working, the
20 particular 700, it -- the light wasn't -- the light
21 was out.

22 Q. Okay. Do you know when that light went
23 out?

24 A. I couldn't tell you, sir.

25 Q. Okay. Do you know how -- what caused

1 A. I went to Trident.

2 Q. And how did you get to Trident?

3 A. My sister and Justin.

4 Q. Okay.

5 A. Tonya Wright.

6 Q. Did any -- that's your sister?

7 A. Uh-huh.

8 Q. Okay. That's who is sitting here
9 today; is that right?

10 A. Yes, sir.

11 Q. Did anyone at Pizza Hut recommend that
12 you go to the hospital?

13 A. They told me that they were going to
14 get workman's comp to call me to go to the doctor.

15 Q. Okay. Besides your ankle injury, did
16 you injure any other part of your body?

17 A. Just my ankle, and I think I scraped my
18 -- got a little scratch on my hand.

19 Q. Okay. Nothing serious on your hand,
20 though?

21 A. No, sir.

22 Q. Okay. Didn't have to get stitches or
23 anything like that?

24 A. No, sir.

25 Q. Okay. When you got back to Pizza

STATE OF SOUTH CAROLINA
IN THE COURT OF COMMON PLEAS
COUNTY OF CHARLESTON
CASE NO. 2013-CP-10-7133

DONNA DOUGLASS,

Plaintiff,

-versus-

BERKSHIRES ON ST. IVES,
BERKSHIRE PROPERTY ADVISORS,
LLC, BVF NORTH COVE, LLC,
AND THE BERKSHIRE GROUP,

Defendant.

DEPOSITION OF:
RICHARD KING

DATE: Friday, April 3, 2015

TIME: 9:58 a.m.

LOCATION: Wigger Law Firm, Inc.
8086 Rivers Avenue, Suite A
North Charleston, SC 29406

REPORTED BY: JENNIFER M. HUGGINS,
Certified Shorthand Reporter

1 ins come in during the daytime that they would just
2 call you and tell you go check it out. Sometimes
3 service requests would be written up on it and
4 sometimes it wouldn't.

5 Q. Now, was there some kind of logbook to
6 keep track of all of the service requests?

7 A. They filed them in the individual
8 apartment residents in folders.

9 Q. What if it was for an area that wasn't
10 an actual apartment, like, if it was a common
11 area?

12 A. A common area? I don't know how
13 they filed those. It -- it should be on file,
14 though. It should be some kind of file in place
15 for that.

16 Q. But that's not something that you
17 handled?

18 A. No.

19 Q. Okay. Was there ever a time where, if
20 you were just walking through the grounds and you
21 saw something simple that needed to be fixed, you
22 would just go ahead and fix it instead of doing a
23 service repair or --

24 A. Fix it right away.

25 Q. -- replace it?

1 maintenance work is the owner of the apartment
2 complex's responsibility?

3 A. Yes.

4 Q. Now, Ms. Douglass says -- stated here
5 in this lawsuit that she fell down the stairs at
6 this location because of a light bulb that was
7 burned out on the stairway. Are you aware that
8 stairs kind of have their own set of regulations as
9 far as building codes and things like that?

10 A. They should be stable at all times,
11 being concrete or wood. If it's wood, they
12 should be constantly nailed down if they're pulling
13 up.

14 Q. Yeah. And kind of along the same
15 lines, there's guidelines for rails and lighting?

16 A. Rails and lighting kind of stuff, yes.

17 Q. Would you agree that those rules are in
18 place to make stairs safe for people to use?

19 MR. BROGDON: Object to the form.

20 A. Yes.

21 Q. Would you agree that part of your job
22 as doing -- or when doing maintenance work is to
23 make the area safe for people to use?

24 A. At all times.

25 Q. Would you agree that an unlit stairwell

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICAL CIRCUIT
CASE NO: 2013-CP-10-7133

DONNA DOUGLASS,
Plaintiff,

v.

MOTION FOR RECONSIDERATION
PURSUANT TO RULE 59(e)

BERKSHIRES ON ST. IVES, BERKSHIRE
PROPERTY ADVISORS, LLC, BVF
NORTH COVE LLC and THE BERKSHIRE
GROUP,
Defendants.

TO: DEFENDANTS, and THEIR ATTORNEY, JAMES E. BROGDON, III

The Plaintiff, Donna Douglass, by and through her undersigned counsel, prays this court to grant relief in the interests of justice and pursuant to Civil Procedure, Rule 59(e), by reconsidering and setting aside its Order Granting Defendant's Motion to Dismiss.

In addition and pursuant to the *South Carolina Rules of Civil Procedure*, the Plaintiff hereby requests that a hearing is held before the Court regarding this motion so that the parties may present oral arguments. This Motion is based on the following:

Plaintiff is filing this Motion for Reconsideration based upon the legal argument below:

LEGAL ARGUMENT

In the motion hearing oral argument, the Defendant presented to the Court that the Plaintiff knew the light in question was out and proceeded up the stairs anyway. With regard to that argument, the Plaintiff would offer the following additional information:

The Plaintiff is a person of diminished capacity and even alluded to such in her deposition given in her workers' compensation claim for the same case, Ms. Douglass relayed the following: She finished school with the special ed program. She did not attend a regular high school, she had to attend a special school in the city. Ms. Douglass only received a paper saying that she went to school for 12 years and that she had a learning disability. Ms. Douglass stated

that she was dyslexic, but then she wasn't sure so she would have to ask her mom. (see attached excerpts of the South Carolina Workers' Compensation Commission Deposition of Donna Douglas dated Thursday, June 28, 2011, page 7, lines 1-25 and page 8, lines 1-8) . Plaintiff having represented Ms. Douglass for many years, it is clear she only has a basic level of functioning. She has worked at Goodwill and similar low level type jobs, but her understanding of what goes on around her is evidenced in her answers in the attached excerpt of the deposition of Donna Douglass dated November 11, 2014, page 46, lines 15-23 and page 47, lines 1-11. That would contrast with the deposition of the corporate maintenance man, who states he knows lighting is a safety issue and that he can't delegate safety issues to third (3rd) parties (see the attached complete deposition of Greg Moran, page 26, lines 7-8).

Someone with Ms. Douglass's abilities would not only be extremely narrow minded about delivering her pizza, since tips are the primary means for her to get paid, it should be a jury question as to whether it would be reasonable for her to transverse the steps. For the Court to rule that as a matter of law, her negligence outweighed the business owners' responsibility flies in the face of South Carolina Jurisprudence.

Also, had there been any means for Ms. Douglass to do anything about the lighting, the office was closed and there was no way for her to do anything other than to take the risk not getting paid or delivering the pizza. (see attached complete deposition of Greg Moran, page 36 lines 15-23).

Additionally, the court focused on the light burning out, but the Plaintiff would offer that the Defendant had several methods available for dealing with this known hazard:

1. They could have designed the steps to have two (2) lights so if one (1) burned out, the other would still be lit;
2. They had a light meter available which they only used to check on lights once a month during the daytime;
3. They could have done a regular nighttime inspection, which was never done.

In light of all these factors, the Plaintiff would respectfully request the court reconsider its ruling.

Furthermore, pursuant to the International Property Maintenance Code:

...the owner of the structure shall provide and maintain light, ventilation and space conditions in compliance with these requirements. A person shall not occupy as owner-occupant, or permit another person to occupy, any premises that do not comply with these requirements of this chapter...

...Every common hall and stairway in residential occupancies, other than in one- and two-family dwellings, shall be lighted at all times with at least a 60-watt standard incandescent light bulb for each 200 square feet (19m²) of floor area or equivalent illumination, provided that the space between lights shall not be greater than 30 feet (9144mm). In other than residential occupancies, means of egress, including exterior means of egress, stairways shall be illuminated at all times the building space served by the means of egress is occupied with a minimum of 1 footcandle (11 lux) at floors, landings, and treads....

In addition, it states that "The owner of the premises should maintain the structure and exterior property in compliance with these requirement" and it further states that "All sidewalks, walkways, stairs, driveways, parking spaces, and similar areas shall be kept in a proper state of repair and maintained free from hazardous conditions."

The Plaintiff would also point out that the same court with your Honor Presiding with similar issues, a case centering around a commercial enterprise without adequate lighting, a jury rendered a split 75/25 verdict for the Plaintiff for over \$4,000,000 on December 14, 2014, Robert J. Burke vs. Republic Parking System, Inc. case number 2013-CP-10-1400.

As the Court is aware, the purpose of Rule 59(e), SCRCP, to alter or amend the judgment is to request the trial judge to reconsider matters properly encompassed in a decision on the merits. As one authority has noted, "Once the issue has been properly raised by a Rule 59(e)

motion, it appears that it is preserved and a second motion is not required if the trial court does not specifically rule on the issue so raised.

CONCLUSION

Plaintiff respectfully requests this Court reconsider or vacate the Order Granting Defendants' Motion to Dismiss and to allow the Plaintiff to proceed to trial.

WIGGER LAW FIRM, INC.



Jarrel L. Wigger
8086 Rivers Avenue, Suite A
North Charleston, South Carolina 29406
(843) 553-9800

Attorney for the Plaintiff.

North Charleston, South Carolina
This 7th day of May, 2015.

1 BEFORE THE
2 SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION
3 WCC FILE NO. 1103149

4
5 DONNA DOUGLASS, DEPOSITION OF
6 Claimant, DONNA DOUGLASS
7 -versus-
8 JEM PIZZA DELIVERY, LLC,
9 Employer,
10 -and-
11 THE PMA INSURANCE GROUP,
12 Carrier-Defendants.

13 -----

14

15

16 DATE: Thursday, June 28, 2011
17 TIME: 9:05 a.m.
18 LOCATION: Wigger Law Firm, Inc.
 8086 Rivers Avenue, Suite A
19 North Charleston, South Carolina 29406
20 REPORTED BY: Janice D. Hayward, RMR
 NCRA Registered Merit Reporter
21 CAROLINA REALTIME LLC
 P.O. Box 80397
22 CHARLESTON, SC 29416

23

24

25

- 1 Q Can you spell that for me?
- 2 A D-e-s-a-u-s-s-u-r-e.
- 3 Q Okay. And how long were you married?
- 4 A For about a year and a half.
- 5 Q Any kids?
- 6 A No kids.
- 7 Q How far did you go in school?
- 8 A I finished school with the special ed
- 9 program.
- 10 Q Okay. A high school program?
- 11 A No, I had to go to a special school in the
- 12 city.
- 13 Q Okay. What was the name of it, do you
- 14 recall?
- 15 A I don't remember the name of it.
- 16 Q Okay. But you said it was a special
- 17 education school?
- 18 A Um-hum.
- 19 Q Did it have like a grade that you
- 20 completed?
- 21 A No, it's just, you just get a paper saying
- 22 that you did equivalent to 12 years in school.
- 23 Q Okay. And do you have a learning
- 24 disability?
- 25 A Um-hum.

1 Q What's your learning disability?

2 A Dyslectic and --

3 Q I'm sorry?

4 A I don't know what all the term mean, I
5 don't know.

6 Q You said dyslexic?

7 A Yeah, but I have to ask my mom too so, I
8 don't know.

9 Q I have a dyslexic child so I understand.

10 Okay. And you think it was
11 something else but you don't remember?

12 A Um-hum.

13 Q Okay. Is that a yes?

14 A Yes, it is.

15 Q Okay. Okay. Do you have any specialized
16 on-the-job training or certification?

17 A No.

18 Q Ever served in the military?

19 A No.

20 Q Okay. Tell me about your medical history.
21 Do you have any chronic medical conditions that you
22 take medication on a regular basis for?

23 A No.

24 Q Such as diabetes, high blood pressure,
25 anything like that?

STATE OF SOUTH CAROLINA
IN THE COURT OF COMMON PLEAS
COUNTY OF CHARLESTON
CASE NO. 2013-CP-10-7133

DONNA DOUGLASS,	)	DEPOSITION OF:
	)	DONNA DOUGLASS
Plaintiff,	)	
	)	
-versus-	)	
	)	
BERKSHIRES ON ST. IVES,	)	
BERKSHIRE PROPERTY ADVISORS,	)	
LLC, BVF NORTH COVE, LLC	)	
AND THE BERKSHIRE GROUP,	)	
	)	
Defendants.	)	

DATE: Tuesday, November 11, 2014

TIME: 9:57 a.m.

LOCATION: Wigger Law Firm, Inc.
8086 Rivers Avenue
North Charleston, SC 294406

REPORTED BY: JENNIFER M. HUGGINS,
Certified Shorthand Reporter

1 Q. Did they tell you what was wrong with
2 your ankle?

3 A. They told me I sprung it.

4 Q. You sprained it?

5 A. Yes, sir.

6 Q. Okay. Have you ever had a sprained
7 ankle before?

8 A. Well, that's what they called the first
9 one at West Staff, that it was sprained.

10 Q. Okay. And that one you ended up having
11 to have some tendons replaced; is that right?

12 A. Yes, sir.

13 Q. Okay. You didn't have to have that
14 happen in this case, did you?

15 A. I'm not really -- like I said, I'm not
16 good with medical terms. I usually get my parent
17 -- my mom to help me with the medical terms. So
18 I'm not really sure. They just said that -- I went
19 to the doctor, and I just -- my mom just explains
20 to me what it is.

21 MR. WIGGER: And I should say -- and I
22 don't think Donna will have any problem with this,
23 but Donna's got a lot of LD-type issues.

24 MR. BROGDON: Okay.

25 MR. WIGGER: I know she -- and she

1 knows that, too. So that has something to do with
2 her --

3 MR. BROGDON: I understand.

4 MR. WIGGER: -- inability to talk about
5 what some of these terms are.

6 MR. BROGDON: Understood.

7 MR. WIGGER: That's probably why she's
8 so nervous right now, too.

9 MR. BROGDON: I have difficulty with
10 them -- with the terms as well on a regular basis,
11 so you're not any different in that regard.

12 BY MR. BROGDON:

13 Q. Okay. Did you follow-up with the
14 orthopedist?

15 A. No, sir. I had -- kept trying to go to
16 the Pizza Hut doctor. They wouldn't refer me, and
17 then I hired Mr. Wigger.

18 Q. Okay.

19 A. And he got me to go to the doctors.

20 Q. And who -- do you recall what
21 orthopedist you went to see?

22 A. I went to Charleston Bone and Joint
23 doctor, and I want to say they sent me to a -- a
24 Medicare doctor, like an urgent care.

25 Q. Okay.

Copy and Index

Gregory Moran

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

IN THE COURT OF
COMMON PLEAS FOR THE
NINTH JUDICIAL CIRCUIT

DONNA DOUGLASS

Plaintiff,

vs.

BERKSHIRES ON ST. IVES,
BERKSHIRE PROPERTY ADVISORS,
LLC, BVF NORTH COVE, LLC, AND
THE BERKSHIRE GROUP

Defendants,

CIVIL ACTION NO.
2013-CP-10-07133

GREGORY MORAN

DATE TAKEN: MONDAY, APRIL 6, 2015
TIME BEGAN: 10:34 A.M.
TIME ENDED: 11:17 A.M.
LOCATION: THE WIGGER LAW FIRM, INC.
8086 RIVERS AVENUE, SUITE A
NORTH CHARLESTON, SOUTH CAROLINA

REPORTED BY: DEIRDRE J. WEYER, RPR
EVERYWORD, INC.
P.O. BOX 1459
COLUMBIA, SOUTH CAROLINA 29202
803-212-0012

APPEARANCES:

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E X H I B I T S

MORAN	DESCRIPTION	MARKED
1	Copy of Color Photograph	31
2	Berkshire Property Advisors, LLC, Procedure for Completing the Apartment Interior Inspection Bates Stamp DEF 00005	36
3	Berkshire Property Advisors, LLC, Job Description Bates Stamped DEF 000026	37

1 (It is hereby stipulated and agreed by and
2 between counsel for the respective parties that this
3 deposition is being taken in accordance with the
4 South Carolina Rules of Civil Procedure, and that the
5 deponent does not waive reading and signing of this
6 deposition transcript.)

7
8 GREGORY MORAN,

9 after having been first duly sworn, was
10 examined and testified as follows:

11
12 EXAMINATION

13 BY MR. BROGDON:

14 Q Mr. Moran, as I introduced myself a minute
15 ago, my name's James Brogdon and I represent several
16 defendants in a lawsuit that was filed by Donna
17 Douglass, who is represented by Mr. Wigger, who is
18 sitting as well, for an accident that happened at a
19 place where I believe you were employed back in
20 January of 2011.

21 Are you familiar with the accident and the
22 location of it?

23 A I heard about it, but I was never
24 familiar..

25 Q I believe it happened on the Berkshires on

1 St. Ives property. Is that somewhere you're
2 currently employed?

3 A Yes.

4 Q Is it still owned by Berkshire?

5 A No.

6 Q Okay. Who owns it now?

7 A The owner is Starwood --

8 Q Okay.

9 A -- Investors, but it's operated by a
10 company I work for.

11 Q Okay.. Before we get started, have you
12 ever given a deposition before?

13 A Yeah.

14 Q You have?

15 A (Nods head up and down.)

16 Q Okay. How many times?

17 A Once or twice.

18 Q All right. What was the nature of those
19 instances?

20 A I don't recall, but I just remember doing
21 it.

22 Q All right. Well, obviously, you
23 understand what's going on here. This young lady is
24 taking down everything that I say, everything that
25 you say. It might get conversational at times, but

1 I'll do my best to let you finish your answer if you
2 let me finish my question just so we can have a clear
3 transcript at the end of the day. Okay?

4 A Sure.

5 Q You're doing a good job so far. If you
6 respond in verbal responses as opposed to a head nod
7 or head shake or even a um-hum or hum-um, once again,
8 just makes her life a little bit easier. If I say,
9 "Is that a yes or no," I'm not getting on you, okay?

10 A (No audible response.)

11 Q Is that a "yes"?

12 A Yes.

13 Q All right. If you need to take a break,
14 let me know. I don't think we'll be here very long
15 though, okay?

16 What is your full name, Mr. Moran?

17 A Gregory Moran.

18 Q And what's your date of birth?

19 A 11/22/49.

20 Q Where are you from?

21 A Originally, New York.

22 Q When did you move down to South Carolina?

23 A About 11 and a half years ago.

24 Q All right. And what is your current
25 employment?

1 A I'm employed by Bell Partners and they
2 operate the old Berkshire property.

3 Q What's the name of the property now?

4 A Palmetto Grove I and Palmetto Grove II.

5 Q And how long have you been employed at
6 that particular location?

7 A Six years.

8 Q Okay. So you were employed at that
9 location in January of 2011?

10 A Yes.

11 Q When did you start working at the location
12 Palmetto Grove I and II?

13 A I believe it was September of 2010.

14 Q Okay. And what would that property have
15 been called at that point in time?

16 A That was Berkshire on St. Ives.

17 Q And that was the name of the property?

18 A I and II.

19 Q Okay. At the time -- in January of 2011,
20 what was your title with Berkshire?

21 A Maintenance supervisor.

22 Q And had you held that position since
23 September 2010?

24 A Yeah. Now it's just called "maintenance
25 manager." Same job.

1 Q As maintenance supervisor, what were your
2 duties and roles in January of 2011?

3 A Basically, to the operation of the
4 facility as far as maintenance goes. Could be turns.
5 Could have been work orders. And I had three guys
6 working for me.

7 Q How many guys do you have working for you
8 now?

9 A Three.

10 Q Three. Okay. And I think you said you
11 generally know about the accident that brings us here
12 today. What do you know about it?

13 A The only thing I know is we -- the
14 property manager told me we received a lawsuit for
15 someone slipping on stairs and they had absolutely no
16 idea when, where, how, or even what building.

17 Q Okay. Do you know what the date or
18 approximate date when you found out about the
19 accident was?

20 A I would never remember that, no.

21 Q Do you know the location of the alleged
22 fall?

23 A 700 building.

24 Q Are there two phases? Is that right?

25 A Yeah.

1 Q And what phase was this?

2 A You can say 700, Phase I.

3 Q Are you familiar with that building?

4 A Yeah.

5 Yes. Sorry.

6 Q Do you have any idea or knowledge about
7 what Miss Douglass is claiming caused her fall?

8 A Absolutely not.

9 Q I'll submit to you that Miss Douglass is
10 alleging that there was a light out in the stairwell
11 and Miss Douglass was there at the building to
12 deliver a pizza. So I want to talk to you a little
13 bit about the procedures that you all had in place at
14 the time in January of 2011 in terms of fixing light
15 bulbs and general maintenance, okay?

16 A Sure.

17 Q I assume that there is some procedure for
18 problems or maintenance issues being reported and
19 fixed; is that right?

20 A Correct.

21 Q And what is that procedure? Or what was
22 that -- and when I say "what is," I want to talk
23 about the procedure at the time of the accident,
24 okay?

25 A Yeah. Yeah. It would be -- we'd react

1 off a work order.

2 Q And who would submit a work order?

3 A It could be a resident. It could be an
4 employee.

5 Q Okay. And would they call you or would
6 they call an office? Or how would they submit that
7 work order?

8 A They could call the office. They could
9 tell someone that's out on the grounds. That's
10 basically how it would happen at that time.

11 Q So if someone were to see a light out and
12 they called the office, how would you get knowledge
13 about going to fix that light?

14 A Whoever received the call would do a work
15 order.

16 Q And they would give that work order to
17 you; is that right?

18 A We'd just go on the computer and look at a
19 list of work orders.

20 Q And is that something you would do on a
21 everyday basis, look at work orders?

22 A Every morning.

23 Q Every morning?

24 A Well, throughout day, but in the morning's
25 the big one.

1 Q Generally, was there a time frame that
2 your employer wanted you to get certain tasks
3 completed by?

4 A All work orders had to be done within 48
5 hours.

6 Q Were there enough work orders to where
7 that became an issue with your staff to whether it
8 would take longer to do certain things or --

9 A No.

10 Q How about --

11 A If there was parts to be ordered.

12 Q Fair enough. If there was a light -- if
13 you hopped on your system in the morning and saw
14 that, hey, someone reported a light bulb being out,
15 what would be the procedure for going to fix that?

16 A It would be the same. It would have been
17 a work order.

18 Q When you saw the work order, would you
19 just delegate that task to someone or would you just
20 go get a light bulb and fix it?

21 A Somebody's always assigned to work orders.
22 Sometimes it's two people; sometimes it's one.
23 Depends on the load.

24 Q If there was a report or a work order for
25 a light being out, is that something that would ever

1 take more than 48 hours to fix?

2 A No.

3 Q I assume y'all keep light bulbs at the
4 premises; is that right?

5 A Yes.

6 Q Is there anything else you need to fix a
7 light being out?

8 A Could need a light -- a new light. We
9 have them. Sometimes it's the facing on it, the
10 plastic facing.

11 Q Do you know what kind of light -- at the
12 time of the accident what kind of light was in the
13 stairwell in the 700 building of Phase I?

14 A They're all fluorescent lights.

15 Q Sitting here today, do you have any
16 knowledge about how long fluorescent bulbs last?

17 A They last longer than regular bulbs.
18 That's why they use them.

19 Q But you can't give a certain amount of
20 days that every bulb would last?

21 A (Shakes head from side to side.)

22 Q No?

23 A Whenever it was built, that was the
24 technology -- the best technology to use.

25 Q And depending on the usage and the

1 specific light bulb, the time that they last could
2 vary; is that right?

3 A Correct.

4 Q Besides reports from residents or anyone
5 else who happened to be or y'all just making rounds
6 through the property and noticing a light being out,
7 are there any other procedures that you use to check
8 lights?

9 A Yes. The property's divided into sections
10 and everyone's responsible for their own section.
11 And they would tape up the photocell, because it's
12 daylight, and check the light. Do a light check.

13 Q And how often was that done?

14 A There wasn't a set time. Maybe once a
15 month. Every so often.

16 Q Do you know who was responsible for the
17 700 building of Phase I?

18 A Not at that time.

19 Q Sitting here today, do you have any reason
20 to believe that the light checks that you just
21 mentioned were not done around the time of the
22 accident?

23 A Were not done?

24 Q Do you have reason to believe they were
25 not done around the time of the accident?

1 A No.

2 Q Before January 6th of 2011, did you ever
3 receive any reports of problems with the lighting in
4 the stairwell of building 7 -- Phase I, 700 building?

5 A No.

6 Q Around January 6th of 2011 or right before
7 that, in the days before it, did you ever see any
8 work orders to replace any lights being out in the
9 700 building of Phase I?

10 A I would never be able to recall that.

11 Q That's records that would exist, right?

12 A I wouldn't have them. Berkshire took all
13 their stuff when they...

14 Q Is it fair to say that, you know -- if
15 they did have the work orders for around that period
16 of time and there were no work orders in those
17 documents that relate to a light being out, is it
18 fair to state that a light being out was never
19 reported?

20 A Oh, yeah.

21 Q After January 6th, 2011, did you ever go
22 to the 700 building and check the lighting in the
23 stairwell after hearing the report of the fall?

24 A I haven't -- we never knew which building
25 it was. We knew there was a lawsuit.

1 Q You mentioned that in order to check the
2 lights you'd have to cover up the photocell; is that
3 right?

4 A Correct.

5 Q Is that because you don't have anybody
6 working at nighttime?

7 A Correct.

8 Q And what does the photocell do?

9 A It detects darkness and turns the lights
10 on.

11 Q So that's to keep the lights from being on
12 all day; is that right?

13 A Correct.

14 Q How long have you been in property
15 management or doing maintenance for property
16 management?

17 A Seven years. Seven or eight years.

18 Q And the length of time you've been doing
19 that, in terms of lights being out and general
20 maintenance issues, do you rely on residents to
21 report those problems?

22 A No. Just my guys check it.

23 Q In terms of lights being out at night, you
24 would need residents to report those problems -- or
25 you would hope that they would report them if they

1 saw them, right?

2 A Yes. That's our best resource.

3 Q The residents?

4 A Yeah.

5 Q Do you recall any residents ever telling
6 you that there was problems with the lighting before
7 January 6th, 2011, at the 700 building, Phase I?

8 A No.

9 Q Are there other lights around the
10 buildings as well?

11 A Yeah. That light -- that whole inside
12 light well has 16 lights, divided by three -- three
13 floors, there's six on each floor.

14 Q In this case, do you know whether or not
15 it was all the lights or just one that was out?

16 A I wouldn't know.

17 Q Would it be unusual for more than one or
18 two of the lights to be out at the same time?

19 A No.

20 Q Bear with me for one minute.

21 Do you have any knowledge how long the
22 light was out in the stairwell of the 700 building of
23 Phase I before Miss Douglass's alleged accident on
24 January 6th, 2011?

25 A No.

1 Q Do you know what caused the light to be
2 out on January 6th, 2011?

3 A Absolutely not.

4 Q Are there handrails leading up the
5 stairwells of all the buildings?

6 A Yes.

7 Q So I assume there was handrails leading up
8 to the 700 building; is that fair?

9 A Um-hum.

10 Q Yes?

11 A Yes.

12 Q If a visitor or a resident noticed a
13 problem which they thought presented them some
14 danger, what would you expect them to do?

15 A Report it to the office.

16 Q If a visitor or a resident came to a
17 stairwell and noticed that a light was out and the
18 stairwell was dark and saw that to be a dangerous
19 situation, would you expect them to proceed up or
20 down the stairwell regardless of that fact without
21 reporting it?

22 A I would say so. There was still plenty of
23 light.

24 Q But if they felt that it was a dangerous
25 condition or a dangerous situation, would you still

1 expect them to venture out and to go into that
2 dangerous condition without reporting it?

3 A I'm sure they would. They got to go to
4 their apartment

5 Q In your years as a maintenance supervisor,
6 is there anything that could be reasonably done to
7 prevent any period of time where there'd be a light
8 outage?

9 A The only prevention would to be check it
10 every single morning, 24 buildings.

11 Q But even then it provides the potential
12 for a light to go out right after you check it,
13 right?

14 A Sure. It happens in my own home.

15 Q That's the nature of light bulbs, isn't
16 it?

17 A Yeah. They burn hot. So....

18 Q Have you ever spoken to anyone, whether it
19 was one of your other maintenance employees or a
20 resident, that told you that they were aware that the
21 light was out in the stairwell in the 700 building at
22 Phase I prior to Miss Douglass's fall on January 6th,
23 2011?

24 A Not at all, to my knowledge.

25 Q At that point in time, do you know whether

1 or not the building -- 700 building was fully
2 occupied?

3 A I wouldn't know.

4 Q Generally in a building, how many
5 apartments are there?

6 A There's 18 for the whole building. Inside
7 there -- there's an outside part of the building and
8 an inside. In the inside, it would be 6 less. Then
9 it would be 12.

10 Q So 700 building would have had 12
11 apartments --

12 A Four on each floor.

13 Q Okay.

14 A On the inside. I don't know whether that
15 was outside or inside.

16 Q Mr. Moran, I believe that's all I have at
17 this time. I will pass it over to Mr. Wigger as I
18 review my notes.

19
20 EXAMINATION

21 BY MR. WIGGER:

22 Q Good morning, Mr. Moran. My name's Jarry
23 Wigger. I represent Miss Douglass. You said that
24 Berkshire took all the records with them when they
25 changed out the management; is that right?

1 A (Nods head up and down.)

2 Q Do you know when that was?

3 A Halloween this year past. '14.

4 Q Okay. Do you know if y'all made any
5 copies of those records prior to the time that they
6 took them?

7 A No, we didn't.

8 Q Okay. With the maintenance department,
9 you said nobody was working at nighttime. Is that
10 the way you guys worked it?

11 A Yeah. We just do a day shift.

12 Q Okay. How many maintenance folks are
13 there?

14 A Besides me -- there's three plus me.
15 Three techs.

16 Q Do you know where the -- first of all, you
17 guys had video surveillance at the apartment complex,
18 right?

19 A Not at the apartments.

20 Q No?

21 A Just around the club house area.

22 Q Okay.

23 A The amenity center.

24 Q The area where Miss Douglass fell, that
25 wouldn't have been subject to a video or

1 surveillance?

2 A No.

3 Q Okay. I want to ask you a little bit
4 about your background. What all did you -- when you
5 were applying for a maintenance job, what all did you
6 put as your background and qualifications?

7 A I was operations manager for a water
8 company up North for 33 years, so I always was in
9 operations of some kind. Mechanical kind of things.

10 Q Okay. Did you manage buildings or did you
11 just manage processes?

12 A I had buildings. Booster stations.
13 Things like that.

14 Q Okay. Do you have any certifications in
15 maintenance?

16 A No.

17 Q Any certifications in --

18 A Just some electrical background.

19 Q Okay. Certifications in property
20 management?

21 A No.

22 Q Have you ever taken any safety courses?

23 A When I worked for a water company, I took
24 plenty of 'em. We have a thing called -- when I
25 worked for them, it was called Berkshire University

1 and you go on there and do safety classes on the
2 computer.

3 Q Any of those classes talk about building
4 codes?

5 A They talk about building maintenance.
6 There's all -- an array of subjects.

7 Q And was codes part of that?

8 A I can't recall.

9 Q What's your familiarity with the building
10 codes?

11 A Generally, I only know something about a
12 code if I'm going to go do something and change
13 something to make sure we're in compliance.

14 Q When you came in as maintenance
15 supervisor, did you make any structural changes to
16 anything on the property?

17 A No.

18 Q Did you ever make any alterations in any
19 stairways?

20 A No.

21 Q Did you ever measure any stairways for a
22 rise and run to make sure they complied with the
23 building code?

24 A No.

25 Q Did you ever check the handrails to make

1 sure they were in compliance with the building code?

2 A No.

3 Q Do you know what the handrail distance is
4 from riser to handrail under the building code that's
5 in effect or that was in effect in 2011?

6 A I don't know. My guess would be 32
7 inches, but...

8 Q But that'd just be based on a guess versus
9 knowing what the code says?

10 A Right.

11 Q Okay. When you're running an apartment
12 complex, is it fair to say that a visitor has no
13 ability to change anything when they come onto that
14 property?

15 A That's not true.

16 Q Okay. What type things can they alter if
17 the --

18 A For American Disability Act, they can
19 request changes.

20 Q Okay. They can request changes to make
21 things handicapped accessible?

22 A Right.

23 Q Have you ever had anybody request any
24 changes to make any of the buildings handicapped
25 accessible?

1 A Other than an outside ramp or a different
2 toilet -- higher toilets. Something like that.

3 Q Okay. What about if a visitor is there
4 visiting one of the apartment complex residents, do
5 they have the ability to request any changes to be
6 made?

7 A No, not if they don't have a lease.

8 Q In fact, if they did start making
9 alterations to the property, would that be considered
10 a trespass?

11 A Some violation. Some kind of a violation.

12 Q Okay. Sure. I mean, you wouldn't want
13 somebody coming up and changing your sprinkler
14 systems or moving bushes or changing light bulbs or
15 anything like that, right?

16 A Right.

17 Q So would it be fair to say then -- or
18 would it be a fair characterization to say that a
19 visitor has no ability to make changes when they come
20 onto the property?

21 A I would say that's fair to say.

22 Q Yeah. Now, would you agree also as your
23 job as a maintenance person there are some things
24 that are safety related and some things that are
25 aesthetically related?

1 A That can happen a lot, yeah.

2 Q You know, like cutting the grass, that's
3 kind of an aesthetic thing, right?

4 A Um-hum.

5 Q But it's not necessarily a safety thing;
6 is that fair to say?

7 A That could be, except for the snakes and
8 things you can't see.

9 Q Yeah. And is it fair to say that as the
10 maintenance supervisor you can't delegate a safety
11 issue to one of the residents?

12 A If they're doing something unsafe, we feel
13 it's unsafe, we would ask them to correct it.

14 Q Right.

15 A If it's something they did.

16 Q But if it's something within your job
17 description and it's safety related, you can't ask
18 the residents to be responsible for that; is that
19 fair to say?

20 A Not unless they caused the situation.

21 Q Right. But what I'm getting at is you
22 can't delegate safety issues to residents?

23 MR. BROGDON: Object to form.

24 THE WITNESS: I wouldn't say "delegate."
25 You can tell 'em.

1 BY MR. WIGGER:

2 Q Right. But if it's something within your
3 scope of job description, something within your
4 duties, you can't delegate that to one of the
5 apartment complex residents, can you?

6 MR. BROGDON: Object to form.

7 THE WITNESS: No. That's not a clear-cut
8 answer. I can't give you a clear-cut answer to that.

9 BY MR. WIGGER:

10 Q Okay. If there is a open wiring issue,
11 would you agree that's a safety issue?

12 A Definitely.

13 Q Definitely violate the building code?

14 A Yes.

15 Q And you can't delegate that to a resident
16 to fix, can you?

17 A No, but I can ask them to remove it.

18 Q If it's, say, a wiring issue within the
19 walls, you can ask the resident to remove that?

20 A Not within a wall. I doubt if they'd get
21 within a wall.

22 Q Let's talk about things within your area,
23 which would be things in the wall. Would you agree
24 electrical issues within the wall are your issue?

25 A Oh, yes.

1 Q And you can't delegate to a resident to
2 fix that, can you?

3 A Not at all.

4 Q Okay. So some safety issues cannot be
5 delegated to residents. Is that fair to say?

6 A Correct.

7 Q Is lighting a safety issues?

8 A Always.

9 Q Okay. And is it fair to say you can't
10 delegate a safety issue regarding lighting to one of
11 the residents?

12 A No, but we can ask them to report.

13 Q Right. But if you see a lighting issue,
14 that's your responsibility to fix, right?

15 A Correct.

16 Q Okay. Have you ever read any of the
17 building codes that are applicable to those
18 apartments regarding lighting issues?

19 A No.

20 Q And you were asked about doing things to
21 prevent this situation. You guys when you -- do you
22 buy the light bulbs or does the company just send
23 them to you?

24 A I buy them.

25 Q Okay. And you know what the life of those

1 bulbs is generally, right?

2 A Generally.

3 Q Sometimes they burn hot?

4 A Yep.

5 Q But is there an expected life expectancy
6 within any of the bulbs that you buy?

7 A I think on that page it tells you how many
8 hours you can expect.

9 Q Right. Is it fair to say there's no
10 system in place -- or there was no system in place in
11 2011 to replace the bulbs prior to the time that they
12 burned out?

13 MR. BROGDON: Object to the form.

14 THE WITNESS: We wouldn't replace them
15 until they burned out.

16 BY MR. WIGGER:

17 Q Right. You would wait till they burned
18 out before you replaced them, right?

19 A Yes.

20 Q So there was no system in place to replace
21 them prior to the time they burned out, was there?

22 A No.

23 Q Right. So what you had was a situation
24 where you knew that the lighting would burn out at
25 some point and then you would wait until it was

1 either reported or seen before you replaced it. Is
2 that fair to say?

3 A Correct.

4 Q Okay. Yeah. And you said lighting was a
5 safety issue, right?

6 A (Nods head up and down.)

7 Q That's a "yes"?

8 A Yes.

9 Q So you were in a situation where you knew
10 that you were going to have lighting issues; but you
11 didn't implement any system to avoid that safety
12 issue, did you?

13 MR. BROGDON: Object to the form.

14 THE WITNESS: I don't know if -- I don't
15 know that's a lighting issue. You're asking me
16 before it burns out --

17 MR. WIGGER: Right.

18 THE WITNESS: -- that I'm aware that it's
19 going to burn out and I should anticipate replacing
20 it?

21 MR. WIGGER: Right.

22 THE WITNESS: There's more than enough
23 lighting that it can afford to have a bulb out if I
24 can't catch it in time.

25 BY MR. WIGGER:

1 Q And I'm not even talking about
2 Donna Douglass's situation. I'm asking you in
3 general. You had a situation set up where you waited
4 until the light burned out, you knew it was a safety
5 issue, yet you waited till it burned out before
6 replacing it, right?

7 A I just -- I don't replace light bulbs that
8 are still lit.

9 Q Yeah. Now, as maintenance folks in the
10 apartment complex, you guys knew visitors came to the
11 apartment complex, right?

12 A Always.

13 Q And have you ever seen any pizza delivery
14 people come to the apartments?

15 A Every kind of delivery service comes in.

16 Q Sure. Chinese food, people delivering
17 furniture. All kind of stuff, right?

18 A Right.

19 Q So you can anticipate those types of users
20 for your facilities, right?

21 A Um-hum.

22 Q Is that right?

23 A Yes.

24 Q So it's fair to say that Miss Douglass was
25 an anticipated user of y'all's facilities --

1 A Yes.

2 Q -- as a pizza delivery driver, right?

3 A Correct.

4 Q Okay. Now, if Miss Douglass comes at
5 night, you wouldn't expect her to go find the office,
6 then find a maintenance person to try to get a light
7 bulb changed prior to the time that she traversed the
8 stairs, would you?

9 A No.

10 Q I mean, that's just common sense. She's
11 there delivering pizza. She's going to try to get in
12 and get out, right?

13 A Right.

14 Q And there wouldn't be anybody there for
15 her to find anyway, right?

16 A No.

17 Q Sure.

18 (Moran Exhibit Number 1 was marked for
19 identification.)

20 BY MR. WIGGER:

21 Q Mr. Moran, I'm going to show you what's
22 been marked as Exhibit 1. Do you know if that's the
23 stairway that we have been talking about as far as
24 Donna Douglass's situation goes?

25 A This is the outside of the building.

1 Q Okay.

2 A Let's see. There's eight more that look
3 like it in eight buildings.

4 Q Okay. But has anybody ever pointed that
5 one out to you and said, Here's where Miss Douglass's
6 situation occurred?

7 A Absolutely not. I wouldn't even know if
8 that's the 700 building or not.

9 Q Okay. If that was the 700 building, where
10 would the nearest light be?

11 A There's one (indication), because the wall
12 comes out like this a little bit (indicating). So
13 there's one on every floor like that.

14 Q Okay.

15 A And there's one in the middle.

16 Q Now, these walls, are they behind where
17 the stairway physically comes down?

18 A It's sort of in the middle.

19 Q Okay.

20 A Right in the middle of the wall
21 (indicating).

22 Q Okay. So if we were out there on the
23 scene, the lights would be kinda halfway maybe up the
24 stairs on the front side and halfway up the stairs on
25 the back side?

1 A Something like that, yes.

2 Q What about any overhead lighting, is there
3 any overhead lighting on this particular stairway?

4 A No.

5 Q How about any lighting down below? Any
6 lighting that would illuminate this area?

7 A The landscaping? No.

8 Q And is that designed that way or is it
9 something that lights were burned out?

10 A What do you mean, "lights were burned
11 out"?

12 Q I'm just asking is this a accurate picture
13 of the way these stairways always are, or is it that
14 dark because the lights were burned out?

15 A It's not -- it doesn't look as dark as
16 this picture.

17 Q Yeah?

18 A The picture's darker than it looks.

19 Q Yeah. Where would other lighting be, if
20 any, relative to this picture?

21 A The next floor up above these
22 (indicating).

23 Q Okay. So on the next landing there would
24 be two lights kinda equivalent to these two lights
25 down here?

1 A There's three floors would be that way.

2 Q Okay. Is it fair to say there's no direct
3 light that comes down on the particular stairway
4 itself?

5 A Well, there's a light up here that would
6 shine down to it (indicating).

7 Q Okay. So when you're pointing, you're
8 pointing up north of where the stairway goes to --

9 A Right here's the floor (indicating). It's
10 going to be right (indicating).

11 Q Okay. So there's a light up in this area
12 somewhere (indicating)?

13 A And they all have their own door light.
14 That's their own private light to turn on at their
15 front door.

16 Q For the -- like, the residents?

17 A Right.

18 Q Yeah. Now, looking at this picture, does
19 it look like the light that would have been up here,
20 north, is out?

21 A I couldn't say because I'm not seeing that
22 floor that well. This picture is darker than I would
23 imagine it to be though.

24 Q Yeah. Are you familiar with any of the
25 building codes regarding rise and run of stairways?

1 A No. Whatever the code was when they built
2 that building, I would assume that's how it was
3 built.

4 Q Do you know if the rise and run is
5 consistent on this particular stairway?

6 A Yes.

7 Q Is that because you've actually measured
8 it or --

9 A No. We're always repairing stairs.

10 Q Yeah? Why are the stairs always be being
11 repaired?

12 A Because they're about 30 years old.

13 Q And they're made out of wood?

14 A Pressure-treated wood.

15 Q So the wood sometimes becomes misshapen or
16 disfigured?

17 A Yeah. People moving damage them from time
18 to time.

19 Q Now, every time a light bulb is changed,
20 do you guys make an entry on the maintenance log?

21 A No.

22 Q Is that one of those things that just if
23 you come across it, you change it out and it's --

24 A It's changed.

25 Q So even if we have the Berkshire records,

1 we can't necessarily tell if light bulbs were changed
2 out just from looking at that?

3 A That's fair to say.

4 Q All right. And earlier you said a
5 resident or an employee could submit a work order.
6 Is it fair to say a visitor can't submit a work
7 order?

8 A No. She can tell the person they're
9 visiting, or he.

10 Q But a visitor doesn't have any authority
11 to submit a work order to anybody, right?

12 A No. That doesn't stop them from -- they
13 could stop at the office and just say, I was at your
14 building and there's a problem there.

15 Q What are the office hours?

16 A They're seasonal, so I wouldn't be able to
17 tell you exactly; but in general, it was open at 9
18 and closed at 6.

19 Q 9 a.m., 6 p.?

20 A 6 p.m., yes. That's just office people.

21 Q Yeah.

22 (Moran Exhibit Number 2 was marked for
23 identification.)

24 BY MR. WIGGER:

25 Q Mr. Moran, I show you what's been marked

1 as Exhibit 1 to your deposition.

2 MR. BROGDON: What's the Bates numbers on
3 that?

4 MR. WIGGER: It's 05, I think, and 06.

5 BY MR. WIGGER:

6 Q Does that appear to be out of y'all's
7 maintenance manual back during the 2011 time frame?

8 A It looks like Berkshire's format.

9 Q Yeah.

10 MR. WIGGER: And we'll get this marked.
11 (Moran Exhibit Number 3 was marked for
12 identification.)

13 BY MR. WIGGER:

14 Q Show you what's been marked as Exhibit 3
15 to your deposition. Does that appear to be a copy of
16 your job description for 2011?

17 A I don't know if it's exactly what I looked
18 at, but it looks like the same format.

19 Q We had gotten some discovery from
20 Mr. Brogdon as part of this case and that's what he
21 sent us, so I just want to make sure that there's not
22 some other document you say would be more
23 accurately --

24 A No.

25 Q -- describing your job description.

1 You're welcome to read it over and make
2 sure.

3 A You can go on.

4 Q Okay. As a maintenance supervisor, would
5 you agree that part of your job deals with safety?

6 A Correct.

7 Q Would you agree with the safety principle
8 that any risk of serious injury is unreasonable if
9 reasonable accident prevention measures can prevent
10 it?

11 MR. BROGDON: Object to the form.

12 THE WITNESS: Can you rephrase that a
13 little bit?

14 BY MR. WIGGER:

15 Q Sure. Would you agree with the safety
16 principle that any risk of serious injury is
17 unreasonable if you can use reasonable acts and
18 measures to prevent it?

19 MR. BROGDON: Objection.

20 THE WITNESS: Yeah.

21 BY MR. WIGGER:

22 Q Okey-doke. I think those are all the
23 questions I have. Mr. Brogdon may have some more.

24 MR. BROGDON: No, that's it. You're done.

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(Witness excused.)

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(Deposition was concluded at 11:17 a.m.)

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CERTIFICATE OF REPORTER

I, Deirdre J. Weyer, Registered Professional Reporter and Notary Public for the State of South Carolina at Large, do hereby certify:

That the foregoing deposition was taken before me on the date and at the time and location stated on page 1 of this transcript; that the deponent was duly sworn to testify to the truth, the whole truth and nothing but the truth; that the testimony of the deponent and all objections made at the time of the examination were recorded stenographically by me and were thereafter transcribed; that the foregoing deposition as typed is a true, accurate and complete record of the testimony of the deponent and of all objections made at the time of the examination to the best of my ability.

I further certify that I am neither related to nor counsel for any party to the cause pending or interested in the events thereof. Witness my hand, I have hereunto affixed my official seal this 6th day of April 2015, at Moncks Corner, Berkeley County, South Carolina.


Deirdre J. Weyer
Registered Professional Reporter
Notary Public
State of South Carolina at Large
My Commission expires:
May 15, 2023

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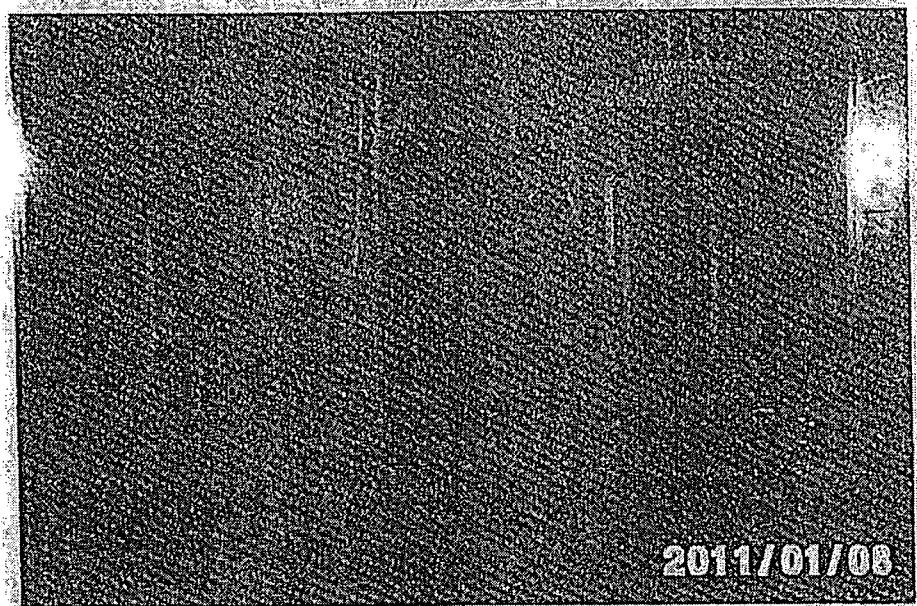
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Procedure for Completing the Apartment Interior Inspection:

- ◆ An Apartment Interior Inspection form should be completed for each apartment noting the general condition for each area inspected.
- ◆ If a safety concern is found when inspecting an apartment, the issue should be written in the "Specific Notes" section of the Apartment Interior Inspection Form.
- ◆ The Property Manager or Assistant Property Manager will complete the Resident Inspection Notification Letter with areas that require a resident's attention and leave the letter in the resident's apartment.
- ◆ The box "Left Letter" in the action column of the Apartment Interior Inspection form should be checked beside areas that noted a safety concern that were documented on the Resident Inspection Notification Letter.
- ◆ The Apartment Interior Inspection form should be filed in the resident's file.
- ◆ Property Manager's must notify the District Manager once inspections have been completed. If inspections occur on a monthly basis, the District Manager should be notified monthly. If the inspections occur twice a year, the District Manager should be notified after all units have been inspected each time.
- ◆ District Manager's should keep a log of when inspections have been completed for their properties.

SAFETY AND PREVENTATIVE MAINTENANCE INSPECTIONS

The longer a hazardous situation is left uncorrected the greater the percentage of liability that resides with management should an injury occur. Why? In the eyes of the law, 1) If you are aware and do nothing, you are negligent and 2) If you are not aware of a long-time condition you are guilty of failure to maintain the property in a safe condition.

Conducting safety inspections will aid in the reduction of accidents and unsafe work practices and safeguard against or eliminate them before they can cause personal injury. The inspection will identify existing and potential hazards that require attention. When identifying the hazards, remember to dig beneath the surface to determine the cause of the unsafe condition and to implement a permanent solution rather than a "quick fix."

A preventive maintenance program is not "extra" work. It is part of on-going maintenance of the property. An effective program can save considerable time and money by prolonging the useful life of equipment and fixtures.

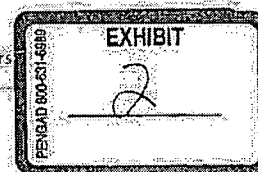
Preventive maintenance is a necessary function to prevent damage or deterioration of equipment or prolong the economic life of equipment or buildings or to increase the efficiency of equipment.

- ◆ In most cases, the expense associated with preventive maintenance is largely labor, whereas, if the preventive maintenance is not performed, premature replacement will be a substantially greater expense. Preventive maintenance actually saves you money.
- ◆ Example, three drops of oil in a re-circulating pump is not very expensive compared to the replacement cost of at least \$150.00.
- ◆ Preventive maintenance allows you to schedule your maintenance activity, rather than reacting to larger problems which require establishing priorities. In essence, it allows you to be proactive on maintenance rather than reactive.
- ◆ Preventive maintenance prolongs the life and efficiency of your equipment.
- ◆ Residents are less inconvenienced. For example, when maintenance goes to each apartment to change a filter, they could also pre-check the air conditioner, which could minimize the chance of future problems. While they are in the apartment, they might find out if there are other items that need repair. The resident is assured that staff really cares about their concerns and scheduling of work can be more efficient.

It is the policy of Berkshire Property Advisors to conduct a comprehensive inspection of every apartment at every community at least twice a year.

11/15/11

Berkshire Property Advisors



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DEF 000005

A Property Safety and Preventive Maintenance form will be completed twice a year. The Property Manager and the Maintenance Supervisor will complete the form.

As part of the annual budget process, the Property Manager and District Manager will establish the inspection dates for the upcoming year.

Procedure for Completing the Property Safety and Preventive Maintenance Inspection:

- ◆ When completing the Property Safety and Preventive Maintenance form, notes should be written for items that will require a service request to be issued.
- ◆ Once the inspection is complete, service request must be created in One Site Facilities and completed by the maintenance teams.
- ◆ The Property Safety and Preventive Maintenance form will need to be typed or scanned and emailed to the District Manager within 30 days of completion.
- ◆ The District Managers will need to keep a log of when inspections have been completed for their properties.
- ◆ A designated person in each region will be responsible for uploading the Property Safety and Preventive Maintenance inspection forms to the DMS.

FORMS

- ◆ Apartment Interior Inspection
- ◆ Safety and Preventive Maintenance Inspection
- ◆ Resident Inspection Notification Letter



BERKSHIRE PROPERTY ADVISORS, LLC

JOB DESCRIPTION

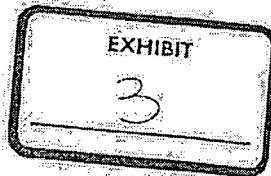
JOB TITLE: Maintenance Supervisor
DEPARTMENT: Property
LOCATION: Specified property
REPORTS TO: Property Manager
FLSA STATUS: non-exempt
DATE MODIFIED: January 18, 2011

BASIC PURPOSE:

Under the general direction of the Property Manager, the Maintenance Supervisor will own and drive preservation of the property's physical attributes for Berkshire Property Advisors.

ESSENTIAL FUNCTIONS: (These are the main duties/tasks of the position and the important in order to be successful)

- Be responsible for performance of the service team.
- Communicate openly and clearly.
- Positive role model.
- Review and monitor all time by means of time cards, supplemental logs, punch out sheets, service requests, and over-time logs.
- Provide complete support to the property manager and Berkshire Property Advisors in upholding community and corporation standards, policies, and procedures.
- Keep up-to-date and accurate logs and maintain vacancy board and scheduling of preventive maintenance, appliances, smoke detectors, filter changes, HVAC history logs, supplemental sheets, etc.
- Ensure service team members attend required training and assist in on-going training on site.
- Self seek and participate in on-going training/education.
- Schedule, conduct, and document regular meetings including safety meetings with service team members as a group to inform them of policy and procedure changes/ updates that affect them. Ensure that safety measures are enforced.
- Evaluate service team members on a regular basis for positive and negative behavior. Perform team member discussions, warning notices, and performance appraisals with counseling and coaching goals, using the appropriate forms on documentation.
- Brief new service team members on procedures, goals, and the community.
- Instruct team members on maintenance etiquette.
- Check all service team members' tools regularly for ownership and safe working condition; ensure uniform appearance is in accordance with BPA dress code policy; and provide documentation to the property manager.
- Schedule and manage appropriate contracts, i.e.: painting, cleaning company; trash removal, etc.
- Schedule daily activities efficiently, monitoring for quality or quantity.
- Assist in the preparation of long range planning, and make budget recommendations.
- Ensure punch out work is completed in accordance with BPA policies, standards, and punch out sheets.



DEF 000026

- Maintain shop, company equipment, ample supplies, inventory control, and ensure key security.
- Read and interpret prints and specifications.
- Watch for unauthorized vehicles or suspicious persons on the property and report to property authority.
- Maintain fire extinguishers, sprinklers, Range Queens, fire stops and standpipe systems.
- Perform hands-on maintenance as needed, and to further team abilities and knowledge.
- Perform daily morning checks of the overall community appearance, to include a neat and clean appearance, cleaned and painted common areas, and clean and clear windows and balconies.
- Perform service technician responsibilities/tasks to include on-call coverage as necessary.
- Prepared to respond and act in an emergency situation, following corporate/community emergency procedures.
- Perform various other duties as assigned by the property manager.
- On call hours are required.

The Company may revise this job description from time to time as business needs require. It is not intended to be an exhaustive listing of all the functions of the job, nor is to limit the Company's right to assign other functions to an employee in this position. This job description does not constitute a written or implied contract of employment.

JOB QUALIFICATION REQUIREMENTS:

Knowledge/Experience:

- Ability to effectively supervise and motivate a team of (5) or more members.
- Good communication skills; interpersonal, written and required documentation.
- A thorough knowledge of each job description, as it pertains to self and service team members.
- A thorough knowledge of interviewing techniques.
- Ability to understand, demonstrate, and ensure team compliance of all necessary national and local building codes, safety codes, labor laws, to include but not limited to safe work practices, Fair Housing, Sexual Harassment prevention, ADA, etc.
- Thorough knowledge, understanding, and compliance with Berkshire Property Advisors standards, policies, procedures, and guidelines to include, but not limited to safety, Fair Housing, OSHA, personnel appearance, maintenance etiquette, and tool requirements.
- Ability to maintain high productivity for effective cost control.
- Knowledge of contract requirements.
- Ability to read and interpret prints and specifications.
- Knowledgeable in boilers and chillers and/or individual HVAC System, as applicable.
- Ability to review service related reports generated through OneSite.
- Thorough knowledge, and understanding of preventive maintenance.

Technical/Educational Requirements:

- Able to use computers and Berkshire related applications to complete required work according to Berkshire policies and procedures, including Microsoft Office products, OPS, OneSite, Performance Manager and others as required.

Physical Requirements: (amount of standing, walking, sitting, typing, lifting etc)

- Constant need to be on feet.

Revised 1/21/2011

DEF 000027

- Have constant need to perform the following physical activities:

Bend/Stoop/Squat/Kneel	Perform routine maintenance/repairs, pick up tools and needed equipment.
Climb Stairs	Service requests, make-ready needs for 2 nd and 3 rd floor apartments.
Push or Pull	Move equipment, appliances, open and close doors, etc.
Reach Above Shoulder	Perform routine maintenance/repairs, stock and remove equipment, parts, etc.
Climb Ladders	Perform routine maintenance/repairs.
Grasp/Grip/Turning	Handle tools and equipment, perform routine maintenance/repairs.
Finger Dexterity	Handle tools and equipment, perform routine maintenance/repairs.

- Constant need to perform the following physical activities:

Writing	Inventory maintenance, requisition requests, required maintenance reports.
---------	--

- Lifting/carrying (supplies, replacement parts, ladders, etc.):

Over 150 lbs.	Rare need
75 - 150 lbs.	Occasional need
25 - 75 lbs.	Frequent need
1 - 25 lbs.	Constant need

NOTE: Lifting and carrying of weights exceeding 50 lbs. is often accomplished with assistance from one or more persons. Examples of heaviest items lifted include washer/dryers, refrigerators, A/C units, abandoned sofas, etc.

Vision Requirements: (Visual needs for the position – color, small details, inspections, etc.)

- Constant need to document maintenance and complete forms; review manuals and operating instructions; read cautionary labels; respond to written instruction from staff and residents.
- Constant need to see small detail when performing maintenance duties.
- Frequent need to see things clearly beyond arm's reach (oversee assistants, observe problems throughout the property).

Hearing Requirements: (Hearing needs for the position – telephone, meetings, etc.)

- Constant need to communicate with assistants, resident staff, vendors, and residents. Must use listening skills to diagnose needed repairs, etc.

Speaking Requirements: (Clarity, customer interaction, presentations, etc.)

- Constant need to verbally communicate with assistants, resident staff, vendors, and residents.

Driving Requirements: (Driving needs for the position – from property to property, travel, etc.)

Revised 1/21/2011

DEF 000028

- Frequent need to utilize personal transportation to pick up replacement parts and supplies from vendors. Rotation "on-call" status may occasionally require expedient travel to assigned property at moment's notice. Pick up and deliveries to the corporate office.
 - Must have valid driver's license and automobile insurance coverage.
- Reasoning Development: (Low, Medium, High – for ability to apply logical thinking to defined problem solving)
- HIGH. Must be able to apply principles of logical thinking to define problems, collect pertinent data, establish facts, draw valid conclusions, and initiate appropriate course of action. Must effectively convey ideas, images, and goals to a diverse group of personalities.

WORKING ENVIRONMENT: (Indoors, Outdoors, special things to know about job)

- Indoors. Frequently outdoors, all conditions, often for extended periods.
- Occasional exposure to paint fumes, solvents, adhesives, etc. Example: Apartments during/after make-ready.
- Frequent need to work in awkward and confining positions.

I have read this job description, understand it, and am able to perform the essential functions and meet the job requirements of the position. In addition, I have had the opportunity to discuss the job description with my supervisor.

Employee Name:
(Print Name)

Date:

Employee Signature:

Date:

Revised 1/21/2011

DEF 000029

Attach 3

2

CONFIDENTIAL

BOARD OF DIRECTORS
JANUARY 17, 2012
MINUTES OF MEETING

I. **CALL TO ORDER**

Vice Chairman Tom Dority determined a quorum was present consisting of Alonzo Gunther, Richard Scott, Bob Clem, Lola Chitwood and Mike Chodnick. Phillip Ramsey and Alicia Webb represented the Supervisory Committee. George W. Lockwood, Jack Smith, Sally Thackston and Pam Oble represented staff.

II. **NEW MEMBERS WHO JOINED BETWEEN DECEMBER 1, 2011 THROUGH DECEMBER 31, 2011**

During this period, 529 people joined CPM Federal and 657 members established a checking account. 52 new VISA accounts were also opened. There were 121520 transactions completed in December.

III. **PRESIDENT'S REPORT**

Lockwood review 2011 and the major accomplishments and areas CPM needed to improve in. Lockwood showed various graphs depicting income, expenses, loan volume, delinquency, charge offs and bench mark results. Lockwood discussed the merger with MCAS and the consolidation of the Orangeburg branches. He discussed the creation of a Sales and Services department. He discussed expenses and several options he is looking at to help reduce expenses. He also discussed the regulatory issues the Credit Union is faced with in the coming year.

IV. **CORRESPONDENCE**

Financial statements with an operational overview were received as information while other items were moved to various areas of the agenda.

V. **COMMITTEE REPORTS**

SUPERVISORY

None.

VI. **CONSENT AGENDA**

A motion was made that unanimously carried to approve the consent agenda consisting of the November Board Minutes, December Financials, update on Charge offs, update on recoveries, update on negative accounts written off, update on charged off Debit Card items, calculation for Loan Loss Report,

CONFIDENTIAL

courtesy pay report, Indirect Lending Report, Risk Based Report, Investment Report, Report on Investments and Commercial Mortgages, update on Mortgage loans, Balloon loans, TDRs, workout loans, mortgage exception report, the CEO mortgage loan update, Supervisory Committee Minutes and IC Summary.

VII.

NEW BUSINESS

INTERNAL AUDITORS REPORT

Jack Smith presented the Internal Auditors Report and reviewed the results for Branch reviews.

BSA REPORT

Jack Smith reported there were 15 CTRs and no SARs filed in December. Explanation for these reports is attached to the Board packet.

RATE UPDATE

Staff reported that the unsecured rate was lowered to 7.50% and the new and used auto rate was lowered to 3.75%.

POLICY ADDITIONS, CHANGES

The following policies were presented to the Board:

- Appraisals
- Wire Transfers
- Non-members
- Mortgage Loan general practices
- Red Flag
- Capital Policy
- Lending limits
- Deceased Members
- Lending requirements

A motion was made that was unanimously carried to approve all policies presented.

LEAGUE ANNUAL DUES

Lockwood submitted the invoice for the 2012 League Annual Dues. Staff recommended we pay the dues but not participate in the voluntary media campaign or the CU Support Fund at this time. A motion was made that was unanimously carried to approve the recommendation of staff.

CONFIDENTIAL

CPM_FCU 245

CPM_FCU 4870

ROA483

CONFIDENTIAL

MEMBER COMPANY

Ncua APPROVED THE Westpark Property Owners Association in Columbia, SC. There are 32 property owners in the group. A motion was made that was unanimously carried to approve the group.

TERMINATE 457b PLAN

Lockwood advised the Board that he was the only person that still has a 457b plan. He has not made any contributions to the plan in years and CUNA Mutual was submitting an invoice to manager the plan. Lockwood recommended to the Board that this plan should be terminated so there is no cost to the Credit Union. A motion was made that was unanimously carried to terminate the plan.

ADJOURNED

Respectfully submitted,

Gwendolyn H. Bennett

Gwenn Bennett
Chairperson

Respectfully submitted,

Robert J. Clem

Robert Clem
Secretary

CPM_FCU 246

CONFIDENTIAL

CPM_FCU 4871

ROA484

CONFIDENTIAL

BOARD OF DIRECTORS FEBRUARY 21, 2012 MINUTES OF MEETING

I. CALL TO ORDER

Chairman Gwen Bennett determined a quorum was present consisting of Tom Dority, Alonzo Gunther, Richard Scott, Bob Clem, Lola Chitwood and Mike Chodnicki. Elaine Teague and Alicia Webb represented the Supervisory Committee. George W. Lockwood, Sally Thackston and Pam Obie represented staff.

II. NEW MEMBERS WHO JOINED BETWEEN JANUARY 1, 2012 THROUGH JANUARY 31, 2012

During this period, 499 people joined CPM Federal and 575 members established a checking account. 41 new VISA accounts were also opened. There were 106167 transactions completed in January.

III. PRESIDENT'S REPORT

Lockwood reported mixed results for the month of January. Lending volume was good compared to last January's but we still lost outstanding of \$927,591. Delinquency rose a bit to 1.065%. Shares were down by over \$2 million which helped the loan to share ratio rise to 61.572%. Good news is Gross income was up over last year. Operating expenses were down from this time last year and we had a net profit of over \$34,000.

We have a loan special for Home Town Hero's (police, fire fighters, teachers, etc.) that will run the month of February. Shared Branching is being worked on and looks like we will be up and running about mid-March.

IV. CORRESPONDENCE

Financial statements with an operational overview were received as information while other items were moved to various areas of the agenda.

V. COMMITTEE REPORTS

SUPERVISORY

None.

CONFIDENTIAL

CPM_FCU 247

CPM_FCU 4972

ROA485

CONFIDENTIAL

VI.

CONSENT AGENDA

A motion was made that unanimously carried to approve the consent agenda consisting of the January Board Minutes, January Financials, update on Charge offs, update on recoveries, update on negative accounts written off, update on charged off Debit Card Items, calculation for Loan Loss Report, courtesy pay report, Indirect Lending Report, Risk Based Report, Investment Report, Report on Investments and Commercial Mortgages, update on Mortgage loans, Balloon loans, TDRs, workout loans, mortgage exception report, the CEO mortgage loan update, Supervisory Committee Minutes and IC Summary.

VII.

NEW BUSINESS

INTERNAL AUDITORS REPORT

George Lockwood presented the Internal Auditors Report and reviewed the results for Branch reviews.

BSA REPORT

George Lockwood reported there were 25 CTRs and 1 SAR filed in January. Explanation for these reports is attached to the Board packet.

RATE UPDATE

Staff recommends no changes to rates.

POLICY ADDITIONS, CHANGES

The following policies were presented to the Board:

Wire Transfer Policy- Some wording changes to make the policy clearer, changed what department handles all wires, Added that OFAC must be pulled on every wire, Change the limits on who can approve wires and added to the dual control process.

Branch Security Policy- Duplicated and removed from the Admin Policy manual.

Shared Branching policy- Lists what we can and cannot do with Shared Branching.

Optical- Changed policy for loan documents and those documents need to be scanned within 5 days instead for 3.

Check Cashing- Verbiage added to allow FSRs higher check acceptance limits. Made small changes on who has authority to make exceptions. Added new

CONFIDENTIAL

verbiage to allow 5% debt ration allowance for staff that process loans due to added loan protection products. Loan exception committee changed to remove VP of Operations, Regional

Manager in Upstate and Centralized Lending Manager. Added Branch Managers can approve up to 55 debt ration variance but still limited to 75% which will require approval by stated loan officers.

Spending Authority- Removed Facilities manager and added VP of Operations.

A motion was made that was unanimously carried to approve all policies presented.

MEMBER COMPANY

NCUA approved the following companies:

TrueGroup

Milliken and Company.

A motion was made that was unanimously carried to approve the groups.

ADD ATTORNEY TO APPROVED LIST

Staff request that Attorney Butler, Foti and College LLC be added to our approved list of attorneys. A motion was made that was unanimously carried to approve the Attorney.

ATM AGREEMENT WITH FOUNDERS FCU

Lockwood advised the Board that CPM and Founders agreed to enter their BINs on both ATMs so members of both credit unions could use each other's ATMs without being charged a surcharge.

LEAGUE ANNUAL MEETING DELEGATES

The Board appointed George Lockwood as the delegate to vote in the League Annual Meeting and Tomas Dority as the alternate delegate. A motion was made and unanimously carried.

VISA FRAUD CHARGE OFF

A motion was made that was unanimously carried to approve a fraud charge off in the amount of \$1.50.

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CPM_FCU 249

CPM_FCU 4974

ROA487

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PREFUND PENSION

CPM's pension is currently 119% funded and in a strong position. Staff and CUNA Mutual suggest that we prefund the pension to help it stay strong in the future. We have done this on several occasions in the past and by prefunding, it helps reduce the annual cost of the pension.

MERGER WITH CHARLESTON POSTAL CO-OP FEDERAL CREDIT UNION

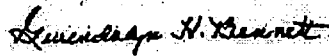
Charleston Postal Co-Op Federal Credit union has approached CPM with a proposal for them to merge with CPM. Their Board has met and approved the merger. Staff recommended that the Board approve the merger as well as it will be a large benefit to the members of Charleston Postal. A motion was made that was unanimously carried to approve the merger.

KEY RATIOS

Lockwood presented and reviewed the key ratios and compared them to peer.

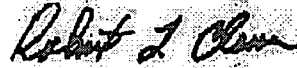
ADJOURNED

Respectfully submitted,



Gwenn Bennett
Chairperson

Respectfully submitted,



Robert Clem
Secretary

CONFIDENTIAL

BOARD OF DIRECTORS MARCH 27, 2012 MINUTES OF MEETING

I. CALL TO ORDER

Chairman Gwen Bennett determined a quorum was present consisting of: Tom Dority, Alonzo Gunther, Richard Scott, Bob Clem, Lola Chitwood and Mike Chodnicki. Elaine Teague, Phil Ramsey and Alicia Webb represented the Supervisory Committee. George W. Lockwood, Sally Thackston, Jack Smith and Pam Obie represented staff.

II. NEW MEMBERS WHO JOINED BETWEEN FEBRUARY 1, 2012 THROUGH FEBRUARY 29, 2012

During this period, 807 people joined CPM Federal and 880 members established a checking account. 84 new VISA accounts were also opened. There were 115392 transactions completed in February.

III. PRESIDENT'S REPORT

Lockwood reported that deposits increased significantly in February. While this helped increase assets, it did help drive down our net worth figure. At the same time, loans did very well for a February but with the large increase in deposits, we still saw our loan-to-share ratio fall further. Net income for February came in at \$206,000 and ROA increased to .589%. Delinquency was much improved over January and came in at .589%.

Lockwood reported that he reduced the price some on the properties in Orangeburg to help try and move them quicker. The realtor in Orangeburg stated that viewing of the properties has picked up.

New membership is going strong. The merger with Postal continues and Shared Branching should be completed by April 2.

IV. CORRESPONDENCE

Financial statements with an operational overview were received as information while other items were moved to various areas of the agenda.

V. COMMITTEE REPORTS

SUPERVISORY

None.

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CPM_FCU 251

CPM_FCU 5061

ROA489

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CONSENT AGENDA

A motion was made that unanimously carried to approve the consent agenda consisting of the February Board Minutes, February Financials, update on Charge offs, update on recoveries, update on negative accounts written off, update on charged off debit card items, calculation for Loan Loss Report, courtesy pay report, Indirect Lending Report, Risk Based Report, Investment Report, Report on Investments and Commercial Mortgages, update on Mortgage loans, Balloon loans, TDRs, workout loans, mortgage exception report, the CEO mortgage loan update, Supervisory Committee Minutes and IC Summary.

NEW BUSINESS

INTERNAL AUDITORS REPORT

Jack Smith presented the Internal Auditors Report and reviewed the results for Branch reviews.

BSA REPORT

George Lockwood reported there were 9 CTRs and 3 SAR filed in February. Explanation for these reports is attached to the Board packet.

RATE UPDATE

Staff recommends that the following change be made to rates:

Share-.05%
Money Market- <15,000-.10%
 >15,000-.20%
3mo CD-.10%
6mo CD-.20%
12 mo CD-.30%
24 mo CD-.40%
36 mo CD-.50%
48 mo CD-.60%
60 mo CD-.70%

A motion was made that was unanimously carried to approved the suggested rates.

CONFIDENTIAL

POLICY ADDITIONS, CHANGES

The following policies were presented to the Board:

Shared Branching
Mortgage
Cash
Lending
Trust Accounts
Deceased member accounts
Credit Cards
Accounts General
Expense reports/Corp Cards
Mortgage underwriting limits
BSA
Disaster Recovery Manual

Board members were given copies of policies and changes made prior to the meeting and Lockwood reviewed the changes/additions to the policies. A motion was made that unanimously carried to approve the policies submitted.

RECERTIFICATION OF DISASTER RECOVERY PLAN AND MANUAL

Lockwood presented the Disaster Recovery plan to the Board for the annual recertification. A motion was made that unanimously carried to recertify the plan.

MEMBER COMPANY

NCUA approved the following companies:

Bombay House Cleaning- 12 employees

Employees and Members of Beaufort County Association of Realtors- 325 employees and members

A motion was made that was unanimously carried to approve the groups.

BANK SECRECY ACT INDEPENDENT TESTING AUDIT AND AUDIT AND REVIEW OF IDENTITY PROGRAM AND RISK ASSESSMENTS

Lockwood reviewed the audit and provided a copy for the Supervisory Committee.

CONFIDENTIAL

CERTIFICATE OF CORPORATE RESOLUTION TO SELL MORTGAGE LOANS

Lockwood presented a Corporate resolution to sell mortgage loans to another provider, CU Members. A vote was taken and the resolution was passed.

EMPLOYEE BENEFIT STUDY

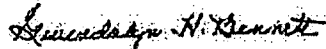
Per the Board's request, Lockwood contracted with an outside consultant to do a study on benefits other credit unions provided for their staff with the primary emphasis on SERPs. Lockwood reviewed the study with the Board. Tom Dority requested we get further information on what the average amount is used for a 457 plan for upper managers in other institutions. Lockwood will report his findings once he gathers that information.

STAFF ANNOUNCEMENTS

Lockwood and Thackston discussed the need to reduce staff in the Collections department. Lockwood advised the Board that they were cutting the number of collectors down to 8 (from 12) and making Matthew Seaman the only manager to head up the department. Also with this move, collections will become centralized later this year and that the collections department will be moving out of the audit department to someone else to be named at a later date. This will save the Credit Union about \$300,000 in salary and benefits per year and streamline the process. We are also looking at using technology better in the collections area.

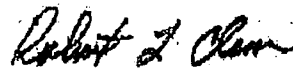
ADJOURNED

Respectfully submitted,



Gwenn Bennett
Chairperson

Respectfully submitted,



Robert Clem
Secretary

CONFIDENTIAL

BOARD OF DIRECTORS APRIL 17, 2012 MINUTES OF MEETING

I. CALL TO ORDER

Vice Chairman Tom Dority determined a quorum was present consisting of, Alonzo Gunther, Richard Scott, Bob Clem, Lola Chitwood and Mike Chodnicki. Elaine Teague, Phil Ramsey and Alicia Webb represented the Supervisory Committee. George W. Lockwood, Sally Thackston, Jack Smith and Pam Obie represented staff.

II. NEW MEMBERS WHO JOINED BETWEEN MARCH 1, 2012 THROUGH MARCH 31, 2012

During this period, 715 people joined CPM Federal and 706 members established a checking account. 99 new VISA accounts were also opened. There were 122174 transactions completed in March.

III. PRESIDENT'S REPORT

Lockwood reported that lending was strong in March. Loan volume came in at \$6,976,956 and we had a net gain in loans of \$1,459,168. On the deposit side, we continue to receive a large amount of deposits. Deposits increased by \$3,801,897. This caused our loan-to-share ratio to fall to 57.553%. It also hurt our net worth figure dropping it to 9.651%.

Delinquency was reduced to .551% as well as net charge-offs dropping to 1.148%.

Member growth continues to be strong. We picked up over 700 new members and over 700 checking accounts.

Net income came in at \$300,019 for March. This was after making our final adjustment on the MCAS allowance account.

Shared branching is now live. Our cooperative project on allowing members of other credit unions use each other's ATM without charge picked up another credit union.

IV. CORRESPONDENCE

Financial statements with an operational overview were received as information while other items were moved to various areas of the agenda.

CONFIDENTIAL

CPM_FCU 255

CPM_FCU 5074

ROA493

CONFIDENTIAL

V. COMMITTEE REPORTS

SUPERVISORY

None.

VI. CONSENT AGENDA

A motion was made that unanimously carried to approve the consent agenda consisting of the March Board Minutes, March Financials, update on Charge offs, update on recoveries, update on negative accounts written off, update on charged off debit card items, calculation for Loan Loss Report, courtesy pay report, Indirect Lending Report, Risk Based Report, Investment Report, Report on Investments and Commercial Mortgages, update on Mortgage loans, Balloon loans, TDRs, workout loans, mortgage exception report, the CEO mortgage loan update, Supervisory Committee Minutes and IC Summary.

VII. NEW BUSINESS

INTERNAL AUDITORS REPORT

Jack Smith presented the Internal Auditors Report and reviewed the results for Branch reviews.

BSA REPORT

Jack Smith reported there were 27 CTRs and 1 SAR filed in March. Explanation for these reports is attached to the Board packet.

RATE UPDATE

Staff recommends that no rates be changed at this time.

A motion was made that was unanimously carried to not make changes to rates.

POLICY ADDITIONS, CHANGES

The following policies were presented to the Board:

New policy regarding power of attorney

An addition was made to the type of accounts to include in UGMA accounts and Instructions

Updated our no smoking policy to include any property of CPM

CONFIDENTIAL

Board members were given copies of policies and changes made prior to the meeting and Lockwood reviewed the changes/additions to the policies. A motion was made that unanimously carried to approve the policies submitted.

MEMBER COMPANY

NCUA approved the following companies:

Employees of the Gullah Sentinel- 3 employees

Employees of Orangeburg Consolidated School District 5- 650 employees

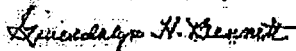
A motion was made that was unanimously carried to approve the groups.

EMPLOYEE BENEFIT STUDY

Per the Board's request, Lockwood investigated what other credit unions were paying for a 457 SERP for staff. Lockwood reported that it varies. Some invest in a life insurance policy, other deposit cash. The amounts were far greater than the proposed \$2600 for each of the 8 employees he recommended be added to the plan. A motion was made that was unanimously carried to approve the addition of 8 managers being added to the 457 plan for \$2600 each once per year.

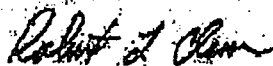
ADJOURNED

Respectfully submitted,



Gwenn Bennett
Chairperson

Respectfully submitted,



Robert Olem
Secretary

CONFIDENTIAL

CPM_FCU 257

CPM_FCU 5076

CONFIDENTIAL

BOARD OF DIRECTORS MAY 15, 2012 MINUTES OF MEETING

CALL TO ORDER

Chairman Gwen Bennett determined a quorum was present consisting of: Tom Dority, Richard Scott, Bob Clem, Lola Chilwood and Mike Chodnicki. Allie Webb represented the Supervisory Committee, George W. Lockwood, Sally Thackston, Jack Smith and Pam Oble represented staff. Ron Burn represented the NCUA.

- II. Ron Burn, Principle NCUA Examiner, reported to the Board on the recent NCUA Exam performed on CPM Federal. He reported several findings that headed immediate attention. Mr. Burn reviewed the findings and reviewed the Document of Resolution. The major findings were:

(b)(8)



III. NEW MEMBERS WHO JOINED BETWEEN APRIL 1, 2012 THROUGH APRIL 30, 2012

During this period, 656 people joined CPM Federal and 683 members established a checking account. 62 new VISA accounts were also opened. There were 112924 transactions completed in April. There were 269 Shared Branching transactions in April.

IV.

PRESIDENT'S REPORT

Lockwood discussed the NCUA examination

(b)(8)

(b)(8)

(b)(8)

He apologized for not taking action on expenses sooner. He also spoke about the MCAS balloon notes and the need to clean those up. He did state that he did not think anything in the notes could not be fixed in a relatively short period except the mortgages. He told the Board that they were already working on them but that they would take some time to get members in and work out arrangements to either foreclose, refinance or modify. We have already assigned several people to this. As for expenses, Lockwood told the Board of his thoughts on closing several branches, reductions in staff and reductions in other expenses. Lockwood reviewed the April financial statement and the current numbers but did advise that some of these numbers would be changing a good bit as they move through the process of correcting the

CONFIDENTIAL

V. CORRESPONDENCE

Financial statements with an operational overview were received as information while other items were moved to various areas of the agenda.

VI. COMMITTEE REPORTS

SUPERVISORY

None.

VII. CONSENT AGENDA

A motion was made that unanimously carried to approve the consent agenda consisting of the April Board Minutes, April Financials, update on Charge offs, update on recoveries, update on negative accounts written off, update on charged off debit card items, calculation for Loan Loss Report, courtesy pay report, Indirect Lending Report, Risk Based Report, Investment Report, Report on Investments and Commercial Mortgages, update on Mortgage loans, Balloon loans, TDRs, workout loans, mortgage exception report, the CEO mortgage loan update, and IC Summary.

VIII. NEW BUSINESS

INTERNAL AUDITORS REPORT

Jack Smith presented the Internal Auditors Report and reviewed the results for Branch reviews.

ALM REPORT

Lockwood reviewed the ALM report with the Board and advised them that part of the DOR required that they improve and expand the ALM report. Lockwood advised the Board that he had already contacted First Carolina Corporate to discuss their ALM program for credit unions and he is getting pricing for this program. This program would be in addition to what CPM does now with expanded reporting and documentation. A motion was made that was unanimously approved to accept this report.

BSA REPORT

Jack Smith reported there were 19 CTRs and 0 SAR filed in April. Explanation for these reports is attached to the Board packet.

CONFIDENTIAL

CPM_FCU 259

CPM_FCU 5118

ROA497

CONFIDENTIAL

RATE UPDATE

Staff recommends that no rates be changed at this time.

A motion was made that was unanimously carried to not make changes to rates.

POLICY ADDITIONS, CHANGES

The following policies were presented to the Board:

Mortgage policy was amended to raise the maximum mortgage loan term from 15 years to 30 years. This would give underwriting more flexibility with mortgage loans. A motion was made that was unanimously carried to approve the policy change.

MEMBER COMPANY

NCUA approved the following companies:

Employees of IPS Packaging- 110 employees

Employees and members of the Beaufort Regional Chamber of Commerce- 672 members

A motion was made that was unanimously carried to approve the groups.

VISA FRAUD

Staff submitted 6 VISA accounts with small balances as fraud items. A motion was made that was unanimously carried to approve the charge offs.

ATM/CHECK CARD CHARGEOFFS

Staff recommended that \$3101.07 in ATM/check card chargeoffs be approved. A motion was made that was unanimously carried to approve.

RESOLUTION TO NAME GEORGE LOCKWOOD TO SIGN SOLD BEAUFORT PROPERTIES

The attorney used to closed sold properties owned by CPM Federal requested a resolution to name Lockwood as authorized to sell foreclosed properties on behalf of CPM/MCAS Federal Credit Union's. A motion was made that was unanimously carried to approve.

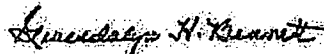
CONFIDENTIAL

NEW BOARD PACKETS AND IPADS

In order to provide the Board with easier access to Board materials, we are changing how we provide the Board materials. We will no longer have the Board use laptops but they will be issued an Ipad. This ways, they can get the Board material, not print them out and can bring the I pads and their notes to the Board meetings. The system is much more efficient, will save money by not having to use paper and they will be able to access at any time. Training for this system will take place next month.

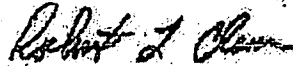
ADJOURNED

Respectfully submitted,



Gwenn Bennett
Chairperson

Respectfully submitted,



Robert Clem
Secretary

CONFIDENTIAL

CPM_FCU 261

CPM_FCU 5120

ROA499

CONFIDENTIAL

BOARD OF DIRECTORS JUNE 19, 2012 MINUTES OF MEETING

I. CALL TO ORDER

Chairman Gwen Bennett determined a quorum was present consisting of Tom Dohly, Richard Scott, Alonzo Gunther, Bob Olem, Lola Onitwo and Mike Chodnicki. Alicia Webb, Elaine Teague and Phil Ramsey represented the Supervisory Committee. George W. Lockwood, Sally Thackston and Pam Obba represented staff.

II. NEW MEMBERS WHO JOINED BETWEEN MAY 1, 2012 THROUGH MAY 31, 2012

During this period, 516 people joined CPM Federal and 628 members established a checking account, 80 new VISA accounts were also opened. There were 117,420 transactions completed in May. There were 589 Shared Branching transactions in May.

III. PRESIDENT'S REPORT

Lockwood reported that during May, we have been working on the NCUA report and reviewing many things that will correct the findings found in the report.

Income was negative in May. A large part of it was the allowance for loan loss account and that we made less income than we did in April. We have a loss of \$268,070 for the month. This pushed our ROA down to -.222% and net worth to 9.368%. We did reduce expenses by \$913,000 compared to April. This is an area we have looked hard at and will make some recommendations to help lower expenses at the Board meeting.

Total assets increased by \$2,339,811 in May to \$276,717,261. The majority of this increase was due to deposits. Deposits increased by \$1,980,332, the majority of which was in share draft accounts. Cost of funds continues to be low at .464%. Yield on loans is at 6.468%. Loan to share is 57.018%.

Delinquency is at 2.518% but is mostly due to one account. Net charge offs actually came down a bit to 1.243%.

(b)(5)
Lockwood warned and advised the Board that June numbers will look much worse as we make adjustments to mortgage accounts and allowance for loan losses. We want to do this once and get it done without having to come back and revisit it. There may be some large adjustments and will be reviewing with you during the Board meeting. We are hopeful that

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once these adjustments are made, that the numbers will improve as the year goes on.

IV. CORRESPONDENCE

Financial statements with an operational overview were received as information while other items were moved to various areas of the agenda.

V. COMMITTEE REPORTS

SUPERVISORY

None.

VI. CONSENT AGENDA

A motion was made that unanimously carried to approve the consent agenda consisting of the May Board Minutes, May Financials, Asset Liability Report, update on Charge offs, update on recoveries, update on negative accounts written off, update on charged off debit card items, calculation for Loan Loss Report, courtesy pay report, Indirect Lending Report, Risk Based Report, Investment Report, Report on Investments and Commercial Mortgages, update on Mortgage loans, Balloon loans, TDRs, workout loans, mortgage exception report, the CEO mortgage loan update, Supervisory Committee Minutes, IC Summary and BSA Program Report.

VII. NEW BUSINESS

INTERNAL AUDITORS REPORT

George Lockwood presented the Internal Auditors Report and reviewed the results for Branch reviews.

BSA REPORT

George Lockwood reported there were 15 CTRs and 1 SAR filed in May. Explanation for these reports is attached to the Board packet.

RATE UPDATE

Staff recommends that no rates be changed at this time.

A motion was made that was unanimously carried to not make changes to rates.

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CPM_FCU 263

CPM_FCU 5140

ROA501

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POLICY ADDITIONS, CHANGES

The following policies were presented to the Board:

Record Retention Policy

Revamped current policy for better understanding, current regulation requirements and to add operational items. Replace Existing Policy/Procedure.

BSA Training Policy

Modified BSA training verbiage to state "employees and volunteers" so all parties required to take would be included. Replace Existing Policy/Procedure.

Mortgage Loan Policy

Change was made to the max term on CPM 1st mortgages from 180 months/ 15 years to a new maximum of 360 months/ 30 years. Replace Existing Policy/Procedure.

Mortgage Loan Policy

Change was made to the max term on CPM second mortgages from 180 months/ 15 years to a new maximum of 360 months/ 30 years. Replace Existing Policy/Procedure.

Mortgage Loan Policy

Change was made to the max term on CPM land loans from 180 months/ 15 years to a new maximum of 360 months/ 30 years. Replace Existing Policy/Procedure.

Mortgage Loan Policy

Change was made to the max term on CPM mobile homes with land from 180 months/ 15 years to a new maximum of 360 months/ 30 years. Replace Existing Policy/Procedure.

Wire Policy

Removed requirement to maintain paper documentation in the branch. Clarified all documentation is to be scanned. Add to Existing Policy/Procedure.

Accounting Timetables

Policy lists the incorrect GL number for stale checks. Also, the corporate checks may say void after 90 days, but do not become stale in our system until 180. IT was asked to change to 90 and was told this could not be done thru our system. The change in policy reflects that move to stale checks occurs at 180 days, not 90. This is not an item that will need included on All In One as back office function. Replace Existing Policy/Procedure.

CPM_FCU 264

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CPM_FCU 5141

ROA502

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CPM Corporate Checks

Incorrect GL number and CPM position listed regarding stale check issues. No need to include in all in one...back office issue. Replace Existing Policy/Procedure.

Account ownership Types

Clarified joint authority and abilities. Also corrected a few typos or inaccurate information within the policy. Our Membership Agreement concurs with the new paragraph. Add to Existing Policy/Procedure.

Maintenance On Accounts

Update maintenance on account to include new policy regarding changes made by joint member. Replace Existing Policy/Procedure.

Harassment & Salary Policy

Change in harassment policy to include update to VP of HR title; also to salary & wage policy as well

Change in harassment policy to include update to VP of HR title; also to salary & wage policy as well. Replace Existing Policy/Procedure.

ATM & Debit Card Policy

Update to include call center is contact for returned cards per All In One. Add to Existing Policy/Procedure.

Error Policy

Added \$5.00 allowance, clarified exceptions and title to be changed to balancing policy. According to SPT, the one currently on Sharepoint is not the most current. This was changed when the error log was removed however never updated. Add to Existing Policy/Procedure.

UDAAP

Unfair, Deceptive, and Abusive Acts and Practices (UDAAP) Policies. Brand New Policy/Procedure.

Work Out Loans

Would like to remove the loan exception committee members specifically spelled out in the policy and just refer to the loan exception committee members listed in the General Lending Policy. This will help with policy changes in the future by having the members listed in one place. Replace Existing Policy/Procedure.

Short Term Loans

Would like to change the rate from 25% to 27%, remove the \$10 application fee, and add Lending Services Manager to those who can approve extensions. Replace Existing Policy/Procedure.

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Disaster Recovery
Update title for Margaret Banks. Replace Existing Policy/Procedure.

Disaster Recovery
Assistant VP of lending and VP of upstate titles addressed in policy obsolete.
Replace Existing Policy/Procedure.

Disaster Recovery
Replace Reference to Assistant VP of Lending (position nonexistent); replace w/
VP of Operations; correct misspelled position for controller. Replace Existing
Policy/Procedure

BSA Policy
Revision to job duty titles. Changing Lisa Harrison to BSAAML/OFAC Officer
and Steven Trusohka to Compliance Officer. Clarifying Kimberly Rantz and
Michelle Neal as secondary officers.

Loan Policy
This is an update to our TDR policy to reflect the recent rule changes that allow
us to not have to carry TDR's 6 months delinquent. There were minor changes as
well to shore up the policy.

A motion was made that was unanimously carried to approve all policies as
written.

MEMBER COMPANY

NCUA approved the following companies:

Employees of SMX Staffing in Columbia, SC- 175 members

A motion was made that was unanimously carried to approve this group.

VISA FRAUD

Staff submitted 1 VISA account with a small balances as fraud items. A motion
was made that was unanimously carried to approve the charge offs.

CPM IDENTITY-RED FLAG RISK ASSESSMENT

The assessment was completed and submitted to the Board for their review. A
motion was made that was unanimously carried to accept the assessment and
approve the policy.

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BSA/AML & OFAC RISK ASSESSMENT

The assessment was completed and submitted to the Board for their review. A motion was made that was unanimously carried to accept the assessment and approve the policy.

REPORT

(b)(8) Lockwood reviewed the [REDACTED] items listed. Lockwood advised the Board that all items were being worked on and that several had already been corrected. The Board accepted the report and instructed Lockwood to correct all items and report to the Board monthly on the results.

BOARD TRAINING

The Board attended training on a new Board reporting tool.

All Board and Supervisory Committee members will attend Board training on June 20, 2012 provided by the League at our offices.

ADJOURNED

Respectfully submitted,

Respectfully submitted,

Gwenn Bennett

Robert Clem

Gwenn Bennett
Chairperson

Robert Clem
Secretary

CONFIDENTIAL

CPM_FCU 267

CPM_FCU 5144

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CPM Federal Board Meeting - Board Minutes

BOARD OF DIRECTORS JULY 24, 2012 MINUTES OF MEETING

CALL TO ORDER

Chairman Gwan Bannell determined a quorum was present consisting of, Tom Dority, Richard Scott, Alvin Gunther, Bob Clem, Lois Chittwood and Mike Chodnicki. Alicia Webb, Elaine Teague and Phil Ramsey represented the Supervisory Committee. George W. Lockwood, and Jack Smith represented staff.

II. NEW MEMBERS WHO JOINED BETWEEN JUNE 1, 2012 THROUGH JUNE 30, 2012

During this period, 808 people joined CPM Federal and 851 members established a checking account. 58 new VISA accounts were also opened. There were 115,885 transactions completed in June. There were 790 Shared Branching transactions in June.

III. PRESIDENT'S REPORT

(b)(8) We have been working extremely hard on the issues with the [REDACTED]

The two properties that were at MOAS and foreclosed on that the Department of the Navy wanted to purchase finally closed. We realized a net profit of around \$130,000. We also believe that the two title insurance claims that have been pending for nearly 3 years will finally be paid and off the books.

Financials, of course, do not look good for June as we complied with the NCUA in moving accounts to the allowance account and handled the Summerville branch issue. Because of the high amount of adjustment to the allowance account and accelerating the depreciation on Summerville, we suffered a loss of \$1,449,604. This was expected but certainly we did not look forward to it. Had we not had to make these adjustments, we may have been pretty close to a break even month. We may still need to make further adjustments to the allowance account in July, but we feel the rest of the year we will see better numbers.

Some good news that has helped is that deposits were down some and loans showed a slight increase. This helped increase our loan-to-share ratio to 58.011%. Also, even with the adjustments, we are still near 9% net worth.

CPM Federal Board Meeting - Board Minutes

CONFIDENTIAL

Delinquency increased to 4.331% but we should see that drop a good bit as we continue to correct the balloon notes from MCAS.

Members of Charleston Postal Cooperative FCU voted on the merger and there was approved 45 to 0. We will be merging all accounts by September 4.

IV. CORRESPONDENCE

Financial statements with an operational overview were received as information while other items were moved to various areas of the agenda.

V. COMMITTEE REPORTS

SUPERVISORY

None.

VI. CONSENT AGENDA

A motion was made that unanimously carried to approve the consent agenda consisting of the June Board Minutes, June Financials, Asset Liability Report, update on Charge offs, update on recoveries, update on negative accounts written off, update on charged off debit card items, calculation for Loan Loss Report, Risk Based Lending report, courtesy pay report, Indirect Lending Report, Investment Report, Report on Investments and Commercial Mortgages, update on Mortgage loans, Balloon loans, TDRs, workout loans, mortgage exception report, the CEO mortgage loan update, Supervisory Committee Minutes, IC Summary and BSA Program Report.

VII. NEW BUSINESS

INTERNAL AUDITORS REPORT

Jack Smith presented the Internal Auditors Report and reviewed the results for Branch reviews.

BSA REPORT

Jack Smith reported there were 20 CTRs and 5 SARs filed in June. Explanation for these reports is attached to the Board packet.

RATE UPDATE

Staff recommends that no rates be changed at this time.

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A motion was made that was unanimously carried to not make changes to rates.

MEMBER COMPANY

NCUA approved the following company:

The Goddard School in Simpsonville, SC- 44 members

A motion was made that was unanimously carried to approve this group.

VISA FRAUD

Staff submitted 2 VISA account with a small balances as fraud items. A motion was made that was unanimously carried to approve the charge offs.

CHANGE CPA TO ORTH, CHAKLER, MURNANE AND COMPANY, CPAs

Lockwood proposed that the Credit Union change auditors from Cantey, Tiller, Pierce and Green to Orth, Chakler, Murnane and Company. Lockwood explained that CPM Federal is becoming more complex and that he is not comfortable with Cantey firm and the advice they have given the Credit Union the last few years. Staff felt that a change is needed go forward. Lockwood stated that he has discussed the Orth firm with several South Carolina credit union CEOs who use Orth. Lockwood stated that he was told nothing but good things from the CEOs about Orth and how they conducted the audits. Several of the credit unions in SC are SC Federal, Heritage Trust SRP and Founders. They also conduct the audit of First Carolina Corporate. Pricing was very similar to what is paid now. A motion was made that was unanimously carried to approve the change in audit firms.

PLAN TO REDUCE EXPENSES AND INCREASE REVENUES

Lockwood introduced his plan to reduce expenses and help increase revenues. Lockwood explained that this plan may have further revisions at a later date. This plan has been reviewed by his Core Group.

Lockwood reviewed the initial expenses to be cut or reduced. Lockwood also discussed the closing of several branches and changing the hours of all branches. Total savings with this initial plan is approximately \$700,000 per year. Lockwood also reviewed ways to help increase revenues. Lockwood proposed having a new fee survey completed since the last survey was completed in 2010. Discussion ensued mostly around the closing of the branches stated in the plan. Questions were asked about what we were going to do with staff affected in the closed branches. Lockwood stated that they would either be let go or moved to other locations if it was in the best interest of the Credit Union.

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The Board was in agreement to move forward with the plan.

LEADERSHIP CONFERENCE

Lockwood advised the Board that no staff would be attending the Leadership conference in an effort to reduce conference costs. Lockwood proposed that the Board and Supervisory Committee not attend as well. This would help the Credit Union save about \$20,000 in conference costs this year. A motion was made that was unanimously carried for the Board not to attend this year's Leadership Conference.

JUNIOR BOARD OF DIRECTORS

Lockwood proposed that the Board develop and create a Junior Board of Directors made up of young people to do several things. It would help teach younger people about credit unions, how they work, how boards of directors work and what volunteerism is all about. This could also be used to help fill vacated Board and Supervisory Committee positions should they become available with younger people. It would also help by having different points of view. This Junior Board would attend meetings, ask questions, make recommendations but not have voting rights or be able to make decisions. It would still be a volunteer position. They may, at a later date, be invited to planning meetings and some conferences if expenses allowed.

The Board discussed the idea and will think about it and bring it back up next Board meeting.

ADJOURNED

Respectfully submitted,

Gweneth H. Bennett

Gweneth Bennett
Chairperson

Respectfully submitted,

Robert J. Clem

Robert Clem
Secretary

CONFIDENTIAL

BOARD OF DIRECTORS AUGUST 21, 2012 MINUTES OF MEETING

I. CALL TO ORDER

Chairman Gwen Bennett determined a quorum was present consisting of, Tom Dority, Richard Scott, Alonzo Gunther, and Bob Clem. Alicia Webb, Elaine Teague and Phil Ramsay represented the Supervisory Committee. George W. Lockwood, Sally Thackston and Jack Smith represented staff.

II. NEW MEMBERS WHO JOINED BETWEEN JULY 1, 2012 THROUGH JULY 31, 2012

During this period, 600 people joined CPM Federal and 857 members established a checking account. 71 new VISA accounts were also opened. There were 113024 transactions completed in July. There were 882 Shared Branching transactions in July.

III. PRESIDENT'S REPORT

Staff continued to work on the MCAS balloon loans and we are moving as quickly as we can to clear those up. Delinquency reduced by nearly one percent because we have been able to get a number of these loan refinances to fixed terms. We should see about the same next month.

Shares dropped by a little over \$4 million and we had a small net profit of \$28,202. This helped push Net Worth to 9.085%. We also saw fee income and investment income improve as well. Lending was still down some. We did \$3.6 million in loans for the month.

We continue to look for ways to reduce expenses and have been implementing a number of items already discussed with the Board. We have also looked at several items to help increase revenues. Some of these are discontinuing products that no one used such as Travelers Checks.

The merger with Charleston Postal will be complete September 4. Jennifer McKenna, Branch Manager at Montague, has agreed to be the manager for this new branch. We are making a slight adjustment to their hours beginning September 4 by being open 1-5pm Monday through Friday. Member packets, with a welcome letter and offer for checking account and debit card, are being mailed this week.

Board Meeting - Board Minutes
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IV. **CORRESPONDENCE**

Financial statements with an operational overview were received as information while other items were moved to various areas of the agenda.

V. **COMMITTEE REPORTS:**

SUPERVISORY

None.

VI. **CONSENT AGENDA**

A motion was made that unanimously carried to approve the consent agenda consisting of the July Board Minutes, July Financials, Asset Liability Report, update on Charge offs, update on recoveries, update on negative accounts written off, update on charged off debit card items, calculation for Loan Loss Report, Risk Based Lending report, courtesy pay report, Indirect Lending Report, Investment Report, Report on Investments and Commercial Mortgages, update on Mortgage loans, Balloon loans, TDRs, workout loans, mortgage exception report, the CEO mortgage loan update, Supervisory Committee Minutes, IC Summary and BSA Program Report.

VII. **NEW BUSINESS**

INTERNAL AUDITORS REPORT

Jack Smith presented the Internal Auditors Report and reviewed the results for Branch reviews.

BSA REPORT

Jack Smith reported there were 20 CTRs and 2 SARs filed in July. Explanation for these reports is attached to the Board packet.

RATE UPDATE

Staff recommends that no rates be changed at this time.

A motion was made that was unanimously carried to not make changes to rates.

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POLICY CHANGES, UPDATES, ADDITIONS

The following policies were review with the Boards:

1. Replace Existing Policy- Lending- Remove lending authority for Natalia Bennett.
2. Replace Existing Policy- Lending- Removed references to Regional Manager of Coastal Area.
3. Brand New Policy- Accounts General- This is a policy that addresses Federal Fiduciary Accounts.
4. Delete Existing Policy- Travelers Cheques- Discontinuing traveler's cheque service -remove entire policy - reference to "cashing travelers cheques" is made in separate procedure.
5. Replace Existing Policy- Branch Capture- Savings bonds are no longer mailed to PCS.
6. Replace Existing Policy- Non-Member Services- Add shared branching to nonmember services.
7. Replace Existing Policy- ATM/Debit- Add instructions on where to index temp and permanent increase forms in Optical.
8. Replace Existing Policy- Account Closing- Include info that signature should be checked against signature card on record when closing account.
9. Replace Existing Policy- Check Acceptance- Add requirement to check signature on on-us checks against signature card on record.
10. Replace Existing Policy- ACH Transactions- Remove requirement to fax direct deposit forms to Support Center - add instructions on indexing docs to Optical instead.
11. Replace Existing Policy- Deceased Accounts- Added instructions on where to scan deceased paperwork in Optical.
12. Brand New Policy- Nonaccrual Policy- Nonaccrual policy that is required by the NCUA with recent TDR rule.
13. Replace Existing Policy- Maintenance on Deposit Accounts- Updated to reflect Account Change Card in Navigator.
14. Replace Existing Policy- Shared Branching Policies- Modified to reflect shared branching network changes

CONFIDENTIAL

15. Replace Existing Policy- Disaster Recovery- Changed contact info from TNB to Vantiv under data processing contacts.
16. Replace Existing Policy- SAFE ACT- Changed President of Operations to Lending Services Manager.
17. Replace Existing Policy- Loan Due Date Extensions- Replace references to President of Operations - no such position.
18. Replace Existing Policy- Collateralized Loans- Policy references President of Operations - no such position.
19. Replace Existing Policy- Risk Based Lending- 2 of the 3 positions on the risk based lending committee are non-existent (Asst VP of Operations & President of Operations)...replaced with VP of Ops and Controller.
20. Brand New Policy- Policy & Procedure Updates- New policy to clarify approval for policy/procedure updates.
21. Replace Existing Policy- Allowance for Loan Loss- Minor changes to policy to reflect change in GL and calculation of overdraft charge-offs.
22. Replace Existing Policy- Loan Extension, Modification and TDR- This is a change to the TDR policy to reflect comments from the NCUA. Also, adding in extension and modification policy to replace Loan Extension Policy.
23. Replace Existing Policy- ATM Card Functions- Updated information for authorizations.
24. Brand New Policy- Charitable Contributions- New policy, including limits based on previous years income.
25. Brand New Policy- Employee Loans- This was a policy that had been dropped from the personnel manual to be placed in the lending policy with updated floor rates.
26. Brand New Policy- Fee refunds- New policy to cover the refund of fees on an employee account.

A motion was made that was unanimously carried to approve all policies.

APPROVE LIST OF ATTORNEYS

Staff requested that the list of approve attorney be reduced to one per area to cover for real estate matters. This was recommended to staff after a visit to Sharonview FCU to review their mortgage program. A motion was made that was unanimously carried to approve staff's recommendation.

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Board Meeting - Board Minutes

FEE FOR PAPER STATEMENTS

In an effort to move more members to electronic statements and to help cover the cost of producing, printing and mailing paper statements, staff recommends that starting in January 2012, members who have to be mailed a paper statement will be charged a \$3.00 fee. Members under 18 and over 65 will continue to get paper statements for free. Staff may recommend other ways for members to not pay depending on what services a member may have and will advise the Board at a later date. A motion was made that was unanimously carried to approve the fee.

MEMBER COMPANY

WABCO- Charleston, SC-149 employees. This was approved by the NCUA. A motion was made to approve the company to be included in the FOM.

FED DISCOUNT WINDOW

Currently, CPM Federal only has one source to borrow fund from and that is a line of credit with First Carolina Corporate. We have had this line for many years. While we do not need to borrow funds at this time, we feel that CPM should have other sources should it be needed. Staff has completed the paperwork to receive access to the Fed Discount Window. A resolution by the Board is needed. We would only use this should we need an alternative source in the future. A motion was made that was unanimously carried to approve the resolution.

LOW INCOME DESIGNATION

CPM Federal received a letter from the NCUA identifying them as being eligible to be designated as a low income credit union. NCUA has used AFRS information to determine these credit unions. The determination used is if the majority of the credit union's membership (50.1%) whose family income is 80% or less than the median family income for the metropolitan area or national metropolitan area, whichever is greater. CPM Federal has qualified. The only requirement from the NCUA is for us to send a letter or email accepting the designation.

Benefits of doing so are:

- We can accept non-member deposits from any source
- Obtain services from the Office of Small Credit Union Initiatives which provide low interest loans and consulting services
- Offer secondary capital accounts
- Qualify for an exception from the aggregate loan limit for member business loans

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~~Noted for filing - Robert J. Clem~~

The NCUA will review this designation annually to determine if we still qualify. Should we not, we have 5 years to get back to being in a low income designation.

Lockwood recommended that we accept this designation and continue to review to see what, if any, of the items above we would like to take advantage of. A motion was made that was unanimously carried to approve.

LOCKWOOD'S PLAN FOR THE FUTURE

Lockwood reviewed his plan for the future of branches and the use of technology within the branch. This plan is a multi-year plan and can change the look and size of branches in the future while reducing staff size and increasing efficiency.

UPDATE ON CHARLESTON POSTAL

Lockwood reported that member account information for Charleston Postal will be transferred this Labor day weekend. On September 3rd, all transaction at Charleston Postal will now be running through CPM. Jennifer McKenna will manage the branch and the former CU manager will stay on and help. We will continue to operate the branch as it is with no cash or tellers until a later date. We will keep the branch open from 1-5pm each day and not be closed on Wed.

PERSONNEL CHANGES

Lockwood informed the Board of several changes to personnel. Lloyd Vail, formerly of Founders FCU, is now working for CPM as the SVP of Operations and will be responsible for lending, branches and collections. Training will now report to HR. Call Center will now report the VP of Sales and Service and Shannon Pahlia will be responsible for all research and development of all projects, products and services for the Credit Union.

ADJOURNED

Respectfully submitted,

Gwynn Bennett

Gwynn Bennett
Chairperson

Respectfully submitted,

Robert J. Clem

Robert Clem
Secretary

CONFIDENTIAL

CPM_FCU 277

CPM_FCU 5585

ROA515

CONFIDENTIAL

**BOARD OF DIRECTORS
OCTOBER 30, 2012
MINUTES OF MEETING**

I. CALL TO ORDER

Chairman Gwen Bennett determined a quorum was present consisting of, Tom Dority, Richard Scott, Alonzo Gunther, Michael Chodnicki, Lola Chitwood and Bob Clem. Alicia Webb, Elaine Teague and Phil Ramsey represented the Supervisory Committee. George W. Lockwood, Sally Thackston and Jack Smith represented staff.

II. NEW MEMBERS WHO JOINED BETWEEN SEPTEMBER 1, 2012 THROUGH SEPTEMBER 30, 2012

During this period, 541 people joined CPM Federal and 700 members established a checking account. 691 new VISA accounts were also opened. There were 103,715 transactions completed in September. There were 1181 Shared Branching transactions in September.

III. PRESIDENT'S REPORT

Lockwood reviewed the number of accounts opened and number of transactions completed by branch and the totals for Shared Branching transactions. Lockwood stated that Shared Branching totals dropped for the first time since installed.

Lockwood reported that deposits were flat but loans decreased by \$612,000. Used auto financing has done well this year. Balloon notes were down somewhat due to us working to get those on fixed term notes and several paid us off.

Lockwood reported that gross income was down somewhat due to a shorter month and having a holiday in the month. Expenses were down about \$20,000 for the month and net income was \$33,381.

Lockwood discussed steps taking place to reduce expenses over the next 12 months and informed the Board that he was still looking for more to cut.

IV. CORRESPONDENCE

Financial statements with an operational overview were received as information while other items were moved to various areas of the agenda.

CONFIDENTIAL

V.

COMMITTEE REPORTS

SUPERVISORY

Alicia Webb reported that the Supervisory Committee met for the third quarterly meeting. There was nothing else to report. There was no further discussion.

VI.

CONSENT AGENDA

A motion was made by Bob Clem that was seconded by R. L. Scott and unanimously carried to approve the consent agenda consisting of the September Board Minutes, Financial report, Asset Liability Report, update on Charge offs, update on recoveries, update on negative accounts written off, update on charged off debit card items, calculation for Loan Loss Report, Risk Based Lending report, courtesy pay report, Indirect Lending Report, Investment Report, Report on Investments and Commercial Mortgages, total debt restructure loans and workout loans, Balloons by tier, Summary of balloon notes, CEO update on Mortgage loans, ALM Committee minutes, Supervisory Committee Minutes, IC Summary and BSA Program Report. There was no discussion.

VII.

NEW BUSINESS

INTERNAL AUDITORS REPORT

Jack Smith presented the Internal Auditors Report and reviewed the results for Branch reviews. Jack Smith reported there were 14 CTRs and 3 SARs filed in September. Explanation for these reports is attached to the Board packet. There was no further discussion.

RATE UPDATE

Lockwood reported that staff recommends that no rates be changed at this time. There was no discussion and a motion was made by Bob Clem and seconded by Alonzo Gunther to not raise any rates at this time.

MEMBER COMPANY

Lockwood reported that one member company was submitted and approved by the NCUA- The Children's Center in Beaufort, SC- 56 members. A motion was made by Alonzo Gunther and seconded by Lola Chitwood and unanimously carried to approve this member company. There was no discussion.

CONFIDENTIAL

CPM Fraud Audit Hearing - Board Minutes

VISA FRAUD

Lockwood presented one Visa fraud item to the board in the amount of \$85.97. Lola Onitwood made a motion to accept the charge off and it was seconded by Alonzo Gunther and unanimously carried to approve.

Lockwood also discussed the recent report of the South Carolina Department of Revenue hacking. Lockwood advised the Board that CPM had put out information about the hacking on its website and the free credit monitoring offered by the State. Lockwood advised the Board that as a precaution, they should all apply for the monitoring and if they needed help, to let him know.

POLICY CHANGES, UPDATES, ADDITIONS

Lockwood presented the following policies and reviewed with the Board:

Policy to change how collateral inspection reports are used and that for auto loans, a collateral inspection report was no longer required for any auto purchased from any reputable new or used dealer. Currently, we are inspecting all vehicles. Policy will still require other collateral to be inspected.

New policy covering the use and balancing of the cash dispensers used in Orangeburg. We did not have a policy on the use and operation of this equipment. This is actually only for the Orangeburg branch as they are the only ones with cash dispensers.

Investment policy changes the maximum period of an investment we can do. Current policy states we can only go 36 months. This presented a problem purchasing the NCUA note that was 108 months. Requesting the term be increased to 108 months to cover current investments. Also added other accounting staff to help with investments.

A motion was made by Alonzo Gunther and seconded by Bob Clem and unanimously carried. There was no discussion.

NEW AUDITORS

Lockwood advised that the new auditors, Orth, Chakler, Murnane and Company, CPAs, would be in the following week to do a balance sheet only audit. Lockwood advised that he had received the engagement letter emailed to Aljoja Webb. Ms. Webb stated that she had not seen it. Lockwood advised that he would forward her a copy and find out why it was not sent to her. Phil Ramsey asked if they could sit in on the exit interview from Orth. Lockwood stated that he was sure they could and would set it up and inform the Board and Supervisory Committee when it would take place.

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PURCHASE BUILDINGS

Lockwood discussed the possibility of purchasing the building next door and Orangeburg. Lockwood discussed that purchasing the properties could save the Credit Union over \$8,000,000 in costs versus continuing to pay the leases. Tom Dority asked if we had a valuation number on the building. Lockwood stated that he did not have anything on values of the property. Tom Dority stated that we should get an appraisal on the properties in our name. Lockwood stated that he would get appraisals ordered.

This item was tabled until Lockwood could produce more information about the values of the properties. Once he had this he would meet with the Board and further discuss.

SUMMERVILLE BRANCH

Lockwood advised the Board that he is at a complete stand still with trying to work out any kind of deal with Mead Westvaco on space to continue to use in the Summerville area because of the branch being torn down by the redevelopment of the 17A-126 area in Summerville. MeadWestvaco was kind enough to let us use a lot with no charge but we would still have to place a facility on the property and improve the property. Lockwood did find a company that was willing to let us use a modular home branch but it would be an 18 month lease. Also, MeadWestvaco wanted us to pave the parking lot and make other improvement to the property. After losing the building and taking the loss, Lockwood advised that the Summerville branch should be closed as of December 31, 2012 and revisited at a later date, perhaps in 2-3 years. Alonzo Gunther asked if we could put something someplace else. Lockwood advised that it does not matter where we put it, there would be costs and it could increase fixed assets and that was something we did not want to do at this time. Lola Chitwood asked about the staff in Summerville and asked what we planned to do with them. Lockwood advised that he was not sure but we would look to have them work in the Charleston locations if possible. Elaine Teague asked if any of them were long term employees and Lockwood advised that one was. Lola Chitwood made a motion that CPM Federal would close the Summerville branch as of December 31, 2012 and that we would revisit that area at a later date to see if it were possible to open a facility in Summerville in the future. Alonzo Gunther seconded the motion and it was unanimously carried to approve the closure.

APPOINT LOAN OFFICER

Lockwood requested that the Board appoint Lloyd Vail as a loan officer for CPM Federal. Vail has 25 years plus of lending experience and we have observed his decisions on loans and feel he is well qualified. Along with this, Lockwood and Thackston would be removed from the loan committee and Vail would replace them. Lockwood and Thackston would still be loan officers but just not part of the

CONFIDENTIAL

committee. Lola Chitwood made the motion to appoint Lloyd as a loan officer and Alonzo Gunther seconded the motion. There was no further discussion and was unanimously carried to approve the appointment.

LOCKWOOD APOLOGY

Lockwood offered his apology to the Board for his actions in the last year or so regarding the building next door and expenses. Lockwood knows he let the Board down and that he is working hard to correct the problems and feels that he can get it done. Lockwood discussed with the Board about expenses and what he looked at and what he can reduce. This plan has been given to the NCUA. Lockwood stated that he is looking for further reductions. Tom Dority stated that the Board would meet and let Lockwood know what they decided.

ADJOURNED

Respectfully submitted;

Gwenn H. Bennett

Gwenn Bennett
Chairperson

Respectfully submitted,

Robert L. Clem

Robert Clem
Secretary

CPM Federal Board Meeting - Board Minutes
CONFIDENTIAL

**BOARD OF DIRECTORS
NOVEMBER 27, 2012
MINUTES OF MEETING**

I. CALL TO ORDER

Chairman Gwen Bennett determined a quorum was present consisting of, Tom Dority, Richard Scott, Lola Chitwood, Mike Chodnicki and Bob Clem. Alicia Webb, Elaine Teague and Phil Ramsey represented the Supervisory Committee. George W. Lockwood, represented staff. Ronald Burn of the NCUA attended the meeting and Donna Woods of the NCUA attended via teleconference.

II. NEW MEMBERS WHO JOINED BETWEEN OCTOBER 1, 2012 THROUGH OCTOBER 31, 2012

During this period, 846 people joined CPM Federal and 736 members established a checking account. 90 new VISA accounts were also opened. There were 116,005 transactions completed in October. There were 1508 Shared Branching transactions in October which is the highest total to date.

III. PRESIDENT'S REPORT

Lockwood reported that due to reclassifying the furniture in the expansion, realizing a gain of \$60,000 on the two pieces of property in Beaufort purchased by the Department of the Navy and an error counting a loan twice from the September loan allowance for loan loss calculation. These items caused us to have a gain in income of \$979,817. Net income was also helped by not having the \$229,240 NCUA assessment that was taken in September. Loans were down by \$424,290 while doing \$4.9 million in new loans for the month of October. Shared were reduced by \$104,942. Gross income was up by \$130,000 due to increase in interest income and fees.

Lockwood reported that staff was still reviewing expenses and has identified another \$250,000-\$300,000 in expenses that can be reduced. Staff is now reviewing all contracts to see if we can further reduce expenses. Staff is also working on setting revenue goals and setting goals for branches to meet in 2013. All of this information should be to the Board by next Board meeting.

IV. CORRESPONDENCE

Financial statements with an operational overview were received as information while other items were moved to various areas of the agenda.

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V. COMMITTEE REPORTS

SUPERVISORY

Allcia Webb reported that there was no report for this meeting.

VI. CONSENT AGENDA

Lola Chitwood made a motion that was seconded by Bob Clem and was unanimously carried to approve the consent agenda consisting of the October Board Minutes, October financial report, Asset Liability Report, update on Charge offs, update on recoveries, update on negative accounts written off, update on charged off debit card items, calculation for Loan Loss Report, Risk Based Lending report, courtesy pay report, Indirect Lending Report, Investment Report, Report on Investments and Commercial Mortgages, update on Mortgage loans, Balloon loans, TDRs, workout loans, mortgage exception report, the CEO mortgage loan update, Supervisory Committee Minutes, IC Summary and BSA Program Report and compliance report. There was no discussion.

VII. NEW BUSINESS

BSA REPORT

George Lockwood reported there were 13 CTRs and 1 SARs filed in October. Explanation for these reports is attached to the Board packet.

RATE UPDATE

Staff recommends that no rates be changed at this time.

BOARD RESOLUTION TO FREEZE ADDING STAFF TO DEFINED BENEFIT PENSION PROGRAM

Lockwood presented a resolution to freeze adding any new staff after December 1, 2012 to the current Defined Benefit Pension plan. Current staff and retirees will not be affected at all. This will not immediately reduce any expenses on the pension but will help keep costs down and eventually will reduce costs. Lola Chitwood asked if we could, at a later date, allow staff back on the pension and Lockwood replied that it would just take another resolution from the Board. Bob Clem made a motion to approve the resolution. Lola Chitwood seconded the motion and was unanimously carried to approve the resolution.

QUESTIONS ABOUT FINANCIAL REPORT

Tom Dority inquired about the line item of Accounts Payable on the financial report. Lockwood replied that this was checks in process of clearing that we had

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not yet cleared as of month end. Lockwood advised that he would get the exact items and report back to the Board.

Mike Chodnicki inquired about the fixed asset ratio number on the financial report. Lockwood advised that they were aware that this number was different than NCUA's number. This item and several others are ratios that we had differently than NCUA had. Come January 2013, this and other items would be corrected going forward.

JOINT MEETING WITH BOARD AND NCUA AND REPORT OF FINDINGS

(b)(8)

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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(b)(8)

[REDACTED]

ADJOURNED

Respectfully submitted,

Respectfully submitted,

CONFIDENTIAL

Gwenh H. Bennett

Gwenh Bennett
Chairperson

Robert L. Clem

Robert Clem
Secretary

Attach 3

2

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BOARD OF DIRECTORS JANUARY 17, 2012 MINUTES OF MEETING

I. CALL TO ORDER

Vice Chairman Tom Dority determined a quorum was present consisting of Alonzo Gunther, Richard Scott, Bob Clem, Lola Chitwood and Mike Chodnicki. Phillip Ramsey and Alicia Webb represented the Supervisory Committee. George W. Lockwood, Jack Smith, Sally Thackston and Pam Obie represented staff.

II. NEW MEMBERS WHO JOINED BETWEEN DECEMBER 1, 2011 THROUGH DECEMBER 31, 2011

During this period, 529 people joined CPM Federal and 657 members established a checking account. 52 new VISA accounts were also opened. There were 121520 transactions completed in December.

III. PRESIDENT'S REPORT

Lockwood review 2011 and the major accomplishments and areas CPM needed to improve in. Lockwood showed various graphs depicting income, expenses, loan volume, delinquency, charge offs and bench mark results. Lockwood discussed the merger with MCAS and the consolidation of the Orangeburg branches. He discussed the creation of a Sales and Services department. He discussed expenses and several options he is looking at to help reduce expenses. He also discussed the regulatory issues the Credit Union is faced with in the coming year.

IV. CORRESPONDENCE

Financial statements with an operational overview were received as information while other items were moved to various areas of the agenda.

V. COMMITTEE REPORTS

SUPERVISORY

None.

VI. CONSENT AGENDA

A motion was made that unanimously carried to approve the consent agenda consisting of the November Board Minutes, December Financials, update on Charge offs, update on recoveries, update on negative accounts written off, update on charged off Debit Card items, calculation for Loan Loss Report,

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courtesy pay report, Indirect Lending Report, Risk Based Report, Investment Report, Report on Investments and Commercial Mortgages, update on Mortgage loans, Balloon loans, TDRs, workout loans, mortgage exception report, the CEO mortgage loan update, Supervisory Committee Minutes and IC Summary.

VII.

NEW BUSINESS

INTERNAL AUDITORS REPORT

Jack Smith presented the Internal Auditors Report and reviewed the results for Branch reviews.

BSA REPORT

Jack Smith reported there were 15 CTRs and no SARs filed in December. Explanation for these reports is attached to the Board packet.

RATE UPDATE

Staff reported that the unsecured rate was lowered to 7.50% and the new and used auto rate was lowered to 3.75%.

POLICY ADDITIONS, CHANGES

The following policies were presented to the Board:

- Appraisals
- Wire Transfers
- Non-members
- Mortgage Loan general practices
- Red Flag
- Capital Policy
- Lending limits
- Deceased Members
- Lending requirements

A motion was made that was unanimously carried to approve all policies presented.

LEAGUE ANNUAL DUES

Lockwood submitted the invoice for the 2012 League Annual Dues. Staff recommended we pay the dues but not participate in the voluntary media campaign or the CU Support Fund at this time. A motion was made that was unanimously carried to approve the recommendation of staff.

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CPM_FCU 245

CPM_FCU 4870

ROA527

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MEMBER COMPANY

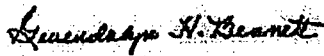
Ncua APPROVED THE Westpark Property Owners Association in Columbia, SC. There are 32 property owners in the group. A motion was made that was unanimously carried to approve the group.

TERMINATE 457b PLAN

Lockwood advised the Board that he was the only person that still has a 457b plan. He has not made any contributions to the plan in years and CUNA Mutual was submitting an invoice to manager the plan. Lockwood recommended to the Board that this plan should be terminated so there is no cost to the Credit Union. A motion was made that was unanimously carried to terminate the plan.

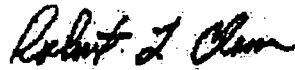
ADJOURNED

Respectfully submitted,



Gwenn Bennett
Chairperson

Respectfully submitted,



Robert Clem
Secretary

CONFIDENTIAL

CPM_FCU 246

CPM_FCU 4871

ROA528

CONFIDENTIAL

BOARD OF DIRECTORS FEBRUARY 21, 2012 MINUTES OF MEETING

I. CALL TO ORDER

Chairman Gwen Bennett determined a quorum was present consisting of Tom Dority, Alonzo Gunther, Richard Scott, Bob Clem, Lola Chitwood and Mike Chodnicki. Elaine Teague and Alicia Webb represented the Supervisory Committee. George W. Lockwood, Sally Thackston and Pam Obie represented staff.

II. NEW MEMBERS WHO JOINED BETWEEN JANUARY 1, 2012 THROUGH JANUARY 31, 2012

During this period, 499 people joined CPM Federal and 575 members established a checking account. 41 new VISA accounts were also opened. There were 106167 transactions completed in January.

III. PRESIDENT'S REPORT

Lockwood reported mixed results for the month of January. Lending volume was good compared to last January's but we still lost outstanding of \$927,691. Delinquency rose a bit to 1.065%. Shares were down by over \$2 million which helped the loan to share ratio rise to 61.572%. Good news is Gross income was up over last year. Operating expenses were down from this time last year and we had a net profit of over \$34,000.

We have a loan special for Home Town Hero's (police, fire fighters, teachers, etc.) that will run the month of February. Shared Branching is being worked on and looks like we will be up and running about mid-March.

IV. CORRESPONDENCE

Financial statements with an operational overview were received as information while other items were moved to various areas of the agenda.

V. COMMITTEE REPORTS

SUPERVISORY

None.

CONFIDENTIAL

VI.

CONSENT AGENDA

A motion was made that unanimously carried to approve the consent agenda consisting of the January Board Minutes, January Financials, update on Charge offs, update on recoveries, update on negative accounts written off, update on charged off Debit Card Items, calculation for Loan Loss Report, courtesy pay report, Indirect Lending Report, Risk Based Report, Investment Report, Report on Investments and Commercial Mortgages, update on Mortgage loans, Balloon loans, TDRs, workout loans, mortgage exception report, the CEO mortgage loan update, Supervisory Committee Minutes and IC Summary.

VII.

NEW BUSINESS

INTERNAL AUDITORS REPORT

George Lockwood presented the Internal Auditors Report and reviewed the results for Branch reviews.

BSA REPORT

George Lockwood reported there were 25 CTRs and 1 SAR filed in January. Explanation for these reports is attached to the Board packet.

RATE UPDATE

Staff recommends no changes to rates.

POLICY ADDITIONS, CHANGES

The following policies were presented to the Board:

Wire Transfer Policy- Some wording changes to make the policy clearer, changed what department handles all wires, Added that OFAC must be pulled on every wire, Change the limits on who can approve wires and added to the dual control process.

Branch Security Policy- Duplicated and removed from the Admin Policy manual.

Shared Branching policy- lists what we can and cannot do with Shared Branching.

Optical- Changed policy for loan documents and those documents need to be scanned within 5 days instead for 3.

Check Cashing- Verbiage added to allow FSRs higher check acceptance limits. Made small changes on who has authority to make exceptions. Added new

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verbiage to allow 5% debt ration allowance for staff that process loans due to added loan protection products. Loan exception committee changed to remove VP of Operations, Regional

Manager in Upstate and Centralized Lending Manager. Added Branch Managers can approve up to 55 debt ration variance but still limited to 75% which will require approval by stated loan officers.

Spending Authority- Removed Facilities manager and added VP of Operations.

A motion was made that was unanimously carried to approve all policies presented.

MEMBER COMPANY

NCUA approved the following companies:

TrueGroup

Milliken and Company.

A motion was made that was unanimously carried to approve the groups.

ADD ATTORNEY TO APPROVED LIST

Staff request that Attorney Butler, Foti and College LLC be added to our approved list of attorneys. A motion was made that was unanimously carried to approve the Attorney.

ATM AGREEMENT WITH FOUNDERS FCU

Lockwood advised the Board that CPM and Founders agreed to enter their BINs on both ATMs so members of both credit unions could use each other's ATMs without being charged a surcharge.

LEAGUE ANNUAL MEETING DELEGATES

The Board appointed George Lockwood as the delegate to vote in the League Annual Meeting and Tomas Dority as the alternate delegate. A motion was made and unanimously carried.

VISA FRAUD CHARGE OFF

A motion was made that was unanimously carried to approve a fraud charge off in the amount of \$1.50.

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CPM_FCU 249

CPM_FCU 4974

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PREFUND PENSION

CPM's pension is currently 118% funded and in a strong position. Staff and CUNA Mutual suggest that we prefund the pension to help it stay strong in the future. We have done this on several occasions in the past and by prefunding, it helps reduce the annual cost of the pension.

MERGER WITH CHARLESTON POSTAL CO-OP FEDERAL CREDIT UNION

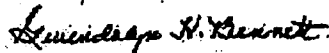
Charleston Postal Co-Op Federal Credit union has approached CPM with proposal for them to merge with CPM. Their Board has met and approved the merger. Staff recommended that the Board approve the merger as well as it will be a large benefit to the members of Charleston Postal. A motion was made that was unanimously carried to approve the merger.

KEY RATIOS

Lockwood presented and reviewed the key ratios and compared them to peer.

ADJOURNED

Respectfully submitted,



Gwenn Bennett
Chairperson

Respectfully submitted,



Robert Clem
Secretary

CONFIDENTIAL

BOARD OF DIRECTORS MARCH 27, 2012 MINUTES OF MEETING

I. CALL TO ORDER

Chairman Gwen Bennett determined a quorum was present consisting of Tom Dority, Alonzo Gunther, Richard Scott, Bob Clem, Lola Chitwood and Mike Chodnicki. Elaine Teague, Phil Ramsey and Alicia Webb represented the Supervisory Committee, George W. Lockwood, Sally Thackston, Jack Smith and Pam Obia represented staff.

II. NEW MEMBERS WHO JOINED BETWEEN FEBRUARY 1, 2012 THROUGH FEBRUARY 29, 2012

During this period, 807 people joined CPM Federal and 880 members established a checking account. 84 new VISA accounts were also opened. There were 115392 transactions completed in February.

III. PRESIDENT'S REPORT

Lockwood reported that deposits increased significantly in February. While this helped increase assets, it did help drive down our net worth figure. At the same time, loans did very well for a February but with the large increase in deposits, we still saw our loan-to-share ratio fall further. Net income for February came in at \$206,000 and ROA increased to .589%. Delinquency was much improved over January and came in at .589%.

Lockwood reported that he reduced the price some on the properties in Orangeburg to help try and move them quicker. The realtor in Orangeburg stated that viewing of the properties has picked up.

New membership is going strong. The merger with Postal continues and Shared Branching should be completed by April 2.

IV. CORRESPONDENCE

Financial statements with an operational overview were received as information while other items were moved to various areas of the agenda.

V. COMMITTEE REPORTS

SUPERVISORY

None.

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CONSENT AGENDA

A motion was made that unanimously carried to approve the consent agenda consisting of the February Board Minutes, February Financials, update on Charge offs, update on recoveries, update on negative accounts written off, update on charged off debit card items, calculation for Loan Loss Report, courtesy pay report, Indirect Lending Report, Risk Based Report, Investment Report, Report on Investments and Commercial Mortgages, update on Mortgage loans, Balloon loans, TDRs, workout loans, mortgage exception report, the CEO mortgage loan update, Supervisory Committee Minutes and IC Summary.

NEW BUSINESS

INTERNAL AUDITORS REPORT

Jack Smith presented the Internal Auditors Report and reviewed the results for Branch reviews.

BSA REPORT

George Lockwood reported there were 9 CTRs and 3 SAR filed in February. Explanation for these reports is attached to the Board packet.

RATE UPDATE

Staff recommends that the following change be made to rates:

Share- .05%
Money Market- <15,000- .10%
 >15,000- .20%

3mo CD- .10%
6mo CD- .20%
12 mo CD- .30%
24 mo CD- .40%
36 mo CD- .50%
48 mo CD- .60%
60 mo CD- .70%

A motion was made that was unanimously carried to approved the suggested rates.

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POLICY ADDITIONS, CHANGES

The following policies were presented to the Board:

Shared Branching
Mortgage.
Cash
Lending
Trust Accounts
Deceased member accounts
Credit Cards
Accounts General
Expense reports/Corp Cards
Mortgage underwriting limits
BSA
Disaster Recovery Manual

Board members were given copies of policies and changes made prior to the meeting and Lockwood reviewed the changes/additions to the policies. A motion was made that unanimously carried to approve the policies submitted.

RECERTIFICATION OF DISASTER RECOVERY PLAN AND MANUAL

Lockwood presented the Disaster Recovery plan to the Board for the annual recertification. A motion was made that unanimously carried to recertify the plan.

MEMBER COMPANY

NCUA approved the following companies:

Bombay House Cleaning- 12 employees

Employees and Members of Beaufort County Association of Realtors- 325 employees and members

A motion was made that was unanimously carried to approve the groups.

BANK SECRECY ACT INDEPENDENT TESTING AUDIT AND AUDIT AND REVIEW OF IDENTITY PROGRAM AND RISK ASSESSMENTS

Lockwood reviewed the audit and provided a copy for the Supervisory Committee.

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CPM_FCU 253

CPM_FCU 5063

ROA535

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CERTIFICATE OF CORPORATE RESOLUTION TO SELL MORTGAGE LOANS

Lockwood presented a Corporate resolution to sell mortgage loans to another provider, CU Members. A vote was taken and the resolution was passed.

EMPLOYEE BENEFIT STUDY

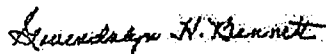
Per the Board's request, Lockwood contracted with an outside consultant to do a study on benefits other credit unions provided for their staff with the primary emphasis on SERPs. Lockwood reviewed the study with the Board. Tom Dority requested we get further information on what the average amount is used for a 457 plan for upper managers in other institutions. Lockwood will report his findings once he gathers that information.

STAFF ANNOUNCEMENTS

Lockwood and Thackston discussed the need to reduce staff in the Collections department. Lockwood advised the Board that they were cutting the number of collectors down to 6 (from 12) and making Matthew Seaman the only manager to head up the department. Also with this move, collections will become centralized later this year and that the collections department will be moving out of the audit department to someone else to be named at a later date. This will save the Credit Union about \$300,000 in salary and benefits per year and streamline the process. We are also looking at using technology better in the collections area.

ADJOURNED

Respectfully submitted,



Gwenn Bennett
Chairperson

Respectfully submitted,



Robert Clem
Secretary

CONFIDENTIAL

BOARD OF DIRECTORS APRIL 17, 2012 MINUTES OF MEETING

I. CALL TO ORDER

Vice Chairman Tom Dority determined a quorum was present consisting of, Alonzo Gunther, Richard Scott, Bob Clem, Lola Chitwood and Mike Chodnicki. Elaine Teague, Phil Ramsey and Alicia Webb represented the Supervisory Committee, George W. Lockwood, Sally Thackston, Jack Smith and Pam Obie represented staff.

II. NEW MEMBERS WHO JOINED BETWEEN MARCH 1, 2012 THROUGH MARCH 31, 2012

During this period, 715 people joined CPM Federal and 706 members established a checking account. 99 new VISA accounts were also opened. There were 122174 transactions completed in March.

III. PRESIDENT'S REPORT

Lockwood reported that lending was strong in March. Loan volume came in at \$8,976,955 and we had a net gain in loans of \$1,459,168. On the deposit side, we continue to receive a large amount of deposits. Deposits increased by \$3,801,697. This caused our loan-to-share ratio to fall to 57.553%. It also hurt our net worth figure dropping it to 9.651%.

Delinquency was reduced to .551% as well as net charge offs dropping to 1.148%.

Member growth continues to be strong. We picked up over 700 new members and over 700 checking accounts.

Net income came in at \$300,019 for March. This was after making our final adjustment on the MCAS allowance account.

Shared branching is now live. Our cooperative project on allowing members of other credit unions use each other's ATM without charge picked up another credit union.

IV. CORRESPONDENCE

Financial statements with an operational overview were received as information while other items were moved to various areas of the agenda.

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V.

COMMITTEE REPORTS

SUPERVISORY

None.

VI.

CONSENT AGENDA

A motion was made that unanimously carried to approve the consent agenda consisting of the March Board Minutes, March Financials, update on Charge offs, update on recoveries, update on negative accounts written off, update on charged off debit card items, calculation for Loan Loss Report, courtesy pay report, Indirect Lending Report, Risk Based Report, Investment Report, Report on Investments and Commercial Mortgages, update on Mortgage loans, Balloon loans, TDRs, workout loans, mortgage exception report, the CEO mortgage loan update, Supervisory Committee Minutes and IC Summary.

VII.

NEW BUSINESS

INTERNAL AUDITORS REPORT

Jack Smith presented the Internal Auditors Report and reviewed the results for Branch reviews.

BSA REPORT

Jack Smith reported there were 27 CTRs and 1 SAR filed in March. Explanation for these reports is attached to the Board packet.

RATE UPDATE

Staff recommends that no rates be changed at this time.

A motion was made that was unanimously carried to not make changes to rates.

POLICY ADDITIONS, CHANGES

The following policies were presented to the Board:

New policy regarding power of attorney

An addition was made to the type of accounts to include in UGMA accounts and instructions

Updated our no smoking policy to include any property of CPM

CONFIDENTIAL

Board members were given copies of policies and changes made prior to the meeting and Lockwood reviewed the changes/additions to the policies. A motion was made that unanimously carried to approve the policies submitted.

MEMBER COMPANY

NCUA approved the following companies:

Employees of the Gullah Sentinel- 3 employees

Employees of Orangeburg Consolidated School District 5- 550 employees

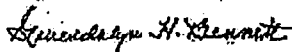
A motion was made that was unanimously carried to approve the groups.

EMPLOYEE BENEFIT STUDY

Per the Board's request, Lockwood investigated what other credit unions were paying for a 457 SERP for staff. Lockwood reported that it varies. Some invest in a life insurance policy, other deposit cash. The amounts were far greater than the proposed \$2500 for each of the 8 employees he recommended be added to the plan. A motion was made that was unanimously carried to approve the addition of 8 managers being added to the 457 plan for \$2500 each once per year.

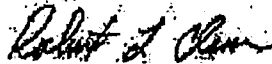
ADJOURNED

Respectfully submitted,



Gwenn Bennett
Chairperson

Respectfully submitted,



Robert Clem
Secretary

CONFIDENTIAL

CPM_FCU 257

CPM_FCU 5076

ROA539

CONFIDENTIAL

BOARD OF DIRECTORS MAY 15, 2012 MINUTES OF MEETING

CALL TO ORDER

Chairman Gwen Bennett determined a quorum was present consisting of Tom Darby, Richard Scott, Bob Olen, Lola Giltwood and Mike Chodnicki. Alicia Webb represented the Supervisory Committee, George W. Lockwood, Sally Thackston, Jack Smith and Pam Oble represented staff. Ron Burn represented the NCUA.

- II. Ron Burn, Principle NCUA Examiner, reported to the Board on the recent NCUA Exam performed on CPM Federal. He reported several findings that needed immediate attention. Mr. Burn reviewed the findings and reviewed the Document of Resolution. The major findings were:

(b)(8)

[REDACTED]

III. NEW MEMBERS WHO JOINED BETWEEN APRIL 1, 2012 THROUGH APRIL 30, 2012

During this period, 656 people joined CPM Federal and 688 members established a checking account. 62 new VISA accounts were also opened. There were 112924 transactions completed in April. There were 269 Shared Branching transactions in April.

IV.

PRESIDENT'S REPORT

(b)(8) Lockwood discussed the NCUA examination [REDACTED]

(b)(8)

(b)(8)

He apologized for not taking action on expenses sooner. He also spoke about the MCAS balloon notes and the need to clean those up. He did state that he did not think anything in the [REDACTED] would not be fixed in a relatively short period except the mortgages. He told the Board that they were already working on them but that they would take some time to get members in and work out arrangements to either foreclose, refinance or modify. We have already assigned several people to this. As for expenses, Lockwood told the Board of his thoughts on closing several branches, reductions in staff and reductions in other expenses. Lockwood review the April financial statement and the current numbers but did advise that some of these numbers would be changing a good bit as they move through the process of correcting the [REDACTED]

CONFIDENTIAL

V. CORRESPONDENCE

Financial statements with an operational overview were received as information while other items were moved to various areas of the agenda.

VI. COMMITTEE REPORTS

SUPERVISORY

None.

VII. CONSENT AGENDA

A motion was made that unanimously carried to approve the consent agenda consisting of the April Board Minutes, April Financials, update on Charge offs, update on recoveries, update on negative accounts written off, update on charged off debit card items, calculation for Loan Loss Report, courtesy pay report, Indirect Lending Report, Risk Based Report, Investment Report, Report on Investments and Commercial Mortgages, update on Mortgage loans, Balloon loans, TDRs, workout loans, mortgage exception report, the CEO mortgage loan update, and IC Summary.

VIII. NEW BUSINESS

INTERNAL AUDITORS REPORT

Jack Smith presented the Internal Auditors Report and reviewed the results for Branch reviews.

ALM REPORT

Lockwood reviewed the ALM report with the Board and advised them that part of the DOR required that they improve and expand the ALM report. Lockwood advised the Board that he had already contacted First Carolina Corporate to discuss their ALM program for credit unions and he is getting pricing for this program. This program would be in addition to what CPM does now with expanded reporting and documentation. A motion was made that was unanimously approved to accept this report.

BSA REPORT

Jack Smith reported there were 19 CTRs and 0 SAR filed in April. Explanation for these reports is attached to the Board packet.

CONFIDENTIAL

CPM_FCU 259

CPM_FCU 5118

ROA541

CONFIDENTIAL

RATE UPDATE

Staff recommends that no rates be changed at this time.

A motion was made that was unanimously carried to not make changes to rates.

POLICY ADDITIONS, CHANGES

The following policies were presented to the Board:

Mortgage policy was amended to raise the maximum mortgage loan term from 15 years to 30 years. This would give underwriting more flexibility with mortgage loans. A motion was made that was unanimously carried to approve the policy change.

MEMBER COMPANY

NCUA approved the following companies:

Employees of IPS Packaging- 110 employees

Employees and members of the Beaufort Regional Chamber of Commerce- 672 members.

A motion was made that was unanimously carried to approve the groups.

VISA FRAUD

Staff submitted 6 VISA accounts with small balances as fraud items. A motion was made that was unanimously carried to approve the charge offs.

ATM/CHECK CARD CHARGEOFFS

Staff recommended that \$3101.07 in ATM/check card chargeoffs be approved. A motion was made that was unanimously carried to approve.

RESOLUTION TO NAME GEORGE LOCKWOOD TO SIGN SOLD BEAUFORT PROPERTIES

The attorney used to closed sold properties owned by CPM Federal requested a resolution to name Lockwood as authorized to sell foreclosed properties on behalf of CPM/MCAS Federal Credit Union's. A motion was made that was unanimously carried to approve.

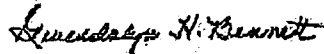
CONFIDENTIAL

NEW BOARD PACKETS AND IPADS

In order to provide the Board with easier access to Board materials, we are changing how we provide the Board materials. We will no longer have the Board use laptops but they will be issued an Ipad. This ways, they can get the Board material, not print them out and can bring the Ipad and their notes to the Board meetings. The system is much more efficient, will save money by not having to use paper and they will be able to access at any time. Training for this system will take place next month.

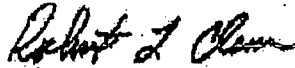
ADJOURNED

Respectfully submitted,



Gwenn Bennett
Chairperson

Respectfully submitted,



Robert Clem
Secretary

CONFIDENTIAL

CPM_FCU 261

CPM_FCU 5120

ROA543

CONFIDENTIAL

BOARD OF DIRECTORS JUNE 19, 2012 MINUTES OF MEETING

I. CALL TO ORDER

Chairman Gwen Bennett determined a quorum was present consisting of Tom Dorly, Richard Scott, Alonzo Gunther, Bob Clem, Lori Chittwood and Mike Chodnicki. Allola Webb, Elaine Teague and Phil Ramsey represented the Supervisory Committee. George W. Lockwood, Sally Thackston and Pam Obie represented staff.

II. NEW MEMBERS WHO JOINED BETWEEN MAY 1, 2012 THROUGH MAY 31, 2012

During this period, 516 people joined CPM Federal and 828 members established a checking account. 80 new VISA accounts were also opened. There were 117,420 transactions completed in May. There were 569 Shared Branching transaction in May.

III. PRESIDENT'S REPORT

Lockwood reported that during May, we have been working on the NCUA report and reviewing many things that will correct the findings found in the report.

Income was negative in May. A large part of it was the allowance for loan loss account and that we made less income than we did in April. We have a loss of \$268,074 for the month. This pushed our ROA down to .222% and net worth to 9.363%. We did reduce expenses by \$313,000 compared to April. This is an area we have looked hard at and will make some recommendations to help lower expenses at the Board meeting.

Total assets increased by \$2,335,811 in May to \$275,717,251. The majority of this increase was due to deposits. Deposits increased by \$1,980,332, the majority of which was in share draft accounts. Cost of funds continues to be low at .464%. Yield on loans is at 6.488%. Loan to share is 57.013%.

Delinquency is at 2.518% but is mostly due to one account. Net charge offs actually came down a bit to 1.243%.

(b)(5)
Lockwood warned and advised the Board that June numbers will look much worse as we make adjustments to mortgage accounts and allowances for loan losses. We want to do this once and get it done without having to come back and revisit it. There may be some large adjustments and will be reviewing with you during the Board meeting. We are hopeful that

CONFIDENTIAL

once these adjustments are made, that the numbers will improve as the year goes on.

IV. CORRESPONDENCE

Financial statements with an operational overview were received as information while other items were moved to various areas of the agenda.

V. COMMITTEE REPORTS

SUPERVISORY

None.

VI. CONSENT AGENDA

A motion was made that unanimously carried to approve the consent agenda consisting of the May Board Minutes, May Financials, Asset Liability Report, update on Charge offs, update on recoveries, update on negative accounts written off, update on charged off debit card items, calculation for Loan Loss Report, courtesy pay report, Indirect Lending Report, Risk Based Report, Investment Report, Report on Investments and Commercial Mortgages, update on Mortgage loans, Balloon loans, TDRs, workout loans, mortgage exception report, the CEO mortgage loan update, Supervisory Committee Minutes, IC Summary and BSA Program Report.

VII. NEW BUSINESS

INTERNAL AUDITORS REPORT

George Lockwood presented the Internal Auditors Report and reviewed the results for Branch reviews.

BSA REPORT

George Lockwood reported there were 15 CTRs and 1 SAR filed in May. Explanation for these reports is attached to the Board packet.

RATE UPDATE

Staff recommends that no rates be changed at this time.

A motion was made that was unanimously carried to not make changes to rates.

CONFIDENTIAL

CPM_FCU 263

CPM_FCU 5140

ROA545

CONFIDENTIAL

POLICY ADDITIONS, CHANGES

The following policies were presented to the Board:

Record Retention Policy

Revamped current policy for better understanding, current regulation requirements and to add operational items. Replace Existing Policy/Procedure.

BSA Training Policy

Modified BSA training verbiage to state "employees and volunteers" so all parties required to take would be included. Replace Existing Policy/Procedure.

Mortgage Loan Policy

Change was made to the max term on CPM 1st mortgages from 180 months/ 15 years to a new maximum of 360 months/ 30 years. Replace Existing Policy/Procedure.

Mortgage Loan Policy

Change was made to the max term on CPM second mortgages from 180 months/ 15 years to a new maximum of 360 months/ 30 years. Replace Existing Policy/Procedure.

Mortgage Loan Policy

Change was made to the max term on CPM land loans from 180 months/ 15 years to a new maximum of 360 months/ 30 years. Replace Existing Policy/Procedure.

Mortgage Loan Policy

Change was made to the max term on CPM mobile homes with land from 180 months/ 15 years to a new maximum of 360 months/ 30 years. Replace Existing Policy/Procedure.

Wire Policy

Removed requirement to maintain paper documentation in the branch. Clarified all documentation is to be scanned. Add to Existing Policy/Procedure.

Accounting Timetables

Policy lists the incorrect GL number for stale checks. Also, the corporate checks may say void after 90 days, but do not become stale in our system until 180. IT was asked to change to 90 and was told this could not be done thru our system. The change in policy reflects that move to stale checks occurs at 180 days, not 90. This is not an item that will need included on All In One as back office function. Replace Existing Policy/Procedure.

CONFIDENTIAL

CPM Corporate Checks

Incorrect GL number and CPM position listed regarding stale check issues. No need to include in all in one...back office issue. Replace Existing Policy/Procedure.

Account ownership Types

Clarified joint authority and abilities. Also corrected a few typos or inaccurate information within the policy. Our Membership Agreement concurs with the new paragraph. Add to Existing Policy/Procedure.

Maintenance On Accounts

Update maintenance on account to include new policy regarding changes made by joint member. Replace Existing Policy/Procedure.

Harassment & Salary Policy

Change in harassment policy to include update to VP of HR title; also to salary & wage policy as well

Change in harassment policy to include update to VP of HR title; also to salary & wage policy as well. Replace Existing Policy/Procedure.

ATM & Debit Card Policy

Update to include call center is contact for returned cards per All in One. Add to Existing Policy/Procedure.

Error Policy

Added \$5.00 allowance, clarified exceptions and title to be changed to balancing policy. According to SPT, the one currently on Sharepoint is not the most current. This was changed when the error log was removed however never updated. Add to Existing Policy/Procedure.

UDAAP

Unfair, Deceptive, and Abusive Acts and Practices (UDAAP) Policies. Brand New Policy/Procedure.

Work Out Loans

Would like to remove the loan exception committee members specifically spelled out in the policy and just refer to the loan exception committee members listed in the General Lending Policy. This will help with policy changes in the future by having the members listed in one place. Replace Existing Policy/Procedure.

Short Term Loans

Would like to change the rate from 25% to 27%, remove the \$10 application fee, and add Lending Services Manager to those who can approve extensions. Replace Existing Policy/Procedure.

CONFIDENTIAL

Disaster Recovery
Update file for Margaret Banks. Replace Existing Policy/Procedure.

Disaster Recovery
Assistant VP of Lending and VP of update files addressed in policy obsolete.
Replace Existing Policy/Procedure.

Disaster Recovery
Replace Reference to Assistant VP of Lending (position nonexistent); replace w/
VP of Operations; correct misspelled position for controller. Replace Existing
Policy/Procedure

BSA Policy
Revision to job duty titles: Changing Lisa Harrison to BSA/AML/OFAC Officer
and Steven Truschke to Compliance Officer. Clarifying Kimberly Reritz and
Michelle Neal as secondary officers.

Loan Policy
This is an update to our TDR policy to reflect the recent rule changes that allow
us to not have to carry TDR's 6 months delinquent. There were minor changes as
well to shore up the policy.

A motion was made that was unanimously carried to approve all policies as
written:

MEMBER COMPANY

NCUA approved the following companies:

Employees of SMX Staffing in Columbia, SC- 175 members

A motion was made that was unanimously carried to approve this group.

VISA FRAUD

Staff submitted 1 VISA account with a small balances as fraud items. A motion
was made that was unanimously carried to approve the charge offs.

CPM IDENTITY-RED FLAG RISK ASSESSMENT

The assessment was completed and submitted to the Board for their review. A
motion was made that was unanimously carried to accept the assessment and
approve the policy.

CONFIDENTIAL

BSA/AML & OFAC RISK ASSESSMENT

The assessment was completed and submitted to the Board for their review. A motion was made that was unanimously carried to accept the assessment and approve the policy.

REPORT

(b)(3) Lockwood reviewed the [REDACTED] items listed. Lockwood advised the Board that all items were being worked on and that several had already been corrected. The Board accepted the report and instructed Lockwood to correct all items and report to the Board monthly on the results.

BOARD TRAINING

The Board attended training on a new Board reporting tool.

All Board and Supervisory Committee members will attend Board training on June 20, 2012 provided by the League at our offices.

ADJOURNED

Respectfully submitted,

Respectfully submitted,

Gwenn Bennett

Robert Clam

Gwenn Bennett
Chairperson

Robert Clam
Secretary

CONFIDENTIAL

CPM_FCU 267

CPM_FCU 5144

CONFIDENTIAL

CPM Federal Board Meeting - Board Minutes

BOARD OF DIRECTORS JULY 24, 2012 MINUTES OF MEETING

CALL TO ORDER

Chairman G. W. Barnett determined a quorum was present consisting of: Tom Dority, Richard Scott, Alvin G. Gunther, Bob Clem, Lola Chikwood and Mike Chodnicki. Alicia Webb, Elaine Teague and Phil Ramsay represented the Supervisory Committee. George W. Lockwood, and Jack Smith represented staff.

II. NEW MEMBERS WHO JOINED BETWEEN JUNE 1, 2012 THROUGH JUNE 30, 2012

During this period, 808 people joined CPM Federal and 651 members established a checking account. 68 new VISA accounts were also opened. There were 113,855 transactions completed in June. There were 790 Shared Branching transactions in June.

III.

PRESIDENT'S REPORT

(b)(8) We have been working extremely hard on the issues with the [REDACTED]

The two properties that were at MOAS and foreclosed on that the Department of the Navy wanted to purchase finally closed. We realized a net profit of around \$130,000. We also believe that the two fire insurance claims that have been pending for nearly 3 years will finally be paid and off the books.

Financials, of course, do not look good for June as we complied with the NCUA in moving accounts to the allowance account and handled the Summerville branch issue. Because of the high amount of adjustment to the allowance account and accelerating the depreciation on Summerville, we suffered a loss of \$1,449,604. This was expected but certainly we did not look forward to it. Had we not had to make these adjustments, we may have been pretty close to a break even month. We may still need to make further adjustments to the allowance account in July, but we feel the rest of the year we will see better numbers.

Some good news that has helped is that deposits were down some and loans showed a slight increase. This helped increase our loan-to-share ratio to 58.011%. Also, even with the adjustments, we are still near 9% net worth.

CPM Federal Board Meeting Report Minutes
CONFIDENTIAL

Delinquency increased to 4.331% but we should see that drop a good bit as we continue to correct the balloon notes from MCAS.

Members of Charleston Postal Cooperative FCU voted on the merger and there was approved 45 to 0. We will be merging all accounts by September 4.

IV. CORRESPONDENCE

Financial statements with an operational overview were received as information while other items were moved to various areas of the agenda.

V. COMMITTEE REPORTS

SUPERVISORY

None.

VI. CONSENT AGENDA

A motion was made that unanimously carried to approve the consent agenda consisting of the June Board Minutes, June Financials, Asset Liability Report, update on Charge offs, update on recoveries, update on negative accounts written off, update on charged off debit card items, calculation for Loan Loss Report, Risk Based Lending report, courtesy pay report, Indirect Lending Report, Investment Report, Report on Investments and Commercial Mortgages, update on Mortgage loans, Balloon loans, TDRs, workout loans, mortgage exception report; the CEO mortgage loan update, Supervisory Committee Minutes, IC Summary and BSA Program Report.

VII. NEW BUSINESS

INTERNAL AUDITORS REPORT

Jack Smith presented the Internal Auditors Report and reviewed the results for Branch reviews.

BSA REPORT

Jack Smith reported there were 20 CTRs and 5 SARs filed in June. Explanation for these reports is attached to the Board packet.

RATE UPDATE

Staff recommends that no rates be changed at this time.

CONFIDENTIAL

A motion was made that was unanimously carried to not make changes to rates.

MEMBER COMPANY

NCUA approved the following company:

The Goddard School in Simpsonville, SC- 44 members

A motion was made that was unanimously carried to approve this group.

VISA FRAUD

Staff submitted 2 VISA account with a small balances as fraud items. A motion was made that was unanimously carried to approve the charge offs.

CHANGE CPA TO ORTH, CHAKLER, MURNANE AND COMPANY, CPAs

Lockwood proposed that the Credit Union change auditors from Cantey, Tiller, Pierce and Green to Orth, Chakler, Murnane and Company. Lockwood explained that CPM Federal is becoming more complex and that he is not comfortable with Cantey firm and the advice they have given the Credit Union the last few years. Staff felt that a change is needed go forward. Lockwood stated that he has discussed the Orth firm with several South Carolina credit union CEOs who use Orth. Lockwood stated that he was told nothing but good things from the CEOs about Orth and how they conducted the audits. Several of the credit unions in SC are SC Federal, Heritage Trust SRP and Founders. They also conduct the audit of First Carolina Corporate. Pricing was very similar to what is paid now. A motion was made that was unanimously carried to approve the change in audit firms.

PLAN TO REDUCE EXPENSES AND INCREASE REVENUES

Lockwood introduced his plan to reduce expenses and help increase revenues. Lockwood explained that this plan may have further revisions at a later date. This plan has been reviewed by his Core Group.

Lockwood reviewed the initial expenses to be cut or reduced. Lockwood also discussed the closing of several branches and changing the hours of all branches. Total savings with this initial plan is approximately \$700,000 per year. Lockwood also reviewed ways to help increase revenues. Lockwood proposed having a new fee survey completed since the last survey was completed in 2010. Discussion ensued mostly around the closing of the branches stated in the plan. Questions were asked about what we were going to with staff affected in the closed branches. Lockwood stated that they would either be let go or moved to other locations if it was in the best interest of the Credit Union.

CONFIDENTIAL

The Board was in agreement to move forward with the plan.

LEADERSHIP CONFERENCE

Lockwood advised the Board that no staff would be attending the Leadership conference in an effort to reduce conference costs. Lockwood proposed that the Board and Supervisory Committee not attend as well. This would help the Credit Union save about \$20,000 in conference costs this year. A motion was made that was unanimously carried for the Board not to attend this year's Leadership Conference.

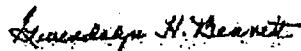
JUNIOR BOARD OF DIRECTORS

Lockwood proposed that the Board develop and create a Junior Board of Directors made up of young people to do several things. It would help teach younger people about credit unions, how they work, how boards of directors work and what volunteerism is all about. This could also be used to help fill vacated Board and Supervisory Committee positions should they become available with younger people. It would also help by having different points of view. This Junior Board would attend meetings, ask questions, make recommendations but not have voting rights or be able to make decisions. It would still be a volunteer position. They may, at a later date, be invited to planning meetings and some conferences if expenses allowed.

The Board discussed the idea and will think about it and bring it back up next Board meeting.

ADJOURNED

Respectfully submitted,



Gwenn Bennett
Chairperson

Respectfully submitted,



Robert Clem
Secretary

CONFIDENTIAL

BOARD OF DIRECTORS AUGUST 21, 2012 MINUTES OF MEETING

I. CALL TO ORDER

Chairman Gwen Bennett determined a quorum was present consisting of, Tom Dority, Richard Scott, Alonzo Gunther, and Bob Clem. Alicia Webb, Elaine Teague and Phil Ramsey represented the Supervisory Committee. George W. Lockwood, Sally Thackston and Jack Smith represented staff.

II. NEW MEMBERS WHO JOINED BETWEEN JULY 1, 2012 THROUGH JULY 31, 2012

During this period, 600 people joined CPM Federal and 657 members established a checking account. 71 new VISA accounts were also opened. There were 113024 transactions completed in July. There were 882 Shared Branching transactions in July.

III. PRESIDENT'S REPORT

Staff continued to work on the MCAS balloon loans and we are moving as quickly as we can to clear those up. Delinquency reduced by nearly one percent because we have been able to get a number of these loan refinances to fixed terms. We should see about the same next month.

Shares dropped by a little over \$4 million and we had a small net profit of \$28,202. This helped push Net Worth to 9.085%. We also saw fee income and investment income improve as well. Lending was still down some. We did \$3.6 million in loans for the month.

We continue to look for ways to reduce expenses and have been implementing a number of items already discussed with the Board. We have also looked at several items to help increase revenues. Some of these are discontinuing products that no one used such as Travelers Checks.

The merger with Charleston Postal will be complete September 4. Jennifer McKenna, Branch Manager at Montague, has agreed to be the manager for this new branch. We are making a slight adjustment to their hours beginning September 4 by being open 1-5pm Monday through Friday. Member packets, with a welcome letter and offer for checking account and debit card, are being mailed this week.

Board Meeting - Board Minutes

CONFIDENTIAL

IV. CORRESPONDENCE

Financial statements with an operational overview were received as information while other items were moved to various areas of the agenda.

V. COMMITTEE REPORTS

SUPERVISORY

None.

VI. CONSENT AGENDA

A motion was made that unanimously carried to approve the consent agenda consisting of the July Board Minutes, July Financials, Asset Liability Report, update on Charge offs, update on recoveries, update on negative accounts written off, update on charged off debit card items, calculation for Loan Loss Report, Risk Based Lending report, courtesy pay report, Indirect Lending Report, Investment Report, Report on Investments and Commercial Mortgages, update on Mortgage loans, Balloon loans, TDRs, workout loans, mortgage exception report, the CEO mortgage loan update, Supervisory Committee Minutes, IC Summary and BSA Program Report.

VII. NEW BUSINESS

INTERNAL AUDITORS REPORT

Jack Smith presented the Internal Auditors Report and reviewed the results for Branch reviews.

BSA REPORT

Jack Smith reported there were 20 CTRs and 2 SARs filed in July. Explanation for these reports is attached to the Board packet.

RATE UPDATE

Staff recommends that no rates be changed at this time.

A motion was made that was unanimously carried to not make changes to rates.

CONFIDENTIAL

POLICY CHANGES, UPDATES, ADDITIONS

The following policies were review with the Boards:

1. Replace Existing Policy- Lending- Remove lending authority for Natalia Bennett.
2. Replace Existing Policy- Lending- Removed references to Regional Manager of Coastal Area.
3. Brand New Policy- Accounts General- This is a policy that addresses Federal Fiduciary Accounts.
4. Delete Existing Policy- Travelers Cheques- Discontinuing traveler's cheque service -remove entire policy - reference to "cashing travelers cheques" is made in separate procedure.
5. Replace Existing Policy- Branch Capture- Savings bonds are no longer mailed to PCS.
6. Replace Existing Policy- Non-Member Services- Add shared branching to nonmember services.
7. Replace Existing Policy- ATM/Debit- Add instructions on where to index temp and permanent increase forms in Optical.
8. Replace Existing Policy- Account Closing- Include info that signature should be checked against signature card on record when closing account.
9. Replace Existing Policy- Check Acceptance- Add requirement to check signature on on-us checks against signature card on record.
10. Replace Existing Policy- ACH Transactions- Remove requirement to fax direct deposit forms to Support Center - add instructions on indexing docs to Optical instead.
11. Replace Existing Policy- Deceased Accounts- Added instructions on where to scan deceased paperwork in Optical.
12. Brand New Policy- Nonaccrual Policy- Nonaccrual policy that is required by the NCUA with recent TDR rule.
13. Replace Existing Policy- Maintenance on Deposit Accounts- Updated to reflect Account Change Card in Navigator.
14. Replace Existing Policy- Shared Branching Policies- Modified to reflect shared branching network changes

CONFIDENTIAL

15. Replace Existing Policy- Disaster Recovery- Changed contact info from TNB to Vantiv under data processing contacts.
16. Replace Existing Policy- SAFE ACT- Changed President of Operations to Lending Services Manager.
17. Replace Existing Policy- Loan Due Date Extensions- Replace references to President of Operations - no such position.
18. Replace Existing Policy- Collateralized Loans- Policy references President of Operations - no such position.
19. Replace Existing Policy- Risk Based Lending- 2 of the 3 positions on the risk based lending committee are non-existent (Asst VP of Operations & President of Operations)...replaced with VP of Ops and Controller.
20. Brand New Policy- Policy & Procedure Updates- New policy to clarify approval for policy/procedure updates.
21. Replace Existing Policy- Allowance for Loan Loss- Minor changes to policy to reflect change in GL and calculation of overdraft charge-offs.
22. Replace Existing Policy- Loan Extension, Modification and TDR- This is a change to the TDR policy to reflect comments from the NCUA. Also, adding in extension and modification policy to replace Loan Extension Policy.
23. Replace Existing Policy- ATM Card Functions- Updated information for authorizations.
24. Brand New Policy- Charitable Contributions- New policy, including limits based on previous years income.
25. Brand New Policy- Employee Loans- This was a policy that had been dropped from the personnel manual to be place in the lending policy with updated floor rates.
26. Brand New Policy- Fee refunds- New policy to cover the refund of fees on an employee account.

A motion was made that was unanimously carried to approve all policies.

APPROVE LIST OF ATTORNEYS

Staff requested that the list of approve attorney be reduced to one per area to cover for real estate matters. This was recommended to staff after a visit to Sharonview FCU to review their mortgage program. A motion was made that was unanimously carried to approve staff's recommendation.

CONFIDENTIAL

FEE FOR PAPER STATEMENTS

In an effort to move more members to electronic statements and to help cover the cost of producing, printing and mailing paper statements, staff recommends that starting in January 2013, members who have to be mailed a paper statement will be charged a \$3.00 fee. Members under 18 and over 65 will continue to get paper statements for free. Staff may recommend other ways for members to not pay depending on what services a member may have and will advise the Board at a later date. A motion was made that was unanimously carried to approve the fee.

MEMBER COMPANY

WABCO- Charleston, SC-149 employees. This was approved by the NCUA. A motion was made to approve the company to be included in the FOM.

FED DISCOUNT WINDOW

Currently, CPM Federal only has one source to borrow from and that is a line of credit with First Carolina Corporate. We have had this line for many years. While we do not need to borrow funds at this time, we feel that CPM should have other sources should it be needed. Staff has completed the paperwork to receive access to the Fed Discount Window. A resolution by the Board is needed. We would only use this should we need an alternative source in the future. A motion was made that was unanimously carried to approve the resolution.

LOW INCOME DESIGNATION

CPM Federal received a letter from the NCUA identifying them as being eligible to be designated as a low income credit union. NCUA has used AIA's information to determine these credit unions. The determination used is if the majority of the credit union's membership (50.1%) whose family income is 80% or less than the median family income for the metropolitan area or national metropolitan area, whichever is greater. CPM Federal has qualified. The only requirement from the NCUA is for us to send a letter or email accepting the designation.

Benefits of doing so are:

- We can accept non-member deposits from any source
- Obtain services from the Office of Small Credit Union Initiatives which provide low interest loans and consulting services
- Offer secondary capital accounts
- Qualify for an exception from the aggregate loan limit for member business loans

CONFIDENTIAL

The NCUA will review this designation annually to determine if we still qualify. Should we not, we have 5 years to get back to being in a low income designation.

Lockwood recommended that we accept this designation and continue to review to see what, if any, of the items above we would like to take advantage of. A motion was made that was unanimously carried to approve.

LOCKWOOD'S PLAN FOR THE FUTURE

Lockwood reviewed his plan for the future of branches and the use of technology within the branch. This plan is a multi-year plan and can change the look and size of branches in the future while reducing staff size and increasing efficiency.

UPDATE ON CHARLESTON POSTAL

Lockwood reported that member account information for Charleston Postal will be transferred this Labor day weekend. On September 4, all transactions at Charleston Postal will now be running through CPM. Jennifer McKenna will manage the branch and the former CU manager will stay on and help. We will continue to operate the branch as it is with no cash or tellers until a later date. We will keep the branch open from 1:00pm each day and not be closed on Wed.

PERSONNEL CHANGES

Lockwood informed the Board of several changes to personnel. Lloyd Vail, formerly of Founders FCU, is now working for CPM as the SVP of Operations and will be responsible for lending, branches and collections. Training will now report to HR. Call Center will now report the VP of Sales and Service and Shannon Pankula will be responsible for all research and development of all projects, products and services for the Credit Union.

ADJOURNED

Respectfully submitted,

Gwynn Bennett

Gwynn Bennett
Chairperson

Respectfully submitted,

Robert L. Clem

Robert Clem
Secretary

CONFIDENTIAL

CPM_FCU 277

CPM_FCU 5585

ROA559

CONFIDENTIAL

**BOARD OF DIRECTORS
OCTOBER 30, 2012
MINUTES OF MEETING**

I. CALL TO ORDER

Chairman Gwen Bennett determined a quorum was present consisting of, Tom Dority, Richard Scott, Alonzo Gunther, Michael Chodnicki, Lola Chitwood and Bob Clem. Alicia Webb, Elaine Teague and Phil Ramsey represented the Supervisory Committee. George W. Lockwood, Sally Thackston and Jack Smith represented staff.

II. NEW MEMBERS WHO JOINED BETWEEN SEPTEMBER 1, 2012 THROUGH SEPTEMBER 30, 2012

During this period, 541 people joined CPM Federal and 700 members established a checking account. 691 new VISA accounts were also opened. There were 103,715 transactions completed in September. There were 1181 Shared Branching transactions in September.

III. PRESIDENT'S REPORT

Lockwood reviewed the number of accounts opened and number of transactions completed by branch and the totals for Shared Branching transactions. Lockwood stated that Shared Branching totals dropped for the first time since installed.

Lockwood reported that deposits were flat but loans decreased by \$612,000. Used auto financing has done well this year. Balloon notes were down somewhat due to us working to get those on fixed term notes and several paid us off.

Lockwood reported that gross income was down somewhat due to a shorter month and having a holiday in the month. Expenses were down about \$20,000 for the month and net income was \$33,381.

Lockwood discussed steps taking place to reduce expenses over the next 12 months and informed the Board that he was still looking for more to cut.

IV. CORRESPONDENCE

Financial statements with an operational overview were received as information while other items were moved to various areas of the agenda.

CONFIDENTIAL

V.

COMMITTEE REPORTS

SUPERVISORY

Allcia Webb reported that the Supervisory Committee met for the third quarterly meeting. There was nothing else to report. There was no further discussion.

VI.

CONSENT AGENDA

A motion was made by Bob Clem that was seconded by R. L. Scott and unanimously carried to approve the consent agenda consisting of the September Board Minutes, Financial report, Asset Liability Report, update on Charge offs, update on recoveries, update on negative accounts written off, update on charged off debit card items, calculation for Loan Loss Report, Risk Based Lending report, courtesy pay report, Indirect Lending Report, Investment Report, Report on Investments and Commercial Mortgages, total debt restructure loans and workout loans, Balloons by tier, Summary of balloon notes, CEO update on Mortgage loans, ALM Committee minutes, Supervisory Committee Minutes, IC Summary and BSA Program Report. There was no discussion.

VII.

NEW BUSINESS

INTERNAL AUDITORS REPORT

Jack Smith presented the Internal Auditors Report and reviewed the results for Branch reviews. Jack Smith reported there were 14 CTRs and 3 SARs filed in September. Explanation for these reports is attached to the Board packet. There was no further discussion.

RATE UPDATE

Lockwood reported that staff recommends that no rates be changed at this time. There was no discussion and a motion was made by Bob Clem and seconded by Alonzo Gunther to not raise any rates at this time.

MEMBER COMPANY

Lockwood reported that one member company was submitted and approved by the NCUA- The Children's Center in Beaufort, SC- 66 members. A motion was made by Alonzo Gunther and seconded by Lola Chitwood and unanimously carried to approve this member company. There was no discussion.

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VISA FRAUD

Lockwood presented one Visa fraud item to the board in the amount of \$85.97. Lela Whitwood made a motion to accept the charge off and it was seconded by Alonzo Gunther and unanimously carried to approve.

Lockwood also discussed the recent report of the South Carolina Department of Revenue hacking. Lockwood advised the Board that CPM has put out information about the hacking on its website and the free credit monitoring offered by the State. Lockwood advised the Board that as a precaution, they should all apply for the monitoring and if they needed help, to let him know.

POLICY CHANGES, UPDATES, ADDITIONS

Lockwood presented the following policies and reviewed with the Board:

Policy to change how collateral inspection reports are used and that for auto loans, a collateral inspection report was no longer required for any auto purchased from any reputable new or used dealer. Currently, we are inspecting all vehicles. Policy will still require other collateral to be inspected.

New policy covering the use and balancing of the cash dispensers used in Orangeburg. We did not have a policy on the use and operation of this equipment. This is actually only for the Orangeburg branch as they are the only ones with cash dispensers.

Investment policy changes the maximum period of an investment we can do. Current policy states we can only go 36 months. This presented a problem purchasing the NCUA note that was 108 months. Requesting the term be increased to 108 months to cover current investments. Also added other accounting staff to help with investments.

A motion was made by Alonzo Gunther and seconded by Bob Clem and unanimously carried. There was no discussion.

NEW AUDITORS

Lockwood advised that the new auditors, Orth, Chakler, Murnane and Company, CPAs, would be in the following week to do a balance sheet only audit. Lockwood advised that he had received the engagement letter emailed to Allola Webb. Ms. Webb stated that she had not seen it. Lockwood advised that he would forward her a copy and find out why it was not sent to her. Phil Ramsey asked if they could sit in on the exit interview from Orth. Lockwood stated that he was sure they could and would set it up and inform the Board and Supervisory Committee when it would take place.

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PURCHASE BUILDINGS

Lockwood discussed the possibility of purchasing the building next door and Orangeburg. Lockwood discussed that purchasing the properties could save the Credit Union over \$8,000,000 in costs versus continuing to pay the leases. Tom Dority asked if we had a valuation number on the building. Lockwood stated that he did not have anything on values of the property. Tom Dority stated that we should get an appraisal on the properties in our name. Lockwood stated that he would get appraisals ordered.

This item was tabled until Lockwood could produce more information about the values of the properties. Once he had this, he would meet with the Board and further discuss.

SUMMERVILLE BRANCH

Lockwood advised the Board that he is at a complete stand still with trying to work out any kind of deal with Mead Westvaco on space to continue to use in the Summerville area because of the branch being torn down by the redevelopment of the 17A-126 area in Summerville. MeadWestvaco was kind enough to let us use a lot with no charge but we would still have to place a facility on the property and improve the property. Lockwood did find a company that was willing to let us use a modular home branch but it would be an 18 month lease. Also, MeadWestvaco wanted us to pave the parking lot and make other improvement to the property. After losing the building and taking the loss, Lockwood advised that the Summerville branch should be closed as of December 31, 2012 and revisited at a later date, perhaps in 2-3 years. Alonzo Gunther asked if we could put something someplace else. Lockwood advised that it does not matter where we put it, there would be costs and it could increase fixed assets and that was something we did not want to do at this time. Lola Chitwood asked about the staff in Summerville and asked what we planned to do with them. Lockwood advised that he was not sure but we would look to have them work in the Charleston locations if possible. Elaine Teague asked if any of them were long term employees and Lockwood advised that one was. Lola Chitwood made a motion that CPM Federal would close the Summerville branch as of December 31, 2012 and that we would revisit that area at a later date to see if it were possible to open a facility in Summerville in the future. Alonzo Gunther seconded the motion and it was unanimously carried to approve the closure.

APPOINT LOAN OFFICER

Lockwood requested that the Board appoint Lloyd Vail as a loan officer for CPM Federal. Vail has 25 years plus of lending experience and we have observed his decisions on loans and feel he is well qualified. Along with this, Lockwood and Thackston would be removed from the loan committee and Vail would replace them. Lockwood and Thackston would still be loan officers but just not part of the

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committee. Lola Chitwood made the motion to appoint Libyd as a loan officer and Alonzo Gunther seconded the motion. There was no further discussion and was unanimously carried to approve the appointment.

LOCKWOOD APOLOGY

Lockwood offered his apology to the Board for his actions in the last year or so regarding the building next door and expenses. Lockwood knows he let the Board down and that he is working hard to correct the problems and feels that he can get it done. Lockwood discussed with the Board about expenses and what he looked at and what he can reduce. This plan has been given to the NCUA. Lockwood stated that he is looking for further reductions. Tom Dority stated that the Board would meet and let Lockwood know what they decided.

ADJOURNED

Respectfully submitted,

Gwenn H. Bennett

Gwenn Bennett
Chairperson

Respectfully submitted,

Robert L. Clem

Robert Clem
Secretary

CPM Federal Board Meeting - Board Minutes
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**BOARD OF DIRECTORS
NOVEMBER 27, 2012
MINUTES OF MEETING**

I. CALL TO ORDER

Chairman Gwen Bennett determined a quorum was present consisting of Tom Dority, Richard Scott, Lola Chitwood, Mike Chodnicki and Bob Clem. Alicia Webb, Elaine Teague and Phil Ramsey represented the Supervisory Committee. George W. Lockwood, represented staff. Ronald Burn of the NCUA attended the meeting and Donna Woods of the NCUA attended via teleconference.

II. NEW MEMBERS WHO JOINED BETWEEN OCTOBER 1, 2012 THROUGH OCTOBER 31, 2012

During this period, 645 people joined CPM Federal and 736 members established a checking account. 80 new VISA accounts were also opened. There were 115,005 transactions completed in October. There were 1508 Shared Branching transactions in October which is the highest total to date.

III. PRESIDENT'S REPORT

Lockwood reported that due to reclassifying the furniture in the expansion, realizing a gain of \$60,000 on the two pieces of property in Beaufort purchased by the Department of the Navy and an error counting a loan twice from the September loan allowance for loan loss calculation. These items caused us to have a gain in income of \$979,817. Net Income was also helped by not having the \$229,240 NCUA assessment that was taken in September. Loans were down by \$424,290 while doing \$4.9 million in new loans for the month of October. Shared were reduced by \$104,942. Gross income was up by \$130,000 due to increase in interest income and fees.

Lockwood reported that staff was still reviewing expenses and has identified another \$250,000-\$300,000 in expenses that can be reduced. Staff is now reviewing all contracts to see if we can further reduce expenses. Staff is also working on setting revenue goals and setting goals for branches to meet in 2013. All of this information should be to the Board by next Board meeting.

IV. CORRESPONDENCE

Financial statements with an operational overview were received as information while other items were moved to various areas of the agenda.

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V. COMMITTEE REPORTS

SUPERVISORY

Alicia Webb reported that there was no report for this meeting.

VI. CONSENT AGENDA

Lola Chitwood made a motion that was seconded by Bob Clem and was unanimously carried to approve the consent agenda consisting of the October Board Minutes, October financial report, Asset Liability Report, update on Charge offs, update on recoveries, update on negative accounts written off, update on charged off debit card items, calculation for Loan Loss Report, Risk Based Lending report, courtesy pay report, Indirect Lending Report, Investment Report, Report on Investments and Commercial Mortgages, update on Mortgage loans, Balloon loans, TDRs, workout loans, mortgage exception report, the CEO mortgage loan update, Supervisory Committee Minutes, IC Summary and BSA Program Report and compliance report. There was no discussion.

VII. NEW BUSINESS

BSA REPORT

George Lockwood reported there were 13 CTRs and 1 SARs filed in October. Explanation for these reports is attached to the Board packet.

RATE UPDATE

Staff recommends that no rates be changed at this time.

BOARD RESOLUTION TO FREEZE ADDING STAFF TO DEFINED BENEFIT PENSION PROGRAM

Lockwood presented a resolution to freeze adding any new staff after December 1, 2012 to the current Defined Benefit Pension plan. Current staff and retirees will not be affected at all. This will not immediately reduce any expenses on the pension but will help keep costs down and eventually will reduce costs. Lola Chitwood asked if we could, at a later date, allow staff back on the pension and Lockwood replied that it would just take another resolution from the Board. Bob Clem made a motion to approve the resolution. Lola Chitwood seconded the motion and was unanimously carried to approve the resolution.

QUESTIONS ABOUT FINANCIAL REPORT

Tom Dority inquired about the line item of Accounts Payable on the financial report. Lockwood replied that this was checks in process of clearing that we had

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not yet cleared as of month end. Lockwood advised that he would get the exact items and report back to the Board.

Mike Chodnicki inquired about the fixed asset ratio number on the financial report. Lockwood advised that they were aware that this number was different than NCUA's number. This item and several others are ratios that we had differently than NCUA had. Come January 2013, this and other items would be corrected going forward.

JOINT MEETING WITH BOARD AND NCUA AND REPORT OF FINDINGS

(b)(8)

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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(b)(8)

[REDACTED]

ADJOURNED

Respectfully submitted,

Respectfully submitted,

CONFIDENTIAL

Gwenn H. Bennett

Gwenn Bennett
Chairperson

Robert L. Clem

Robert Clem
Secretary

DONNA DOUGLASS,
Plaintiff,

-versus-

BERKSHIRES ON ST. IVES,
BERKSHIRE PROPERTY ADVISORS,
LLC, BVF NORTH COVE, LLC
AND THE BERKSHIRE GROUP,

Defendants.

DEPOSITION OF:
DONNA DOUGLASS

P

Y

DATE: Tuesday, November 11, 2014

TIME: 9:57 a.m.

LOCATION: Wigger Law Firm, Inc.
8086 Rivers Avenue
North Charleston, SC 294406

REPORTED BY: JENNIFER M. HUGGINS,
Certified Shorthand Reporter



www.spectrumcourtreporting.com
465 West Coleman Blvd., Suite 302
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APPEARANCES

For the Plaintiff: WIGGER LAW FIRM, INC.
BY: JARREL L. WIGGER
Attorney at Law
8086 Rivers Avenue
North Charleston, SC 29406

For the Defendants: GALLIVAN, WHITE & BOYD, PA
BY: JAMES E. BROGDON, III
Attorney at Law
1201 Main Street
Suite 1200
Columbia, SC 29201

1 **A. I haven't speak to them at all.**

2 **Q. Okay. So you didn't speak with**
3 **anybody who lived there after the accident; is that**
4 **right?**

5 **A. No, sir.**

6 **Q. Okay. And didn't call and report the**
7 **accident after it happened; is that right?**

8 **A. No, sir.**

9 **Q. Okay. Do you recall on your previous**
10 **trips to that building whether or not there was any**
11 **lighting?**

12 **A. Do I recall?**

13 **Q. Yeah, was it -- this instance, you said**
14 **there was -- it was dark, right?**

15 **A. Yes, sir.**

16 **Q. Okay. Was it dark in the other**
17 **instances where you went before this accident?**

18 **A. No, sir. There was light out there.**
19 **The light -- I mean, the light was working, the**
20 **particular 700, it -- the light wasn't -- the light**
21 **was out.**

22 **Q. Okay. Do you know when that light went**
23 **out?**

24 **A. I couldn't tell you, sir.**

25 **Q. Okay. Do you know how -- what caused**

1 the light to go out?

2 **A. I couldn't tell you that either.**

3 Q. Okay. Do you know whether or not
4 anyone ever reported the lighting problem to the
5 property manager or anyone who owned the property?

6 **A. No, sir. I just deliver, and I just**
7 **worked there for business, for pizza.**

8 Q. Okay. Have you ever spoken with --
9 with anyone who lives at those apartments who told
10 you that, yes, that light frequently goes out and
11 that they had told the property owners or property
12 manager about that problem?

13 **A. No, sir.**

14 Q. Besides the person who you delivered
15 the pizza to on that night, have you spoken with
16 anyone who lives there since this accident?

17 **A. No, sir. I don't know nobody who lives**
18 **there.**

19 Q. Okay. Had you made any other
20 deliveries that day or that night?

21 **A. I made other deliveries that night.**

22 Q. Okay. How many did you make? Do you
23 know?

24 **A. I couldn't tell you, sir.**

25 Q. Okay. The first person you called,

1 -- the lights was still -- the light was still
2 out.

3 Q. Okay. Was there anything -- did there
4 appear to be anything wrong with the stairs
5 themselves?

6 A. I'm not sure. I couldn't answer you, I
7 mean.

8 Q. Okay. But you're not claiming that the
9 stairs caused you to fall? It was just that you
10 weren't able to see where you're walking; is that
11 right?

12 A. No. It was too dark. The light --
13 like I said, the light was out.

14 Q. Okay. And I think that you said when
15 you went up to deliver the pizza, the light was
16 also out at that point in time, too; is that
17 correct?

18 A. Yes, sir.

19 Q. As you were proceeding down the stairs,
20 I think you said you did it carefully because you
21 realized that it was dark; is that right?

22 A. I did it careful going up and coming
23 down.

24 Q. Okay. And why did you do it carefully
25 going up and down?

1 A. Because I -- I want to prevent myself
2 from falling.

3 Q. Okay. Why did you feel in that
4 instance you needed to --

5 A. Because you --

6 Q. -- do it carefully?

7 A. Because you couldn't see -- you
8 couldn't -- you couldn't see.

9 Q. Were you able to drive yourself from
10 the apartment complex back to Pizza Hut?

11 A. Yes, sir. I drove myself. I had to
12 use my left foot.

13 Q. Okay. And you drove with your left
14 foot?

15 A. Uh-huh.

16 Q. How far is the Pizza Hut?

17 A. The Pizza Hut from the apartment
18 building?

19 Q. Yeah.

20 A. I don't want to guess how far it is. I
21 can't guess. It's not too far.

22 Q. Okay. At some point, you went to the
23 hospital; is that right?

24 A. Yes, sir.

25 Q. And what hospital did you go?

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

IN THE COURT OF
COMMON PLEAS FOR THE
NINTH JUDICIAL CIRCUIT

DONNA DOUGLASS

Plaintiff,

vs.

BERKSHIRES ON ST. IVES,
BERKSHIRE PROPERTY ADVISORS,
LLC, BVF NORTH COVE, LLC, AND
THE BERKSHIRE GROUP

Defendants,

: CIVIL ACTION NO.
: 2013-CP-10-07133
:
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:

GREGORY MORAN

DATE TAKEN: MONDAY, APRIL 6, 2015
TIME BEGAN: 10:34 A.M.
TIME ENDED: 11:17 A.M.
LOCATION: THE WIGGER LAW FIRM, INC.
8086 RIVERS AVENUE, SUITE A
NORTH CHARLESTON, SOUTH CAROLINA

REPORTED BY: DEIRDRE J. WEYER, RPR
EVERYWORD, INC.
P.O. BOX 1459
COLUMBIA, SOUTH CAROLINA 29202
803-212-0012

APPEARANCES:

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Representing the Plaintiff

GALLIVAN, WHITE & BOYD
BY: JAMES E. BROGDON, III, ESQUIRE
1201 Main Street, Suite 1200
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jbrogdon@gwblawfirm.com
Representing the Defendants

1 A No.

2 Q Before January 6th of 2011, did you ever
3 receive any reports of problems with the lighting in
4 the stairwell of building 7 -- Phase I, 700 building?

5 A No.

6 Q Around January 6th of 2011 or right before
7 that, in the days before it, did you ever see any
8 work orders to replace any lights being out in the
9 700 building of Phase I?

10 A I would never be able to recall that.

11 Q That's records that would exist, right?

12 A I wouldn't have them. Berkshire took all
13 their stuff when they...

14 Q Is it fair to say that, you know -- if
15 they did have the work orders for around that period
16 of time and there were no work orders in those
17 documents that relate to a light being out, is it
18 fair to state that a light being out was never
19 reported?

20 A Oh, yeah.

21 Q After January 6th, 2011, did you ever go
22 to the 700 building and check the lighting in the
23 stairwell after hearing the report of the fall?

24 A I haven't -- we never knew which building
25 it was. We knew there was a lawsuit.

1 saw them, right?

2 A Yes. That's our best resource.

3 Q The residents?

4 A Yeah.

5 Q Do you recall any residents ever telling
6 you that there was problems with the lighting before
7 January 6th, 2011, at the 700 building, Phase I?

8 A No.

9 Q Are there other lights around the
10 buildings as well?

11 A Yeah. That light -- that whole inside
12 light well has 16 lights, divided by three -- three
13 floors, there's six on each floor.

14 Q In this case, do you know whether or not
15 it was all the lights or just one that was out?

16 A I wouldn't know.

17 Q Would it be unusual for more than one or
18 two of the lights to be out at the same time?

19 A No.

20 Q Bear with me for one minute.

21 Do you have any knowledge how long the
22 light was out in the stairwell of the 700 building of
23 Phase I before Miss Douglass's alleged accident on
24 January 6th, 2011?

25 A No.

1 Q Do you know what caused the light to be
2 out on January 6th, 2011?

3 A Absolutely not.

4 Q Are there handrails leading up the
5 stairwells of all the buildings?

6 A Yes.

7 Q So I assume there was handrails leading up
8 to the 700 building; is that fair?

9 A Um-hum.

10 Q Yes?

11 A Yes.

12 Q If a visitor or a resident noticed a
13 problem which they thought presented them some
14 danger, what would you expect them to do?

15 A Report it to the office.

16 Q If a visitor or a resident came to a
17 stairwell and noticed that a light was out and the
18 stairwell was dark and saw that to be a dangerous
19 situation, would you expect them to proceed up or
20 down the stairwell regardless of that fact without
21 reporting it?

22 A I would say so. There was still plenty of
23 light.

24 Q But if they felt that it was a dangerous
25 condition or a dangerous situation, would you still