

THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

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SEP 26 2012

APPEAL FROM HORRY COUNTY
Court of Common Pleas

S.C. SUPREME COURT

The Honorable Cynthia Graham Howe,
Master-in-Equity for Horry County

Appellate Case No. 2011-18702
Order (S.C. Ct. App. filed June 6, 2012)

Ex Parte Coastal Designs, Inc. and Tim Wilkes..... Petitioner

vs.

In Re: SRB Servicing, LLC, successor by assignment to Synovus Bank,
formerly known as Columbus Bank and Trust Company,
as successor in interest through name change and by merger with
the National Bank of South Carolina..... Respondent

vs.

Myrtle Beach Grande Hotel, LLC, Harvey L. Jones,
Wendy Jones (J.) Bellamy, Billy Joe (J.) Bellamy,
Kersi S. Shroff, Mozingo & Wallace Architects, LLC,
Harvey Levon Jones and Wendy Beth Jones Bellamy
as Personal Representatives of the Estate of Ann L. Jones,
and as Trustee of the Restated and Amended Trust Agreement
of Ann L. Jones, dated October 30, 2006..... Respondents.

APPENDIX

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Brief of Respondent SRB Servicing, LLC	attached

The South Carolina Court of Appeals

Ex Parte Coastal Designs, Inc. and Tim Wilkes,
Appellants,

v.

In Re: SRB Servicing, LLC, successor by assignment to
Synovus Bank, formerly known as Columbus Bank and
Trust Company, as successor in interest through name
change and by merger with the National Bank of South
Carolina, Respondent,

v.

Myrtle Beach Grande Hotel, LLC, Harvey L. Jones,
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S. Schroff, Mozingo & Wallace Architects, LLC, Harvey
Levon Jones and Wendy Beth Jones Bellamy as Personal
Representatives of the Estate of Ann L. Jones, and as
Trustee of the Restated and Amended Trust Agreement
of Ann L. Jones, dated October 30, 2006, Respondents.

Appellate Case No. 2011-187026

ORDER

After careful consideration of the petition for rehearing, the Court is unable to discover that any material fact or principle of law has been either overlooked or disregarded, and hence, there is no basis for granting a rehearing. Accordingly, the petition for rehearing is denied.

John Cannon Jr C.J.
U. K. J.
John D. Seath J.

Columbia, South Carolina

cc:

Scott B. Umstead

Kathryn M. Cook

Joseph F. Singleton

Kathryn Harper Sligh

Susan Pardue MacDonald

Gene McCain Connell, Jr.

FILED

Warter 8/29/12

The South Carolina Court of Appeals

Ex Parte Coastal Designs, Inc. and Tim Wilkes,
Appellants;

v.

In Re: SRB Servicing, LLC, Successor by assignment to
Synovus Bank, formerly known as Columbus Bank and
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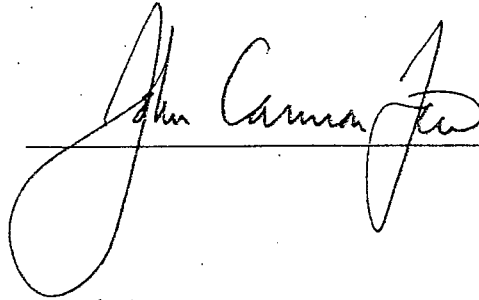
Appellate Case No. 2011-187026

ORDER

Tim Wilkes, who was not a party to the underlying action, has filed a notice of appeal from the master-in-equity's order vacating the foreclosure sale. The order provides that the property will be re-sold after the publication of the amended notice of sale. Because the order appealed from is neither a final order nor an exception permitting an appeal from an interlocutory order and Wilkes never moved to intervene to become a named party, this appeal is dismissed. *See* S.C. Code Ann. § 14-3-330 (1976 & Supp. 2011) (providing limited exceptions exist to the general rule that only a final order is appealable); Rule 201(b), SCACR ("Only a party aggrieved by an order, judgment, sentence or decision may appeal."); *Ex parte Condon*, 354 S.C. 634, 642, 583 S.E.2d 430, 434 (2003) ("[T]he Attorney

General is required, like everyone else, to formally intervene and become a named party before he can file an appeal.").

IT IS SO ORDERED.

 C.J.

Columbia, South Carolina

cc:

Scott B. Umstead
Kathryn M. Cook
Joseph F. Singleton
Kathryn Harper Sligh
Susan Pardue MacDonald
Gene McCain Connell, Jr.

FILED

Harter 6/6/12

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM HORRY COUNTY
Court of Common Pleas

The Honorable Cynthia Graham Howe,
Master-in-Equity for Horry County

CASE NO. 2009-CP-26-5395

RECEIVED

JUN 19 2012

SC Court of Appeals

Ex Parte Coastal Designs, Inc. and Tim Wilkes..... Appellants

vs.

In Re: SRB Servicing, LLC, successor by assignment to Synovus Bank,
formerly known as Columbus Bank and Trust Company,
as successor in interest through name change and by merger with
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vs.

And Myrtle Beach Grande Hotel, LLC, Harvey L. Jones,
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as Personal Representatives of the Estate of Ann L. Jones,
and as Trustee of the Restated and Amended Trust Agreement
of Ann L. Jones, dated October 30, 2006..... Respondents.

PETITION FOR REHEARING AND REHEARING *EN BANC*

The Appellant moves the Court for a rehearing and rehearing *en banc* pursuant to Rule 221 of the South Carolina Appellate Court Rules. The basis of this motion is that the Court's Order dated June 6, 2012 does not address important issues raised in this appeal.

Those are:

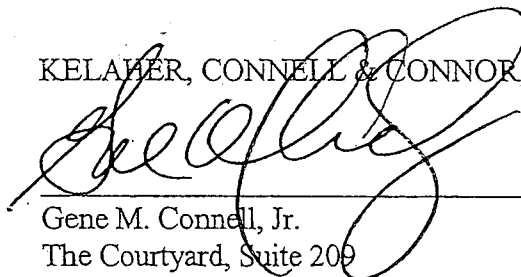
1. The Appellant had no ability to intervene in the foreclosure action since the Order of the Master-in-Equity was issued *ex parte* and was a final Order as to Wilkes (essentially overturning his bid).

2. Tim Wilkes and Coastal Designs, Inc.'s due process rights are affected because the Master-in-Equity issued an *ex parte* Order without notice and a hearing in violation of well-established South Carolina and United States Constitutional law.

3. The Order of this Court is in error in that Wilkes could not have intervened in an action to become a named party after judgment had been entered. The reason being that under SCRCP 24 a motion to intervene would have had to have been filed, served on all parties and such could not have occurred prior to Appellant's appeal rights running out on the *ex parte* Order issued by the Master. Further, a final order had already been issued and as a result, Appellants would not have had the right to intervene as a matter of course.

4. Appellant is aggrieved by the Order since Appellant was the successful bidder at the sale and an *ex parte* order was issued without Appellant's right of notice and to be heard. Accordingly, *Ex parte Condon* does not apply. 354 S.C. 634, 642, 583 S.E.2d 403, 434 (2003).

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Attorney for Appellants

June 18, 2012
Surfside Beach, South Carolina.

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM HORRY COUNTY
Court of Common Pleas

The Honorable Cynthia Graham Howe,
Master-in-Equity for Horry County

CASE NO. 2009-CP-26-5395

Ex Parte Coastal Designs, Inc. and Tim Wilkes..... Appellants

vs.

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as Personal Representatives of the Estate of Ann L. Jones,
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of Ann L. Jones, dated October 30, 2006..... Respondents.

MEMORANDUM OF LAW IN SUPPORT OF PETITION
FOR REHEARING AND REHEARING *EN BANC*

This matter is before the Court based on the appeal of the successful bidder at a
foreclosure sale on February 7, 2011. Thereafter, Appellant made payment to the Court of
\$18,000.00 as was required pursuant to the sale order. The Court vacated the sale on

February 15, 2011 without prior notice and an opportunity to be heard by Wilkes who had already complied with the Court Order. The Appellant contends that this Court's Order dismissing the case does not address important legal issues including the following:

1. When an order affects a person who has not been named as a party, are they aggrieved under SCACR 201(b)?
2. Can the lower court issue an *ex parte* Order without Appellant's right to be heard and prior notice?
3. Is due process implicated when an order of the court is vacated without prior notice and an opportunity to be heard?

I. APPELLANT HAS STANDING TO CONTEST THIS ORDER.

Wilkes asserts he has standing to proceed with the appeal because he was "aggrieved" by an order of the trial court and was never given notice and an opportunity to be heard. The injury to Wilkes is the result of the court vacating an order where he was the successful bidder. It is without dispute that a successful bidder at a foreclosure sale is in effect a party. See *Kelly v. Bank of America*, 379 S.C. 437, 665 S.E.2d 237 (S.C. App. 2008) (a party is aggrieved by a judgment or degree for purposes of determining whether a party can appeal). (The word "aggrieved" in the rule allows only persons aggrieved by the order....to appeal, refers to substantial grievance, denial of some personal or property right.) *Shaw v. City of Charleston*, 351 S.C. 32, 567 S.E.2d 530 (S.C. App. 2002).

In this case, Wilkes had a vested property right (consistent with due process) once he was the successful bidder. His property rights are directly affected by the *ex parte* order of the Master and Appellant has suffered the loss of real property without even a hearing or

notice of the hearing.¹ *First Union National Bank v. Soden*, 333 S.C. 554, 511 S.E.2d 372 (S.C.App. 1998). See also *Charleston County School District v. Charleston County Election Comm.*, 336 S.C. 174, 519 S.E.2d 567 (S.C. 1999) (state election commission named in circuit court order had standing to pursue an appeal.).

Accordingly, it is respectfully submitted that the Court erred in finding that Wilkes could not appeal an order when he was the successful bidder and was to have obtained vested property rights under that order. Wilkes in effect was made a party by complying with the foreclosure sale order and making the \$18,000.00 deposit as required by the lower court.

II. INTERVENTION WAS NOT POSSIBLE IN THIS CASE.

The Order of this Court seems to indicate that Wilkes should have intervened in this case. However, such was not possible. The Master had held a hearing without Appellant (the successful bidder) and issued a final order vacating his bid. Further, the case law would not have allowed him to intervene after a final order was entered. See *Ex parte Reichlyn*, 310 S.C. 495, 427 S.E.2d 661 (S.C. 1993) (intervention denied after consent order entered by the Court). See also *In Re Horry County State Bank*, 361 S.C. 503, 604 S.E.2d 723 (S.C.App. 2004) (party must establish timely application in order to intervene).

In this case, intervention would not have been allowed and would not have tolled Wilkes' appellate rights. By the time Wilkes was advised that the order had been vacated after the hearing, Wilkes had no choice but to appeal the court's ruling. It is clear exigent circumstances were involved in this case.

¹ This Court has held that *ex parte* communications are strongly disfavored. Also prejudice must be shown to obtain a reversal on this ground. *Bakala v. Bakala*, 352 S.C. 612, 576 S.E.2d 156 (Ct.App. 2003). (it can hardly be argued that Appellant was prejudiced since the lower court without notice overturned the successful bid.)

III. THE ORDER OF THIS COURT ESSENTIALLY ALLOWS THE LOWER COURT TO HOLD A HEARING WITHOUT A SUCCESSFUL BIDDER IN VIOLATION OF DUE PROCESS.

This Court's Order does not consider the due process violations of the trial court in holding a hearing without notice and opportunity to be heard by Wilkes (an interested party). The record clearly reveals Wilkes was the successful bidder at a court ordered sale on February 7, 2011. On February 15, 2011, the Master-in-Equity vacated the sale unbeknownst to Wilkes. The Master-in-Equity, in her Order wrote:

The Plaintiff and certain Defendants, after consulting with the Master-in-Equity, determined that the appropriate course of action would be to vacate the sale, republish notice thereof with the specific liens listed therein and post a new sale date. The successful bidders at the sale of February 7, 2011 would also be released from their current bids and any deposits returned... (See Order of Cynthia Graham Howe dated February 14, 2011).

After the Order was issued, Wilkes, the successful bidder, discovered that the sale had been vacated. Wilkes was never given the opportunity to appear before the Master-in-Equity, nor was he told of the meeting with the Master-in-Equity, nor was he told that the Master-in-Equity had meet with certain Defendants and the Plaintiff. The procedure employed by the Master-in-Equity in deciding to vacate her Order violates due process of law because Wilkes was not allowed the opportunity to be heard.

In South Carolina, due process is flexible and calls for such procedural protections as the particular situation demands. *Stono River Envtl. Protection Ass'n v. South Carolina Dept. of Health & Envtl Control*, 305 S.C. 90, 406 S.E.2d 340 (1991); *Brown v. Malloy*, 345 S.C. 113, 546 S.E.2d 195 (Ct.App. 2001). Further procedural due process mandates that a litigant such as Appellant be placed on notice of the issues which the court is to consider prior to the court making a ruling. *Murdock v. Murdock*, 338 S.C. 322, 526 S.E.2d 241 (Ct.App. 1999).

Here, the Court of Appeals in its order remanding this case fails to take notice that Wilkes' due process rights were denied and that he had a right to contest the Order of the Master (or at least be heard). The Due Process Clause of the United States Constitution demands notice reasonably calculated under all circumstances to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections. *Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306, 70 S.Ct. 652, 94 L.Ed. 865 (1950) (It is a fundamental doctrine of law that a party whose personal rights are to be affected by a judgment or decision must have their day in court or opportunity to be heard, and without due process and opportunity to be heard a court has no jurisdiction to adjudicate such rights. It is respectfully submitted that the Court in failing to issue its Order finding a violation of due process has compounded the error. In this case, the Master-in-Equity's own Order and letter clearly indicate that Wilkes was the successful bidder and he was not advised that the sale was going to be vacated. Procedural due process required Wilkes be given notice and the opportunity to be heard in a meaningful way along with judicial review. *Grannis v. Ordean*, 234 U.S. 385, 34 S.Ct. 779, 58 L.Ed. 1363 (1914); *Universal Benefits, Inc. v. McKinney*, 349 S.C. 179, 561 S.E.2d 659 (Ct.App. 2002). Further, this Court in dismissing the appeal does not address the constitutional injury suffered by Wilkes which is overarching in this case. Wilkes' due process rights were compromised because the sale was vacated without notice and opportunity to be heard. *Blanton v. Stathos*, 351 S.C. 534, 570 S.E.2d 565 (S.C.App. 2002) (Procedural due process mandates litigant has a right to be heard and given notice of issues before the court.).

IV. THIS COURT DID NOT ADDRESS THE METHOD OF HANDLING PUBLIC SALES AND THE RIGHT OF THOSE SUCCESSFUL BIDDERS TO BE HEARD.

Wilkes respectfully suggests that the Court in issuing its Order does not discuss that the lower court's Order was issued in violation of South Carolina law through an *ex parte* hearing without notice to Wilkes. The procedure is set down in *Wells Fargo Bank, NA v. Turner*, 378 S.C. 147, 662 S.E.2d 424 (S.C. App. 2008). In *Wells Fargo*, the successful bidder at an auction paid \$3,000.00 for the property. Thereafter, the bank served the successful bidder a Motion to Set Aside and Vacate Sale. The Bank argued the sale should be set aside because: (1) the Bank's attorney failed to take all necessary steps to ensure the Bank would have a representative present and prepared to bid at the sale; and (2) the successful bid of \$3,000.00 was so low as to shock the conscience of the court. (378 S.C. at 150 and 662 S.E.2d at 425).

In *Wells Fargo*, the court held a hearing on the Bank's Motion to Set Aside and Vacate Sale and heard from the successful bidder. In this case no motion was filed, the court held no hearing with Wilkes, but apparently had *ex parte* communication with National Bank of South Carolina and certain other Defendant. Appellant respectfully suggests to the Court that the procedure used was in error which this Court did not address in its Order. It is fundamental that a successful bidder as an interested party should have been advised by motion of the intent to set aside and/or vacate the sale. At that time, the trial court could have employed the reasoning in *Investors Savings Bank v. Phelps*, 303 S.C. 15, 397 S.E.2d 780 (Ct. App. 1990) which provides that the trial court must determine whether to set aside a judicial sale and such will be left to the sound discretion of the trial court. Implicit in that holding is that constitutional protections would be granted to the

successful bidder to be heard and present arguments why the sale should not be overturned.

Wilkes respectfully suggests that this Court erred in not discussing this point in its Order.

V. THE ORDER OF THE MASTER WAS A FINAL ORDER AS TO WILKES.

This Court in its Order asserts that this is not a final Order since the property will be resold. However, this statement begs the question that Wilkes was a successful bidder at the sale and had already paid an \$18,000.00 deposit. The sale was final as to him and he is aggrieved by the decision of this Court to allow a new sale without notice and the right to be heard. As has already been stated, Wilkes had the right to argue before the Master that the Court should not set aside the sale before it was actually heard by the Court. Due process means that any decision regarding Wilkes' successful bid allowed him the right to be heard prior to the Order being issued. Under the current terms of the Court's Order, a new sale will be held without Wilkes being able to argue that the prior sale was final. It is entirely possible that a new bidder could purchase the property leaving Wilkes with no remedy at all.

VI. APPELLANT REQUESTS CLARIFICATION AS TO THE ORDER OF THIS COURT.

The Appellant received an Order signed by a single Judge of this Court remanding this case to the trial court. Appellant is not aware of any motions or petitions filed in this case pursuant to SCAR 240. Appellant cannot find any authority for one judge of this Court dismissing this case *sui sponte*. Appellant was under the impression that in order to issue an opinion in this matter, such opinion would require the decision of three judges of this Court pursuant to SCAR 220. Accordingly, Appellant respectfully requests that the Court reverse this Order as there was no motion before it and any such opinion would have required a decision by three members of this Court. Thus, counsel requests that the Court reconsider this matter, that it reverse the decision of the single judge and that the Court set

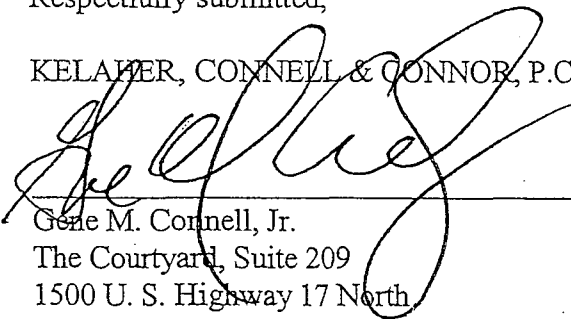
this down for hearing as there are no motions or petitions filed in this case and the briefs have previously been submitted. Further, counsel believes that the issues in this case are of a constitutional nature since they deal with the successful bidder's right to a hearing and notice prior to an order being vacated by the Master-in-Equity.

CONCLUSION

Accordingly, for the reasons set forth above, Wilkes respectfully requests that the Court vacate its Order of June 6, 2012, set this matter down for hearing and that because there are important legal and constitutional principles involved, the Court grant the Petition for Rehearing and hear this matter *en banc* since the foreclosure procedure and the sale of real property at such hearings is an issue which is heard by the courts of this state on a daily basis. Finally, the Court should set a bright line in these types of cases to protect the successful bidders' constitutional rights to be heard prior to the lower court issuing an order.

Respectfully submitted,

KELAHER, CONNELL & CONNOR, P.C.



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June 18, 2012
Surfside Beach, South Carolina.

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM HORRY COUNTY
Court of Common Pleas

The Honorable Cynthia Graham Howe, Master-in-Equity for Horry County

CASE NO. 2009-CP-26-5395

Ex Parte Coastal Designs, Inc. and Tim Wilkes..... Appellants

vs.

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vs.

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Harvey Levon Jones and Wendy Beth Jones Bellamy
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and as Trustee of the Restated and Amended Trust Agreement
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RECORD ON APPEAL

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STATE OF SOUTH CAROLINA

COUNTY OF HORRY

National Bank of South Carolina,

Plaintiff,

vs.

Myrtle Beach Grande Hotel, LLC,

Harvey L. Jones, Wendy Jones (J.)

Bellamy, Billy Joe (J.) Bellamy,

Kersi S. Shroff, Mozingo + Wallace

Architects, LLC, Harvey Levon

Jones and Wendy Beth Jones)

Bellamy as personal representatives)

of The Estate of Ann L. Jones, and)

as Trustee of The Restated and)

Amended Trust Agreement of Ann)

L. Jones, dated October 30, 2006)

Defendants.

) IN THE COURT OF COMMON PLEAS

)

)

Case # 2009-CP-26-5395

ORDER VACATING SALE

FILED
CLERK OF COURT
2011 FEB 15 AM 10:11
Horry County

Pursuant to Rule 53(b) of the South Carolina Rules of Civil Procedure (SCRPC), the above entitled case, an action for foreclosure of a mortgage, was referred to the Master-in-Equity in the above entitled County by order of a Circuit Court Judge. Thereafter, the Master-in-Equity issued a Master's Order and Judgment of Foreclosure and Sale. The property listed in the Notice of Sale was sold on February 7, 2011. The Plaintiff, National Bank of South Carolina (Hereinafter "NBSC"), has made the Court aware that the Notice of Sale was defective in failing to notify the public that certain Parcels being sold were subject to first mortgages.

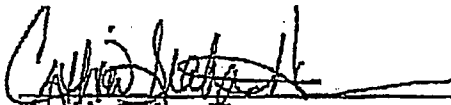
WHEREAS, Plaintiff filed and published a Notice of Sale generally stating that the parcels listed therein were being sold subject to liens but did not specifically identify

each of the known senior liens. Bidders therefore made bids on the parcels without regard to the general disclosure that the sale was subject to the senior liens and the Court was also not aware of the senior liens as they were not reflected in the Summons and Complaint filed in this action. The Plaintiff and certain Defendants, after consulting with the Master-in Equity, determined that the appropriate course of action would be to vacate the sale, republish notice thereof with the specific liens listed therein and post a new sale date. The successful bidders at the sale of February 7, 2011 would also be released from their current bids and any deposits returned. The Plaintiff stipulated that it releases the bidders from their current bids and requests that the sale be vacated, and has provided an Amended Notice of Sale for publication with a new sales date and the senior liens listed.

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CJH
Therefore, pursuant to the SCRPC including but not limited to Rule 60(b), the sale dated February 7, 2010 is hereby set aside and vacated. After publication of the Amended Notice of Sale, the property will be re-sold at the next available sales date.

AND IT IS SO ORDERED.

Dated: February 14, 2011
Conway, South Carolina


Cynthia Graham Howe
Master-in-Equity for Horry County

I SO MOVE:


Elizabeth A. Baker, Esquire
Attorney for Plaintiff

MASTER-IN-EQUITY
AMENDED NOTICE OF SALE
CASE NO: 2009-CP-26-5395

FILED
HORRY COUNTY
2011 FEB 15 AM 10:11

MELANIE HUGGINS-WARD

BY VIRTUE of a decree heretofore granted in the case of National Bank of South Carolina, against Myrtle Beach Grande, LLC *et al.*, under Case No. 2009-CP-26-5395, the Master-in-Equity for Horry County will sell on Monday, March 7, 2011, at 11:00 o'clock A.M., at the Horry County Courthouse, Conway, South Carolina, to highest bidder:

PARCEL I

ALL AND SINGULAR, that certain piece, parcel or lot of land, situate, lying and being in Myrtle Beach, Dogwood Neck Township, Horry County, South Carolina, and being shown and designated as Lot 4, Block 28, Hotel Section, Myrtle Beach, according to Plat of same made by Stanley H. Wright, Engineer, dated June and July, 1938, recorded in Plat Book 1 at Page 84, records of Horry County, South Carolina.

THIS BEING the identical property conveyed to Harvey L Jones and Wendy Jones Bellamy by Deed of Albert E. Ervine date February 4, 2005, recorded February 8, 2005, in Deed Book 2858 at Page 1178, records of Horry County, South Carolina.

TMS#: 181-10-07-008

Corner of Chester St. & 5th Avenue North, Myrtle Beach, SC

PARCEL II

ALL AND SINGULAR, those certain pieces, parcels or lots of land lying and being in Socastee Township, Horry County, South Carolina, being designated as Lot 3, Block 7, Long Bay Estates Subdivision, as shown on a map made by Robert L Bellamy, SE, dated May 4, 1966, recorded May 10, 1966 in Plat Book 46 at Page 113, records of Horry County, South Carolina.

THIS BEING the identical property conveyed to Billy Joe Bellamy and Wendy Jones Bellamy by Deed of Ann L. Jones dated October 2, 1995, recorded October 6, 1995, in Deed Book 1825 at Page 382, records of Horry County, South Carolina.

TMS#: 192-02-01-018

5000 S. Ocean Blvd., Surfside Beach, SC

PARCEL III

ALL AND SINGULAR, those certain pieces, parcels or lots of land, with improvements thereon, situate, lying and being in Dogwood Neck Township, Horry County, South Carolina, and being more particularly shown and designated as Lot 11, Lot 12, Lot 13, Lot 14, and Lot 15, Block 28, Hotel Section, as shown on a map made by N.C. Hughes, Engineer, dated November, 1933, recorded in Plat Book 1 at Page 116; rerecorded in Plat Book 1 at Page 179, records of Horry County, South Carolina.

THIS BEING the identical property conveyed to Harvey L. Jones, Wendy Jones Bellamy, and Kersi Shroff by Deed of David Tebele and Edward Tebele dated April 27, 2006, recorded in deed Book 3089 at Page 130, records of Horry County, South Carolina.

TMS#: 181-10-07-002

400 N. Kings Hwy, Myrtle Beach, SC

PARCEL IV

ALL AND SINGULAR, that certain piece, parcel or lot of land, situate, lying and being in Dogwood Neck Township, Horry County, South Carolina, designated as Lot 1, Block 13, Hotel Section, as shown on a map of Golden Surf Motel made by ETC-engineering and Technical Services, Inc. dated February 28, 1997, records of Horry County, South Carolina.

THIS BEING the identical property conveyed to Harvey L. Jones and Wendy Jones Bellamy by Deed of I.D. Jeram and S.I. Jeram dated January 12, 2006, recorded January 12, 2006, in Deed Book 3034 at Page 1476, records of Horry County, South Carolina.

TMS#: 181-10-10-006

5th Avenue North & Ocean Blvd, Myrtle Beach, SC

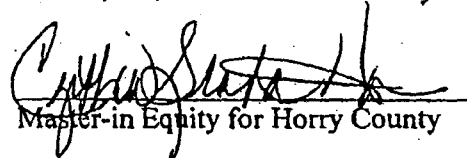
TERMS OF SALE: The successful bidder, other than the Plaintiff, will deposit with the Master-in-Equity at conclusion of the bidding, five (5%) of the bid, in cash or equivalent, as evidence of good faith, same to be applied to the purchase price in case of compliance, but to be forfeited and applied first to costs and then to Plaintiff's debt in the case of non-compliance. If the Plaintiff's representative is not in attendance at the scheduled time of the sale, the sale shall be canceled and the property sold on some subsequent sales day after due advertisement. Should the last and highest bidder fail or refuse to make the required deposit at time of bid or comply with the other terms of the bid within thirty (30) days, the Master-in-Equity may re-sell the property on the same terms and conditions on some subsequent Sales Day (at the risk of the said highest bidder).

Note: Deficiency Judgment is hereby waived. Purchaser to pay for preparation of deed, documentary stamps on the deed, and recording of the deed. The successful bidder will be required to pay interest on the amount of the bid from date of sale to date of compliance with the bid at the rate of \$147.32 for each day. Subject to assessments, State and/or Horry County tax liens of record, easements and restrictions of record, and other senior encumbrances.

Note: All Parcels above are being sold subject to the aforementioned liens. In addition to those liens, **Parcel II** specifically is being sold subject to a first mortgage in the approximate principal amount of \$435,000 held by US Bank and currently in foreclosure. **Parcel III** is being sold subject to a first mortgage held by National Bank of South Carolina, in the approximate principal amount of \$1,800,000 and also currently in foreclosure.

Robert S. Guyton P.C.
4605-Oleander Dr. Ste 202
Myrtle Beach, SC 29577
843-839-2100

By: Elizabeth A. Baker
Attorney for Plaintiff


Master-in Equity for Horry County

MASTER-IN-EQUITY SALE

CASE NO: 2009-CP-26-5395

BY VIRTUE of a decree heretofore granted in the case of National Bank of South Carolina, against Myrtle Beach Grande, LLC *et al.*, the Master-in-Equity for Horry County will sell on Monday, February 7, 2011, at 11:00 o'clock A.M., at the Horry County Courthouse, Conway, South Carolina, to highest bidder:

REC-28
CLERK OF COURT
MYRTLE BEACH
MAR 8:41

PARCEL I

ALL AND SINGULAR, that certain piece, parcel or lot of land, situate, lying and being in Myrtle Beach, Dogwood Neck Township, Horry County, South Carolina, and being shown and designated as Lot 4, Block 28, Hotel Section, Myrtle Beach, according to Plat of same made by Stanley H. Wright, Engineer, dated June and July, 1938, recorded in Plat Book 1 at Page 84, records of Horry County, South Carolina.

THIS BEING the identical property conveyed to Harvey L Jones and Wendy Jones Bellamy by Deed of Albert E. Ervine date February 4, 2005, recorded February 8, 2005, in Deed Book 2858 at Page 1178, records of Horry County, South Carolina.

TMS#: 181-10-07-008

PARCEL II

ALL AND SINGULAR, those certain pieces, parcels or lots of land lying and being in Socastee Township, Horry County, South Carolina, being designated as Lot 3, Block 7, Long Bay Estates Subdivision, as shown on a map made by Robert L Bellamy, SE, dated May 4, 1966, recorded May 10, 1966 in Plat Book 46 at Page 113, records of Horry County, South Carolina.

THIS BEING the identical property conveyed to Billy Joe Bellamy and Wendy Jones Bellamy by Deed of Ann L. Jones dated October 2, 1995, recorded October 6, 1995, in Deed Book 1825 at Page 382, records of Horry County, South Carolina.

TMS#: 192-02-01-018

PARCEL III

ALL AND SINGULAR, those certain pieces, parcels or lots of land, with improvements thereon, situate, lying and being in Dogwood Neck Township, Horry County, South Carolina, and being more particularly shown and designated as Lot 11, Lot 12, Lot 13, Lot 14, and Lot 15, Block 28, Hotel Section, as shown on a map made by N.C. Huges, Engineer, dated November, 1933, recorded in Plat Book 1 at Page 116; rerecorded in Plat Book 1 at Page 179, records of Horry County, South Carolina.

THIS BEING the identical property conveyed to Harvey L. Jones, Wendy Jones Bellamy, and Kersi Shroff by Deed of David Tebele and Edward Tebele dated April 27, 2006, recorded in deed Book 3089 at Page 130, records of Horry County, South Carolina.
TMS#: 181-10-07-002

PARCEL IV

ALL AND SINGULAR, that certain piece, parcel or lot of land, situate, lying and being in Dogwood Neck Township, Horry County, South Carolina, designated as Lot 1, Block 13, Hotel Section, as shown on a map of Golden Surf Motel made by ETC-engineering and Technical Services, Inc. dated February 28, 1997, records of Horry County, South Carolina.

THIS BEING the identical property conveyed to Harvey L. Jones and Wendy Jones Bellamy by Deed of I.D. Jeram and S.I. Jeram dated January 12, 1966 in Deed Book 3034 at Page 1476, records of Horry County, South Carolina.
TMS#: 181-10-10-006

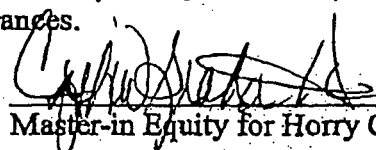
TERMS OF SALE: The successful bidder, other than the Plaintiff, will deposit with the Master-in-Equity at conclusion of the bidding, five (5%) of the bid, in cash or equivalent, as evidence of good faith, same to be applied to the purchase price in case of compliance, but to be forfeited and applied first to costs and then to Plaintiff's debt in the case of non-compliance. If the Plaintiff's representative is not in attendance at the scheduled time of the sale, the sale shall be canceled and the property sold on some subsequent sales day after due advertisement. Should the last and highest bidder fail or refuse to make the required deposit at time of bid or comply with the other terms of the bid within thirty (30) days, the Master-in-Equity may re-sell the property on the same terms and conditions on some subsequent Sales Day (at the risk of the said highest bidder).

As a deficiency judgment is being demanded, the bidding will remain open thirty (30) days after the date of sale.

Purchase to pay for preparation of deed, documentary stamps on the deed, and recording of the deed. The successful bidder will be required to pay interest on the amount of the bid from date of sale to date of compliance with the bid at the rate of \$147.32 for each day. Subject to assessments, Horry County taxes, easements, easements and restrictions of record, and other senior encumbrances.

Robert S. Guyton P.C.
4605-Oleander Dr. Ste 202
Myrtle Beach, SC 29577
843-839-2100

By: 
Elizabeth A. Baker
Attorney for Plaintiff


Master-in-Equity for Horry County

IN THE COURT OF COMMON PLEAS
FOR THE FIFTEENTH JUDICIAL CIRCUIT
STATE OF SOUTH CAROLINA
COUNTY OF HORRY

National Bank of South Carolina,

Plaintiff,

Civil Action No.: 2009-CP-26-5395.

v.

Myrtle Beach Grande Hotel, LLC,
Harvey L. Jones, Wendy Jones(J.)

Bellamy, Billy Joe(J.) Bellamy,
Kersi S. Schroff, Mozingo + Wallace
Architects, LLC, Harvey Levon
Jones and Wendy Beth Jones
Bellamy as personal representatives
Of The Estate of Ann L. Jones, and
As Trustee of The Restated and
Amended Trust Agreement of Ann L.
Jones, dated October 30, 2006

Defendants.

AFFIDAVIT OF TIM WILKES

I the undersigned, Tim Wilkes, having been duly sworn, personally appeared before the notary public whose name appears below and states as follows:

1. I am Tim Wilkes and it is my signature that appears below.
2. I am the President and sole shareholder of Coastal Designs, Inc. a South Carolina corporation.
3. On 07 February 2011 I attended the foreclosure sale held by the Horry County Master-in-Equity at the Horry County courthouse.

4. I purchase properties from the Horry County Master-in-Equity foreclosure sales on a regular basis but only use my own cash; I do not borrow money for these transactions.

5. At said foreclosure sale, as the authorized agent for Coastal Designs, Inc., I was the successful bidder on three parcels described as follows:

Parcel No.: 1811007002
Lot 11, 12, 14, 15 Block 28
Hotel Section in Dogwood Neck Township

Parcel No.: 1920201018
Lot 3, Block 7
Long Bay Estates

Parcel No.: 1811010006
Lot 1 Block 13 Hotel Section in
Dogwood Neck Township

6. The Master-in-Equity recognized me as the successful bidder for Parcel No. 1811007002 at \$200,000.

7. The Master-in-Equity recognized me as the successful bidder bid for Parcel No. 1920201018 at \$155,000.37.

8. The Master-in-Equity recognized me as the successful bidder for Parcel No. 1811010006 at \$600,000.

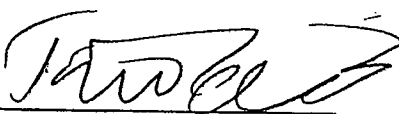
9. Based on the filings made with the Court, including a verified complaint made by the plaintiff, as well as statements made by the Court at the foreclosure sale, it was my understanding this foreclosure was for a loan secured by a single, first priority mortgage on multiple parcels.

10. During the foreclosure sale, the Court told me the foreclosure was on a first priority mortgage and that the plaintiff had elected to waive its right to a deficiency judgment therefore making the sale final.
11. Immediately after the sale a woman who I believe was a lawyer representing National Bank of South Carolina approached the bench and made a comment to the Judge. I demanded to Judge Howe that the comment be made so everybody in the courtroom could hear what was said, but my demand was ignored.
12. I expended my budget in bidding the three parcels and therefore did not bid on any other properties at the foreclosure sale.
13. After the bidding closed on the three parcels I walked out of the foreclosure sale believing I had a valid, legally enforceable contract and was obligated to close on parcels 1811007002, 1920201018, and 1811010006 and that the Master-in-Equity was legally obligated to transfer title to me under the terms and conditions stipulated to at the foreclosure sale. That obligation meant I could not use the money I allocated for those purchases for other business opportunities.
14. Immediately after the sale I hand delivered two checks in the amount of \$10,000 and \$8,000 to the clerk's office for the Horry County Master-in-Equity, which amounts represented the required deposit as set forth in the Notice of Master-in-Equity Sale for parcels 1811007002 and 1920201018 respectively.
15. The checks were accepted by the Court.

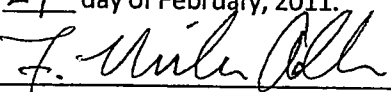
16. The checks were actually deposited by the court as set forth in Exhibit "A" attached hereto.
17. On 08 February 2011 sometime prior to 12:00 p.m. but within the statutory time limit, I hand delivered a check in the amount of \$30,000 to the clerk's office for the Horry County Master-in-Equity, which amount represented the required deposit as set forth in the Notice of Master-in-Equity Sale for parcel 1811010006.
18. Joy Henderson, a staff member of the Master-in-Equity's office received the check from me and then walked into Judge Howe's office where I heard Judge Howe order Ms. Henderson to return the check to me and to tell me to go to Attorney Guyton's office to work out the sale of the properties I was the successful bidder on. I understand Attorney Guyton to be counsel for National Bank of South Carolina, the plaintiff in the above captioned action.
19. Ms. Henderson, following Judge Howe's direction, put the check back in my hands and told me to take this matter up with Attorney Guyton.
20. I told Ms. Henderson and Judge Howe that I did not accept the return of my earnest money deposit check and demanded that I be permitted to close on the property under the terms of the foreclosure sale as is my legal right.
21. Subsequently I did discuss these issues with Attorney Guyton who then directed me to go see George Lindsay the authorized representative of National Bank of South Carolina and I went to see him the next day.
22. At that meeting Mr. Lindsay asked me how much I would pay for parcel 1811007002 and I told him, for the sake of peace, I would pay \$220,000

and I would pay what I bid for the other properties. Mr. Lindsay told me he was unaware of the terms of sale for the other properties and needed to call Attorney Guyton to discuss the matter. Mr. Lindsay said he would call me the following day.

23. I have yet to hear anything from Mr. Lindsay.
24. As of the date of this affidavit it is my understanding Myrtle Beach Grande Hotel, LLC is still the owner of record for parcel 1811007002.
25. It is my understanding Myrtle Beach Grande Hotel, LLC is not represented by Attorney Guyton.
26. Under cover of a letter from the Master-in-Equity dated February 15, 2011 I received a copy of an Order Vacating Sale which appeared to me to be an attempt by the Court to rescind the contract I have to purchase parcels 1811007002, 1920201018, and 1811010006. Along with that letter the Court also tendered check number 334952 in the amount of \$18,000 which sums represent my earnest money deposit previously accepted by the Court. See Exhibit "A". I have not deposited the check.
27. My belief is that the letter from the Master-in-Equity evidences the Court acting to put the bank's interests over and above all else while failing to protect the interests of the other participants in the foreclosure sale. See Exhibit "A".


Tim Wilkes

SWORN to and subscribed before me this
24 day of February, 2011.



Notary Public for South Carolina

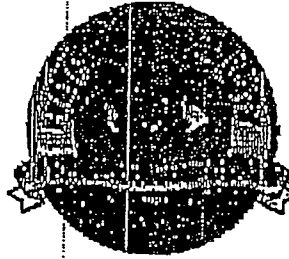
My Commission Expires: 11.18.2014

EXHIBIT A

[AFFIDAVIT OF TIM WILKES]

**HORRY COUNTY
MASTER IN EQUITY**

Cynthia Graham Howe
1301 Second Avenue
Conway, South Carolina 29526
www.horrycounty.org



Post Office Box 1236
Conway, South Carolina 29528-1236

Phone: (843) 915-5310
Fax: (843) 915-6310

February 15, 2011

Mr. and Mrs. Tim Wilkes
Coastal Designs, Inc.
4694 Millpond Court
Murrells Inlet, SC 29576

Re: National Bank of South Carolina v. Myrtle Beach Grande Hotel, LLC 2009-CP-26-5395

Dear Mr. and Mrs. Wilkes:

I understand that Coastal Designs, Inc. was the successful bidder at the February 2011 sale for Parcels II, III, and IV in this matter. As you now know, due to an error on the Plaintiff's part, the Notice of Sale did not notify the public of outstanding prior mortgages on Parcel II and Parcel III.

Based on that error, I have vacated the sale. I have enclosed an Order Vacating Sale in this matter, as well as your \$18,000 deposit, which you made on Parcels II and III. As I understand it, you never made a deposit on Parcel IV.

I apologize for any inconvenience this may have caused you.

With my regards, I am

Very truly yours,

Cynthia Graham Howe
Horry County Master in Equity

Enclosure

cc: Robert S. Guyton, Esquire 839-2111
Elizabeth Baker, Esquire 839-2111
Kathryn M. Cook, Esquire 663-0364

CHECK NO. 334952

INV. DATE	VOUCHER#	G/L NUMBER	INVOICE AMOUNT	NET AMOUNT
2/10/2011		10-232-0200	18,000.00	18,000.00
TOTAL AMOUNT				18,000.00

DESCRIPTION:

MIE- NATIONAL BANK VS MYRTLE BEACH
DEPOSIT REFUND 2009CP2605395

THIS DOCUMENT CONTAINS A VOID PANTOGRAPH, ARTIFICIAL WATERMARK, AND MICROPRINTING

HORRY COUNTY
THE INDEPENDENT REPUBLIC
S. C.

HORRY COUNTY TREASURER
ACCOUNTS PAYABLE
P. O. BOX 296 • CONWAY, S.C. 29528

Bank of America
Conway, SC 29528
67-44
532

CHECK NO. 334952
CHECK NULL AND VOID AFTER 180 DAYS

DATE	AMOUNT
2/10/2011	18,000.00

PAY
TO THE ORDER OF
EIGHTEEN THOUSAND 00/100 DOLLAR
COASTAL DESIGNS, INC.

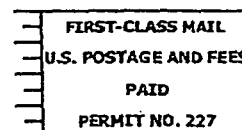
Roddy Dickinson
HORRY COUNTY TREASURER

⑈0334952⑈ ⑈053904483⑈ 000025010257⑈

See Reverse Side For Easy Opening Instructions



HORRY COUNTY
P. O. BOX 296
CONWAY, S.C. 29528



COASTAL DESIGNS, INC.

COUNTY OF HORRY

National Bank of South Carolina,

Plaintiff(s)

vs.

Myrtle Beach Grande Hotel, L.L.C., Harvey L. Jones, Wendy Jones (J.) Bellamy, Billy Joe (J.) Bellamy, Kersi S. Shroff, Mazingo + Wallace Architects, LLC, Harvey Levon Jones and Wendy Beth Jones Bellamy as personal representatives of The Estate of Ann L. Jones, and as Trustees of The Restated and Amended Trust Agreement of Ann L. Jones, dated October 30, 2006

Defendant(s)

IN THE COURT OF COMMON PLEAS

CIVIL ACTION COVERSHEET

- 2009 CP 26 5395

(Please Print)

Submitted By: Robert S. Guyton

Address: 4605 B Oleander Drive, Suite 202
Myrtle Beach, SC 29577

SC Bar #: 69626

Telephone #: (843) 839-2100

Fax #: (843) 839-2111

Other:

E-mail: rsguyton@rsguytonlaw.com

NOTE: The cover sheet and information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is required for the use of the Clerk of Court for the purpose of docketing. It must be filled out completely, signed, and dated. A copy of this cover sheet must be served on the defendant(s) along with the Summons and Complaint.

DOCKETING INFORMATION (Check all that apply)

*If Action Is Judgment/Settlement do not complete

- ☐ JURY TRIAL demanded in complaint. ☒ NON-JURY TRIAL demanded in complaint.
☐ This case is subject to ARBITRATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
☐ This case is subject to MEDIATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
☐ This case is exempt from ADR. (Proof of ADR/Exemption Attached)

NATURE OF ACTION (Check One Box Below)

- | | | | |
|---|---|---|--|
| ☐ Contracts
☐ Constructions (100)
☐ Debt Collection (110)
☐ Employment (120)
☐ General (130)
☐ Breach of Contract (140)
☐ Other (199) | ☐ Torts - Professional Malpractice
☐ Dental Malpractice (200)
☐ Legal Malpractice (210)
☐ Medical Malpractice (220)
☐ Notice/ File Med Mal (230)
☐ Other (299) | ☐ Torts - Personal Injury
☐ Assault/Stander/Libel (300)
☐ Conversion (310)
☐ Motor Vehicle Accident (320)
☐ Premises Liability (330)
☐ Products Liability (340)
☐ Personal Injury (350)
☐ Wrongful Death (360)
☐ Other (399) | ☐ Real Property
☐ Claim & Delivery (400)
☐ Condemnation (410)
☒ Foreclosure (420)
☐ Mechanics Lien (430)
☐ Partition (440)
☐ Possession (450)
☐ Building Code Violation (460)
☐ Other (499) |
| ☐ Inmate Petitions
☐ PCR (500)
☐ Mandamus (520)
☐ Habeas Corpus (530)
☐ Other (599) | ☐ Judgments/Settlements
☐ Death Settlement (700)
☐ Foreign Judgment (710)
☐ Magistrate's Judgment (720)
☐ Minor Settlement (730)
☐ Transcript Judgment (740)
☐ Lis Pendens (750)
☐ Other (799) | ☐ Administrative Law/Relief
☐ Reinstat Driver's License (800)
☐ Judicial Review (810)
☐ Relief (820)
☐ Permanent Injunction (830)
☐ Forfeiture-Petition (840)
☐ Forfeiture-Consent Order (850)
☐ Other (899) | ☐ Appeals
☐ Arbitration (900)
☐ Magistrate-Civil (910)
☐ Magistrate-Criminal (920)
☐ Municipal (930)
☐ Probate Court (940)
☐ SCDOT (950)
☐ Worker's Comp (960)
☐ Zoning Board (970)
☐ Administrative Law Judge (980)
☐ Public Service Commission (990)
☐ Employment Security Comm (991)
☐ Other (999) |
| ☐ Special/Complex /Other
☐ Environmental (600) ☐ Pharmaceuticals (630)
☐ Automobile Arb. (610) ☐ Unfair Trade Practices (640)
☐ Medical (620) ☐ Out-of State Depositions (650)
☐ Other (699) ☐ Sexual Predator (510) | | | |

Submitting Party Signature: 

Date: 5/29/09

STATE OF SOUTH CAROLINA)
COUNTY OF HORRY)

IN THE COURT OF COMMONS PLEAS
FIFTEENTH JUDICIAL CIRCUIT

NATIONAL BANK OF SOUTH CAROLINA,)
Plaintiff,)

vs.)

MYRTLE BEACH GRANDE HOTEL, L.L.C.)
HARVEY L. JONES, WENDY JONES (J.))
BELLAMY, BILLY JOE (J.) BELLAMY)
KERSI S. SHROFF, MOZINGO + WALLACE)
ARCHITECTS, LLC, HARVEY LEVON JONES)
and WENDY BETH JONES BELLAMY as)
Personal representatives of the Estate of ANN L.)
JONES, and as Trustees of THE RESTATED)
AND AMENDED TRUST AGREEMENT OF)
ANN L. JONES, dated October 30, 2006)

Defendants,)

**CERTIFICATE OF
EXEMPTION/WITHDRAWAL
FROM ARBITRATION**

FILED
HURRY COUNTY
2009 MAY 29 PM 1:14
MELANIE HUGGINS
CLERK OF COURT

Docket No. 2009-CP-26-

I CERTIFY THAT THIS ACTION IS EXEMPT FROM ARBITRATION BECAUSE:

- ☐ monetary relief requested in this case exceeds \$25,000;
- ☐ this is a class action;
- ☐ there is a substantial claim for injunctions or declaratory relief requested in this case;
- ☒ this case involves (check one or more of the following);
 - ☐ title to real estate
 - ☐ wills, trusts and decedents' estates;
 - ☒ mortgage foreclosure;
 - ☐ partition;
- ☐ this is a special proceeding or action seeking extraordinary relief such as mandamus, habeus corpus, or prohibition;
- ☐ this action is appellate in nature;
- ☐ this is a post-conviction relief matter;
- ☐ this is a forfeiture proceeding brought by the State; or
- ☐ this is a contempt of court proceeding.

Date: 5/29/09


Attorney for Plaintiff

NOTE: Motion must be presented to the court, a hearing held, and a finding made, for exemption or withdrawal from arbitration for strong and compelling reason sought pursuant to Rule 1(d) of Circuit Court Arbitration.

STATE OF SOUTH CAROLINA
COUNTY OF HORRY

IN THE COURT OF COMMONS PLEAS
FIFTEENTH JUDICIAL CIRCUIT
CASE NO. 2009-CP-26-

NATIONAL BANK OF SOUTH CAROLINA,

Plaintiff,

vs.

MYRTLE BEACH GRANDE HOTEL, L.L.C.
HARVEY L. JONES, WENDY JONES (J.)
BELLAMY, BILLY JOE (J.) BELLAMY
KERSI S. SHROFF, MOZINGO + WALLACE
ARCHITECTS, LLC, HARVEY LEVON JONES
and WENDY BETH JONES BELLAMY as
Personal representatives of the Estate of ANN L.
JONES, and as Trustees of THE RESTATED
AND AMENDED TRUST AGREEMENT OF
ANN L. JONES, dated October 30, 2006

Defendants,

SUMMONS

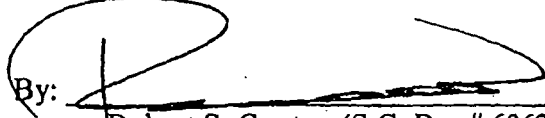
FILED
HURRY COUNTY
2009 MAY 29 PM 1:44
MELANIE HUGGINS
CLERK OF COURT

TO THE DEFENDANTS ABOVE-NAMED:

YOU ARE HEREBY SUMMONED and required to answer the Complaint in this action, a copy of which is herewith served upon you, and to serve a copy of your Answer to the said Complaint on the Plaintiff, National Bank of South Carolina ("Plaintiff"), or its attorneys, Attention: Robert S. Guyton, Robert S. Guyton, P.C., at 4605 B Oleander Drive, Suite 202, Myrtle Beach, South Carolina 29577, within thirty (30) days from the date of such service; and if you fail to answer the Complaint within the time aforesaid, Plaintiff will apply to the Court for Judgment by default for the relief demanded in the Complaint.

YOU WILL ALSO TAKE NOTICE that the undersigned attorney, on behalf of the Plaintiff herein, will seek the agreement and stipulation of all parties not in default for an Order of Reference to the Master in Equity for Horry County, South Carolina, stipulating that said Master in Equity may enter a final judgment in this case.

ROBERT S. GUYTON, P.C.

By: 

Robert S. Guyton (S.C. Bar # 69626)
4605 B Oleander Drive, Suite 202
Myrtle Beach, SC 29577
(843) 839-2100

ATTORNEYS FOR PLAINTIFF

Myrtle Beach, South Carolina
May 20, 2009

STATE OF SOUTH CAROLINA)
)
 COUNTY OF HORRY)

IN THE COURT OF COMMONS PLEAS
 FIFTEENTH JUDICIAL CIRCUIT
 CASE NO. 2009-CP-26- **5395**

NATIONAL BANK OF SOUTH CAROLINA,)
)
 Plaintiff,)

vs.)

MYRTLE BEACH GRANDE HOTEL, L.L.C.)
 HARVEY L. JONES, WENDY JONES (J.))
 BELLAMY, BILLY JOE (J.) BELLAMY)
 KERSI S. SHROFF, MOZINGO + WALLACE)
 ARCHITECTS, LLC, HARVEY LEVON JONES)
 and WENDY BETH JONES BELLAMY as)
 Personal representatives of the Estate of ANN L.)
 JONES, and as Trustees of THE RESTATED)
 AND AMENDED TRUST AGREEMENT OF)
 ANN L. JONES, dated October 30, 2006)

Defendants,)

COMPLAINT

(Non-Jury)

(Mortgage Foreclosure)

(Deficiency Demanded)

(Claim and Delivery Action)

(Suit on Security Agreement)

FILED
 Horry County
 Clerk of Court
 MAY 29 PM 1:44
 AILE HUGHES

TO THE DEFENDANTS ABOVE-NAMED:

Plaintiff, National Bank of South Carolina ("Plaintiff", "Lender", or "NBSC"), by and through its undersigned attorneys, complaining of the above-captioned Defendants, alleges and says as follows:

1. Plaintiff is a banking association organized and existing under the laws of the United States of America.
2. Plaintiff is the holder of the mortgages which are the subject of this action and which secure Plaintiff's interest in certain real property located in Horry County, South Carolina.
3. Plaintiff is informed and believes that Defendant Myrtle Beach Grande Hotel, L.L.C., ("Myrtle Beach Grande") is a limited liability company organized and existing under the laws of the State of South Carolina, doing business in Horry County, South Carolina.

4. Plaintiff is informed and believes that Defendant Harvey L. Jones ("Harvey Jones") is a resident of Horry County, South Carolina.
5. Plaintiff is informed and believes that Defendant Wendy Jones (J.) Bellamy ("Wendy Bellamy") is a resident of Horry County, South Carolina.
6. Plaintiff is informed and believes that Defendant Billy Joe (J.) Bellamy ("Billy Bellamy") is a resident of Horry County, South Carolina.
7. Plaintiff is informed and believes that Defendant Kersi S. Shroff ("Kersi Shroff") is a resident of Horry County, South Carolina.
8. Defendants Myrtle Beach Grande, Harvey Jones and Wendy Bellamy, jointly, severally, individually and collectively, as the context requires, are sometimes referred to herein as the "Borrowers".
9. Defendants Kersi Shroff and Billy Bellamy, along with the Borrowers, are sometimes referred to herein as the "Mortgagors".
10. Plaintiff is informed and believes that Defendant Harvey Jones, and Defendant Wendy Bellamy, are the personal representatives of the Estate of Ann L. Jones ("Ann Jones Estate"), Ann L. Jones having died in 2007, her Last Will and Testament being recorded on October 10, 2007, in the Probate Court for Horry County, South Carolina ("Ann Jones Will").
11. Plaintiff is informed and believes that Defendant Harvey Jones and Defendant Wendy Bellamy are the Trustee of The Restated and Amended Trust Agreement of Ann L. Jones, dated October 30, 2006 ("Ann Jones Trust").
12. Plaintiff is informed and believes that Defendant Mazingo + Wallace Architects, LLC ("Mazingo + Wallace"), is a limited liability company organized and existing under the laws of the State of South Carolina, and doing business in Horry County, South Carolina.

13. The subject of this action are parcels of real property located in the County of Horry, State of South Carolina, owned by one or more of the Borrowers and/or Mortgagors and more fully described on the attached Exhibit "A" which is incorporated herein by reference (collectively, the "Real Property"), and certain personal property owned by one or more of the Borrowers and/or Mortgagors, more fully described on the attached Exhibit "B" which is incorporated herein by reference (the "Personal Property"). The Real Property together with the Personal Property are hereinafter referred to as the "Property".

14. Ann Jones Estate is named as a Defendant by virtue of that Mortgage, filed on October 5, 1995 in Mortgage Book 2030 at Page 484 in the Office of the Register of Deeds for Horry County, South Carolina, which Mortgage is subordinate to the Mortgages of Plaintiff by virtue of that Mortgage Subordination Agreement, filed on March 4, 2008, in Mortgage Book 5040 at Page 955, in the Office of the Register of Deeds for Horry County.

15. Ann Jones Trust is named as a Defendant by virtue of the fact that under the terms of the Ann Jones Will, certain assets may have passed from the Ann Jones Estate to the Ann Jones Trust, and that the Mortgage, filed on October 5, 1995 in Mortgage Book 2030 at Page 484 in the Office of the Register of Deeds for Horry County, South Carolina is one of such assets.

16. Mozingo + Wallace are named as Defendants by virtue of a Lis Pendens, Summons and Complaint, filed on March 27, 2009 in the Office of the Clerk of Court for Horry County, and styled as 2009-CP-26-3186.

FOR A FIRST CAUSE OF ACTION
(Mortgage Foreclosure)

17. Plaintiff repeats and realleges the foregoing allegations as if set forth herein verbatim.

18. On or about February 29, 2008, the Borrowers, for valuable consideration, made, executed and delivered unto Lender that certain Promissory Note (the "Note") in the original

principal sum of One Million Eight Hundred Thirty Five Thousand and 00/100 (\$1,835,000.00) Dollars, together with interest as provided therein. A copy of the Note is attached hereto as Exhibit "C", an incorporated herein by reference.

19. In order to secure payment of the indebtedness evidenced by the Note, and any renewals, modifications or extensions thereof, the Borrowers and the Mortgagors, did, on or about February 29, 2008, make, execute and deliver unto Lender that certain First Mortgage and Security Agreement (the "Mortgage"), whereby the Borrowers mortgaged and encumbered various properties located in Horry County, South Carolina owned by one or more of them. A copy of the Mortgage is attached hereto as Exhibit "D" and incorporated herein by reference.

20. The Mortgage was recorded on March 3, 2008, in the Office of the Register of Deeds in Mortgage Book 5039 at Page 1051, and re-recorded on April 9, 2008, in the Office of the Register of Deeds in Mortgage Book 5055 at Page 2305.

21. In order to further secure payment of the indebtedness evidenced by the Note and any renewals, modifications or extensions thereof, the Borrowers and the Mortgagors, did, on or about February 29, 2008, make, execute and deliver unto Lender that certain Assignment of Leases, Rents and Profits (the "Assignment of Rents"), whereby the Borrowers mortgaged and encumbered various properties located in Horry County, South Carolina owned by one or more of them. A copy of the Mortgage is attached hereto as Exhibit "E" and incorporated herein by reference.

22. The Assignment of Rents was recorded on March 3, 2008, in the Office of the Register of Deeds in Deed Book 3318 at Page 1519, and re-recorded on April 9, 2008, in the Office of the Register of Deeds in Deed Book 3326 at Page 2242.

23. Thereafter, on or about October 24, 2008, Borrowers made, executed and delivered unto Lender that certain Loan Modification Agreement ("Modification"), which was executed by Lender, whereby the maturity date under the Note was extended to March 15, 2009. A copy of the Modification is attached hereto as Exhibit "F" and incorporated herein by reference.

24. The Mortgage secures the repayment of amounts owing Plaintiff under the Note.

25. The Plaintiff herein is the sole owner and holder of the afore-described Note and Mortgage which are the subject of this action.

26. All amounts of principal and interest due under the terms of the Note were due on March 15, 2009 (the "Maturity Date").

27. Despite demand, the Borrowers failed or refused to repay the Note by the Maturity Date, and the Borrowers are in default under the terms and conditions of the Note, the Mortgage and various other loan documents evidencing or securing the repayment of the Note (collectively, the "Loan Documents") for, among other reasons, failure to repay the indebtedness at maturity in accordance with the terms thereof.

28. The Borrowers have been duly notified, in writing, of the outstanding defaults under the Loan Documents and have failed or refused to cure such defaults within the prescribed cure period.

29. As a result of the foregoing, the entire amount of the debt evidenced or secured by the Note and the Mortgage is now due and payable.

30. It is provided in the Note and the Mortgage that the Borrower will pay all of Lender's costs and expenses of collection, including, but not limited to reasonable attorneys' fees, in the event Plaintiff brings an action to collect outstanding amounts owing thereunder.

31. Plaintiff is entitled to recover all costs and reasonable attorneys' fees with respect to this cause of action and seeks relief from the Court which is set forth hereafter. The Note and the Mortgage have been placed in the hands of Robert S. Guyton, P.C. , attorneys for collection.

32. As of April 30, 2009, there is now due and owing to the Plaintiff by the Borrowers under the Note and Mortgage the sum of One Million Eight Hundred Thirty One Thousand Five Hundred Eighteen and 42/100 (\$1,831,518.42) Dollars, together with interest from said date, additional late fees, attorneys fees and costs of this action.

33. Plaintiff demands its right to seek judgment against the Borrowers for any deficiency, interest, and attorneys' fees under this cause of action.

34. Defendant Ann Jones Estate and/or Ann Jones Trust, by and through Defendants Harvey Jones and Wendy Bellamy, as personal representatives or Trustees, respectively, has, or may claim some interest in the Property, but the interest of these Defendants, if any, is junior and subsequent to that of the Plaintiff.

35. Defendant Mozingo + Wallace have, or may claim some interest in the Property, but the interest of this Defendant, if any, is junior and subsequent to that the of the Plaintiff.

FOR A SECOND CAUSE OF ACTION
(Suit on a Security Agreement)

36. Plaintiff incorporates and realleges the allegations contained in the paragraphs above as if set forth herein verbatim.

37. In order to further secure repayment of the Note, the Borrowers granted unto Lender a valid security interest in the Personal Property. The security interest in the Personal Property was duly perfected by the filing of a U.C.C. financing statement in the offices of the South Carolina Secretary of State on February 29, 2008, where it appears as Number 080229-1044530 ("State Financing Statement"), a copy of the State Financing Statement is attached hereto as

Exhibit "G" and incorporated herein by reference, and the filing of a U.C.C. financing statement in the Office of Register of Deeds for Horry County on March 3, 2008 in Mortgage Book 5039 at Page 1063 ("County Financing Statement"), a copy of the County Financing Statement is attached hereto as Exhibit "H" and incorporated herein by reference.

38. To better secure repayment of the Note, the Mortgage included a security agreement (the "Security Agreement") encumbering and pledging all of the Personal Property in order to secure the Borrower's obligations under the Note, the Mortgage and the other Loan Documents.

39. The Security Agreement pledges as collateral for the Note, and grants Plaintiff a lien on, all of the Personal Property.

40. Plaintiff has exercised its rights under the Note, the Security Agreement and the other Loan Documents to declare all sums owed by the Borrowers immediately due and payable together with all interest.

41. Plaintiff is entitled to recover all costs and reasonable attorney's fees with respect to this cause of action and seeks relief from the Court which is set forth hereafter.

FOR A THIRD CAUSE OF ACTION
(Claim and Delivery)

42. Plaintiff incorporates and realleges the allegations contained in the paragraphs above as if set forth herein verbatim.

43. The Borrowers are in default under the terms of the Note, the Mortgage, the Assignment of Rents, the Security Agreement and the other Loan Documents.

44. Under the terms of the Assignment of Rents and the Security Agreement, by virtue of the Borrower's default, Plaintiff is entitled to immediate possession of the Personal Property.

45. Plaintiff is informed and believes that the Borrowers have wrongfully retained the Personal Property despite their default under the terms of the Note, the Security Agreement, and the other Loan Documents.

46. By virtue of Borrower's wrongful retention of the Personal Property, Plaintiff has been damaged in that it has been denied the use of the money to which it is entitled or the use of the Personal Property, which is depreciating in value, and in that it has incurred attorney's fees and other costs and expenses for which it is entitled to recover pursuant to the terms of the Security Agreement.

47. Plaintiff is informed and believes that it is entitled to have the Security Agreement foreclosed and the Personal Property repossessed by the Sheriff of Horry County, South Carolina, and placed in the hands of the Plaintiff to be disposed of in a commercially reasonable manner and the proceeds derived therefrom applied to the judgment balance.

48. Plaintiff has a security interest in the Personal Property and is entitled to the possession of the Personal Property or the value of the Personal Property in case delivery cannot be had pursuant to S.C. Code Ann. § 15-69-10 et seq. (Law Co-op 1976).

49. Plaintiff is informed and believes that the Personal Property has not been taken for any tax, assessment or fine pursuant to a statute, nor has it been seized under an execution or attachment against said Property.

50. Plaintiff is also entitled to recover all costs and reasonable attorney's fees with respect to this cause of action.

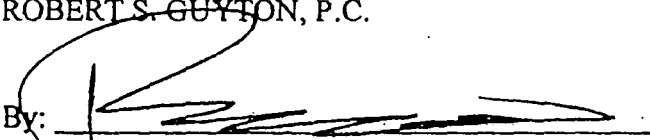
51. Plaintiff demands its right to seek judgment against the Borrowers for any deficiency, interest, and attorneys' fees under this cause of action.

WHEREFORE, Plaintiff prays that this Honorable Court issue its Order:

- A. Granting Plaintiff judgment of foreclosure under the terms of the Mortgage.
- B. Directing that the Mortgage be declared a valid lien on the Real Property, and that the Real Property be sold at foreclosure in accordance with the law and practices of this Court, and that the Borrowers and all other persons claiming by, through or under them be barred and forever foreclosed of all right, title, interest and equity of redemption in and to the said mortgaged premises or any part thereof;
- C. Directing that out of the proceeds of the sale of the Real Property, after the costs of such sale has been deducted, including attorneys' fees and costs of collection, Plaintiff be paid in full the amount due it under the various promissory notes and mortgages described herein, with interest thereon as set out above and all amounts, including taxes and insurance premiums, and any past due taxes which may be due or which may be or have been paid by Plaintiff;
- D. Directing that Plaintiff's security interest granted pursuant to the Security Agreement be declared a first lien on the Personal Property described therein and that the Personal Property described therein be sold in accord with the law and practices of this Court and that the Borrowers and all other persons claiming by, through or under them be barred and forever foreclosed of all right, title and interest in and to the aforesaid Personal Property or any part thereof;
- E. Directing that out of the proceeds from the sale of the Personal Property, after the costs of such sale have been deducted, including attorney's fees, the Plaintiff be paid in full the amount due on the Note and Security Agreement, with interest thereon as set out above;
- F. Granting Plaintiff leave, is so minded, to have a Receiver appointed upon proper application to this Court; and

G. Granting Plaintiff such other and further relief as may be just and proper.

ROBERT S. GUYTON, P.C.

By: 

Robert S. Guyton (S.C. Bar # 69626)
4605 B Oleander Drive, Suite 202
Myrtle Beach, SC 29577
(843) 839-2100

ATTORNEYS FOR PLAINTIFF

Myrtle Beach, South Carolina
May 29, 2009

**NOTICE REQUIRED BY THE FAIR DEBT COLLECTION
PRACTICES ACT, (THE ACT),
15 .S.C. §1601 AS AMENDED**

1. The total amount due on the debt(s), according to the Creditor, as of April 30, 2009, was as follows:

<u>Note Number</u>	<u>Payoff</u>
06525075650	\$1,831,518.42

2. The Creditor is National Bank of South Carolina.
3. The debt described in the letter attached hereto will be assumed to be valid by the Creditor's law firm unless you, the debtor, within thirty (30) days after receipt of this notice, dispute, in writing, the validity of the debt or some portion thereof.
4. If you, the debtor, notify the Creditor's law firm in writing within thirty (30) days of the receipt of this notice that the debt or any portion thereof is disputed, the Creditor's law firm will obtain a verification of the debt and a copy of the verification will be mailed to you, the debtor, by the Creditor's law firm.
5. If the Creditor named in the attached letter is not the original Creditor, and if you make a written request to the Creditor's law firm within the thirty (30) days from the receipt of the notice, the name and address of the original Creditor will be mailed to you by the Creditor's law firm.
6. Written request should be addressed to Robert S. Guyton, Robert S. Guyton, P.C., 4605 B Oleander Drive, Suite 202, Myrtle Beach, SC 29577.
7. This notice should not be construed as a thirty (30) day grace period. Creditor may pursue collection efforts immediately and not wait thirty (30) days.
8. This notice is an attempt to collect a debt and information obtained will be used for that purpose.

LIST OF EXHIBITS

Capitalized terms used in this list have the meaning given such terms in the Complaint to which this list is appended.

- Exhibit "A" - Real Property Description
- Exhibit "B" - List of Personal Property
- Exhibit "C" - Note
- Exhibit "D" - Mortgage
- Exhibit "E" - Assignment of Rents
- Exhibit "F" - Modification
- Exhibit "G" - State Financing Statement
- Exhibit "H" - County Financing Statement

EXHIBIT "A"
(Real Property Description)

Parcel I

(Owned by Harvey L. Jones and Wendy Jones Bellamy)

ALL AND SINGULAR, that certain piece, parcel or lot of land, situate, lying and being in Myrtle Beach, Dogwood Neck Township, County of Horry, State of South Carolina, being shown and designated as Lot 4, Block 28, Hotel Section, Myrtle Beach, according to a plat of same made by Stanley H. Wright, Engineer, dated June and July, 1938, recorded in Plat Book 1 at Page 84, records of Horry County, South Carolina.

THIS BEING the identical property conveyed to Harvey L. Jones and Wendy Jones Bellamy by Deed of Albert E. Ervin dated February 4, 2005, recorded February 8, 2005, in Deed Book 2858 at Page 1178, records for Horry County, South Carolina.

TMS # 181-10-07-008

Parcel II

(Owned by Myrtle Beach Grande Hotel, LLC)

ALL AND SINGULAR, those certain pieces, parcels, or lots of land, with improvements thereon, situate, lying and being in Myrtle Beach, Dogwood Neck Township, Horry County, South Carolina, being known and designated as Lot 1, Block 31, Hotel Section, Myrtle Beach, as shown upon a map of the Hotel Section by Stanley H. Wright, Engineer, dated July, 1926, recorded in Plat Book 1 at Page 84, records of Horry County, South Carolina.

THIS BEING a portion of the property conveyed to Myrtle Beach Grande Hotel, LLC by Deed of Wendel E. Jones, Jr., dated January 31, 1995, recorded in Deed Book 1783 at Page 84, records for Horry County, South Carolina.

TMS # 181-07-03-009

Parcel III

(Owned by Myrtle Beach Grande Hotel, LLC)

ALL AND SINGULAR, those certain pieces, parcels or lots of land, with improvements thereon, situate, lying and being in Myrtle Beach, Dogwood Neck Township, Horry County, South Carolina, being known and designated as Lot 2, Block 31, Hotel Section, Myrtle Beach, as shown on a map of the Hotel Section by Stanley H. Wright, Engineer, dated July, 1926, recorded in Plat Book 1 at Page 84, records of Horry County, South Carolina.

THIS BEING a portion of the property conveyed to Myrtle Beach Grande Hotel, LLC by Deed of Wendel E. Jones, Jr., dated January 31, 1995, recorded in Deed Book 1783 at Page 84, records for Horry County, South Carolina.

TMS # 181-07-03-010

Parcel IV

(Owned by Billy Joe Bellamy and Wendy Jones Bellamy)

ALL AND SINGULAR, those certain piece, parcel or lot of land lying and being in Socastee Township, Horry County, South Carolina, being designated as Lot 3, Block 7, Long Bay Estates Subdivision, as shown on a map made by Robert L. Bellamy, SE, dated May 4, 1966, recorded May 10, 1966, in Plat Book 46 at Page 113, records of Horry County, South Carolina.

THIS BEING the identical property conveyed to Billy Joe Bellamy and Wendy Jones Bellamy by Deed of Ann L. Jones dated October 2, 1995, recorded October 6, 1995, in Deed Book 1825 at Page 382, records of Horry County, South Carolina.

TMS # 192-02-01-018

Parcel V

(Owned by Harvey L. Jones, Wendy J. Bellamy and Kersi S. Shroff)

ALL AND SINGULAR, those certain pieces, parcels or lots of land, with improvements thereon, situate, lying and being in Dogwood Neck Township, Horry County, South Carolina, and being more particularly shown and designated as Lot 11, Lot 12, Lot 13, Lot 14 and Lot 15, Block 28, Hotel Section, as shown on a map made by N.C. Hughes, Engineer, dated November, 1933, recorded in Plat Book 1 at Page 116; re-recorded in Plat Book 1 at Page 179, records of Horry County, South Carolina.

THIS BEING the identical property conveyed to Harvey L. Jones, Wendy J. Bellamy and Kersi S. Shroff by Deed of David Tebele and Edward Tebele dated April 27, 2006, recorded in Deed Book 3089 at Page 130, records of Horry County, South Carolina.

TMS # 181-10-07-002

Parcel VI

(Owned by Harvey L. Jones and Wendy Jones Bellamy)

ALL AND SINGULAR, all that certain piece, parcel or lot of land, situate, lying and being in Dogwood Neck Township, Horry County, South Carolina, designated as Lot 1, Block 13, Hotel Section, as shown on a map of Golden SufMotel made by ETC-Engineering and Technical Services, Inc. dated February 28, 1997, records of Horry County, South Carolina.

THIS BEING the identical property conveyed to Harvey L. Jones and Wendy Jones Bellamy by Deed of I.D. Jeram and S.I. Jeram dated January 11, 2006, recorded January 12, 1966 in Deed Book 3034 at Page 1476, records of Horry County, South Carolina.

TMS # 181-10-10-006

EXHIBIT "B"
(List of Personal Property)

All furniture, furnishings, fixtures, trade fixtures, equipment, quest and business records, deposits, insurance and condemnation proceeds, names and good will of "Rainbow Court" and "Tropical Plaza", rents, issues, profits, and all substitutions, replacements, proceeds and products of any and all of the foregoing, all as same are applicable to or derived from Lot 4 and Lots 11-15, Block 28, Hotel Section; Lots 1 and 2, Block 31, Hotel Section, Lot 1, Block 13, Hotel Section; and located in Myrtle Beach, Horry County, South Carolina; and (except for furnishings and equipment), Lot 3, Block 7, Long Bay Estates, Myrtle Beach, Horry County, South Carolina.

Exhibit "C"

(Note)

See Attached

MYRTLE BEACH GRANDE HOTEL LLC
HARVEY L JONES / WENDY JONES BELLAMY
405 FLAGG ST
MYRTLE BEACH, SC 29577-4025

BORROWER'S NAME AND ADDRESS
"I" includes each borrower above, jointly and severally.

National Bank of South Carolina
101 OAK STREET SUITE 101
MYRTLE BEACH, SC 29577

LENDER'S NAME AND ADDRESS
"You" means the lender, its successors and assigns.

Line of Credit No. 5
Date February 29, 2008
Max. Credit Amt. 1,835,000.00
Loan Ref. No. 6525075650 - 5

You have extended to me a line of credit in the ****ONE MILLION EIGHT HUNDRED THIRTY FIVE THOUSAND DOLLARS****
AMOUNT of ****AND ZERO CENTS**** \$ 1,835,000.00
You will make loans to me from time to time until 5:00 p.m. on September 15, 2008. Although the line of credit expires on that date, I will remain obligated to perform all my duties under this agreement so long as I owe you any money advanced according to the terms of this agreement, as evidenced by any note or notes I have signed promising to repay these amounts.
This line of credit is an agreement between you and me. It is not intended that any third party receive any benefit from this agreement, whether by direct payment, reliance for future payment or in any other manner. This agreement is not a letter of credit.

1. AMOUNT: This line of credit is:

- ☐ OBLIGATORY: You may not refuse to make a loan to me under this line of credit unless one of the following occurs:
- a. I have borrowed the maximum amount available to me;
 - b. This line of credit has expired;
 - c. I have defaulted on the note (or notes) which show my indebtedness under this line of credit;
 - d. I have violated any term of this line of credit or any note or other agreement entered into in connection with this line of credit;
 - e. _____

☒ DISCRETIONARY: You may refuse to make a loan to me under this line of credit once the aggregate outstanding advances equal or exceed ****ONE MILLION EIGHT HUNDRED THIRTY FIVE THOUSAND DOLLARS**** \$ 1,835,000.00
****AND ZERO CENTS****

Subject to the obligatory or discretionary limitations above, this line of credit is:

- ☐ OPEN-END (Business or Agricultural only): I may borrow up to the maximum amount of principal more than one time.
☒ CLOSED-END: I may borrow up to the maximum only one time.

2. PROMISSORY NOTE: I will repay any advances made according to this line of credit agreement as set out in the promissory note, I signed February 29, 2008, or any note(s) I sign at a later time which represent advances under this agreement. The note(s) set(s) out the terms relating to maturity, interest rate, repayment and advances. If indicated on the promissory note, the advances will be made as follows:

3. RELATED DOCUMENTS: I have signed the following documents in connection with this line of credit and note(s) entered into in accordance with this line of credit:

- ☒ security agreement dated February 29, 2008
☒ mortgage dated February 29, 2008
☐ guaranty dated _____

4. REMEDIES: If I am in default on the note(s) you may:

- a. take any action as provided in the related documents;
 - b. without notice to me, terminate this line of credit.
- By selecting any of these remedies you do not give up your right to later use any other remedy. By deciding not to use any remedy should default, you do not waive your right to later consider the event a default, if it happens again.

5. COSTS AND FEES: If you hire an attorney to enforce this agreement I will pay your reasonable attorney's fees, where permitted by law. I will also pay your court costs and costs of collection, where permitted by law.

6. COVENANTS: For as long as this line of credit is in effect or I owe you money for advances made in accordance with the line of credit, I will do the following:

- a. maintain books and records of my operations relating to the need for this line of credit;
- b. permit you or any of your representatives to inspect and/or copy these records;
- c. provide to you any documentation requested by you which support the reason for making any advance under this line of credit;
- d. permit you to make any advance payable to the seller (or seller and me) of any items being purchased with that advance;
- e. _____

7. NOTICES: All notices or other correspondence with me should be sent to my address stated above. The notice or correspondence shall be effective when deposited in the mail, first class, or delivered to me in person.

8. MISCELLANEOUS: This line of credit may not be changed except by a written agreement signed by you and me. The law of the state in which you are located will govern this agreement. Any term of this agreement which is contrary to applicable law will not be effective, unless the law permits you and me to agree to such a variation.

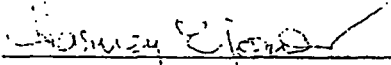
FOR THE LENDER

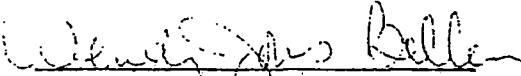
SIGNATURES: I AGREE TO THE TERMS OF THIS LINE OF CREDIT
HAVE RECEIVED A COPY ON TODAY'S DATE.

Title RW RACHEL M WHITLEY

MYRTLE BEACH GRANDE HOTEL LLC
Harvey L Jones
Wendy Jones Bellamy
Wendy Jones Bellamy

ADDENDUM


Harvey L Jones Individually


Wendy Jones Bellamy-Individually

MYRTLE BEACH GRANDE HOTEL LLC
 HARVEY L JONES / WENDY JONES BELLAMY
 405 FLAGG ST
 MYRTLE BEACH, SC 29577-4025

National Bank of South Carolina
 2411 OAK STREET SUITE 101
 MYRTLE BEACH, SC 29577

Loan Number 6525075650 - 5
 Date February 29, 2008
 Mat. Date October 15, 2008
 Loan Amount \$ 1,835,000.00
 Renewal Of 6524960850-3

BORROWER'S NAME AND ADDRESS

"I" includes each borrower above, jointly and severally.

LENDER'S NAME AND ADDRESS

"You" means the lender, its successors and assigns.

DISBURSEMENT AUTHORIZATION

I hereby authorize and request the following disbursement from the loan referenced above:

a. Amount given to me directly	\$ <u>7,000.00</u>	o. _____	\$ _____
b. Amount paid on my account (# <u>6524960850</u>)	\$ <u>1,475,000.00</u>	p. _____	\$ _____
	Note # 3		
c. To Lender	\$ _____	q. _____	\$ <u>0.</u>
Amounts paid to others on my behalf:		r. _____	\$ _____
d. Insurance Companies (Property)	\$ _____	s. _____	\$ _____
e. Public Officials	\$ _____	t. _____	\$ _____
f. Credit Life Insurance	\$ _____	u. _____	\$ _____
g. A & H Insurance	\$ _____	v. _____	\$ _____
h. <u>6525075650-4</u>	\$ <u>353,000.00</u>	w. _____	\$ _____
i. _____	\$ _____	x. _____	\$ _____
j. _____	\$ _____	y. _____	\$ _____
k. _____	\$ _____	z. _____	\$ _____
l. _____	\$ _____	aa. _____	\$ _____
m. _____	\$ _____	bb. _____	\$ _____
n. _____	\$ _____	cc. _____	\$ _____

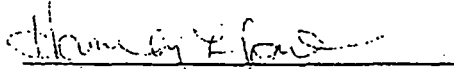
Comments:

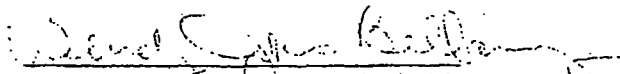
X _____
 MYRTLE BEACH GRANDE HOTEL LLC
 X _____
 HARVEY L JONES
 X _____
 WENDY JONES BELLAMY

Loan Officer: RMW RACHEL M WHITLEY

X _____
 X _____
 X _____

ADDENDUM


Harvey L Jones-Individually


Wendy Jones Bellamy-Individually

**THIS AGREEMENT IS SUBJECT TO ARBITRATION PURSUANT TO THE COMMERCIAL FINANCIAL
DISPUTES ARBITRATION RULES AND UNIFORM ARBITRATION ACT (SOUTH CAROLINA)**

PROMISSORY NOTE

(This Note contains provisions for a balloon payment of principal and interest)

\$1,835,000.00

Myrtle Beach, SC
February 29, 2008

FOR VALUE RECEIVED, the undersigned, Harvey L. Jones; Wendy Jones Bellamy; and Myrtle Beach Grande Hotel, LLC, a South Carolina limited liability company (jointly and severally "Maker"), promises to pay to the order of The National Bank of South Carolina, hereinafter referred to as "Lender" or "Payee", at P.O. Box 219, Myrtle Beach, SC 29578, or at such other place or to such other party or parties as the holder of this Note may, from time to time designate, the principal sum of One Million Eight Hundred Thirty Five and 00/100 (\$1,835,000.00) Dollars, or so much thereof as is advanced, with interest from the date of each advance computed as set out below.

Maker shall make payments of principal and interest to Lender, and the unpaid principal balance shall bear and accrue interest as follows:

1. Rate of Interest. Interest shall accrue from the date hereof at a rate equal to one-half (0.5%) percent above the Prime Rate (which is not necessarily the lowest rate charged to its customers) of interest as quoted by The National Bank of South Carolina from time to time, to change as and when the Prime Rate changes ("Rate of Interest"). If for any reason The National Bank of South Carolina shall at any time no longer quote a Prime Rate in the manner set forth above, the holder hereof shall, in the exercise of reasonable judgment, substitute another means of determining the annual lending rate of interest, and the rate of interest as thus determined shall thereafter be the Rate of Interest as that term is used herein. Interest shall be computed on the actual number of days elapsed, divided by a 360-day year.

2. Payment of Principal and Interest. Interest upon the outstanding principal from time to time, as same may consist, shall be due and payable on the 15th day of June, 2008; 15th day of July, 2008; 15th day of August, 2008; and 15th day of September, 2008. Principal shall be due and payable Forty Five Thousand and 00/100 (\$45,000.00) Dollars on the 15th day of September, with all remaining principal, accrued interest, and all other sums due Lender under this Note and the Mortgage referred to below being due and payable in full in a balloon payment on the 20th day of September, 2008 ("Maturity Date").

3. Security. This Note is secured by, among other things, a Mortgage and Security Agreement (together with all amendments, modifications, and supplements, "Mortgage") of even date made by Maker, Billy Joe Bellamy, and Kersi S. Shroff to Lender on property located in Horry County, South Carolina, and is intended to be recorded in the appropriate office of said County, and a Pledge Agreement which Mortgage and Pledge Agreement terms are incorporated herein by reference and the same are hereby made a part of this Note. This loan is also subject to the terms of all other agreements and documents securing, evidencing or relating to the loan, including, without limitation, that certain loan agreement between Maker and Lender of even date (together with all amendments, "Loan Documents") the terms all of which are incorporated herein by reference, a default in any of which shall constitute a default hereunder.

4. Acceleration. It is expressly agreed that the entire principal amount due and owing on this Note and all accrued interest thereon shall, at the option of the holder hereof immediately become due and payable in full on the happening of any default or event of default under the terms of this Note, or the Mortgage securing this Note, the Loan Documents or any other agreements or documents evidencing or securing this Note. Further that all of the covenants, conditions and agreements contained in said Mortgage, Loan Documents, and all other agreements evidencing or securing this Note are hereby made a part of this instrument to the same extent and with the same force and effect as if they were fully set forth herein, and Maker promises and agrees to keep, observe, and perform them, or cause them to be kept, observed and performed strictly in accordance with the terms and provisions thereof.

5. Time of the Essence. The time of repayment of said principal sum, on the Maturity Date, or however such maturity may be brought about, is of unique and specific importance and financial necessity to Payee or other holder of this Note and is hereby made of the essence.

6. Late Fees; Default Rate. Upon the occurrence of any event of default under this Note, (a) to the extent permitted by law, the rate of interest on the unpaid principal shall, at the option of Lender be increased to the greater of (i) three (3%) percent over the Payment Rate then in effect; or (ii) three (3%) percent over the Prime Rate (the rates of interest set forth in this paragraph (a)(i) and (a)(ii) are alternatively called the "Default Rate"); and/or (b) to the extent permitted by law, a delinquency charge ("Late Fee") may be imposed in an amount not to exceed four (4%) percent of the unpaid portion of any payment in default for more than fifteen (15) days. The Late Fee may be imposed not only with respect to regular installments of principal, interest, or interest and principal, but also with respect to any other payment in default under this Note (other than a previous Late Fee), including, without limitation, a single payment of principal or interest or both due at maturity of this Note. If any payment, or portion thereof, is not paid in a timely fashion, subsequent payments will be applied first to the past due balance of principal and interest (which shall not include any previous Late Fee), and then to any fees and charges owed to Lender, with a separate Late Fee being

imposed for each subsequent payment that becomes due until all defaults are cured. In the alternative, at Lender's option, any accrued and unpaid interest fees or charges may, for purposes of computing and accruing interest on a daily basis after the due date of this Note, or any payment hereunder, be deemed to be a part of the principal balance due under this Note, and interest shall accrue on a daily compounded basis after such date at the rate provided in the Note including, if applicable, the Default Rate, until the entire outstanding balance of principal and interest is paid in full. The provisions herein for a Default Rate and/or a Late Fee shall not be deemed to extend the time for any payment hereunder or to constitute a "grace period" giving Maker a right to cure any default. If the Default Rate is a factor of Lender's Prime Rate, the Default Rate will change each time as of the date that the Prime Rate changes. Failure of Lender at any time to exercise any of the aforesaid options or any other rights of Lender shall not constitute a waiver thereof, nor shall it be a bar to the exercise of any of the aforesaid options or rights at a later date. All rights and remedies of Lender shall be cumulative and may be pursued singularly, successively or together, at the option of Lender. If this Note is payable on demand, the acceptance by lender of any partial payment from Maker or any party secondarily liable hereon shall not affect the demand tenor of this Note. Imposition of late charges is not contingent upon the giving of any notice or lapse of any cure period provided for in the Loan Agreement.

7. Waivers and Consents. Maker waives presentment, protest and demand, notice of protest, demand and dishonor and nonpayment of this Note and agrees to perform and comply with each of the covenants, conditions, provisions and agreements of Maker contained in every instrument evidencing or securing said indebtedness. No extension of the time for payment of this Note made by agreement with any person now or hereafter liable for the payment of this Note shall operate to otherwise release, discharge, modify, change or affect the original liability of Maker under this Note, either in whole or in part.

Maker agrees to the full extent permitted by law that in case of a default hereunder, neither Maker nor anyone claiming through or under Maker shall or will set up, claim or seek to take advantage of any appraisement, valuation, stay, moratorium, execution, exemption from execution, marshalling of property, extension or redemption laws now or hereafter in force, in order to prevent or hinder the enforcement or foreclosure of the Mortgage, or the absolute sale of the mortgaged property or the final and absolute putting into possession thereof, immediately after such sale, of the purchasers thereat, and Maker for Maker and all who may at any time claim through or under Maker, hereby waives, to the full extent that Maker may lawfully so do, the benefit of all such laws, and any and all right to have the assets comprising the mortgaged property marshalled upon any foreclosure of the Mortgage or appraised for the purpose of reducing any deficiency judgment obtained by Lender against Maker and agree that Lender or any court having jurisdiction to foreclose such lien may sell the mortgaged property in part or as an entirety.

8. Renewals and Extensions. Maker and guarantors hereof and all others who may become liable for all or any part of this obligation consent to any number of renewals or extensions of the time of payment hereof. Any such renewals or extension or extensions may be made without notice to any of said parties and without affecting their liability.

9. Attorney's Fees; Costs. In the event it shall become necessary for the holder hereof to employ counsel to collect this Note or to protect or foreclose the security given for this Note, the undersigned also agree to pay to the holder hereof a reasonable attorney's fee for the services of such counsel and all costs of collection.

10. Security Agreement; Setoff. Maker hereby grants to Lender as further security for this Note and all other liability or indebtedness to Lender, a security interest in and right of set off against (a) all property of Maker in the possession, custody or control of Lender, whether now or hereafter existing; (b) any balance of deposit account subject to withdrawal by or individually owned by Maker; (c) any notes, bonds, drafts, or other items deposited with Lender by Maker for collection; and (d) the proceeds of and refunds of premiums with respect to any insurance obtained in connection with this Note. Lender shall be deemed to have possession of any of the above items in transit or set apart for it or any of its agents, associates or correspondents. Maker agrees that Lender shall have the right to file one or more financing statements under the Uniform Commercial Code of South Carolina (which Maker agrees to sign) indicating the types or describing the items herein specified as security. Lender shall not be required to take any steps necessary to preserve any rights against prior parties with respect to any of the above named items. Lender shall have authority at any time at or after the maturity of this Note, whether by acceleration or otherwise, to charge any or all amounts due under this Note against the above items or the proceeds thereof.

11. Preservation of Rights. Any failure of Lender or any subsequent holder hereof to exercise any rights hereunder shall not constitute a waiver of the right to the later exercise thereof and no course of conduct or dealing shall be effective to amend, modify, waive, release or change any provisions of this Note.

12. Usury. It is the intention of the parties that under no circumstances shall Maker be charged more than the highest rate permitted by law. It is, therefore, agreed that at the time of the final settlement or acceleration of the mortgage indebtedness under the terms of the Note and Mortgage the total charges for interest or in the nature of interest herein shall be limited to that amount which, if apportioned over the life of the loan to the maturity date herein provided, would not exceed the highest rate of interest permitted by law, and any excess portion of such charges that may have been prepaid shall be refunded to Maker at the time of final settlement or acceleration, as the case may be.

Such refunding may be made by application of the amount involved as a credit against the sums then due under the terms of such Note and Mortgage but such crediting shall not cure or waive the default occasioning the acceleration of said mortgage indebtedness as aforesaid.

13. Prepayment. Maker shall have the right to pay all or part of the unpaid indebtedness at any time without premium or penalty, but with interest to the date of said prepayment. All prepayments of principal shall be applied to the last maturing installment of principal.

14. Payments. All payments called for under this Note shall be in lawful money of the United States of America.

15. Governing Law. This instrument was executed and delivered in the State of South Carolina and shall be governed by and construed in accordance with the laws of the State of South Carolina, without giving effect to the principles of conflicts of laws.

16. Successors and Assigns. Whenever used, the words, "Maker", "Lender", and "Payee" shall be deemed to include the respective successors and assigns of Maker and Lender, and the singular number shall include the plural, the plural and singular and the use of any gender shall be applicable to all genders. The liability of Maker hereunder is and shall be joint and several as to each of the undersigned.

17. Changes. This Note may not be changed orally, but only by an agreement in writing and signed by the party against whom enforcement of any waiver, change, modification or discharge is sought. This Note replaces and corrects an identical Note which had inadvertently omitted the name of one Borrower. This Note is a replacement for correction purposes, only, and is not, nor is it intended to be, a novation. It shall constitute the "Note" for all purposes in all Loan Documents, and any modification to the extent necessary to protect all of Lender's priorities, rights, and remedies under the Loan Documents.

18. Severability. Whenever possible, each provision of this Note shall be interpreted in such a manner as to be effective and valid under applicable law, but if any provision or portion of this Note shall be prohibited by or invalid under such law, such provision or portion shall be ineffective to the extent of such prohibition or invalidity but without invalidating the remainder of such provision or portion or the remaining provisions of this Note.

19. Arbitration. UPON DEMAND OF EITHER PARTY, WHETHER MADE BEFORE OR AFTER INSTITUTION OF ANY JUDICIAL PROCEEDING, ANY DISPUTE, CLAIM OR CONTROVERSY ("DISPUTES") ARISING OUT OF, CONNECTED WITH, OR RELATING TO THE AGREEMENT OR THE LOAN SHALL BE RESOLVED BY BINDING ARBITRATION AS PROVIDED HEREIN. Institution of a judicial proceeding by a party does not waive the right of that party to demand arbitration hereunder. Disputes may include, without limitation, tort claims, counterclaims, disputes as to whether a matter is subject to arbitration, claims brought as class actions, claims arising from Loan Documents executed in the future, or claims arising out of or connected with the transaction reflected by this document.

Arbitration shall be conducted under and governed by the Commercial Financial Disputes Arbitration Rules ("Arbitration Rules") of the American Arbitration Association ("AAA") and Title 9 of the U.S. Code, as amended, if applicable, or under Chapter 48 of Title 15 of the South Carolina Code, as amended. All arbitration hearings shall be conducted in Myrtle Beach, South Carolina. All applicable statutes of limitation shall apply to Dispute. A judgment upon the award may be entered in any court having jurisdiction.

Notwithstanding the preceding binding arbitration provisions, Lender and Borrower agree to preserve, without diminution, certain remedies that any party hereto may employ or exercise freely, independently, or in connection with an arbitration proceeding, or after an arbitration action is brought. Lender and Borrower shall have the right to proceed in any court of proper jurisdiction, or by self-help, to exercise or prosecute the following remedies, as applicable: (a) all rights to foreclose against any real or personal property or other security by exercising a power of sale granted under the Loan Documents, or under applicable law, or by judicial foreclosure and sale, including a proceeding to confirm the sale; (b) all rights of self-help, including peaceful occupation of real property and collection of rents, setoff, and peaceful possession of personal property; (c) obtaining provisional or ancillary remedies, including injunctive relief, sequestration, garnishment, attachment, appointment of receiver, and filing an involuntary bankruptcy proceeding; and (d) when applicable, a judgment by confession of judgment. Preservation of these remedies does not limit the power of an arbitrator to grant similar remedies that may be requested by a party in Dispute.

Borrower and Lender agree that they shall not have a remedy of punitive or exemplary damages against the other in any Dispute, and hereby waive any right or claim to punitive or exemplary damages they have now, or which may arise in the future in connection with any Dispute, whether the Dispute is resolved by arbitration or judicially.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals effective this 29th day of February, 2008.

SIGNED, SEALED, AND DELIVERED IN
THE PRESENCE OF:

MAKER:

Herbert Rolle

Harvey L. Jones
Harvey L. Jones

Mary E. Nixon

Herbert Rolle

Wendy Jones Bellamy
Wendy Jones Bellamy

Mary E. Nixon

MYRTLE BEACH GRANDE HOTEL, LLC, a South Carolina
limited liability company

Herbert Rolle
(as to both)

By: Harvey L. Jones
Harvey L. Jones, Member

Mary E. Nixon
(as to both)

By: Wendy Jones Bellamy
Wendy Jones Bellamy, Member

LENDER:

THE NATIONAL BANK OF SOUTH CAROLINA

Herbert Rolle

By: George W. Lindsay, III
George W. Lindsay, III, Exec. Vice President

Mary E. Nixon

Exhibit "D"

(Mortgage)

See Attached

EXEMPT ADDITIONAL BORROWER.

Instrument#: 1008000028580, MTG BK:
5039 PG: 1051, PE: 002 03/03/2008
at 10:44:15 AM,
BALLERY V. SKIPPER, HORRY COUNTY,
SC REGISTRAR OF DEEDS

ORIGINAL

THE INDEBTEDNESS SECURED HEREBY CONTAINS PROVISIONS
FOR ADJUSTMENTS IN THE RATE OF INTEREST

THIS AGREEMENT IS SUBJECT TO ARBITRATION PURSUANT TO THE COMMERCIAL FINANCIAL
DISPUTES ARBITRATION RULES AND UNIFORM ARBITRATION ACT (SOUTH CAROLINA)

STATE OF SOUTH CAROLINA)

COUNTY OF HORRY)

6525075680-05
MORTGAGE AND SECURITY
AGREEMENT

THIS Mortgage and Security Agreement ("Mortgage") is dated this 29th day of February, 2008

"Mortgagor" or "Borrower" is the individual and collective reference to Myrtle Beach Grande Hotel, LLC, Harvey L. Jones, Wendy Jones (J.) Bellamy, Billy Joe (J.) Bellamy, Kersi S. Shroff, and Myrtle Beach Grande Hotel, LLC, a South Carolina limited liability company, whose address is 405 Flagg Street, Myrtle Beach, SC 29577.

"Mortgagee" is The National Bank of South Carolina, whose address is P.O. Box 219, Myrtle Beach, SC 29578.

The "Note", whether represented by one or more instruments, is a note(s) from Harvey L. Jones and Wendy Jones Bellamy (individually and collectively, "Borrower") to Mortgagee in the principal amount of One Million Eight Hundred Thirty Five Thousand and 00/100 (\$1,835,000.00) Dollars dated of even date herewith. The Note and any documents renewing, extending, or modifying it or given in substitution thereof or in consolidation thereof or therewith, and any notes evidencing future advances or readvances and extensions, renewals, modifications, increases, substitutions, or consolidations thereof are all referred to as the "Note", and are considered to be a part of and secured by this Mortgage. THE NOTE MAY CONTAIN PROVISIONS FOR INTEREST RATE ADJUSTMENTS. The final maturity date of the note is ----- (If no date is inserted, then the lien of this Mortgage shall remain in force for the period provided in Section 29-1-10, Code of Laws of South Carolina, 1976 (as amended). The amount of the debt secured by this Mortgage, including the outstanding amount of the Note and all future advances under Paragraph 13 below, shall at no time, exceed twice the face amount of the Note, plus interest, attorney's fees, and court costs incurred in the collection of amounts due hereunder, and all expenditures by Mortgagee under Paragraph 5 below. INTEREST UNDER THE NOTE MAY BE DEFERRED, ACCRUED, OR CAPITALIZED, BUT MORTGAGEE SHALL NOT BE REQUIRED TO DEFER, ACCRUE, OR CAPITALIZE ANY INTEREST, EXCEPT AS PROVIDED IN THE NOTE.

This Mortgage is given to secure to Mortgagee the repayment of the following amounts, with interest: (a) indebtedness evidenced by the Note and all extensions, renewals, modifications, consolidations and substitutions thereof, whether evidenced by one or more than one instrument; (b) any future advances and readvances made under Paragraph 13 below; (c) expenditures by Mortgagee under Paragraph 5 below; and (d) attorney's fees, court costs, and other amounts which may be or become due under the Note and/or the Mortgage. In consideration of the above indebtedness, and as a material inducement to Mortgagee to make the loan evidenced by the Note to Borrower, and other valuable consideration which Borrower and Mortgagor acknowledge receiving, Borrower and Mortgagor do hereby mortgage, grant, and convey to Mortgagee, its heirs, successors, and assigns, the following described real estate and improvements located thereon, together with all furniture, furnishings, fixtures, trade fixtures, and equipment ("FF&E"), guest and business records, and deposits, and the names and good will of "Rainbow Court" and "Tropical Plaza", now or hereafter located upon any portion of the said real estate, and improvements and all substitutions and replacements thereof, and all proceeds and products thereof ("Property"):

See Exhibit "A" attached hereto and
incorporated herein by this reference.

Notwithstanding the foregoing, FF&E located upon Parcel IV is excluded herefrom.

Together with all and singular the rights, members, hereditaments, and appurtenances belonging or in any way incident or appertaining thereto, including, without limitation, after-acquired property; all improvements now or hereafter situated thereon; and all fixtures now or hereafter attached thereto (all of the same being deemed part of the Property and included in any reference thereto);

To have and to hold all and singular the Property unto Mortgagee and the heirs, successors, and assigns of Mortgagee forever.

Borrower and Mortgagor covenant that Borrower and Mortgagor are lawfully seized of the Property in fee simple absolute as set forth below, that Borrower and Mortgagor has good right and is lawfully authorized to sell, convey, or encumber the same, and that the Property is free and clear of all encumbrances except as expressly provided herein, or as accepted by Mortgagee in any title insurance policy issued in connection with this Mortgage. Borrower and Mortgagor further covenants to warrant and forever defend, all and singular, the Property unto Mortgagee, and the heirs,

at 10:42:10 AM, 1 OF 12
BALLERY V. SKIPPER, HORRY COUNTY,
SC REGISTRAR OF DEEDS

successors, and assigns of Mortgagee from and against Borrower and Mortgagor, and all persons whomsoever lawfully claiming the same or any part thereof. The Property is owned as follows:

Parcel I	Lot 4, Block 28, Hotel Section	Harvey L. Jones and Wendy Jones Bellamy
Parcel II	Lot 1, Block 31, Hotel Section	Myrtle Beach Grande Hotel, LLC
Parcel III	Lot 2, Block 31, Hotel Section	Myrtle Beach Grande Hotel, LLC
Parcel IV	Lot 3, Block 7, Long Bay Estates	Billy Joe Bellamy and Wendy Jones Bellamy
Parcel V	Lots 11-15, Block 28, Hotel Section	Harvey L. Jones, Wendy J. Bellamy and Kersi S. Shroff
Parcel VI	Lot 1, Block 13, Hotel Section	Harvey L. Jones and Wendy Jones Bellamy

Provided, always, nevertheless, and it is the true intent and meaning of Borrower, Mortgagor, and Mortgagee, that if Borrower and/or Mortgagor pay or cause to be paid to Mortgagee the debt secured hereby, the estate hereby granted shall cease, determine, and be utterly null and void; otherwise said estate shall remain in full force and effect. This Mortgage is subordinate to a prior mortgage in favor of Countrywide Home Loans/MERS dated July 7, 2006, recorded in Real Estate Mortgage Book 4635 at Page 1129, as to Parcel IV, and to a prior mortgage in favor of Mortgagee dated January 11, 2008 recorded in Real Estate Mortgage Book 4514 at Page 1338 as to Parcel VI; all records of Horry County, South Carolina ("Prior Mortgages").

It is agreed that Borrower and Mortgagor shall be entitled to hold and enjoy the Property until a default (as hereinafter defined) has occurred.

Borrower and Mortgagor further covenants and agrees with Mortgagee as follows:

1. Assignment of Rents and Profits. As further security for all sums secured by this Mortgage, Borrower and Mortgagor presently, absolutely, and unconditionally, assigns to Mortgagee all rents and profits arising from the Property; provided, however, that so long as no default as hereinafter defined has occurred, Borrower and Mortgagor shall be entitled to collect and retain all such rents and profits under license from Mortgagee herein granted as the property of Borrower and Mortgagor. In the event Borrower and Mortgagor have executed a separate Assignment of Rents, Leases, Issues, and/or Profits in connection with the Note secured hereby, Mortgagee shall, in its sole discretion, and at any time, have the absolute right to elect under which of any conflicting provisions to proceed.

2. Maintenance. Borrower and Mortgagor will maintain the Property in good condition and repair, and will neither permit nor allow waste thereof. Borrower and Mortgagor will promptly repair or restore any portion of the Property which is damaged or destroyed by any cause whatsoever, and will promptly pay when due all costs and expenses of such repair or restoration. Borrower and Mortgagor will not remove or demolish any improvement or fixture which is now or hereafter part of the Property, and will cut no timber on, or remove any minerals from, the Property without the express written consent of Mortgagee. Mortgagee shall be entitled to specific performance of the provisions of this paragraph.

3. Insurance. Except as may be modified by any attached Planned Unit Development or Condominium Riders, Borrower and Mortgagor will keep all improvements and fixtures, which are now or hereafter part of the Property, insured by such company or companies as Mortgagee may reasonably approve, for the full insurable value thereof, against all risks, including, without limitation, and if coverage is available, flood and earthquake and, if this insurance will be payable to Mortgagee as the interest of Mortgagee may appear pursuant to the New York standard form of mortgagee clause or such other form of mortgagee clause as may be required by Mortgagee, and will not be cancelable by either the insurer or the insured without at least ten (10) days prior written notice to Mortgagee. Mortgagor hereby assigns to Mortgagee the right to collect and receive any indemnity payment otherwise owed to Borrower and Mortgagor upon any policy of insurance insuring any portion of the Property, regardless of whether Mortgagee is named in such policy as a person entitled to collect upon the same. Any indemnity payment received by Mortgagee from any such policy of insurance may, at the option of Mortgagee; (a) be applied by Mortgagee to payment of any sum secured by this Mortgage, in such order as Mortgagee may determine; or (b) be applied in a manner determined by Mortgagee to the replacement, repair, or restoration of the portion of the Property damaged or destroyed; or (c) be released to Borrower and Mortgagor upon such conditions as Mortgagee may determine; or (d) be used for any combination of the foregoing purposes. No portion of any indemnity payment which is applied to the replacement, repair, or restoration of any portion of the Property, or which is released to Borrower and Mortgagor, shall be deemed a payment against any sums secured by this Mortgage. Borrower and Mortgagor will keep the Property continuously insured as herein required, and will deliver to Mortgagee the original of each policy of insurance required hereby. Borrower and Mortgagor will pay each premium coming due on any such policy of insurance, and will deliver to Mortgagee proof of such payment at least ten (10) days prior to the date such premium would become overdue or delinquent. Upon the expiration or termination of any such policy of insurance, Borrower and Borrower and Mortgagor will become overdue or delinquent. Upon the expiration or termination of any such policy of insurance, Mortgagor will furnish to Mortgagee, at least ten (10) calendar days prior to such expiration or termination, the original of a renewal or replacement policy of insurance meeting the requirements hereof. If Borrower and Mortgagor fails to insure the Property as herein required, Mortgagee may so insure the Property in the name of Borrower and Mortgagor or in the name of Mortgagee, or both, and the premiums for any such insurance

obtained by Mortgagee shall be the obligation of Borrower and Mortgagor. Upon foreclosure of this Mortgage, all right, title, and interest of Borrower and Mortgagor in and to any policy of insurance upon the Property which is in the custody of Mortgagee, including the right to unearned premiums, shall vest in the purchaser of the property at foreclosure, and Borrower and Mortgagor hereby appoints Mortgagee as the attorney-in-fact of Borrower and Mortgagor to assign all right, title, and interest of Borrower and Mortgagor in and to any such policy of insurance to such purchaser. This appointment is coupled with an interest, and shall be irrevocable.

4. Taxes and Assessments. Borrower and Mortgagor will pay all taxes (including, without limitation, all "roll-back" taxes), assessments, and other charges which constitute or are secured by a lien upon the Property, and which are, or could become, superior to the lien of this Mortgage, and will deliver to Mortgagee proof of payment of the same not less than ten (10) days prior to the date the same becomes delinquent; provided, however, that Borrower and Mortgagor shall be entitled to the appropriate proceedings to contest the amount or validity of such tax, assessment, or charge, so long as the collection of the same by foreclosure of the lien upon the Property is stayed during the pendency of such proceedings, and Borrower and Mortgagor deposits with the authority to which such tax, assessment, or charge is payable, or with Mortgagee, appropriate security for payment of the same, together with any applicable interest and penalties, should the same be determined due and owing.

5. Expenditures by Mortgagee. If Borrower and Mortgagor fails to make payment for restoration or repair of the Property, for insurance premiums or for taxes, assessments, or other charges as required in this Mortgage, or in any Rider hereto, Mortgagee may, but shall not be obligated to, pay for the same, and any such payment by Mortgagee will be secured by this Mortgage and have the same rank and priority as the principal debt secured hereby, and bear interest from the date of payment at the rate payable from time to time on outstanding principal under the Note. Payments made for taxes by Mortgagee shall be a first lien on the Property to the extent of the taxes so paid, with interest from the date of payment, regardless of the rank and priority of this Mortgage. Borrower and Mortgagor shall pay to Mortgagee, in cash, on demand, an amount equal to any payment made by Mortgagee pursuant to this paragraph, plus interest thereon as provided herein.

6. Condemnation. Mortgagee shall be entitled to be made a party and to participate in any proceeding, whether formal or informal, for condemnation (including, without limitation, inverse condemnations) or acquisition pursuant to power of eminent domain of any portion of the Property. Borrower and Mortgagor hereby assign to Mortgagee the right to collect and receive any payment or award to which Borrower and Mortgagor would otherwise be entitled by reason of condemnation or acquisition pursuant to power of eminent domain or any portion of the Property. Any such payment or award received by Mortgagee may, at the sole discretion of Mortgagee: (a) be applied by Mortgagee to payment of any sums secured by this Mortgage in such order as Mortgagee may determine; or (b) be applied in a manner determined by Mortgagee to the replacement of the portion of the Property taken and to the repair or restoration of the remaining portion of the Property; or (c) be released to Borrower and Mortgagor upon such conditions as Mortgagee may determine; or (d) be used for any combination of the foregoing purposes. No portion of an indemnity payment which is applied to replacement, repair, or restoration of any portion of the Property or which is released to Borrower and Mortgagor shall be deemed a payment against any sums secured by this Mortgage.

7. Transfer. At the option of Mortgagee, the indebtedness secured by this Mortgage shall become due and payable if, without the prior written consent of Mortgagee, Borrower, or Mortgagor (or any Borrower or Mortgagor, if more than one) shall convey away the Property, or any legal, equitable, or beneficial interest therein (including, without limitation, the placing of any additional liens upon the Property), or if the title shall become vested in any other person or entity in any manner whatsoever, other than by death of a natural person Borrower or Mortgagor. A transfer of stock, voting rights, or control of Borrower and Mortgagor, if Borrower or Mortgagor is a corporation, shall be a "transfer" hereunder. If Borrower or Mortgagor is a general partnership or limited partnership, the transfer of the interest of any general partner shall constitute a "transfer" hereunder. If Borrower or Mortgagor is a limited liability partnership or company, the transfer of any control, ownership, membership, or management of the manager(s) shall constitute a "transfer" hereunder.

8. Borrower shall be in default hereunder if:

Default. For purposes of this Agreement, a "Default" shall be the occurrence or existence of any of the following events or conditions listed as items (a) through (j) of this Section and the continuance thereof for either:

- (i) The specific period of time, if any, herein specified with respect to such event or condition;
- (ii) A period of ten (10) days after the due date thereof if no period is specified and the event or condition is a failure to pay money to Mortgagee as and when due;
- (iii) A period of fifteen (15) days after written notice thereof to Borrower if no period is specified and the event or condition is not a failure to pay money, provided that Mortgagee shall not be required to give notice more than twice in any twelve (12) month period or at Note

maturity, and further provided that there shall be no obligation of Mortgagee to give notice and no right of Borrower or Mortgagor to cure if the event or condition is either the institution of a voluntary bankruptcy, insolvency or receivership action, the giving of any material, false or fraudulent representation to Mortgagee, the failure to keep the Property, rents, and profits free and clear from consensual liens or transfers not approved in writing in advance by Mortgagee.

- (a) Failure of Borrower or Mortgagor (if different) to pay any installment of principal or interest upon the Note hereby secured when due;
- (b) Failure of Borrower or Mortgagor to pay any other sums secured by this Mortgage when due;
- (c) Failure of Borrower or Mortgagor (as applicable) to observe or perform any covenant or agreement set forth in this Mortgage or in any loan agreement, or other document or instrument evidencing, securing, or related to the Note any guaranty thereof, including, without limitation, any assignment of judgment and/or proceeds related to any of the Property, and that certain Agreement Regarding Action of even date herewith, and any amendment of any of the foregoing;
- (d) Adjudication of Borrower or Mortgagor, or any guarantor as bankrupt; written admission by Borrower, Mortgagor, or any guarantor of an inability to pay their respective debts as they mature; assignment of the assets of Borrower, Mortgagor, or any guarantor for the benefit of creditors; request or petition by Borrower, Mortgagor, or any guarantor for the appointment of a receiver, trustee, or conservator of their respective assets, or for reorganization or liquidation of Borrower, Mortgagor, or any guarantor; or acquiescence by Borrower, Mortgagor, or any guarantor to any such request or petition made by another person;
- (e) Default in the terms or conditions of any other mortgage or lien (regardless of priority) on the Property, including, without limitation, either of the Prior Mortgages, or of any other indebtedness now or hereafter existing in favor of Mortgagee.
- (f) Disassociation or dissolution of Borrower or Mortgagor for a period exceeding thirty (30) days, if either Borrower or Mortgagor is any form of partnership or limited liability company;
- (g) Forfeiture, revocation, or cancellation of any corporate Borrower's or Mortgagor's charter, unless said charter is reinstated within thirty (30) days from the date of such forfeiture, revocation.
- (h) The Property becomes subject to any mechanic's, materialman's or other lien other than a lien for local real estate taxes and assessments not then due and payable, and such lien shall remain undischarged of record (by payment, bonding, or otherwise) for a period of thirty (30) days;
- (i) Borrower or Mortgagor fails to cure promptly any violation of laws or ordinances affecting or which may be interpreted to affect the Property;
- (j) Should the United States, or any state or local government instrumentality or anyone else file a lien affecting the Property, unless cured within thirty (30) days or contested in good faith and bonded, within thirty (30) days; or
- (k) Should Borrower or Mortgagor fail to pay (i) any other indebtedness secured hereby or any part thereof; or (ii) taxes, fees-in-lieu of taxes, assessments (including, without limitation, property owners' association assessments), levies, claims, liens, obligations, encumbrances, and other charges as hereinbefore provided with respect to the Property, unless same are being contested in good faith and are bonded, when and as the same shall become due and payable.

9. Remedies. Upon the occurrence of a Default as hereinabove defined (and subject to any applicable notice or "grace provision" in the Note or other document or instrument evidencing or securing the Note), Mortgagee may, without notice to Borrower and Mortgagor, declare all sums secured by this Mortgage immediately due and payable, and may commence proceedings to collect such sums, foreclose this Mortgage, and sell the Property. At the foreclosure, Mortgagee shall be entitled to bid and to purchase the Property, and shall be entitled to apply the debt secured hereby, or any portion thereof, in payment for the Property. The remedies provided to Mortgagee in this paragraph shall be in addition to, and not in lieu of, any other rights and remedies provided in this Mortgage or by law and/or equity (including, without limitation, any and all remedies available under the Uniform Commercial Code of the State of South Carolina; it being hereby agreed that fifteen (15) days notice as to time and place of any sale shall be reasonable, all of which rights and remedies may be exercised by Mortgagee independently, simultaneously, or consecutively, in any order, without being deemed to have waived any right or remedy previously or not yet exercised. A Default hereunder shall

constitute an automatic revocation of the license granted under Paragraph 1 (Assignment of Rents and Profits). In the event the Property is comprised of more than one parcel of real property, Borrower and Mortgagor hereby waive any right to require Mortgagee to foreclose or exercise any of its other remedies before proceeding against all of the Property as a whole, or to require Mortgagee to foreclose or exercise such remedies against one portion of the Property prior to the foreclosure or exercise of said remedies against other portions of the Property. The remedies of Mortgagee under this Mortgage are in addition to and not exhaustive of any rights or remedies available to Mortgagee under any other document or instrument evidencing or securing the Note.

10. Appointment of Receiver. Upon the occurrence of a Default as hereinabove defined, Mortgagee shall be entitled to the appointment of a receiver to enter upon, and take and maintain, full control of the Property in order to perform all acts necessary and appropriate for the operation and maintenance thereof, including, but not limited to, the execution, cancellation, modification of leases, the making of repairs to the Property, the execution or termination of contracts providing for the management or maintenance of the Property, all on such terms as are deemed best to protect the security of this Mortgage. The receiver shall be entitled to receive a reasonable fee for so managing the Property. All rents collected pursuant to this paragraph shall be applied first to the costs of taking control and managing the Property, and collecting the rents, including, but not limited to, attorney's fees, receiver's fees, premiums on receiver's bonds, costs or repairs to the Property, premiums on insurance policies, taxes, assessments, and other charges on the Property, and the costs of discharge of any liability or obligation or liability of Borrower or Mortgagor as lessor or landlord on the Property, and then to the sums secured by this Mortgage. Mortgagee or the receiver shall have access to the books and records used in the operation and maintenance of the Property, and shall be liable to account only for those rents actually received. Mortgagee shall not be liable to Borrower or Mortgagor, anyone claiming under Borrower or Mortgagor, or anyone having an interest in the Property by reason on anything done or left undone by Borrower or Mortgagor under this paragraph. If the rents of the Property are not sufficient to meet the costs of taking control of and managing the Property and collecting the rents, Mortgagee, at its sole option, may advance funds to meet the costs. Any funds expended by Mortgagee for such purposes shall become indebtedness of Borrower or Mortgagor to Mortgagee, secured by this Mortgage. Unless Mortgagee, Borrower, and Mortgagor agree in writing to other terms of payment, such amounts shall be payable upon notice from Mortgagee to Borrower and Mortgagor requesting payment thereof, and shall bear interest from the date of disbursement at the rate stated in the Note. The entering upon and taking and maintaining of control of the Property by Mortgagee or the receiver, and the application of rents as provided herein, shall not cure or waive any default hereunder, or invalidate any other right or remedy of Mortgagee hereunder.

11. Waiver and Release by Mortgagee. Mortgagee may, in its sole discretion, from time to time, waive or forbear from enforcing any provision of this Mortgage, and no such waiver or forbearance shall be deemed a waiver by Mortgagee of any right or remedy provided herein, or by law, or be deemed a waiver of the right at any later time to strictly enforce all provisions of this Mortgage, and to exercise any and all remedies provided herein by law. Mortgagee may, without notice to Borrower or Mortgagor, and without prejudice to any of Mortgagee's rights or Borrower's or Mortgagor's obligations under the Note or this Mortgage, release, waive, forbear, and generally grant indulgences with respect to the Property, Borrower, Mortgagor, any other party, or any other collateral securing the Note or any guaranty thereof.

12. Waiver of Marshalling an Suretyship Defenses. Borrower and Mortgagor each waive, to the fullest extent permitted by law, all rights to direct the order in which any of the Property will be sold in the event of a foreclosure of this Mortgage, and also any rights to have any of the Property marshalled upon any foreclosure sale. Borrower and Mortgagor, if different parties, each waive and release all rights of subrogation, reimbursement, contribution, and other suretyship rights and defenses now existing or hereafter arising against and among: (a) each other; and (b) against and among third parties, should either Borrower or Mortgagor be or become secondarily or co-liable under the Note and the Mortgage; all until such time as all indebtedness secured by this Mortgage is paid in full.

13. Future Advances. Mortgagee, at its sole option, may make future advances to Borrower or Mortgagor. Such future advances, with interest at the rate payable from time to time on the outstanding principal under the Note, shall be secured by this Mortgage when evidenced by the Note or by any other note stating that it is secured by this Mortgage, or when advanced under the terms of this Mortgage. Mortgagee may make such future advances: (a) at the request of Borrower or Mortgagor, whether or not there is any obligation to make future advances; (b) pursuant to an advance of funds under Paragraph 10 above; or (c) to pay, with or without the consent or request of Borrower or Mortgagor, any amounts which may be due under any other mortgage or lien affecting the Property.

14. Notices. All notices hereunder shall be in writing and shall be deemed to have been sufficiently given or served when presented personally or three (3) days following the date when deposited in the mail by registered or certified U.S. Mail, postage prepaid, return receipt requested, addressed to the parties at their respective addresses set forth above, or to such other address(es) as the parties may notify each other in writing.

15. Security Agreement. This Mortgage, to the extent that it relates to personal property, is a security agreement, and shall support any financing statement filed showing Mortgagee's interest as a secured party, lienholder, or creditor with respect to any personal property mentioned in such financing statements and any extensions, renewals, amendments, and releases thereof, and shall pay all costs and expenses (including legal fees) of any record searches

for financing statements Mortgagee may reasonably require. Neither Borrower nor Mortgagor shall, without the prior written consent of Mortgagee, create, or suffer to be created pursuant to the Uniform Commercial Code, any other security interest in said personal property, including replacements and additions thereto. In the event of a default of any covenant or agreement of Borrower or Mortgagor contained in this Mortgage, Mortgagee shall, in addition to all other rights and remedies herein provided, have all the remedies accorded a secured party under the Uniform Commercial Code. Mortgagee is authorized to file financing statements, extensions, and amendments thereof without the signature of Borrower or Mortgagor.

16. Hazardous Substances and Indemnification. Neither Borrower nor Mortgagor shall cause or permit the presence, use, disposal, storage or release of any Hazardous Substance on or in the Property. Neither Borrower nor Mortgagor shall do, nor allow anyone else to do, anything affecting the Property that is in violation of any Environmental Law. The preceding two (2) sentences of this Paragraph 16 shall not apply to the presence, use, or storage on the Property of small quantities of Hazardous Substances that are generally recognized to be appropriate to normal residential uses, and to the maintenance of the Property.

Borrower and Mortgagor shall promptly give Mortgagee written notice of any investigation, claim, demand, lawsuit, or other action by any governmental or regulatory agency or private party involving the Property and any Hazardous Substance or Environmental Law of which Borrower and Mortgagor has actual knowledge. If Borrower or Mortgagor learns, or is notified by any governmental or regulatory authority, that any removal or other remediation of any Hazardous Substance affecting the Property is necessary, Borrower and Mortgagor shall promptly take all necessary actions in accordance with Environmental Law.

"Hazardous Substances" are those substances defined as toxic or hazardous substances by Environmental Law, and the following substances: gasoline, kerosene, other flammable or toxic petroleum products, toxic pesticides and herbicides, volatile solvents, materials containing asbestos or formaldehyde, and radioactive materials. As used in this Paragraph 16, "Environmental Law" means federal laws and laws of the jurisdiction where the property is located that relate to health, safety, or environmental protection.

Borrower and Mortgagor agree to indemnify and hold Mortgagee harmless from and against, and to reimburse Mortgagee with respect to, any and all claims, demands, causes of action, losses, damages, liabilities, costs, and expenses (including reasonable attorney's fees and court costs of any and every kind or character, known or unknown, fixed or contingent, asserted against or incurred by Mortgagee at any time and from time to time by reason or arising out of any violation of any Environmental Law. The provisions of this paragraph shall survive the satisfaction or release of this Mortgage and the payment of the Note, and shall continue thereafter in full force and effect.

17. Inspection. Mortgagee or its agent may make (without being deemed a mortgagee-in-possession) reasonable entries upon and inspections of the Property, including, without limitation, the performance of environmental assessments (which such assessments shall be at Mortgagee's expense). Mortgagee shall give Borrower and Mortgagor notice at the time of or prior to an inspection specifying reasonable cause for the inspection.

18. Compliance with Laws. Mortgagee shall comply with all governmental laws, rules, and regulations (including, without limitation, all "wetlands" regulations) affecting the Property, and with all restrictive covenants affecting the Property.

19. Loss of Note. Upon notice from Mortgagee of the loss, theft, or destruction of the Note, and upon receipt of an affidavit of lost Note and an indemnity reasonably satisfactory to Borrower from Mortgagee, or in the case of mutilation of the Note, upon surrender of the mutilated Note, Borrower shall make and deliver a new Note of like tenor in lieu of the then-to-be superseded Note. Without limiting any other remedy of Mortgagee, Mortgagee may enforce the provisions of this Paragraph by specific performance.

20. Miscellaneous.

- (a) The agreement contained herein shall bind and inure to the benefit of Borrower, Mortgagor, and Mortgagee, and their respective heirs, successors, and assigns.
- (b) The headings and captions of sections, paragraphs, and subdivisions of this Mortgage are for the convenience of reference only, are not to be considered a part hereof, and shall not limit or otherwise affect any of the terms hereof.
- (c) If any provision of this Mortgage conflicts with applicable law or the decision of any court of competent jurisdiction, such conflict shall not affect other provisions of this Mortgage which can be given effect without the conflicting provision, and to this end, the provisions of this Mortgage are declared to be severable.

- (d) This Mortgage shall be governed by, construed, and enforced in accordance with the laws of the State of South Carolina.
- (e) All agreements, promises, and covenants of Borrower (if more than one) and of Mortgagor (if more than one) shall be joint and several.
- (f) To the extent the proceeds of the Note have or shall be used to purchase the Property or any part thereof, whether directly or indirectly, this Mortgage shall constitute a purchase money mortgage. To the extent the proceeds of the Note have been used to pay off or release any lien upon the Property, the rights of Mortgagee and the lien of this Mortgage shall be subrogated to the rights and/or lien of the party so paid.
- (g) No delay, act, or failure to act, by Mortgagee, however long continued, or the granting of any indulgence by Mortgagee, shall be construed as a waiver of any of Mortgagee's rights hereunder or of any default by Borrower or Mortgagor.
- (h) Borrower and Mortgagor acknowledge actual and adequate consideration for the granting of this Mortgage, and acknowledge the fact that Mortgagee would not make the loan evidenced by the Note without the granting of this Mortgage, that this Mortgage is a material inducement to Mortgagee for the making of said loan, and that the granting of this Mortgage is of direct benefit to Borrower and Mortgagor. If Borrower is not the Mortgagor, Mortgagor warrants and represents to Mortgagee that Mortgagor is not insolvent and that the granting of this Mortgage shall not render Mortgagor insolvent.
- (i) Time is of the essence with respect to the provisions of this Mortgage.
- (j) The rights of Mortgagee, granted and arising under the clauses and covenants contained in this Mortgage, the Note, and other Loan Documents, shall be separate, distinct, and cumulative of other powers and rights herein granted, and all other rights which Mortgagee may have, in law or in equity, and none of them shall be in exclusion of the others; and all of them are cumulative to the remedies for collection of indebtedness, enforcement of rights under mortgages, and preservation of security as provided at law. No act of Mortgagee shall be construed as an election to proceed under any one provision herein, or under the Note or any other Loan Document, to the exclusion of any other provision, or an election of remedy allowed at law or in equity, anything herein or otherwise to the contrary notwithstanding.
- (k) Any indulgence or departure at any time by Mortgagee from any of the provisions hereof, or any of the obligations hereby secured, shall not modify the same or relate to the future or waive future compliance therewith by Borrower and Mortgagor.
- (l) Borrower and Mortgagor each will defend, at its own cost and expense, and indemnify and hold Mortgagee harmless from any action, proceeding, or claim affecting the Property, the Note, or any other Loan Document. Costs and expenses will include reasonable attorney's fees. If Borrower or Mortgagor neglects or refuses to act pursuant to this Paragraph 20(l), Mortgagee, at its option (whether electing to declare the entire Note due and collectible or not, or to pursue other remedies for a Default), may pay for all reasonable attorney's fees, costs, and expenses incurred in such action. All such payments, bearing interest thereon from the time of payment at the default rate of interest described in the Note, shall be deemed secured by this Mortgage, and shall be immediately due and payable by Borrower and Mortgagor to Mortgagee.
- (m) Borrower and Mortgagor authorize Mortgagee to file financing statements, amendments, extensions, and terminations without the signature of Borrower or Mortgagor.
- (n) The Note evidences a commercial loan.
- (o) The following Riders are attached and made a part hereof: NONE
- (p) In the event there is a conflict between the terms of the loan commitment dated February 5, 2008 ("Loan Commitment") and the terms of this Mortgage or any other document or instrument evidencing or securing the Note (together with all amendments, "Loan Documents"), the terms of the Loan Documents shall control. The terms of the Loan Commitment, to the extent they do not conflict with the Loan Documents, shall survive the execution of this Mortgage, the Note, and Loan Documents. Borrower and Mortgagor each consent to and authorize any and all provisions of this Mortgage, the Note, or any Loan Documents which may differ from the provisions of the (or any) Loan Commitment, it being agreed that such changes have been made with the mutual agreement of all of the undersigned.

- (q) Borrower and Mortgagor shall permit any representative or agent of Mortgagee to examine and audit any or all of Borrower's and Mortgagor's books and records when requested by Mortgagee.
- (r) Borrower and Mortgagor shall timely and promptly provide Mortgagee with copies of Borrower's and Mortgagor's federal tax returns, and such other financial information, within seven (7) calendar days of request by Mortgagee.
- (s) Borrower and Mortgagor shall maintain all of their operating accounts, primary deposits, and merchant card accounts with Mortgagee in Myrtle Beach, SC.

21. Arbitration. UPON DEMAND OF EITHER PARTY, WHETHER MADE BEFORE OR AFTER INSTITUTION OF ANY JUDICIAL PROCEEDING, ANY DISPUTE, CLAIM OR CONTROVERSY ("DISPUTES") ARISING OUT OF, CONNECTED WITH, OR RELATING TO THE AGREEMENT OR THE LOAN SHALL BE RESOLVED BY BINDING ARBITRATION AS PROVIDED HEREIN. Institution of a judicial proceeding by a party does not waive the right of that party to demand arbitration hereunder. Disputes may include, without limitation, tort claims, counterclaims, disputes as to whether a matter is subject to arbitration, claims brought as class actions, claims arising from Loan Documents executed in the future, or claims arising out of or connected with the transaction reflected by this document.

Arbitration shall be conducted under and governed by the Commercial Financial Disputes Arbitration Rules ("Arbitration Rules") of the American Arbitration Association ("AAA") and Title 9 of the U.S. Code, as amended, if applicable, or under Chapter 48 of Title 15 of the South Carolina Code, as amended. All arbitration hearings shall be conducted in Columbia, South Carolina. All applicable statutes of limitation shall apply to Dispute. A judgment upon the award may be entered in any court having jurisdiction.

Notwithstanding the preceding binding arbitration provisions, Lender and Borrower agree to preserve, without diminution, certain remedies that any party hereto may employ or exercise freely, independently, or in connection with an arbitration proceeding, or after an arbitration action is brought. Lender and Borrower shall have the right to proceed in any court of proper jurisdiction, or by self-help, to exercise or prosecute the following remedies, as applicable: (a) all rights to foreclose against any real or personal property or other security by exercising a power of sale granted under the Loan Documents, or under applicable law, or by judicial foreclosure and sale, including a proceeding to confirm the sale; (b) all rights of self-help, including peaceful occupation of real property and collection of rents, setoff, and peaceful possession of personal property; (c) obtaining provisional or ancillary remedies, including injunctive relief, sequestration, garnishment, attachment, appointment of receiver, and filing an involuntary bankruptcy proceeding; and (d) when applicable, a judgment by confession of judgment. Preservation of these remedies does not limit the power of an arbitrator to grant similar remedies that may be requested by a party in Dispute.

Borrower and Lender agree that they shall not have a remedy of punitive or exemplary damages against the other in any Dispute, and hereby waive any right or claim to punitive or exemplary damages they have now, or which may arise in the future in connection with any Dispute, whether the Dispute is resolved by arbitration or judicially.

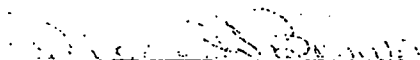
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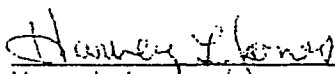
Waiver of Appraisal Rights to Deficiency Judgment. The laws of South Carolina provide that in any real estate foreclosure proceeding a defendant against whom a personal judgment is taken or asked may, within thirty (30) days after the sale of the mortgaged property, apply to the court for an order of appraisal. The statutory appraisal value as approved by the court would be substituted for the high bid, and may decrease the amount of any deficiency owing in connection with the transaction. **THE UNDERSIGNED BORROWER AND MORTGAGOR (IF DIFFERENT) EACH HEREBY WAIVES AND RELINQUISHES THE STATUTORY APPRAISAL RIGHTS, WHICH MEANS THE HIGH BID AT THE JUDICIAL FORECLOSURE SALE WILL BE APPLIED TO THE DEBT, REGARDLESS OF ANY APPRAISED VALUE OF THE MORTGAGED PROPERTY.**

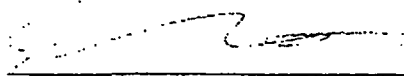
IN WITNESS WHEREOF, Borrower and Mortgagor have executed this Mortgage under seal the day and year first written above.

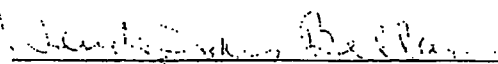
SIGNED, SEALED, AND DELIVERED IN:
THE PRESENCE OF:

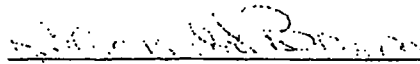
BORROWER/MORTGAGOR:

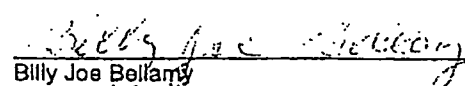


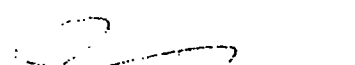

Harvey L. Jones



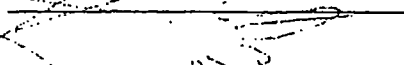

Wendy Jones Bellamy



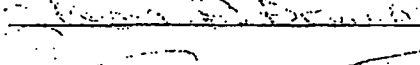

Billy Joe Bellamy

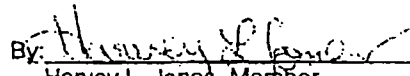


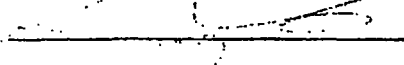

Kersi S. Shroff

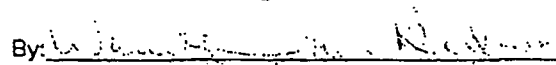


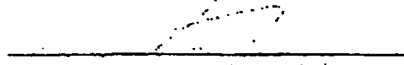
MYRTLE BEACH GRANDE HOTEL, LLC, a South Carolina
limited liability company

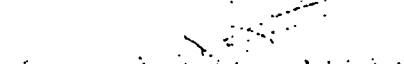


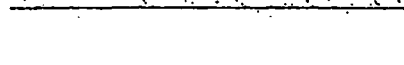
By: 
Harvey L. Jones, Member



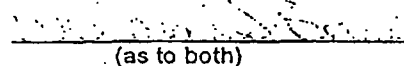
By: 
Wendy Jones Bellamy, Member

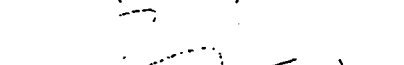


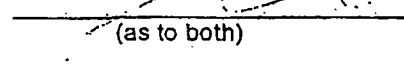




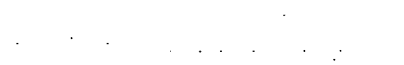


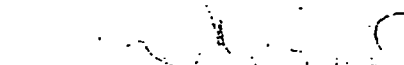


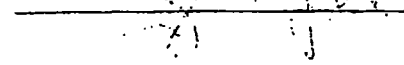


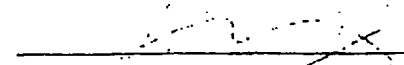








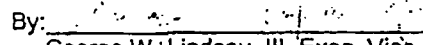




MORTGAGEE:

THE NATIONAL BANK OF SOUTH CAROLINA



By: 
George W. Lindsay, III, Exec. Vice President

TATE OF SOUTH CAROLINA

COUNTY OF HORRY

PROBATE

PERSONALLY appeared before me the undersigned and made oath that s/he saw the within named Harvey L. Jones, sign, seal, and as his act and deed, deliver the within written document; and s/he, with the undersigned witness witnessed the execution thereof.

SWORN to before me this 29th
day of February, 2008.

Notary Public for South Carolina

My Commission Expires: 12/31/2011

STATE OF SOUTH CAROLINA

COUNTY OF HORRY

PROBATE

PERSONALLY appeared before me the undersigned and made oath that s/he saw the within named Wendy Jones Bellamy, sign, seal, and as her act and deed, deliver the within written document; and s/he, with the undersigned witness witnessed the execution thereof.

SWORN to before me this 29th
day of February, 2008.

Notary Public for South Carolina

My Commission Expires: 12/31/2011

STATE OF SOUTH CAROLINA

COUNTY OF HORRY

PROBATE

PERSONALLY appeared before me the undersigned and made oath that s/he saw the within named Billy Joe Bellamy, sign, seal, and as his act and deed, deliver the within written document; and s/he, with the undersigned witness witnessed the execution thereof.

SWORN to before me this 29th
day of February, 2008.

Notary Public for South Carolina

My Commission Expires: 12/31/2011

STATE OF SOUTH CAROLINA)

COUNTY OF HORRY)

PROBATE

PERSONALLY appeared before me the undersigned and made oath that s/he saw the within named Kersi S. Shroff, sign, seal, and as his act and deed, deliver the within written document; and s/he, with the undersigned witness witnessed the execution thereof.

SWORN to before me this 29th
day of February, 2008.

Notary Public for South Carolina

My Commission Expires: 11-15-12

STATE OF SOUTH CAROLINA)

COUNTY OF HORRY)

PROBATE

PERSONALLY appeared before me the undersigned and made oath that s/he saw the within named Myrtle Beach Grande Hotel, LLC, a South Carolina limited liability company, by and through Harvey L. Jones and Wendy Jones Bellamy, its Members, sign, seal, and as its act and deed, deliver the within written document; and s/he, with the undersigned witness witnessed the execution thereof.

SWORN to before me this 29th
day of February, 2008.

Notary Public for South Carolina

My Commission Expires: 11-15-12

STATE OF SOUTH CAROLINA)

COUNTY OF HORRY)

PROBATE

PERSONALLY appeared before me the undersigned and made oath that s/he saw the within named The National Bank of South Carolina, by its duly authorized officer, George W. Lindsay, III, its Exec. Vice President, sign, seal, and as its act and deed deliver the within written document; and s/he with the undersigned witness witnessed the execution thereof.

SWORN to before me this 29th
day of February, 2008.

Notary Public for South Carolina

My Commission Expires: 11-15-12

FROM

EXHIBIT "A"

PARCEL 1 - ALL AND SINGULAR, that certain piece, parcel, or lot of land, situate, lying, and being in Myrtle Beach, Dogwood Neck Township, County of Horry, State of South Carolina, being shown and designated as Lot 4, Block 28, Hotel Section, Myrtle Beach, according to a plat of same made by Stanley H. Wright, Engineer, dated June and July, 1938, recorded in Plat Book 1 at Page 84, records of Horry County, South Carolina.

THIS BEING the identical property conveyed to Harvey L. Jones and Wendy Jones Bellamy by Deed of Albert D. Ervin dated February 4, 2005, recorded February 8, 2005, in Deed Book 2858 at Page 1178, records of Horry County, South Carolina.

PARCEL II - ALL AND SINGULAR, those certain pieces, parcels, or lots of land, with improvements thereon, situate, lying, and being in Myrtle Beach, Dogwood Neck Township, Horry County, South Carolina, being known and designated as Lot 1, Block 31, Hotel Section, Myrtle Beach, as shown upon a made of the Hotel Section by Stanley H. Wright, Engineer, dated July, 1926, recorded in Plat Book 1 at Page 84, records of Horry County, South Carolina.

THIS BEING a portion of the property conveyed to Myrtle Beach Grande Hotel, LLC by Deed of Wendel E. Jones, Jr., dated January 31, 1995, recorded in Deed Book 1783 at Page 865, records of Horry County, South Carolina.

PARCEL III - ALL AND SINGULAR, those certain pieces, parcels, or lots of land, with improvements thereon, situate, lying, and being in Myrtle Beach, Dogwood Neck Township, Horry County, South Carolina, being known and designated as Lot 2, Block 31, Hotel Section, Myrtle Beach, as shown on a map made of the Hotel Section by Stanley H. Wright, Engineer, dated July, 1926, recorded in Plat Book 1 at Page 84, records of Horry County, South Carolina.

THIS BEING a portion of the property conveyed to Myrtle Beach Grande Hotel, LLC by Deed of Wendel E. Jones, Jr., dated January 31, 1995, recorded in Deed Book 1783 at Page 865, records of Horry County, South Carolina.

PARCEL IV - ALL AND SINGULAR, all that certain piece, parcel, or lot of land lying and being in Socastee Township, Horry County, South Carolina, being designated as Lot 3, Block 7, Long Bay Estates Subdivision, as shown on a map made by Robert L. Bellamy, SE, dated May 4, 1966, recorded May 10, 1966, in Plat Book 46 at Page 113, records of Horry County, South Carolina.

THIS BEING the identical property conveyed to Billy Joe Bellamy and Wendy Jones Bellamy by Deed of Ann L. Jones dated October 2, 1995, recorded October 6, 1995, in Deed Book 1825 at Page 382, records of Horry County, South Carolina.

PARCEL V - ALL AND SINGULAR, all those certain pieces, parcels, or lots of land, with improvements thereon, situate, lying, and being in Dogwood Neck Township, Horry County, South Carolina, and being more particularly shown and designated as Lot 11, Lot 12, Lot 13, Lot 14, and Lot 15, Block 28, Hotel Section, as shown on a map made by N.C. Hughes, Engineer, dated November, 1933, recorded in Plat Book 1 at Page 116; rerecorded in Plat Book 1 at Page 179, records of Horry County, South Carolina.

THIS BEING the identical property conveyed to Harvey L. Jones, Wendy J. Bellamy, and Kersi S. Shroff by Deed of David Tebele and Edward Tebele dated April 27, 2006, recorded in Deed Book 3089 at Page 130, records of Horry County, South Carolina.

PARCEL VI - ALL AND SINGULAR, all that certain piece, parcel, or lot of land, situate, lying, and being in Dogwood Neck Township, Horry County, South Carolina, designated as Lot 1, Block 13, Hotel Section, as shown on a map of Golden Surf Motel made by ETC-Engineering and Technical Services, Inc. dated February 28, 1997, records of Horry County, South Carolina.

THIS BEING the identical property conveyed to Harvey L. Jones and Wendy Jones Bellamy by Deed of I.D. Jeram and S.I. Jeram dated January 11, 2006, recorded January 12, 1966, in Deed Book 3034 at Page 1476, records of Horry County, South Carolina.

Exhibit "E"
(Assignment of Rents)

See Attached

FROM

REMARKS USED TO REFLECT ADDITIONAL BORI

ORIGINAL

THIS AGREEMENT IS SUBJECT TO ARBITRATION PURSUANT TO THE COMMERCIAL FINANCIAL
DISPUTES ARBITRATION RULES AND UNIFORM ARBITRATION ACT (SOUTH CAROLINA)

STATE OF SOUTH CAROLINA)

COUNTY OF HORRY)

6523075650
ASSIGNMENT OF LEASES, RENTS, AND PROFITS

THIS Assignment of Leases, Rents, and Profits ("Assignment") made effective this 29th day of February, 2008, by Harvey L. Jones, Wendy Jones Bellamy, Billy Joe Bellamy, Kerst S. Shroff, and Myrtle Beach Grande Hotel, LLC, a South Carolina limited liability company (jointly and severally, "Assignor") whose address is 405 Flag Street, Myrtle Beach, SC 29577 and The National Bank of South Carolina ("Lender"), whose address is P.O. Box 219, Myrtle Beach, SC 29578.

WITNESSETH

Assignor, in consideration of the sum of Ten and 00/100 (\$10.00) Dollars, in hand paid, and other good and valuable consideration paid by Lender, the receipt and sufficiency of which are hereby acknowledged, does hereby GRANT, CONVEY, ASSIGN, TRANSFER, AND ABSOLUTELY SET OVER unto Lender, its heirs, successors and assigns, the following:

A. All rights, interest, and estates of Assignor in, to and under all lease agreements which cover or affect portions of the land described on Exhibit "A" attached hereto and made a part hereof or the improvements located thereon ("Property"); together with all renewals and extensions of such lease agreements and other instruments and all other lease agreements that may hereafter be entered into which cover a portion of the said land or the improvements located thereon, and all extensions, renewals, and modification therein and thereof (such lease agreements, other instruments, renewals, extensions, replacements and guarantees of any of the foregoing being herein called the "Leases"); and

B. All rents, issues, rentals, revenues and income in any and all forms whatsoever that may now and at any time hereafter become due and payable to Assignor under the terms of the Leases; and

C. Any and all monies, awards or other payments paid or payable by any and all lessees under the Leases in lieu of rent including but not limited to any damages (all such monies, awards, or payments including but not limited to damages collectively called "Damages") which may hereafter become due pursuant to any of the Leases pertaining to all or any part of the Property; and

D. Any and all fees, charges, accounts and/or other payments for the use or occupancy of rooms and other public facilities if all or any part of the Property is or shall be used as a hotel, motel, or other lodging property, including, without limitation, under all management agreements; and

E. Any and all revenues, (including, without limitation, earnest monies, reservation deposits and sales proceeds in cash or kind) profits, income, issues, royalties, rights and/or benefits of and/or for the Property or any part thereof whether accrued, existing and/or arising hereafter and in any and all forms whatsoever. All of the above as set out in Paragraphs A through E inclusive sometimes being referred to as Assigned Items.

This Assignment of Leases is made by Assignor as additional security for the payment of each of the following note, obligation, indebtedness, and liabilities: (a) that certain promissory note of even date herewith in the principal amount of up to One Million Eight Hundred Thirty Five Thousand and 00/100 (\$1,835,000.00) Dollars made by Assignors Harvey L. Jones and Wendy Jones Bellamy (also referred to, individually and collectively, as "Borrower"), and payable to the order of Lender with interest at the rate or rates therein provided, both principal and interest being payable as therein provided, and containing provisions for the payment of a reasonable additional amount as attorney's fees, and all other notes and agreements given in substitution therefor or in renewal, amendment, modification, restatement, consolidation or extension thereof, in whole or in part, being hereinafter, jointly and severally, called the "Note"; and (b) all indebtedness now or hereafter incurred arising pursuant to and/or secured by the provisions of a Mortgage and Security Agreement of even date herewith including, without limitation, additional notes and obligations (together with all amendments and modifications is hereinafter called the "Mortgage") made by Assignor to secure the payment of the Note and covering the Property and certain other property described therein, or in any modification, extension, renewal, consolidation, restatement, or amendment of all and any of the foregoing; SUBJECT, HOWEVER, to the terms, provisions, and conditions herein set forth. * and Myrtle Beach Grande Hotel, LLC

1. Assignor hereby represents, covenants, and warrants unto Lender that Assignor is the sole owner of the entire lessor's interest in the Leases; that, except as approved by Lender, Assignor has not executed any prior assignments of any of the Assigned Items that are not reserved in the Leases or any of them has been assigned or

Instrument#: 2008000046226, DEED BK:
3326 PG: 2242 DOCTYPE: 037 04/09/2008
at 10:42:11 AM, 1 OF 9 BALLERY V.
SKIPPER, HORRY COUNTY, SC
REGISTRAR OF DEEDS

Instrument#: 2008000028661, DEED BK:
3318 PG: 1519 DOCTYPE: 037 03/03/2008
at 10:44:16 AM, 1 OF 9 BALLERY V.
SKIPPER, HORRY COUNTY, SC
REGISTRAR OF DEEDS

anticipated and no rent for any period subsequent to the date of this Assignment has been collected in advance of the time when the same became due under the terms of the applicable Lease; that Assignor has performed no act or executed any other instrument which might prevent Lender from enjoying and exercising any of its rights and privileges evidenced hereby; that Assignor has not executed or granted any modifications to any existing Leases except as previously disclosed to Assignee; that all existing Leases are valid and in full force and effect; that there exists no defense, counterclaim or set off to the payment of the rent under the Leases; and that there are no defaults now existing under the Leases and no event has occurred which with the passage of time or the giving of notice, or both, would constitute a default.

2. Assignor agrees that, so long as the indebtedness evidenced by the Note or any part thereof shall remain unpaid, Assignor will make no assignment, pledge or disposition of the Leases or the rents, rentals and other sums of money that become due and payable thereunder or any of the other Assigned Items; nor will Assignor subordinate any of the Leases to any deed of trust or mortgage or any other encumbrance of any kind or permit, consent or agree to such subordination; nor will Assignor reduce the rent, rentals or other sums of money payable under any of the Leases, accept rent in advance of that provided in the Leases, modify, alter or amend the Leases or give any consent, concession or waiver or exercise any option required or permitted by the terms of any of the Leases; nor will Assignor cancel or terminate any of the Leases, accept a surrender thereof or convey or transfer or suffer or permit a conveyance or transfer of the premises demised thereby or of any interest therein so as to effect directly or indirectly, proximately or remotely, a merger of the estates and rights of, or a termination or diminution of the obligations of lessee thereunder; nor will Assignor, except to the extent required by the terms of any of the Leases, consent to an assignment or sublease of the interest and estate of the lessees under any of the Leases; nor will Assignor modify or change the terms of any guaranty of any of the Leases or cancel or terminate such guaranty; nor will Assignor enter into additional leases covering any portion of the Property except on the standard form lease approved by Lender without first having obtained the written consent of Lender; and in no event shall Assignor enter into a lease (except in the normal course of Assignor's hotel/motel business, if Assignor is hotel or motel), under which all or a substantial amount of rental is prepaid, except with the express written consent of Lender; and any such acts, if done or permitted to be done without the prior written consent of Lender, shall be null and void and shall constitute a default under the Note and Mortgage.

3. Assignor covenants with Lender to observe and perform all the obligations imposed upon the lessors under the Leases and not to do or permit to be done anything to impair the security thereof; to exercise any option or election contained in or relating to any of the Leases which Lender shall require; at Lender's request to assign and transfer to Lender by specific assignment of leases, in the form of this Assignment of Leases, any and all subsequent Leases upon all or any part of the Property (it being understood and agreed that no such specific assignment shall be required for such subsequent Leases to be covered by and included within this Assignment of Leases as provided herein); and to execute and deliver at the request of Lender all such further assurances and assignments in the premises covered by the Leases as Lender shall from time to time require.

4. This instrument is a present absolute and unconditional assignment of Assignor's rights in the Assigned Items and gives the Lender the right to demand and collect the Assigned Items and to apply them in partial payment of the Note and other indebtedness hereby secured so that the Assigned Items are not the property of Assignor or Borrower of any estate of Assignor or Borrower (as defined by 11 USC §541 or any like statute) and will not constitute collateral, cash or otherwise, of Assignor or Borrower. Lender shall have the right, power and privilege (but shall be under no duty) immediately to demand, collect and sue for, in its own name, or in the name of Assignor, all rents, rentals and other sums of money due and payable under the Leases and other Assigned Items, as they become due and payable, including those past due and unpaid, and to apply such rents, rentals and other sums of money to the payment of the Note and other indebtedness secured by the Mortgage, principal, interest, attorneys' and collection fees, in such order as the Lender in its sole discretion may determine, as the same may be due and payable. Notwithstanding the foregoing, until a default by Assignor under the Note or Assignor under the Mortgage, Lender shall not collect rents or other revenues pursuant to its rights hereunder, and Lender shall permit Assignor, under a revocable license granted hereby, to collect such rents and revenues. Unless and until the said license is revoked, Assignor shall hold the Assigned Items (subject to Lender's rights under the Mortgage respecting condemnation awards, insurance proceeds and other monies or awards) in trust for Lender and shall utilize the Assigned Items for the timely payment of taxes, assessments, insurance premiums, utility charges and the operation, repair, replacement and maintenance of the Property before use for any other purpose. In the event of any default in the payment of any of the installments of interest and principal provided for in the Note, or default under the Mortgage, or the occurrence of an event or circumstance which with the lapse of time or the giving of notice, or both, would constitute a default under the Note or Mortgage, or the breach by Assignor of any of the covenants, warranties or representations made by Assignor in this Assignment, Lender shall have the right, power and privilege (but shall be under no duty) to take possession of the Property and have, hold, manage, lease and operate the same on such terms and for such period of time as Lender may deem proper; and Lender may apply any rents, rentals and other sums of money received hereunder to the payment (in such order as Lender may determine) of: (a) all expenses of the managing agent and such other employees as Lender may deem necessary or desirable and all

expenses of operating and maintaining the Property, including, without being limited thereto, all taxes, assessments, charges, claims, utility costs, and premiums for insurance, and the cost of all alterations, renovations, repairs or replacements, and all expenses incident to taking and retaining possession of the Property and/or collecting the rents, rentals and other sums of money due and payable under the Leases; and (b) the Note and other indebtedness secured by the Mortgage, principal interest, attorneys and collection fees, in such order as Lender in its sole discretion may determine. A written demand by Lender on each lessee for the payment of rent, rentals and other sums of money that become due under the Leases shall be sufficient to warrant such lessee to make all future payments of such rents, rentals, and other sums of money directly to Lender without the necessity for further consent by Assignor. Each such lessee shall be entitled to rely upon a written demand by Lender for such payment and shall be fully protected from any claims by Assignor for all payments made to Lender after receipt of such written demand. The exercising of Lender of its rights under this sub-paragraph shall constitute an automatic revocation of the license hereinabove granted to Assignor.

5. Lender shall not be liable for any loss sustained by Assignor resulting from Lender's failure to let the Property, or any part thereof, or from any other act or omission of Lender in managing the Property unless such loss is caused by the willful misconduct and bad faith of Lender, nor shall Lender be obligated to perform or discharge any obligation, duty or liability under said Leases or under or by reason of this instrument or the exercise of rights or remedies hereunder. Assignor shall and does hereby agree to indemnify Lender for, and to hold Lender harmless from, any and all liability, loss or damage which may or might be incurred under the Leases or under or by reason of this instrument or the exercise of rights or remedies hereunder and from any and all claims and demands whatsoever which may be asserted against Lender by reason of any alleged obligations or undertakings on its part to perform or discharge any of the terms, covenants or agreements contained in the Leases. Should Lender incur any such liability under the Leases or under or by reason of this instrument or the exercise of rights or remedies hereunder or in defense of any such claims or demands, the amount thereof, including costs, expenses, and reasonable attorneys' fees, shall be secured hereby, and Assignor shall reimburse Lender therefor immediately upon demand, failing which Lender may, at its option, declare all indebtedness secured hereby and by the Mortgage to be immediately due and payable. This Assignment of Leases shall not operate to place responsibility upon Lender for the control, care, management or repair of the Property, nor for the carrying out of any of the terms and conditions of the Leases; nor shall it operate to make Lender responsible or liable for any waste committed on the Property by the tenants or by any other parties or for any dangerous or defective condition of the Property, or for any negligence in the management, upkeep, repair or control of the Property resulting in loss or injury or death to any tenant, licensee, employee or stranger.

6. Nothing contained herein and no act done or omitted by Lender pursuant to the power and rights granted it hereunder shall be deemed to be a waiver by Lender of its rights and remedies under the Note and the Mortgage or any other document or instrument evidencing or securing the Note or a waiver or curing of any default hereunder or under the Note and/or the Mortgage, or any other document or instrument evidencing or securing the Note and this Assignment is made and accepted without prejudice to any of the rights and remedies possessed by Lender under the terms of the Note or Mortgage, or any other document or instrument evidencing or securing the Note. The right of Lender to collect said principal sum, interest, and indebtedness and to enforce any other security therefor held by it may be exercised by Lender either prior to, simultaneously with, or subsequent to any action taken by it hereunder.

7. If the Note and all other indebtedness secured hereby and by the Mortgage be paid as the same becomes due and payable and if all of the covenants, warranties, undertakings and agreements made in the Mortgage and in this Assignment of Leases are kept and performed, this Assignment of Leases shall become null and void and of no further force and effect and a full and complete cancellation of record of the Mortgage shall operate as a full and complete release of all the Lender's rights and interest hereunder; but the affidavit, certificate, letter or statement of any officer, agent or attorney of Lender showing any part of the Note or such other indebtedness to remain unpaid or any of such covenants, warranties, undertakings, and agreements not to be kept or performed shall be and constitute conclusive evidence of the validity, effectiveness and continuing force of this Assignment of Leases and any person may, and is hereby authorized to, rely thereon. Assignor hereby authorizes and directs the lessees named in the Leases or any other or future lessee or occupant of the premises described therein or of the Property or any part thereof, upon receipt from Lender of written notice to the effect that Lender is then the holder of the Note and Mortgage and to pay over the Lender all rents, rentals, and other sums of money arising or accruing under any of the Leases or from the premises described therein or any other portion of the Property and to continue to do so until otherwise notified by Lender.

8. Lender shall be and is deemed to be the creditor of each lessee under the Leases in respect of any and all claims for damages, assignment for the benefit of creditors and bankruptcy, reorganization, insolvency, dissolution or receivership proceedings with option to Lender to apply Damages or any money received by Lender as such creditor in reduction of the indebtedness (in the inverse order of maturity) secured by or to be paid under the Mortgage. Assignor hereby appoints Lender attorney-in-fact to appear in any action and/or collect any such money or payment, said appointment being coupled with an interest and being irrevocable.

9. Lender may take or release other security for the payment of the Note and other indebtedness secured by the Mortgage, may release any party primarily or secondarily liable therefor and may apply any other security held by it to the satisfaction of the Note and such other indebtedness without prejudice to any of its rights under this Assignment of Leases.

10. Lender may at any time and from time to time in writing (a) waive compliance by Assignor with any covenant herein made by Assignor to the extent and in the manner specified in such writing; (b) consent to Assignor doing any act which hereunder Assignor is prohibited from doing, or consent to Assignor failing to do any act which hereunder Assignor is required to do, to the extent and in the manner specified in such writing; or (c) release any part of the Property and/or the Leases, or any interest therein from this Assignment of Leases. No such act shall in any way impair the rights of Lender hereunder except to the extent specifically agreed to by Lender in such writing.

11. The rights and remedies of Lender hereunder shall not be impaired by any indulgence, including but not limited to (a) any renewal, extension or modification which Lender may grant with respect to any indebtedness secured hereby, (b) any surrender, compromise, release, renewal, extension, exchange or substitution which Lender may grant in respect of any item of the Property and/or the Leases or any part thereof or any interest therein, or (c) any release or indulgence granted to any endorser, guarantor or surety of any indebtedness secured hereby.

12. If any provision of this Agreement is determined to be invalid, illegal, or unenforceable, the remaining provisions of this Agreement remain in full force, if the essential provisions of this Agreement for each party remain valid, binding, and enforceable.

13. Notwithstanding the conveyance or transfer of title to any or all of the Property to any lessee under any of the Leases, the lessee's leasehold estate under such Lease shall not merge into the fee estate and the lessee shall remain obligated under such lease as assigned by this Assignment of Leases.

14. The terms, provisions, representations and warranties herein contained shall be binding upon Assignor and the heirs, successors and assigns of Assignor, and shall inure to the benefit of Lender, and the heirs, successors and assigns of Lender. All references in this Assignment of Leases to Assignor or Lender shall be deemed to include all such heirs, successors and assigns of such respective party.

15. Within this Assignment of Leases, words of any gender shall be held and construed to include any other gender, and words in the singular number shall be held and construed to include the plural, unless the context otherwise requires. References in this Assignment of Leases to "herein", "hereunder" or "hereby", shall refer to this entire Assignment of Leases, unless the context otherwise requires.

16. Nothing provided in this Assignment, nor any collection of rents by Lender or by a receiver, will be construed to make Lender a "mortgagee-in-possession" of the Property so long as Lender has not itself entered unto actual possession of the Property.

17. Assignor submits to the jurisdiction of the Court of Common Pleas for Horry County, South Carolina. Assignor agrees that any action concerning this Assignment, the Note or any other loan documents, whether initiated by Lender, Assignor or any other party, shall be tried only in a court of competent jurisdiction within the State of South Carolina, and Assignor waives all objections to venue. All matters arising hereunder shall be determined in accordance with the law and practice of such South Carolina court. Assignor further agrees to comply with all requirements necessary to give such court in personam jurisdiction and agrees that service of process may be accomplished by, in addition to any other lawful means, certified mail, return receipt requested, to Assignor at Assignor's address set forth above or any new address of which Lender has been notified by Assignor in writing.

18. To the fullest extent necessary to protect the rights and priorities of Lender in and to the corpus of this assignment, this assignment shall constitute a security agreement pursuant to the Uniform Commercial Code as enacted by the State of South Carolina and all amendments thereto, with Assignor being Debtor, Lender being Secured Party and their respective addresses as set forth above, and Assignor authorizes Lender to file financing statements and amendments thereto from time to time without the signature of Assignor.

19. In case of a conflict between the provisions of this assignment and any other assignments from Borrower to Lender of even date, Lender shall have the right to select the controlling provisions.

20. All parties acknowledge that in the event different portions of the Property are owned and/or operated by different Assignors; that such diversified ownership and/or operation shall not constitute a limitation as to any liability, obligation, or agreement of any individual Assignor herein.

21. Borrower and Assignor acknowledge actual and adequate consideration for the granting of this Assignment, and acknowledge the fact that Lender would not make the loan evidenced by this Assignment, that this Assignment is a material inducement to Lender for the making of said loan, and the that granting of this Assignment is of direct benefit to Borrower and Assignor. If Borrower is not the Assignor, Assignor warrants and represents to Lender that Assignor is not insolvent, and that the granting of this Assignment shall not render Assignor insolvent.

22. **Arbitration.** UPON DEMAND OF EITHER PARTY, WHETHER MADE BEFORE OR AFTER INSTITUTION OF ANY JUDICIAL PROCEEDING, ANY DISPUTE, CLAIM OR CONTROVERSY ("DISPUTES") ARISING OUT OF, CONNECTED WITH, OR RELATING TO THE AGREEMENT OR THE LOAN SHALL BE RESOLVED BY BINDING ARBITRATION AS PROVIDED HEREIN. Institution of a judicial proceeding by a party does not waive the right of that party to demand arbitration hereunder. Disputes may include, without limitation, tort claims, counterclaims, disputes as to whether a matter is subject to arbitration, claims brought as class actions, claims arising from Loan Documents executed in the future, or claims arising out of or connected with the transaction reflected by this document.

Arbitration shall be conducted under and governed by the Commercial Financial Disputes Arbitration Rules ("Arbitration Rules") of the American Arbitration Association ("AAA") and Title 9 of the U.S. Code, as amended, if applicable, or under Chapter 48 of Title 15 of the South Carolina Code, as amended. All arbitration hearings shall be conducted in Columbia, South Carolina. All applicable statutes of limitation shall apply to Dispute. A judgment upon the award may be entered in any court having jurisdiction.

Notwithstanding the preceding binding arbitration provisions, Lender and Borrower agree to preserve, without diminution, certain remedies that any party hereto may employ or exercise freely, independently, or in connection with an arbitration proceeding, or after an arbitration action is brought. Lender and Borrower shall have the right to proceed in any court of proper jurisdiction, or by self-help, to exercise or prosecute the following remedies, as applicable: (a) all rights to foreclose against any real or personal property or other security by exercising a power of sale granted under the Loan Documents, or under applicable law, or by judicial foreclosure and sale, including a proceeding to confirm the sale; (b) all rights of self-help, including peaceful occupation of real property and collection of rents, setoff, and peaceful possession of personal property; (c) obtaining provisional or ancillary remedies, including injunctive relief, sequestration, garnishment, attachment, appointment of receiver, and filing an involuntary bankruptcy proceeding; and (d) when applicable, a judgment by confession of judgment. Preservation of these remedies does not limit the power of an arbitrator to grant similar remedies that may be requested by a party in Dispute.

Borrower and Lender agree that they shall not have a remedy of punitive or exemplary damages against the other in any Dispute, and hereby waive any right or claim to punitive or exemplary damages they have now, or which may arise in the future in connection with any Dispute, whether the Dispute is resolved by arbitration or judicially.

IN WITNESS WHEREOF, Assignor and Lender have caused this Assignment to be effective as of the day, month, and year first above written.

SIGNED, SEALED, AND DELIVERED IN
THE PRESENCE OF:

ASSIGNOR (Debtor):

Harvey L. Jones

Wendy Jones Bellamy

Billy Joe Bellamy

[Signature]

Kersi S. Shroff
Kersi S. Shroff

MYRTLE BEACH GRANDE HOTEL, LLC, a South Carolina
limited liability company

[Signature]
(as to both)

By: Harvey L. Jones
Harvey L. Jones, Member

[Signature]
(as to both)

By: Wendy Jones Bellamy
Wendy Jones Bellamy, Member

MORTGAGEE:

THE NATIONAL BANK OF SOUTH CAROLINA

[Signature]

By: George W. Lindsay, III
George W. Lindsay, III Exec. Vice President

STATE OF SOUTH CAROLINA)

COUNTY OF HORRY)

PROBATE

PERSONALLY appeared before me the undersigned and made oath that s/he saw the within named Harvey L. Jones, sign, seal, and as his act and deed, deliver the within written document; and s/he, with the undersigned witness witnessed the execution thereof.

SWORN to before me this 29th
day of February, 2008.

Notary Public for South Carolina

My Commission Expires:

STATE OF SOUTH CAROLINA)

COUNTY OF HORRY)

PROBATE

PERSONALLY appeared before me the undersigned and made oath that s/he saw the within named Wendy Jones Bellamy, sign, seal, and as her act and deed, deliver the within written document; and s/he, with the undersigned witness witnessed the execution thereof.

[Signature]

SWORN to before me this 29th day of February, 2008.

[Signature]
Notary Public for South Carolina

My Commission Expires: 12/17

STATE OF SOUTH CAROLINA)

COUNTY OF HORRY)

PROBATE

PERSONALLY appeared before me the undersigned and made oath that s/he saw the within named Billy Joe Bellamy, sign, seal, and as his act and deed, deliver the within written document; and s/he, with the undersigned witness witnessed the execution thereof.

[Signature]

SWORN to before me this 29th day of February, 2008.

[Signature]
Notary Public for South Carolina

My Commission Expires: 12/17

STATE OF SOUTH CAROLINA)

COUNTY OF HORRY)

PROBATE

PERSONALLY appeared before me the undersigned and made oath that s/he saw the within named Kersi S. Shroff, sign, seal, and as his act and deed, deliver the within written document; and s/he, with the undersigned witness witnessed the execution thereof.

[Signature]

SWORN to before me this 29th day of February, 2008.

[Signature]
Notary Public for South Carolina

My Commission Expires: 12/17

STATE OF SOUTH CAROLINA)

COUNTY OF HORRY)

PROBATE

PERSONALLY appeared before me the undersigned and made oath that s/he saw the within named Myrtle Beach Grande Hotel, LLC, a South Carolina limited liability company, by and through Harvey L. Jones and Wendy Jones Bellamy, its Members, sign, seal, and as its act and deed, deliver the within written document; and s/he, with the undersigned witness witnessed the execution thereof.

SWORN to before me this 29th
day of February, 2008.

Notary Public for South Carolina

My Commission Expires: 12/31/15

STATE OF SOUTH CAROLINA)

COUNTY OF HORRY)

PROBATE

PERSONALLY appeared before me the undersigned and made oath that s/he saw the within named The National Bank of South Carolina, by its duly authorized officer, George W. Lindsay, III, its Exec. Vice President, sign, seal, and as its act and deed deliver the within written document; and s/he with the undersigned witness witnessed the execution thereof.

SWORN to before me this 29th
day of February, 2008.

Notary Public for South Carolina

My Commission Expires: 12/31/15

FROM

EXHIBIT "A"

PARCEL 1 - ALL AND SINGULAR, that certain piece, parcel, or lot of land, situate, lying, and being in Myrtle Beach, Dogwood Neck Township, County of Horry, State of South Carolina, being shown and designated as Lot 4, Block 28, Hotel Section, Myrtle Beach, according to a plat of same made by Stanley H. Wright, Engineer, dated June and July, 1938, recorded in Plat Book 1 at Page 84, records of Horry County, South Carolina.

THIS BEING the identical property conveyed to Harvey L. Jones and Wendy Jones Bellamy by Deed of Albert D. Ervin dated February 4, 2005, recorded February 8, 2005, in Deed Book 2858 at Page 1178, records of Horry County, South Carolina.

PARCEL II - ALL AND SINGULAR, those certain pieces, parcels, or lots of land, with improvements thereon, situate, lying, and being in Myrtle Beach, Dogwood Neck Township, Horry County, South Carolina, being known and designated as Lot 1, Block 31, Hotel Section, Myrtle Beach, as shown upon a made of the Hotel Section by Stanley H. Wright, Engineer, dated July, 1926, recorded in Plat Book 1 at Page 84, records of Horry County, South Carolina.

THIS BEING a portion of the property conveyed to Myrtle Beach Grande Hotel, LLC by Deed of Wendel E. Jones, Jr., dated January 31, 1995, recorded in Deed Book 1783 at Page 865, records of Horry County, South Carolina.

PARCEL III - ALL AND SINGULAR, those certain pieces, parcels, or lots of land, with improvements thereon, situate, lying, and being in Myrtle Beach, Dogwood Neck Township, Horry County, South Carolina, being known and designated as Lot 2, Block 31, Hotel Section, Myrtle Beach, as shown on a map made of the Hotel Section by Stanley H. Wright, Engineer, dated July, 1926, recorded in Plat Book 1 at Page 84, records of Horry County, South Carolina.

THIS BEING a portion of the property conveyed to Myrtle Beach Grande Hotel, LLC by Deed of Wendel E. Jones, Jr., dated January 31, 1995, recorded in Deed Book 1783 at Page 865, records of Horry County, South Carolina.

PARCEL IV - ALL AND SINGULAR, all that certain piece, parcel, or lot of land lying and being in Socastee Township, Horry County, South Carolina, being designated as Lot 3, Block 7, Long Bay Estates Subdivision, as shown on a map made by Robert L. Bellamy, SE, dated May 4, 1966, recorded May 10, 1966, in Plat Book 46 at Page 113, records of Horry County, South Carolina.

THIS BEING the identical property conveyed to Billy Joe Bellamy and Wendy Jones Bellamy by Deed of Ann L. Jones dated October 2, 1995, recorded October 6, 1995, in Deed Book 1825 at Page 382, records of Horry County, South Carolina.

PARCEL V - ALL AND SINGULAR, all those certain pieces, parcels, or lots of land, with improvements thereon, situate, lying, and being in Dogwood Neck Township, Horry County, South Carolina, and being more particularly shown and designated as Lot 11, Lot 12, Lot 13, Lot 14, and Lot 15, Block 28, Hotel Section, as shown on a map made by N.C. Hughes, Engineer, dated November, 1933, recorded in Plat Book 1 at Page 116; rerecorded in Plat Book 1 at Page 179, records of Horry County, South Carolina.

THIS BEING the identical property conveyed to Harvey L. Jones, Wendy J. Bellamy, and Kersi S. Shroff by Deed of David Tebele and Edward Tebele dated April 27, 2006, recorded in Deed Book 3089 at Page 130, records of Horry County, South Carolina.

PARCEL VI - ALL AND SINGULAR, all that certain piece, parcel, or lot of land, situate, lying, and being in Dogwood Neck Township, Horry County, South Carolina, designated as Lot 1, Block 13, Hotel Section, as shown on a map of Golden Surf Motel made by ETC-Engineering and Technical Services, Inc. dated February 28, 1997, records of Horry County, South Carolina.

THIS BEING the identical property conveyed to Harvey L. Jones and Wendy Jones Bellamy by Deed of I.D. Jeram and S.I. Jeram dated January 11, 2006, recorded January 12, 1966, in Deed Book 3034 at Page 476, records of Horry County, South Carolina.

Exhibit "F"

(Modification)

See Attached

FROM

To: National Bank of South Carolina

1000 North Myrtle Beach, SC 29597-0508 • 843.280.2100

1000 North Myrtle Beach, SC 29597-0508 • 843.280.2100

Loan Modification Agreement

This agreement is entered into this 24th day of October 2008 BY AND BETWEEN Myrtle Beach Grande Hotel LLC, Harvey L Jones & Wendy Jones Bellamy (BORROWER) AND THE NATIONAL BANK OF SOUTH CAROLINA (NBSC).

Whereas on February 29, 2008, borrower executed and delivered a promissory note (Account #6525075650-005) to NBSC in the principal amount of One Million Eight Hundred Thirty Five and 00/100 (\$1,835,000.00) now repayable Interest Only with all unpaid Principal and Interest due at maturity of September 20, 2008.

The National Bank of South Carolina agrees to modify the note as set forth herein below.

1. Maturity date to be extended until March 15, 2009
2. All Changes to be effective September 15, 2008.
2. All other terms and conditions of said promissory note shall remain in full force and effect.

WITNESS:

[Signature]
[Signature]

Myrtle Beach Grande Hotel LLC

[Signature]
Harvey L Jones-Member

[Signature]
Wendy Jones Bellamy-Member

[Signature]
Harvey L Jones-Individually

[Signature]
Wendy Jones Bellamy-Individually

WITNESS:

[Signature]

THE NATIONAL BANK OF SOUTH CAROLINA

[Signature]
Rachel M Whitley-Senior Vice President

Betsy Mixon - Re: Myrtle Beach Grand/Wendy Bellamy/Harvey Jones

From: Jane Rich
To: John Duffy
Date: 10/23/2008 9:42 AM
Subject: Re: Myrtle Beach Grand/Wendy Bellamy/Harvey Jones
CC: Betsy Mixon; Rachel Whitley

will do

Jane Rich
Vice President
NBSC Central Loan Processing
janerich@synovus.com
(803) 929-2011
(803) 929-2206

NOTICE: This E-mail and any of its attachments may contain Synovus proprietary information, which is privileged, confidential, or subject to copyright belonging to Synovus. This E-mail is intended solely for the use of the individual or entity to which it is addressed. If you are not the intended recipient of this E-mail, you are hereby notified that any dissemination, distribution, copying, or action taken in relation to the contents of and attachments to this E-mail is strictly prohibited and may be unlawful. If you have received this E-mail in error, please notify the sender immediately and permanently delete the original and any copy of this E-mail and any printout.

>>> John Duffy 10/23/2008 9:41 AM >>>

Jane, hey. Hopefully this is the "last one" for today. Would you have your folks release the renewal docs on the subject? It's a monthend issue. CL-1 done; Polly to follow with the appraisal reviews--all existing appraisals. Thx, John

Page 1 Document Name: L... led

PAYOFF FOR NOTE AND PARTS

AUTHORITY CODE: 0

PAGE REQUEST: 001 PAGE NO: 001

ACCOUNT: 06525075650 INQUIRY: 232

MYRTLE BEACH GRANDE

SEARCH 1: 05

SEARCH 2: 09/15/08

SEARCH 3:

PROC DATE: 10/21/08

NOTE/PART STATUS

REB/ACC DLY ACC/GOOD

00005C	A	CURRENT BAL	1,781,039.08		
		INTEREST	14.68-	ACC	247.3665
		LATE CHG	1,484.62	WANT	
		OTHER FEES	0.00		
		TOTAL PAYOFF	1,782,509.02		247.3665
		ACTUAL ACCRUAL			14.6785

INTEREST PAID TO 09/15/08

TELLER ACTIVITY

0.0

LAST PAGE

Exhibit "G"
(State Financing Statement)

See Attached

(4)

1/10 Myrtle Beach Grande

0525075650-005

CLO RECD APR 10 2008
UCCI

STATE OF SOUTH CAROLINA FILING FEES:

\$ 8.00 - For the FIRST TWO pages \$20.00 - Public Finance Transaction

\$ 2.00 - For THIRD page \$20.00 - Manufactured Home Transaction

\$ 1.00 - Each ADDITIONAL page after the THIRD page.

For each additional Debtor more than two (2), add \$2.00 for each additional Debtor

UCC FINANCING STATEMENT

FOLLOW INSTRUCTIONS CAREFULLY

A. NAME & PHONE OF CONTACT AT FILER (optional) Debbie Brown 843.282.5300	
B. SEND ACKNOWLEDGMENT TO: (Name and Address) John K. Rutenberg, Esquire The Bellamy Law Firm P.O. Box 357 Myrtle Beach, SC 29578	

ORIGINAL

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

1. DEBTOR'S EXACT FULL LEGAL NAME - insert only one debtor name (1a or 1b) - do not abbreviate or combine names					
1a. ORGANIZATION'S NAME					
OR 1b. INDIVIDUAL'S LAST NAME FIRST NAME MIDDLE NAME SUFFIX JONES HARVEY L. MR.					
1c. MAILING ADDRESS 405 Flagg Street		CITY Myrtle Beach		STATE SC	POSTAL CODE 29577
1d. TAX ID # (Organizations) (Optional) N/A	ADDL INFO RE ORGANIZATION DEBTOR	1e. TYPE OF ORGANIZATION N/A	1f. JURISDICTION OF ORGANIZATION N/A	1g. ORGANIZATIONAL ID # if any ☒ NONE	
2. ADDITIONAL DEBTOR'S EXACT FULL LEGAL NAME - insert only one debtor name (2a or 2b) - do not abbreviate or combine names					
2a. ORGANIZATION'S NAME					
OR 2b. INDIVIDUAL'S LAST NAME FIRST NAME MIDDLE NAME SUFFIX BELLAMY WENDY JONES MRS.					
2c. MAILING ADDRESS 405 Flagg Street		CITY Myrtle Beach		STATE SC	POSTAL CODE 29577
2d. TAX ID # (Organizations) (Optional)	ADDL INFO RE ORGANIZATION DEBTOR	2e. TYPE OF ORGANIZATION	2f. JURISDICTION OF ORGANIZATION	2g. ORGANIZATIONAL ID # if any ☐ NONE	
3. SECURED PARTY'S NAME (in NAME of TOTAL ASSIGNMENT of ASSIGNOR SUP) - insert only one secured party name (3a or 3b)					
3a. ORGANIZATION'S NAME THE NATIONAL BANK OF SOUTH CAROLINA					
OR 3b. INDIVIDUAL'S LAST NAME FIRST NAME MIDDLE NAME SUFFIX					
3c. MAILING ADDRESS P.O. Box 219		CITY Myrtle Beach		STATE SC	POSTAL CODE 29578
COUNTRY USA					

4. This FINANCING STATEMENT covers the following collateral:

All furniture, furnishings, fixtures, trade fixtures, equipment, guest and business records, deposits, insurance and condemnation proceeds, names and good will of "Rainbow Court" and "Tropical Plaza", rents, issues, profits, and all substitutions, replacements, proceeds, and products of any and all of the foregoing, all as same are applicable to or derived from Lot 4 and Lots 11 - 15, Block 28, Hotel Section; Lots 1 and 2, Block 31, Hotel Section; Lot 1, Block 13, Hotel Section; all located in Myrtle Beach, Horry County, South Carolina; and (except for furnishings and equipment), Lot 3, Block 7, Long Bay Estates, Myrtle Beach, Horry County, South Carolina.

080229-1044530

UCC-1 FINANCING STATEMENT

Lapse Date 02/28/2013 10 44.53 Filing Fee 17 ORIG

5. ALTERNATIVE DESIGNATION (if applicable):	LESSOR/LESSOR	CONSIGNEE/CONSIGNOR	BALEE/BAKOR	SELLER/BUYER	AG LIEN	NON-UCC FILING
6. This FINANCING STATEMENT is to be filed (for record) (for record) in the REAL ESTATE RECORDS. Attach Addendum	7. REQUEST SEARCH REPORT(S) ON UCC 11 FORM		All Debtors		Debtor 1	Debtor 2
B. OPTIONAL FILER REFERENCE DATA						

FILING OFFICE COPY - SC SECRETARY OF STATE'S OFFICE (FORM UCC1) (7/1/2001)

UCC-1Ad

UCC FINANCING STATEMENT ADDENDUM

FOLLOW INSTRUCTIONS (front and back) CAREFULLY

9. NAME OF FIRST DEBTOR (1a or 1b) ON RELATED FINANCING STATEMENT

OR		
1a. ORGANIZATION'S NAME		
1b. INDIVIDUAL'S LAST NAME	FIRST NAME	MIDDLE NAME SUFFIX
JONES	HARVY	L.

10. MISCELLANEOUS

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

11. ADDITIONAL DEBTOR'S EXACT FULL LEGAL NAME - insert only org name (11a or 11b) - do not abbreviate or combine names

11a. ORGANIZATION'S NAME				
OR				
11b. INDIVIDUAL'S LAST NAME	FIRST NAME	MIDDLE NAME	SUFFIX	
BELLAMY	BILLY	JOE	MR.	
11c. MAILING ADDRESS		CITY	STATE	POSTAL CODE
405 Flagg Street		Myrtle Beach	SC	29577
11d. TAX ID #: (Organizations)		11e. TYPE OF ORGANIZATION	11f. JURISDICTION OF ORGANIZATION	11g. ORGANIZATIONAL ID #, if any
ADDL INFO RE ORGANIZATION DEBTOR				☐ NONE

12. ADDITIONAL SECURED PARTY'S ☐ ASSIGNOR S/P'S NAME - insert only org name (12a or 12b)

12a. ORGANIZATION'S NAME				
OR				
12b. INDIVIDUAL'S LAST NAME	FIRST NAME	MIDDLE NAME	SUFFIX	
12c. MAILING ADDRESS		CITY	STATE	POSTAL CODE
12d. MAILING ADDRESS		CITY	STATE	POSTAL CODE

13. This FINANCING STATEMENT covers ☐ entire to be ctf or ☐ as extracted collateral, or is filed as a ☐ future filing.

14. Description of real estate

15. Additional collateral description

15. Name and address of a RECORD OWNER of above-described real estate (if Debtor does not have a record interest).

17. Check only if applicable and check only one box.

Debtor is a ☐ Trust or ☐ Trustee acting with respect to property held in trust or ☐ Decedent's Estate

18. Check only if applicable and check only one box.

☐ Debtor is a TRANSMITTING UTILITY.☐ Filed in connection with a Manufactured-Home Transaction — effective 30 years☐ Filed in connection with a Public-Finance Transaction — effective 30 years

SC SECRETARY OF STATE'S OFFICE, P.O. BOX 11350, COLUMBIA, SC 29211

(7/1/2001)

UCC-1Ad

UCC FINANCING STATEMENT ADDENDUM

FOLLOW INSTRUCTIONS (front and back) CAREFULLY

9. NAME OF FIRST DEBTOR (1a or 1b) ON RELATED FINANCING STATEMENT

9a. ORGANIZATION'S NAME		
OR		
9b. INDIVIDUAL'S LAST NAME JONES	FIRST NAME HARVY	MIDDLE NAME, SUFFIX L

10. MISCELLANEOUS:

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

11. ADDITIONAL DEBTOR'S EXACT FULL LEGAL NAME - Insert only org name (11a or 11b) - do not abbreviate or combine names

11a. ORGANIZATION'S NAME			
OR			
11b. INDIVIDUAL'S LAST NAME SHROFF	FIRST NAME KERSI	MIDDLE NAME S.	SUFFIX MR.
11c. MAILING ADDRESS 405 Flag Street		CITY Myrtle Beach	STATE POSTAL CODE COUNTRY SC 29577 USA
11d. TAX ID # (Organizations)	11e. TYPE OF ORGANIZATION ADOL INFO RE ORGANIZATION DEBTOR	11f. JURISDICTION OF ORGANIZATION	11g. ORGANIZATIONAL ID #, if any ☐ NONE

12. ADDITIONAL SECURED PARTY'S or ASSIGNOR S/P'S NAME - Insert only org name (12a or 12b)

12a. ORGANIZATION'S NAME			
OR			
12b. INDIVIDUAL'S LAST NAME	FIRST NAME	MIDDLE NAME	SUFFIX
12c. MAILING ADDRESS		CITY	STATE POSTAL CODE COUNTRY

13. This FINANCING STATEMENT covers ☐ further to be cut or ☐ as attached collateral, or is filed as a ☐ future filing.

14. Description of real estate:

15. Additional collateral description:

15. Name and address of a RECORD OWNER of above described real estate
(if Debtor does not have a record interest)

17. Check only if applicable and check only one box.

Debtor is a ☐ Trust or ☐ Trustee acting with respect to property held in trust or ☐ Decedent's Estate

18. Check only if applicable and check only one box.

☐ Debtor is a TRANSMITTING UTILITY☐ Filed in connection with a Manufactured-Home Transaction -- effective 30 years☐ Filed in connection with a Public-Finance Transaction -- effective 30 years

SC SECRETARY OF STATE'S OFFICE, P.O. BOX 11350, COLUMBIA, SC 29211

(7/1/2001)

UCC-1Ad

UCC FINANCING STATEMENT ADDENDUM

FOLLOW INSTRUCTIONS (front and back) CAREFULLY

9. NAME OF FIRST DEBTOR (1a or 1b) ON RELATED FINANCING STATEMENT

9a ORGANIZATION'S NAME		
OR		
9b INDIVIDUAL'S LAST NAME JONES	FIRST NAME HARVY	MIDDLE NAME, SUFFIX L.

10. MISCELLANEOUS:

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

11. ADDITIONAL DEBTOR'S EXACT FULL LEGAL NAME - insert only org name (11a or 11b) - do not abbreviate or condense names

11a ORGANIZATION'S NAME MYRTLE BEACH GRANDE HOTEL, LLC				
OR				
11b INDIVIDUAL'S LAST NAME		FIRST NAME	MIDDLE NAME	SUFFIX
11c MAILING ADDRESS 405 Flagg Street		CITY Myrtle Beach	STATE SC	POSTAL CODE 29577
11d TAX ID NO. (Organizations)	ADDL INFO RE ORGANIZATION DEBTOR	11e TYPE OF ORGANIZATION LLC	11f JURISDICTION OF ORGANIZATION SC	11g ORGANIZATIONAL ID #, if any ☒ NONE

12. ADDITIONAL SECURED PARTY'S or ASSIGNOR'S NAME - insert only org name (12a or 12b)

12a ORGANIZATION'S NAME				
OR				
12b INDIVIDUAL'S LAST NAME		FIRST NAME	MIDDLE NAME	SUFFIX
12c MAILING ADDRESS		CITY	STATE	POSTAL CODE
				COUNTRY

13. The FINANCING STATEMENT covers ☐ timber to be cut or ☐ an interest in collateral, or is filed as a ☐ future filing

14. Description of real estate

15. Additional collateral description

16. Name and address of a RECORD OWNER of above-described real estate (if Debtor does not have a record interest)

17. Check only if applicable and check only one box

Debtor is a ☐ Trust or ☐ Trustee acting with respect to property held in trust or ☐ Decedent's Estate

18. Check only if applicable and check only one box

☐ Debtor is a TRANSMITTING UTILITY
☐ Filed in connection with a Manufactured-Home Transaction - effective 30 years
☐ Filed in connection with a Public-Finance Transaction - effective 30 years

SC SECRETARY OF STATE'S OFFICE, P.O. BOX 11350, COLUMBIA, SC 29211

(7/1/2001)

Exhibit "H"
(County Financing Statement)

See Attached

UCCI

ORIGINAL

STATE OF SOUTH CAROLINA FILING FEES:

\$ 8.00 - For the FIRST TWO pages \$20.00 - Public Finance Transaction
 \$ 2.00 - For THIRD page \$20.00 - Manufactured Home Transaction
 \$ 1.00 - Each ADDITIONAL page after the THIRD page.

For each additional Debtor more than two (2), add \$2.00 for each additional Debtor.

UCC FINANCING STATEMENT

FOLLOW INSTRUCTIONS CAREFULLY

A. NAME & PHONE OF CONTACT AT FILER [optional] Debbie Brown 843.282.5300
B. SEND ACKNOWLEDGMENT TO: (Name and Address) John K. Rutenberg, Esquire The Bellamy Law Firm P.O. Box 357 Myrtle Beach, SC 29578

Instrument#: 2008000028662, MTG BK:
 5039 PG: 1063 DOCTYPE: 207 03/03/2008
 at 10:44:17 AM, 1 OF 4
 BALLERY V. SKIPPER, HORRY COUNTY,
 SC REGISTRAR OF DEEDS

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

1. DEBTOR'S EXACT FULL LEGAL NAME - Insert only one debtor name (1a or 1b) - do not abbreviate or combine names

1a. ORGANIZATION'S NAME			
OR 1b. INDIVIDUAL'S LAST NAME JONES	FIRST NAME HARVEY	MIDDLE NAME L.	SUFFIX MR.
2a. MAILING ADDRESS 405 Flagg Street		CITY Myrtle Beach	STATE SC
		POSTAL CODE 29577	COUNTRY USA
1d. TAX ID #: (Organizations) (Optional) N/A	ADD'L INFO RE ORGANIZATION DEBTOR N/A	1e. TYPE OF ORGANIZATION N/A	1f. JURISDICTION OF ORGANIZATION N/A
			1g. ORGANIZATIONAL ID #, if any ☒ NONE

2. ADDITIONAL DEBTOR'S EXACT FULL LEGAL NAME - Insert only one debtor name (2a or 2b) - do not abbreviate or combine names

2a. ORGANIZATION'S NAME			
OR 2b. INDIVIDUAL'S LAST NAME BELLAMY	FIRST NAME WENDY	MIDDLE NAME JONES	SUFFIX MRS.
2c. MAILING ADDRESS 405 Flagg Street		CITY Myrtle Beach	STATE SC
		POSTAL CODE 29577	COUNTRY USA
2d. TAX ID #: (Organizations) (Optional)	ADD'L INFO RE ORGANIZATION DEBTOR	2e. TYPE OF ORGANIZATION	2f. JURISDICTION OF ORGANIZATION
			2g. ORGANIZATIONAL ID #, if any ☐ NONE

3. SECURED PARTY'S NAME (or NAME of TOTAL ASSIGNEE of ASSIGNOR S/P) - Insert only one secured party name (3a or 3b)

3a. ORGANIZATION'S NAME THE NATIONAL BANK OF SOUTH CAROLINA			
OR 3b. INDIVIDUAL'S LAST NAME	FIRST NAME	MIDDLE NAME	SUFFIX
3c. MAILING ADDRESS P.O. Box 219		CITY Myrtle Beach	STATE SC
		POSTAL CODE 29578	COUNTRY USA

4. THIS FINANCING STATEMENT covers the following collateral:

Lot 4 and Lots 11 - 15, Block 28, Hotel Section; Lots 1 and 2, Block 31, Hotel Section; Lot 1, Block 13, Hotel Section; all located in Myrtle Beach, Horry County, South Carolina; and (except for furnishings and equipment), Lot 3, Block 7, Lung Bay Estates, Myrtle Beach, Horry County, South Carolina.

5. ALTERNATIVE DESIGNATION (if applicable):	LESSEE/LESSOR	CONSIGNEE/CONSIGNOR	BAILEE/BAIOLR	SELLER/BUYER	AG. LIEN	NON-UCC FILING
6. ☒ THIS FINANCING STATEMENT is to be filed (for record) (or recorded) in the REAL ESTATE RECORDS. Attach Addendum (if applicable)			7. REQUEST SEARCH REPORT(S) ON UCC 11 FORM			
8. OPTIONAL FILER REFERENCE DATA			All Debtors ☐ Debtor 1 ☐ Debtor 2 ☐			

UCC-1Ad

UCC FINANCING STATEMENT ADDENDUM

FOLLOW INSTRUCTIONS (front and back) CAREFULLY

9. NAME OF FIRST DEBTOR (1a or 1b) ON RELATED FINANCING STATEMENT

9a. ORGANIZATION'S NAME

OR

9b. INDIVIDUAL'S LAST NAME

JONES

FIRST NAME

HARVY

MIDDLE NAME, SUFFIX

L

10. MISCELLANEOUS:

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

11. ADDITIONAL DEBTOR'S EXACT FULL LEGAL NAME - insert only one name (11a or 11b) - do not abbreviate or combine names

11a. ORGANIZATION'S NAME

OR

11b. INDIVIDUAL'S LAST NAME

BELLAMY

FIRST NAME

BILLY

MIDDLE NAME

JOE

SUFFIX

MR.

11c. MAILING ADDRESS

405 Flagg Street

CITY

Myrtle Beach

STATE

SC

POSTAL CODE

29577

COUNTRY

USA

11d. TAX ID # (Organizations)

ADD'L INFO RE
ORGANIZATION
DEBTOR

11e. TYPE OF ORGANIZATION

11f. JURISDICTION OF ORGANIZATION

11g. ORGANIZATIONAL ID #, if any

☐ NONE12. ADDITIONAL SECURED PARTY'S or ASSIGNOR S/P'S NAME - insert only one name (12a or 12b)

12a. ORGANIZATION'S NAME

OR

12b. INDIVIDUAL'S LAST NAME

FIRST NAME

MIDDLE NAME

SUFFIX

12c. MAILING ADDRESS

CITY

STATE

POSTAL CODE

COUNTRY

13. This FINANCING STATEMENT covers ☐ timber to be cut or ☐ as-extracted collateral or is filed as a ☐ fixture filing.

14. Description of real estate.

15. Additional collateral description:

See attached Addendum.

15. Name and address of a RECORD OWNER of above-described real estate if Debtor does not have a record interest).

17. Check only if applicable and check only one box.Debtor is a ☐ Trust or ☐ Trustee acting with respect to property held in trust, or ☐ Decedent's Estate18. Check only if applicable and check only one box.☐ Debtor is a TRANSMITTING UTILITY☐ Filed in connection with a Manufactured-Home Transaction — effective 30 years☐ Filed in connection with a Public-Finance Transaction — effective 30 years

UCC-1Ad

UCC FINANCING STATEMENT ADDENDUM

FOLLOW INSTRUCTIONS (front and back) CAREFULLY

9. NAME OF FIRST DEBTOR (1a or 1b) ON RELATED FINANCING STATEMENT

9a. ORGANIZATION'S NAME		
OR		
9b. INDIVIDUAL'S LAST NAME	FIRST NAME	MIDDLE NAME, SUFFIX
JONES	HARVY	L.

10. MISCELLANEOUS:

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

11. ADDITIONAL DEBTOR'S EXACT FULL LEGAL NAME - Insert only one name (11a or 11b) - do not abbreviate or combine names

11a. ORGANIZATION'S NAME			
OR			
11b. INDIVIDUAL'S LAST NAME	FIRST NAME	MIDDLE NAME	SUFFIX
SHROFF	KERSI	S.	MR.
11c. MAILING ADDRESS	CITY	STATE	POSTAL CODE COUNTRY
405 Flagg Street	Myrtle Beach	SC	29577 USA
11d. TAX ID #: (Organizations)	ADD'L INFO RE ORGANIZATION DEBTOR	11e. TYPE OF ORGANIZATION	11f. JURISDICTION OF ORGANIZATION
			11g. ORGANIZATIONAL ID #, if any
			☐ NONE

12. ADDITIONAL SECURED PARTY'S or ASSIGNOR S/P'S NAME - insert only one name (12a or 12b)

12a. ORGANIZATION'S NAME			
OR			
12b. INDIVIDUAL'S LAST NAME	FIRST NAME	MIDDLE NAME	SUFFIX
12c. MAILING ADDRESS	CITY	STATE	POSTAL CODE COUNTRY

13. This FINANCING STATEMENT covers ☐ timber to be cut or ☐ as-extracted collateral or is filed as a ☐ fixture filing.

14. Description of real estate:

See attached Addendum.

16. Additional collateral description:

15. Name and address of a RECORD OWNER of above-described real estate (Debtor does not have a record interest):

17. Check only if applicable and check only one box.Debtor is a ☐ Trust or ☐ Trustee acting with respect to property held in trust or ☐ Decedent's Estate18. Check only if applicable and check only one box.☐ Debtor is a TRANSMITTING UTILITY☐ Filed in connection with a Manufactured-Home Transaction — effective 30 years☐ Filed in connection with a Public-Finance Transaction — effective 30 years

UCC-1Ad

UCC FINANCING STATEMENT ADDENDUM

FOLLOW INSTRUCTIONS (front and back) CAREFULLY

9. NAME OF FIRST DEBTOR (1a or 1b) ON RELATED FINANCING STATEMENT

1a. ORGANIZATION'S NAME

OR

1b. INDIVIDUAL'S LAST NAME

FIRST NAME

MIDDLE NAME, SUFFIX

JONES

HARVY

L.

10. MISCELLANEOUS:

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

11. ADDITIONAL DEBTOR'S EXACT FULL LEGAL NAME - insert only one name (11a or 11b) - do not abbreviate or combine names

1a. ORGANIZATION'S NAME

MYRTLE BEACH GRANDE HOTEL, LLC

OR

1b. INDIVIDUAL'S LAST NAME

FIRST NAME

MIDDLE NAME

SUFFIX

11c. MAILING ADDRESS

405 Flagg Street

CITY

Myrtle Beach

STATE

POSTAL CODE

COUNTRY

SC

29577

USA

11d. TAX ID #: (Organizations)

ADD'L INFO RE
ORGANIZATION
DEBTOR

11e. TYPE OF ORGANIZATION

LLC

11f. JURISDICTION OF ORGANIZATION

SC

11g. ORGANIZATIONAL ID #, if any

☒ NONE

12. ADDITIONAL SECURED PARTY'S or ASSIGNOR S/P'S NAME - insert only one name (12a or 12b)

12a. ORGANIZATION'S NAME

OR

12b. INDIVIDUAL'S LAST NAME

FIRST NAME

MIDDLE NAME

SUFFIX

12c. MAILING ADDRESS

CITY

STATE

POSTAL CODE

COUNTRY

13. This FINANCING STATEMENT covers ☐ timber to be cut or ☐ as-extracted collateral, or is filed as a ☒ fixture filing.

14. Description of real estate:

Lot 4 and Lots 11 - 15, Block 28, Hotel Section; Lots 1 and 2, Block 31, Hotel Section; Lot 1, Block 13, Hotel Section; all located in Myrtle Beach, Horry County, South Carolina; and (except for furnishings and equipment), Lot 3, Block 7, Long Bay Estates, Myrtle Beach, Horry County, South Carolina.

15. Name and address of a RECORD OWNER of above-described real estate (Debtor does not have a record interest):

Debtor is record owner.

16. Additional collateral description:

17. Check only if applicable and check only one box.

Debtor is a ☐ Trust or ☐ Trustee acting with respect to property held in trust or ☐ Decedent's Estate

18. Check only if applicable and check only one box.

☐ Debtor is a TRANSMITTING UTILITY☐ Filed in connection with a Manufactured-Home Transaction — effective 30 years☐ Filed in connection with a Public-Finance Transaction — effective 30 years

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM HORRY COUNTY
Court of Common Pleas

The Honorable Cynthia Graham Howe, Master-in-Equity for Horry County

CASE NO. 2009-CP-26-5395

Ex Parte Coastal Designs, Inc. and Tim Wilkes..... Appellants

IN RE:

SRB Servicing, LLC, successor by assignment to Synovus Bank,
formerly known as Columbus Bank and Trust Company,
as successor in interest through name change and by merger with
the National Bank of South Carolina..... Respondent

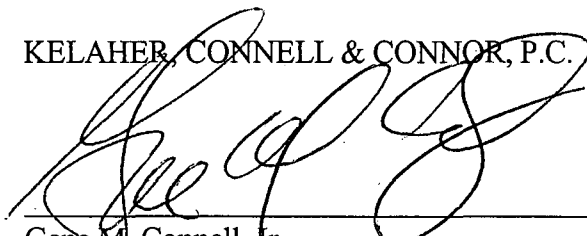
vs.

Myrtle Beach Grande Hotel, LLC, Harvey L. Jones,
Wendy Jones (J.) Bellamy, Billy Joe (J.) Bellamy,
Kersi S. Shroff, Mozingo & Wallace Architects, LLC,
Harvey Levon Jones and Wendy Beth Jones Bellamy
as Personal Representatives of the Estate of Ann L. Jones,
and as Trustee of the Restated and Amended Trust Agreement
of Ann L. Jones, dated October 30, 2006..... Respondents.

CERTIFICATE OF COUNSEL

The undersigned hereby certifies that this Record on Appeal contains all materials
proposed to be included by any of the parties and not any other material.

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November 11, 2011
Surfside Beach, South Carolina

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STATEMENT OF ISSUES ON APPEAL

- I. Did the trial court violate due process by issuing an order without notice to the successful bidder?
- II. Did the trial court follow established procedure under South Carolina law in vacating a sale?

STATEMENT OF THE CASE

This matter is before the Court by an appeal of the successful bidder at a foreclosure sale in Horry County, South Carolina. Appellant was the successful bidder at a sale on February 7, 2011. Thereafter, Appellant made payment to the court of \$18,000.00 as was required pursuant to the sale order. The court vacated the sale order on February 15, 2011 without prior notice and an opportunity to be heard to Appellant, the successful bidder. This appeal follows.

ARGUMENT

I. THE TRIAL COURT VIOLATED DUE PROCESS IN NOT NOTIFYING THE SUCCESSFUL BIDDER THE SALE WAS GOING TO BE VACATED PRIOR TO ISSUING ITS ORDER.

The basis of this appeal is Appellant Wilkes was the successful bidder at a court ordered sale on February 7, 2011. Thereafter, Appellant paid the requisite deposit of \$18,000.00. On February 15, 2011, the Master-in-Equity vacated the sale without notice to Appellant, the successful bidder. The Master-in-Equity, in her Order wrote:

The Plaintiff and certain Defendants, after consulting with the Master-in-Equity, determined that the appropriate course of action would be to vacate the sale, republish notice thereof with the specific liens listed therein and post a new sale date. The successful bidders at the sale of February 7, 2011 would also be released from their current bids and any deposits returned... (See Order of Cynthia Graham Howe dated February 14, 2011).¹ (R. p. 2).

After the Order was issued, Appellant, the successful bidder, was advised that the sale had been vacated. (R. p. 14). Appellant was not given the opportunity to be heard nor was he given notice of the meeting between the Master-in-Equity, the Plaintiff and certain Defendants. The procedure employed by the Master-in-Equity violates due process of law because Appellant was not notified of the sale and given a right to be heard.

In South Carolina, due process is flexible and calls for such procedural protections as the particular situation demands. *Stono River Envtl. Protection Ass'n v. South Carolina Dept. of Health & Envtl Control*, 305 S.C. 90, 406 S.E.2d 340 (1991); *Brown v. Malloy*, 345 S.C. 113, 546 S.E.2d 195 (Ct.App. 2001). Further procedural due process mandates that a litigant such as Appellant be placed on notice of the issues which the court is to consider prior to the court making a ruling. *Murdock v. Murdock*, 338 S.C. 322, 526 S.E.2d 241 (Ct.App. 1999).

¹ See also letter to Appellant dated February 15, 2011 (R. p. 14).

The Due Process Clause of the United States Constitution demands notice reasonably calculated under all circumstances to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections. *Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306, 70 S.Ct. 652, 94 L.Ed. 865 (1950) (It is a fundamental doctrine of the law that a party whose personal rights are to be affected by a personal judgment or decision must have their day in court or opportunity to be heard, and without due notice and opportunity to be heard a court has no jurisdiction to adjudicate such rights. A judgment by a court without jurisdiction of both parties means the subject matter is a nullity and must be so treated by the courts whenever and for whatever purpose it is presented and relied on.

In this case, the Master-in-Equity's own Order (R. pp. 1-2) and letter to Appellant (R. 14) clearly indicates that the successful bidder, Wilkes, was not advised that she was going to vacate the sale. Procedural due process requires notice, the opportunity to be heard in a meaningful way, and judicial review. *Grannis v. Ordean*, 234 U.S. 385, 34 S.Ct. 779, 58 L.Ed. 1363 (1914); *Universal Benefits, Inc. v. McKinney*, 349 S.C. 179, 561 S.E.2d 659 (Ct.App. 2002). The fundamental requirement of due process is the opportunity to be heard at a meaningful time and in a meaningful manner. Appellant was deprived of procedural due process by failing to be notified of the meeting between the Master-in-Equity and the Plaintiff and certain Defendants. Without being notified and hearing Appellant's arguments as the successful bidder, his due process rights were denied. Further, no transcript of record was made of the meeting between the Master-in-Equity and the Plaintiff and certain Defendants in the foreclosure action. Because procedural due process was not afforded to

the Appellant, this Court must reverse the Order Vacating Sale. Appellant's due process rights were compromised because Appellant was not provided notice and an opportunity to argue against the vacating of the sale. *Blanton v. Stathos*, 351 S.C. 534, 570 S.E.2d 565 (S.C.App. 2002) (Procedural due process mandates litigant has a right to be heard and given notice of issues before the court.).

II. THE TRIAL COURT DID NOT EMPLOY THE METHOD MANDATED BY THIS COURT REGARDING SUCCESSFUL BIDDERS AT PUBLIC SALES.

Appellant respectfully suggests to the Court that the procedure employed by the Master in vacating the sale was violative of due process in that the successful bidder was not given the right to be heard and that no transcript of record was available because a court reporter was not present. Further, the Court had an ex parte hearing with counsel without notice to the successful bidder. This procedure is violative of *Wells Fargo Bank, NA v. Turner*, 378 S.C. 147, 662 S.E.2d 424 (S.C. App. 2008). In *Wells Fargo*, the successful bidder at an auction paid \$3,000.00 for the property. Thereafter, the bank served the successful bidder a Motion to Set Aside and Vacate Sale. The Bank argued the sale should be set aside because: (1) the Bank's attorney failed to take all necessary steps to ensure the Bank would have a representative present and prepared to bid at the sale; and (2) the successful bid of \$3,000.00 was so low as to shock the conscience of the court. (378 S.C. at 150 and 662 S.E.2d at 425).

In *Wells Fargo*, the court held a hearing on the Bank's Motion to Set Aside and Vacate Sale and heard from the successful bidder. In this case, the court held no hearing, but apparently had ex parte communication with National Bank of South Carolina without notice to Wilkes. Appellants respectfully suggest to the Court that the procedure used by the lower court was in error and that the proper procedure would have been for the Bank to file

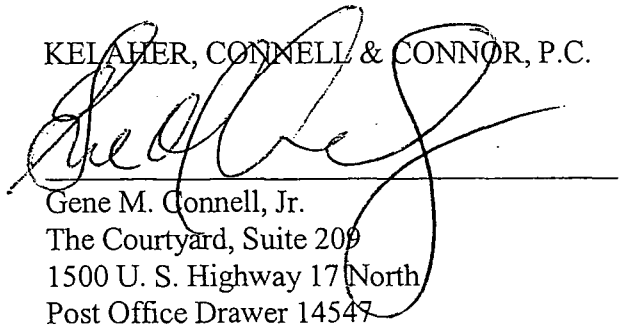
a Motion to Set Aside and/or Vacate the Sale and notify the successful bidder. At that time, the Court would employ the reasoning in *Investors Savings Bank v. Phelps*, 303 S.C. 15, 397 S.E.2d 780 (Ct. App. 1990) which provides that the trial court must determine whether to set aside a judicial sale and such will be left to the sound discretion of the trial court. Implicit in that holding is that the successful bidder has a right to be heard and to present his arguments why the sale should not be overturned.

CONCLUSION

Appellant, the successful bidder, at the foreclosure sale on February 7, 2011 was denied procedural due process under the United States and South Carolina Constitutions. Further, the court did not follow the procedure for overturning a successful bid at an auction. (*Wells Fargo Bank, N.A. v. Turner*, 378 S.C. 147, 662 S.E.2d 424 (S.C. App. 2008)). For those reasons the Court should set aside and/or reverse the Order Vacating Sale and return this matter to the lower court. See also *Investors Savings Bank v. Phelps*, 303 S.C. 15, 397 S.E.2d 780 (Ct.App. 1990).

Respectfully submitted,

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November 30, 2011
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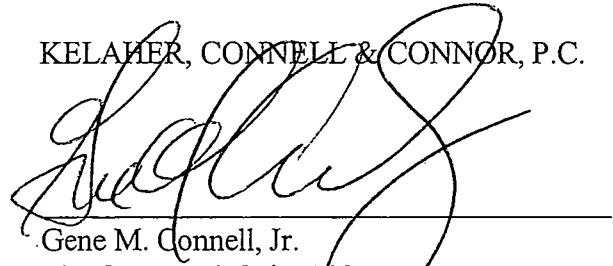
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CERTIFICATE OF COUNSEL

The undersigned certifies that this Final Brief complies with Rule 211(b) SCACR.

KELAHER, CONNELL & CONNOR, P.C.

A large, stylized handwritten signature in black ink, likely belonging to Gene M. Connell, Jr., is written over a horizontal line.

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PROOF OF SERVICE

PERSONALLY appeared before me, Shelia Y. McCumbee, who being duly sworn,
deposes and says that she is an employee of Kelaher, Connell & Connor, P.C., Attorneys at
Law, and that she has served the **Final Brief of Appellant** on the Respondents, through
attorneys of record, by depositing a copy of same in the United States Mail, postage prepaid,
to:

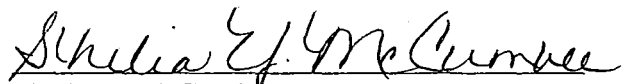
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DATE OF MAILING: November 30, 2011


Shelia Y. McCumbee

SWORN AND SUBSCRIBED before me,
this 30~~th~~ day of November, 2011


Notary Public for South Carolina
My Commission Expires: 8-25-19

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Bellamy as personal representatives of The Estate of Ann L. Jones,
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FINAL BRIEF OF RESPONDENT SRB SERVICING, LLC

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STATEMENT OF THE ISSUES ON APPEAL

1. DID THE TRIAL COURT VIOLATE DUE PROCESS BY ISSUING AN ORDER WITHOUT NOTICE TO THE SUCCESSFUL BIDDER?
2. COULD THE MASTER-IN-EQUITY EQUITABLY UPHOLD THE SALE WHEN PURCHASERS WERE ON NOTICE THAT THE SALE WAS SUBJECT TO SUPERIOR LIENS, BUT WHERE THOSE LIENS WERE NOT SPECIFICALLY IDENTIFIED IN THE NOTICE OF SALE?
3. DID THE TRIAL COURT FOLLOW ESTABLISHED PROCEDURE UNDER SOUTH CAROLINA LAW IN VACATING THE SALE?
4. COULD THE MASTER-IN-EQUITY, IN CONSIDERING THE SANCTITY OF CONTRACTS, UPHOLD A SALE WHEREIN A BIDDER FAILED TO FULLY COMPLY WITH THE REQUIREMENTS OF THE NOTICE OF SALE AND WHERE THE ORDER VACATING THE SALE WAS IN THE INTEREST OF THE APPELLANTS?

STATEMENT OF THE CASE

Pursuant to Rule 53(b) of the South Carolina Rules of Civil Procedure (SCRCP), the original action, an action for foreclosure of a mortgage, was referred to the Master-in-Equity in the above entitled County, by order of a Circuit Court Judge. Thereafter, the Master-in-Equity issued a Master's Order and Judgment of Foreclosure and Sale. The property was listed in the Notice of Sale and was bid upon on February 7, 2011. The Appellants were the successful bidders of three of the four lots listed in the Notice of Sale with a bid totaling \$955,000.00. Two of those three parcels had first mortgages that were not specifically named in the Notice of Sale. Appellants provided a deposit of \$18,000.00

by the end of the day; however, that deposit was not in compliance with the Notice of Sale which required a five percent deposit. The Master-in-Equity, in an attempt to protect the Appellant and other purchasers, requested that an order vacating the sale be submitted. The Respondent, SRB Servicing, LLC, thereafter provided the Order to Vacate that sale, because, while the published Notice of Sale included language that addressed the sale was being made subject to superior liens, it did not specifically set out the known first mortgages. Appellant, Wilkes wrote a letter to the Master-in-Equity expressing his intention to enforce the sale without being subject to the first mortgages. All remaining parties to the original foreclosure action agreed that this was inequitable, and the Order to Vacate was submitted and signed.

ARGUMENT

1. **THE TRIAL COURT DID NOT VIOLATE DUE PROCESS BY ISSUING AN ORDER WITHOUT NOTICE TO THE SUCCESSFUL BIDDER BECAUSE THE BIDDER DID NOT COMPLY WITH THE TERMS OF THE SALE WHEN HE FAILED TO PROVIDE THE REQUIRED DEPOSIT OF 5% AND THEREFORE HE DOES NOT HAVE STANDING.**

Appellants argue that that they were entitled to due process pursuant to *Blanton v. Stathos*, 351 S.C. 534, 570 S.E.2d 565 (S.C. Ct. App. 2002); *Brown v. Malloy*, 345 S.C. 113, 546 S.E.2d 195 (S.C. Ct. App. 2001); *Grannis v. Ordean*, 234 U.S. 385, 34 S.Ct.779, 85 L.Ed.1363 (1914); *Stono River Env'tl. Protection Ass'n v. South Carolina Dept. of Health & Env'tl. Control*, 305 S.C. 90, 406 S.E.2d 340 (S.C. 1991); *Murdock v. Murdock*, 338 S.C. 322, 526 S.E.2d 241 (S.C. Ct. App. 1999). In each of these cases, the party that is alleged to have been deprived of due process was an actual litigant in the matter. Appellant, Wilkes, as a bidder at the foreclosure sale was not a party to the

underlying action for foreclosure. Case law states however that “the successful bidder makes himself a party to the case, and except where title to the property is defective, or where he can show fraud, misrepresentation, mistake or other circumstance of unfairness in the sale, he may be compelled by the court to perform his contract of purchase.” *Farrow v. Farrow*, 88 S.C. 33, 70 S.E. 459 (S.C. 1911).

Pursuant to the Notice of Sale in the case *sub judice* the terms of the sale are clear. The Appellants were required to present a deposit of five percent (5%) of the purchase price by the conclusion of the bidding that day. The Notice of Sale specifically stated the following:

“TERMS OF SALE: The successful bidder, other than the Plaintiff, will deposit with the Master-in-Equity at conclusion of the bidding, five (5%) of the bid, in cash or equivalent, as evidence of good faith, same to be applied to the purchase price in case of compliance, but to be forfeited and applied first to costs and then to Plaintiff’s debt in the case of non-compliance.”

Appellant, while being the successful bidder, did not comply with the terms of the Notice of Sale, and therefore forfeited his deposit, as well as, any interest he may have had. His failure to comply with the Notice of Sale prevents him from now enforcing its terms. Furthermore by failing to comply with the bid, he negated his status as an interested party and should thereby not be entitled to any due process.

Appellants further rely upon *Wells Fargo Bank, N.A. v. Turner*, 378 S.C. 147, 662 S.E.2d 424 (S.C. Ct. App. 2008) where in a sale was vacated for a grossly inadequate sales price. Gross inadequacy of the sales price is one prong under the test set forth in *Poole v. Jefferson Standard Life Ins. Co.*, 174 S.C. 150, 157, 177 S.E 14, 27 (S.C. 1934).

If the Court in the case *sub judice* finds that Appellants were deprived of due process for failure to give notice of the Order Vacating the Sale, then the first prong of the test set forth in *Poole* is not applicable. The Court should apply the second prong which allows a sale to be set aside and vacated if there exist "circumstances warranting court interference." *Poole*, at 157, S.E at 27. The facts in this case indicate that even if the Master were to have held a hearing, the Master could not in equity uphold a sale not subject to the existing first mortgages. While the Notice of Sale meets the minimum requirements set forth in South Carolina Code Ann. §15-39-660 (1977), the Master, using its sound discretion, can make the determination to set aside and vacate a sale. *Investors Sav. Bank v. Phelps*, 303 S.C. 15, 17, 397 S.E.2d 780, 781 (S.C. Ct. App. 1990). In the case *sub judice*, the Master determined in its sound discretion that given the facts and circumstances in this case, the sale should be vacated.

2. THE TRIAL COURT COULD HAVE UPHELD THE SALE SUBJECT TO THE FIRST MORTGAGES BUT IT WOULD HAVE BEEN INEQUITABLE TO DO SO BECAUSE THE BIDDERS ARE GENERALLY THE LESS SOPHISTICATED PARTIES AND BECAUSE THE PREJUDICE TO THE BIDDERS WOULD HAVE BEEN SIGNIFICANT.

Bidders at a foreclosure sale are often times the less sophisticated party although they are charged with having some knowledge of the liens on the property upon which they bid. The Appellants fraudulently claimed in this instance to be without knowledge of the superior liens in hopes of attaining status as bona fide purchasers and purchasing the property far below its value. When presented with the information available at the time, the Master could not equitably allow the sale because the Appellants would be

purchasing subject to superior liens and subject to damages for failure to comply with the terms of sale. The Master, considering the public interest, therefore attempted to protect their interest as a less sophisticated party. The Appellants were fraudulent in representing to the Court that they had no knowledge of the superior liens because they and or their agents were informed of the fact prior to the sale. Respondent therefore assert that it is not opposed to upholding the sale subject to the superior liens and interest and attorneys' fees accrued from the date of the sale. Considering the fraudulent information submitted to the Court, and the significant delay and financial hardship incurred by Respondent, it would not be entirely inequitable to reverse the Order and strictly enforce the terms of the sale.

3. THE TRIAL COURT DID NOT VIOLATE ANY ESTABLISHED PROCEDURE WHEN IT VACATED THE SALE.

Respondent asserts that each of these cases relied upon by Appellants is not only grossly factually different then the case *sub judice*, but they all apply to due process as required by statute. In the current factual scenario there is no controlling statute that specifically addresses due process. There is no established procedure for vacating a sale in South Carolina. There are no statutory requirements of notice. Furthermore, the Master issued the Order *sua sponte* to protect the Appellants' rights. The Master was aware of the Appellants' desire to be the successful purchaser without being subject to superior liens, but could not in equity provide that relief. The Master therefore orally issued an order to the Respondents that the sale would be vacated to protect the Appellants.

If, however, the Court finds in the alternative that the Appellants were deprived of due process and that the Master erred in vacating the sale without notice to the Appellants. The Master still could not have allowed Appellants to purchase the property as bona fide purchasers not subject to the superior liens. The Notice of Sale clearly stated that the sale was subject to superior liens and there is evidence to support that the Appellants were knowledgeable about the superior liens prior to the date of the sale.

Appellants therefore were not bona fide purchasers because they had prior notice that the properties were subject to first mortgages, and received further verbal verification and notice at the sale by attorneys for two of the Respondents. In order to claim status as a bona fide purchaser at a foreclosure sale, a party must show (1) actual payment of the purchase price of the property, (2) acquisition of legal title to the property, or the best right to it, and (3) a bona fide purchase. See, *Spence v. Spence*, 368 S.C. 106, 117, 628 S.E.2d 869, 874-75 (S.C. 2006). The Appellants did not pay the purchase price or deposit in full, are not bona fide purchasers, and their failure to provide the required deposit negates any rights to enforce the terms of the sale, and which in turn negates their rights to notice that the sale had been vacated. The Appellant could not have obtained legal title to the property without the proper deposit and without it being subject to the superior liens, due process or not.

Respondent therefore requests this appeal be denied, or in the alternative, that the Appellants be held to the terms of the sale subject to superior liens and all costs accruing.

4. **THE TRIAL COURT COULD HAVE UPHELD THE SALE SUBJECT TO THE FIRST MORTGAGES BUT IT WOULD BE AGAINST PUBLIC POLICY TO HAVE DONE SO BECAUSE THE BIDDERS DID NOT FULLY COMPLY WITH THE TERMS OF SALE AS LISTED IN THE NOTICE OF SALE.**

The Master-in-Equity (herein after "Master") has the power to set aside a judicial sale and vacate it if there exists "circumstances warranting court interference." *Poole*, at 157, S.E at 27. In the case *sub judice* the Master was presented with circumstances that warranted the sale being set aside. The Appellants failed to fully comply with the terms of the Notice of Sale because they did not deposit the required amount within the time allotted. Furthermore, the Appellants purchased properties claiming that they had no knowledge of the first mortgages; however the Notice of Sale specifically informs the Appellants that the purchase was subject to all superior liens. The Appellants would be subjected to significant financial harm for failing to comply with the terms of sale, and had the sale been upheld the Appellants would have been forced to pay an inordinate amount for the property subject to superior liens. The Master, therefore, decided that it would be in the best interest of the Appellants to vacate the sale and therefore protect their interests.

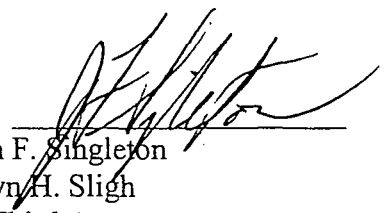
CONCLUSION

Appellants were the successful bidders at the foreclosure sale but were not denied due process, because they did not comply with the terms of the sale and therefore can not now attempt to enforce it. Appellants have furthermore fraudulently submitted to the Court that they were not knowledgeable about the first mortgages and are now moving the Court to reverse the Order Vacating the Sale. Even if the Appellants were not allowed

proper notice or the opportunity to be heard, the Master still cannot in equity grant them the desired relief. The Court cannot in equity affirm the sale without it being subject to the first mortgages even if the Appellant was denied due process. Therefore, Respondent, SRB Servicing, LLC moves this Court to deny this Appeal.

Respectfully submitted,

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December 15, 2011

Conway, SC

IN THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM HORRY COUNTY
Court of Common Pleas

The Honorable Cynthia Graham Howe,
Master-in-Equity for Horry County

Case # 2009-CP-26-5395

Ex Parte Coastal Designs, Inc. and Tim Wilkes.....Appellants

In Re:

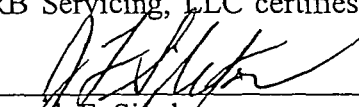
SRB Servicing, LLC, successor by assignment
To Synovus Bank, formerly known as Columbus
Bank and Trust Company, as successor in interest
through name change and by merger with the
National Bank of South Carolina.....Respondent,

vs.

Myrtle Beach Grande Hotel, LLC, Harvey L. Jones,
Wendy Jones (J.) Bellamy, Billy Joe(J.) Bellamy,
Kersi S. Shroff, Mozingo + Wallace Architects, LLC,
Harvey Levon Jones and Wendy Beth Jones
Bellamy as personal representatives of The Estate of Ann L. Jones,
and as Trustee of The Restated and Amended Trust Agreement
of Ann L. Jones, dated October 30, 2006.....Respondents.

CERTIFICATE OF COUNSEL

The undersigned counsel for Respondent, SRB Servicing, LLC certifies that its
Final Brief complies with Rule 211(b), SCACR.



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THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM HORRY COUNTY
Court of Common Pleas

The Honorable Cynthia Graham Howe, Master-in-Equity for Horry County

CASE NO. 2009-CP-26-5395

Ex Parte Coastal Designs, Inc. and Tim Wilkes Appellants

IN RE:

SRB Servicing, LLC, successor by assignment to Synovus Bank,
formerly known as Columbus Bank and Trust Company, as
successor in interest through name change and by merger with
the National Bank of South Carolina Respondent

vs.

Myrtle Beach Grande Hotel, LLC, Harvey L. Jones, Wendy
Jones (J.) Bellamy, Billy Joe (J.) Bellamy, Kersi S. Schroff,
Mozingo & Wallace Architects, LLC, Harvey Levon Jones and
Wendy Beth Jones Bellamy as Personal Representatives of the
Estate of Ann L. Jones, and as Trustee of the Restated and
Amended Trust Agreement of Ann L. Jones, dated October 30, 2006.... Respondents

CERTIFICATE OF SERVICE

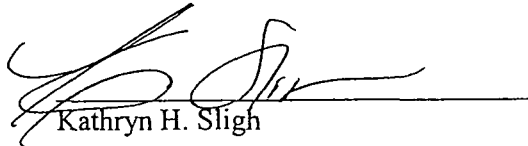
I, Kathryn H. Sligh, do hereby certify that I am an employee of the Law Firm of
Singleton, Burroughs & Young, P.A., Attorneys at Law, Conway, South Carolina, and
that I have this date mailed a copy of the **Final Brief of Respondent, SRB Servicing,
LLC, and Certificate of Counsel** on behalf of Respondent, SRB Servicing, LLC in
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15th day of December, 2011.