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SC SUPREME COURT

STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM HORRY COUNTY
Court of Common Pleas

George C, James, Jr., Circuit Judge, Fifteenth Judicial Circuit

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Appellate Case No.: 2016-000915

National Security Fire & Casualty Company, ...Plaintiff,

v

Rosemary Jenrette, AKA Rosemary Long Jenrette, and
Horry County State Bank, ...Defendants,

of whom

Rosemary Jenrette, AKA Rosemary Long Jenrette, ...~~Appellant,~~ Petitioner

v.

Horry County State Bank, ...Respondent.

APPENDIX
BOOK 1 OF 2

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THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM HORRY COUNTY
Court of Common Pleas

George C. James, Jr., Circuit Court Judge

Appellate Case No. 2014-001285

National Security Fire and Casualty Company, Plaintiff,

v.

Rosemary Jenrette, AKA Rosemary Long Jenrette and Horry County State Bank, Defendants,

Of whom

Rosemary Jenrette, AKA Rosemary Long Jenrette is the Appellant,

and

Horry County State Bank is the Respondent.

RECORD ON APPEAL

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STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS FIFTEENTH JUDICIAL CIRCUIT
COUNTY OF HORRY	)	2011-CP-26-9199
National Security Fire & Casualty Company,	)	
Plaintiff,	)	
vs	)	ORDER DENYING DEFENDANT JENRETTE'S MOTION TO RECONSIDER
Rosemary Jenrette, a/k/a/ Rosemary Long Jenrette and Horry County State Bank,	)	
Defendants,	)	

FILED
HORRY COUNTY
JUN -3 AM 11:23
CLERK OF COURT

The court's order granting judgment to defendant Horry County State Bank (the Bank) was filed February 11, 2014. The court has reviewed the issues raised in defendant Jenrette's timely motion to reconsider the conclusions reached by the court in that order. As set forth below, the motion is denied.

Jenrette asserts six categories of "Errors in Findings of Fact", fourteen errors for "Failure to Make Findings of Fact Supported by the Evidence", ten "Errors in Conclusions of Law", and four errors concerning "Issues Raised at Trial, but not Ruled Upon". The court will summarily set forth its rulings on many of these points and will address others more fully.

A. **"Errors in Findings of Fact" Asserted by Jenrette**

1. Jenrette argues that the court erred in finding that the power of attorney (POA) gave Jenrette's son, Quickel, the authority to execute a note in Jenrette's name. The defendant is technically correct, but the gist of the finding was that

B/#1

the POA gave Quickel the authority to obtain a loan using the subject property, 104 Country Club Lane, as collateral.

2. Jenrette argues in this ground and in several other points in the motion that the court erred in finding that Jenrette was described in the mortgage as the "Mortgagor" and that she was referred to within the mortgage as "Borrower". This argument has no merit whatsoever, as the mortgage plainly provides "The Mortgagor Rosemary Long Jenrette will be referred to herein as 'Borrower'."

3. As to ground #3, Jenrette is correct, as the mortgage was initially recorded on May 4, 2009 and was re-recorded on May 5, 2009. The promissory note was executed by Quickel on May 1, 2009. The order is so amended.

4. Jenrette argues that the court erred in concluding that the assignment of insurance proceeds was binding upon her. Points (a) and (b) are denied. As to point (c), Jenrette seems to argue that the subject property is not among the real properties listed in the POA. Presumably, Jenrette's argument is that since the subject property is not so listed, Quickel had no authority to execute a mortgage encumbering the subject property, and that the mortgage has no binding effect insofar as insurance proceeds are concerned. This is the first time that Jenrette has advanced this argument, so the court will not consider it as framed. It is apparent that the entire foreclosure process was conducted and Jenrette never raised the issue that the subject property was not encumbered by the mortgage. Likewise, in this litigation, Jenrette has never raised the issue until now. Even so, it appears that the subject property was in fact

#2

described as Parcel I of II in the mortgage, bearing TMS number 123-00-02-069.

5. Jenrette is correct in her assertion that she was joined as a defendant in the foreclosure action as the record owner of the subject property and as a mortgagor. The order is so amended.

6. Jenrette is correct in her assertion that the Master's Order of Foreclosure and Sale was filed on April 26, 2011, not April 25, 2011. The order is so amended.

B. **"Failure to Make Findings of Fact Supported by the Evidence" Asserted by Jenrette**

Jenrette contends that the court failed to make fourteen findings of fact that were supported by the evidence. She is technically correct that the court failed to specifically make the findings she sets forth in her motion. However, these proposed findings, while perhaps true statements of fact, are of no real import to the court's ultimate decision. Therefore, the court respectfully rejects Jenrette's motion that the order be amended to include those findings of fact. Specifically with regard to paragraph 12 of this section of Jenrette's motion, the court notes that its conclusion that the assignment of insurance proceeds was binding upon Jenrette is based on the fact that the assignment was set forth in paragraph 3 of the mortgage.

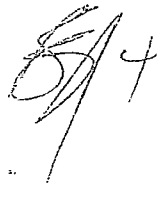
C. **"Errors in Conclusions of Law" Asserted by Jenrette**

1. Jenrette again takes issue with the court's finding that Jenrette was the "Borrower" as that term is used in the mortgage. She again claims that since

B/#3

she borrowed no money from the Bank, she could not be a "Borrower". She cites case law stating that "a mortgage is a mere security for a debt", and that since there was no debt owed by her to the Bank, she is not the "Borrower" as set forth in the mortgage, and, therefore, the terms of the mortgage binding the "Borrower" do not bind her. This argument has no practical merit, as the mortgage signed by Quickel pursuant to the POA clearly contemplates that Jenrette is bound by the terms of the mortgage,

2. In paragraph 2 of this section of the motion, Jenrette again contends that Quickel did not execute any document under the POA obligating Jenrette to pay the indebtedness created by the note. That is certainly true, and the court has never concluded otherwise. Jenrette again contends that the POA makes no reference to an insurance policy or insurance proceeds. That is true, but the court has clearly concluded that the absence of such language in the POA is inconsequential. The POA authorized Quickel to obtain a loan using the subject property as security, and the instrument creating the security was the mortgage. The mortgage states that Jenrette is the "Mortgagor" and that she will be referred to in the mortgage as "Borrower". Paragraph 3 is binding on Jenrette as "Borrower". Jenrette further contends that the POA does not describe any of the properties referenced therein as "104 Country Club Drive". As noted above, Jenrette has never raised this argument in these proceedings or in the foreclosure proceedings. Even so, the court is satisfied that Parcel I described in the mortgage is the subject property. The remaining argument set forth in paragraph 2 is rejected.



3. The court respectfully rejects the arguments raised by Jenrette in paragraphs 3 – 10 of this section of Jenrette's motion.

D. **"Issues Raised at Trial But not Ruled Upon" Asserted by Jenrette**

The Court respectfully rejects the arguments raised in this portion of Jenrette's motion.

CONCLUSION

For the foregoing reasons, the motion is denied.

AND IT IS SO ORDERED.

George C. James, Jr.
Presiding Judge

Sumter, South Carolina

May 29, 2014

STATE OF SOUTH CAROLINA COUNTY OF HORRY	IN THE COURT OF COMMON PLEAS FIFTEENTH JUDICIAL CIRCUIT
NATIONAL SECURITY FIRE & CASUALTY COMPANY, PLAINTIFF, V. ROSEMARY JENRETTE, AKA ROSEMARY LONG JENRETTTE and HORRY COUNTY STATE BANK, DEFENDANTS	CIVIL ACTION NO. 2011-CP-26-9199 ORDER

HORRY COUNTY
14 FEB 11 PM 2:08
HELANE HARRISON WARD
CLERK OF COURT

This interpleader action was before the court for a bench trial on December 17, 2013. The defendant Rosemary Long Jenrette (hereinafter "Mrs. Jenrette" or "Jenrette") appeared and was represented by William W. DesChamps, Jr., Esq., and William W. DesChamps, III, Esq. The defendant Horry County State Bank (hereinafter referred to as "the Bank") appeared and was represented by Randall K. Mullins, Esq., and Jarrod E. Ownbey, Esq. The plaintiff (hereinafter referred to as "the Carrier") is represented by Forrest Truett Nettles, II, Esq. The carrier made no appearance at the trial, as it has deposited the disputed insurance proceeds into an escrow account pending further order of the court.

This is an interpleader action commenced by the Carrier as a result of competing claims made by Jenrette and the Bank for insurance proceeds in the amount of $105,000.00 deposited by the Carrier into an escrow account. Jenrette and the Bank timely answered the interpleader complaint and have cross-claimed against one another. Very simply, both defendants claim entitlement to the entire sum on deposit. Mrs. Jenrette seeks a declaratory judgment that she is solely entitled to the proceeds as the named insured under the policy issued by the Carrier to her. The Bank asserts that it has an equitable lien on the proceeds.

During the trial, both defendants offered numerous exhibits and the case was very ably tried by counsel. Certain rulings on evidentiary objections were taken under advisement and the court will now rule on these objections. First, the Bank offered its exhibit 17 into evidence, to which Jenrette objected. The objection is overruled. Jenrette also objected to the Bank's exhibit 18 (Hypothecation Agreement) on the basis that its contents are irrelevant, since it was not signed pursuant to the power of attorney (POA) executed by Jenrette in favor of her son, Michael Brooks Quickel (hereinafter referred to as Quickel). This objection is overruled, as the grant of authority in the POA permitted Quickel to execute this document (the POA is the Bank's exhibit 4 and granted Quickel the authority to procure a mortgage loan using Jenrette's real property as collateral and to execute and deliver all forms and documents necessary to effect the procurement of the loan). These rulings will hopefully be clarified to the reader upon review of the following Findings of Fact and Conclusions of Law.

To the extent any Findings of Fact may be considered Conclusions of Law, they shall be considered the same, and *vice versa*.

FINDINGS OF FACT

1. On or about September 11, 2007, property known as 104 Country Club Drive (the "subject property") in Horry County was conveyed to Mrs. Jenrette. The subject property was essentially a one-acre residential lot and a dwelling situate thereon. Quickel, Mrs. Jenrette's son, moved into the dwelling on the subject property in December 2008. On March 9, 2009, Mrs. Jenrette insured the property against loss or

damage for fire and other hazards through Bradham Insurance Agency, with the Carrier as the insurer. The policy included coverage for liability losses. Mrs. Jenrette obtained the coverage for her own benefit because her son had animals (horses and dogs) and four-wheelers on the property, and because some trees on the property had fallen. There was no mortgage or other encumbrance on the subject property when she obtained the policy.

2. Mrs. Jenrette renewed the policy for another year effective March 9, 2010. At all times, the policy contained a provision that "[t]his policy may not be assigned without [the Carrier's] written consent."

3. In the early months of 2009, Mrs. Jenrette's son, Quickel, sought to obtain a loan from the Bank to refinance existing debt and obtain business capital. On April 24, 2009 he signed a commitment letter individually and on behalf of Cajun Carolina, LLC (hereinafter referred to as "Cajun"). The commitment letter referenced that the collateral for the loan would be the subject property, four unimproved lots owned by Mrs. Jenrette, and two unimproved lots owned by Quickel.

4. On April 27, 2009, Mrs. Jenrette executed a POA giving Quickel the authority to use the aforesaid real property owned by her as collateral for the mortgage loan. The POA gave Quickel the authority to procure a loan, execute a note and mortgage in her name, approve a closing statement, execute any and all forms necessary to effect the foregoing, and execute and deliver all forms and documents necessary to complete the transaction. Nothing in the POA references obtaining hazard insurance on the subject property.

5. While the commitment letter did reference that the foregoing real property was the intended collateral for the mortgage loan, the commitment letter was signed prior to the effective date of the POA. Mr. Quickel could not have signed the commitment letter as attorney-in-fact for Mrs. Jenrette. However, as noted below, this is not dispositive.

6. On May 1, 2009, Quickel, as attorney-in-fact for Mrs. Jenrette under the foregoing POA, executed a mortgage recorded in the Horry County Registrar of Deeds office. The mortgage secured a loan for $350,000.00 made by the Bank to Cajun and included the subject property and the four unimproved lots owned by Mrs. Jenrette referenced above. The mortgagor was noted to be Mrs. Jenrette, and she was referred to within the mortgage as "Borrower". The mortgage was duly recorded in the public records of Horry County. On that same date, Quickel signed a promissory note in the same principal amount. Mrs. Jenrette was not a maker of the note and did not have any liability to the Bank under the note itself.

7. Paragraph 3 of the mortgage is entitled "Insurance". Paragraph 3A thereof provides in pertinent part:

> Borrower shall at its sole expense obtain for, deliver to, and maintain for the benefit of Lender, during the life of the Mortgage, insurance policies in such amounts as Lender may require, in no event less than the full insurable value, insuring the Property against fire and extended coverage and such other insurable hazards, casualties and contingencies as Lender may require ... . The form of such policies shall contain a ... mortgage endorsement making losses payable to Lender. ....

8. This provision required Mrs. Jenrette to obtain, at a minimum, fire and extended insurance coverage on the subject property. It also required Mrs. Jenrette to obtain

coverage against such other insurable hazards, casualties, and contingencies as the Bank might require. However, the Bank never required these "other" coverages. When the mortgage was executed and delivered, the fire and extended insurance coverage already existed, as noted above in paragraph 1.

9. Paragraph 3B of the mortgage provides in pertinent part that "Borrower hereby assigns to Lender all proceeds from any insurance policies, and Lender is hereby authorized ... to collect and receive the proceeds from any such policy or policies."

10. Paragraph 3B further provides that each insurance company is authorized to make payment for all losses directly to the Lender alone, and that Lender is authorized to apply the proceeds "to the payment of any sum secured by this Mortgage ...."

11. This assignment was binding upon Mrs. Jenrette, as it was contained in the mortgage the POA authorized Quickel to sign.

12. Quickel defaulted on the note, and the Bank commenced foreclosure proceedings on May 19, 2010, seeking judgment of foreclosure and sale of the real property providing security for the mortgage loan, including the subject property (Horry County Civil Action No. 2010-CP-26-04456). Cajun was the defendant in the foreclosure action as maker of the note. Quickel was joined as a defendant as owner of his two unimproved lots and by virtue of his personal guarantee of the payment of the loan. Jenrette was joined as a defendant as the record owner of the subject property and her other four lots.

13. On January 15, 2011, the dwelling on the subject property was destroyed by fire. The Bank became aware at some point during the foreclosure proceeding (but after the fire) that it had not been named as a loss payee on the subject policy. On April

18, 2011, a hearing for foreclosure and sale was held, and the Master-in-Equity issued an Order of Foreclosure and Sale which was filed April 25, 2011. Therein, the Master found that the bank had demanded a deficiency judgment against Cajun and Quickel and determined that if the sale did not yield a sum sufficient to satisfy all indebtedness to the Bank, judgment was to be rendered against Cajun and Quickel for any amounts outstanding. Of course, no such findings were made as to Mrs. Jenrette, as she was neither an obligor under the note nor a guarantor thereof.

14. The encumbered property, including the subject property, was sold at public auction on August 1, 2011, with the Bank being the successful bidder. The Master conveyed title to the Bank on September 2, 2011. On September 6, 2011, the Master's Report on Sale and Disbursements was filed, and an Order of Deficiency Judgment in the amount of $117,546.89 was entered against Cajun and Quickel. Pursuant to the Master's Report, a Release of Lien Mortgage Satisfaction was filed on September 8, 2011 in the office of the Register of Deeds for Horry County. This instrument released, cancelled, and satisfied the subject mortgage.

15. The Bank first maintains Mrs. Jenrette breached the terms of the mortgage by failing to obtain fire and extended casualty policy. The Bank further claims it has an equitable lien on the insurance proceeds under the terms of paragraphs 3A and 3B of the mortgage. Since the amount bid at the foreclosure sale was less than the balance of the mortgage debt, and since the deficiency is greater than the available insurance proceeds, the Bank claims it is entitled to the entire proceeds on deposit. Mrs. Jenrette claims that any obligations she had under the mortgage were determined and terminated when the mortgage satisfaction was recorded.

CONCLUSIONS OF LAW

1. I conclude that while the mortgage was satisfied and canceled when the foreclosure sale was finalized, the assignment in the mortgage survived the cancellation of the mortgage and binds Mrs. Jenrette.

2. Mrs. Jenrette was the "Borrower" as that term is defined in the mortgage. Paragraph 3A provides that the Borrower shall obtain for the sole benefit of the Lender and for the life of the mortgage, insurance policies in such amounts as the Lender may require, but in no event less than the full insurable value, insuring the property against fire, etc. Paragraph 3A further provides that the policy shall contain an "endorsement making losses payable to Lender." Paragraph 3B provides that "Borrower assigns to Lender all proceeds from any insurance policies" and that "Lender is authorized to collect and receive the proceeds from any such policies."

3. These provisions are enforceable against Mrs. Jenrette because her son, Mr. Quickel, signed the mortgage as her duly appointed attorney-in-fact, and the power of attorney states that "any act lawfully done hereunder shall be binding on me." In the power of attorney, she gave her son the power to execute a mortgage in her name. It makes no difference that the Bank's pre-loan dealings with Mr. Quickel were less than thorough with regard to setting forth any hazard insurance requirements in the commitment letter. It makes no difference that the commitment letter was not even signed by Mr. Quickel as attorney-in-fact for Mrs. Jenrette (the commitment letter was signed on April 24, 2009, three days before Mrs. Jenrette even signed the power of attorney). The provisions of paragraphs 3A and 3B of the mortgage are clear and these

provisions control and are binding on Mrs. Jenrette, despite the Bank's sloppy pre-loan procedures. Mrs. Jenrette is the "Borrower" under the duly authorized and executed mortgage, and as Borrower, she made the assignment contained in paragraph 3B. Again, it makes no difference that the Bank failed to require in its pre-loan procedures that it be listed as a loss payee on the insurance policy, as the foregoing provisions of 3A and 3B require the procurement of insurance and provide for the assignment of the proceeds to the Bank.

4. The question now becomes whether the assignment survives the cancellation of the mortgage when the bank bid the property in at the foreclosure sale. If the assignment survives the sale, the next question would be whether equity should permit the proceeds to go to the Bank.

5. Mrs. Jenrette cites the case of Steinmeyer v. Steinmeyer, 64 S.C. 413, 42 S.E. 184 (1902) for the proposition that an insurance contract is a personal contract between the insurer and insured and does not run with the title to the land. This is a correct statement of the law; however, these personal rights can be assigned, and Mrs. Jenrette (through Mr. Quickel's execution of the mortgage under the authority of the power of attorney) indisputably assigned her personal rights under the insurance contract to the Lender in paragraph 3B. Indeed, in Freshwater v. Colonial Production Credit Association, 286 S.C. 387, 334 S.E. 2d 142 (Ct. App. 1985), our Court of Appeals observed that an "insurance policy is purely a personal contract between the insurer and the insured, and hence a mortgagee of insured property has no interest ... in a policy ... obtained by the mortgagor in his own name." 286 S.C. at 391. However, the Court further noted that if "the mortgagor covenants in the mortgage to

keep the property insured as further security for payment of the debt, then the mortgagee is entitled to an equitable lien upon the insurance proceeds, even though the policy is in the name of the mortgagor alone." Id. at 891, citing Blackwell v. State Farm Mutual Automobile Insurance Co., 237 S.C. 649, 118 S.E. 2d 701 (1961). In Blackwell, our Supreme Court recognized that it is well-settled that if a mortgagor is bound by a covenant in the mortgage to insure the mortgaged premises for the better security of the mortgagee, the mortgagee has an equitable lien on the money due on the policy taken out by the mortgagor, to the extent of the mortgagee's interest in the property damaged or destroyed. In the instant case, Mrs. Jenrette was obligated under paragraph 3A to insure the premises for the better security of the Bank.

6. The Restatement (Third) of Property, §4.8 addresses the question of how to proceed with payment of insurance proceeds when the mortgagee elects to purchase the property at the foreclosure sale. The Restatement concludes that the mortgagee may first proceed to foreclosure sale and if "the foreclosure sale does not yield the full amount of the mortgage obligation, the balance may be recovered under the insurance policy, up to its limits." In Jones v. Equicredit Corporation of South Carolina, 347 S.C. 535, 556 S.E. 2d 713 (Ct. App. 2001), the Court of Appeals concluded that when the foreclosure sale does not satisfy the mortgage indebtedness, the mortgagee is entitled to collect insurance proceeds if the unpaid amount of the mortgage is in excess of the insurance proceeds.

7. Even though the mortgage itself was canceled upon the finalization of the foreclosure process, case law from other jurisdictions supports the conclusion that the assignment survives the cancellation under the facts of this case. In Emmons v. Lake States

Insurance Company, 193 Mich. App. 460, 484 N.W. 2d 712 (1992), the insured property owner's home was partially destroyed by fire. There was a mortgage on the property and the mortgage included a provision assigning any insurance proceeds to the lender. Thereafter, the lender foreclosed on the property, bid the full amount of the outstanding indebtedness at the foreclosure sale, and received a deed to the property. The lender then made claim to the insurance proceeds. The owner maintained the lender had no right to the proceeds, arguing that the assignment clause in the mortgage did not survive the foreclosure. The Michigan Court of Appeals agreed with the owner under the facts of that case, but only because the lender purchased the property at the sale for an amount equal to the amount due on the mortgage. The Court stated that "[g]enerally, a mortgagee is not entitled to insurance proceeds when a loss occurs before a foreclosure sale in which the mortgagee purchases for a bid which extinguishes the mortgage debt." The Court noted that the assignment clause created an equitable assignment of a future right and that in equity, a present assignment of money having a potential existence but not yet due will operate on the fund as soon as it is acquired. The Court recognized that while the assignment survived the foreclosure, the debt did not, because the purchase price at the foreclosure sale was equal to the full amount of the debt. In other words, since there was no deficiency, the assignment secured nothing in the end. "The insurance was an alternative source of payment. Once the debt was paid by other means, any right to the insurance proceeds was extinguished." 484 N.W. 2d at 714.

8. In Certain Underwriters of Lloyds v. U.S. Industrial Services, LLC, 825 F. Supp. 2d 882 (E.D. Michigan 2011), the U.S. District Court noted the holding in Emmons and

recognized the rule espoused therein did not apply when the purchase price at the foreclosure sale is less than the mortgage debt. In that case, the facts surrounding the foreclosure sale and hazard loss are not analogous to the facts in the instant case; however, the Court determined that the key holding in Emmons was that "the assignment in the mortgage of the insurance proceeds amounted to collateral security for the debt, and that the assignment transcended the foreclosure sale." 825 F. Supp. at 890. The Court further noted that the "concern animating the holding in Emmons" was that the mortgagee would receive a double recovery if it received insurance proceeds after a full-debt bid at the foreclosure sale. The District Court further noted that this concern was absent in that case, as the foreclosure bid was $65,811.82 less than the balance of the mortgage debt. The Court held that because the foreclosure sale did not provide full satisfaction of the debt, the assignment in the mortgage survived the sale and the lender therefore had a right to the insurance proceeds. 825 F. Supp. at 891. See also State Farm Life Ins. Co. v. P.M.C., Slip Copy 2013 W.L. 4009031 (U. S. District Court, Eastern District of Michigan) for the same proposition. These decisions are in accord with our Court of Appeals' conclusion in Jones v. Equicredit, *supra.*

9. The rule espoused in Emmons is known as the full credit bid rule and has been applied in many other appellate cases. See for example Whitestone S & L Ass'n. v. Allstate, 28 N.Y. 2d 332, 270 N.E. 2d 694 (1971); Smith v. Gen. Mortgage Corp., 402 Mich. 125, 261 N.W. 2d 710 (1978); Nationwide v. Wilborn, 291 Ala. 193, 279 So. 2d 460 (1973); Allstate v. James, 779 F.2d 1536 (11th Circuit 1986); Helmer v. Texas Farmers Insurance Co., 632 S.W. 2d 194 (Tex. App. 1982). The rule is

consistent with how our appellate courts have addressed the payment of insurance proceeds to mortgagees such as the Bank.

10. The policy provision referenced in paragraph 2 of the Findings of Fact prohibiting an assignment of the policy without the Carrier's written consent is of no import. It is not the policy itself that is being assigned to the Bank, but rather the proceeds paid under the policy that Mrs. Jenrette assigned. This prohibition against assignments would be pertinent to situations in which Mrs. Jenrette perhaps sold the property and assigned her status as insured to the purchaser.

11. The troubling aspect of the instant facts is that Mrs. Jenrette was not the obligor under the note and no deficiency judgment was obtained against her. However, paragraphs 3A and 3B of the mortgage stand on their own, and the assignment is valid, regardless of whether Mrs. Jenrette was obligated under the note. The purpose of the assignment was, in my view, to provide additional security for the mortgage debt. The evidence establishes that the insurance is in the amount of $105,000.00. The Bank's recovery of insurance proceeds is the amount of the mortgage debt less the amount the Bank bid at the foreclosure sale. The winning bid at the foreclosure sale was in an amount less than the balance due on the mortgage debt; therefore the Bank has an equitable lien on the insurance proceeds. Since the difference between the bid and the balance of the mortgage debt is greater than the insurance proceeds on deposit, the Bank is entitled to all of the proceeds.

12. In South Carolina, for an equitable lien to arise, there must be a debt, specific property to which the debt attaches, and an expressed or implied intent that the property serve as security for payment of the debt. See First Federal Savings and

Loan Ass'n v. Finn, 300 S.C. 228, 387 S.E. 2d 253 (1989). In the instant case, there was a mortgage debt, specific property (the insurance proceeds) to which the debt attached under paragraph 3B of the mortgage, and an expressed intent that the proceeds serve as additional security for payment of the mortgage debt. As held in Freshwater and Blackwell, *supra,* if a mortgagor is bound by a covenant in the mortgage to insure the mortgaged premises for the better security of the mortgagee, the mortgagee has an equitable lien on the money due on the policy taken out by the mortgagor, to the extent of the mortgagee's interest in the property damaged or destroyed.

13. Mrs. Jenrette claims that the provisions of S.C. Code Section 29-3-660 specifically limit a deficiency judgment to those mortgagors who are personally liable for the debt secured by the mortgage. Reliance upon that statute is misplaced, as the Bank is not seeking a deficiency judgment against Mrs. Jenrette. It claims an equitable lien on insurance proceeds to which Mrs. Jenrette would otherwise be entitled.

14. The Bank confirmed at the trial that if it prevailed, it must apply the proceeds it receives to the deficiency judgment it has against Cajun and Quickel. While this is a hollow result as to Mrs. Jenrette, the Bank must so apply the insurance proceeds. The court makes no ruling as to whether Mrs. Jenrette may have a claim against Quickel under any theory of recovery, including but not limited to, a claim for equitable indemnity.

CONCLUSION

Based upon the foregoing findings of fact and conclusions of law, it is

ORDERED that the holder of the insurance proceeds pay the entire sum on deposit to

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Horry County State Bank, up to the sum of $117,546.89, and that upon payment of the said sum, that Horry County State Bank file with the Horry County Clerk of Court an acknowledgement and receipt that it has received the sums on deposit and that upon the filing of the acknowledgement and receipt, the Clerk may enter a dismissal of this action, with prejudice. It is further

Ordered that Horry County State Bank apply the sums received hereunder to the deficiency judgment obtained against Michael Brooks Quickel and Cajun Carolina, LLC in Civil Action No. 2010-CP-26-04456, and that a partial satisfaction of judgment be entered by Horry County State Bank evidencing such payment.

AND IT IS SO ORDERED.

February 10, 2014

George C. James, Jr., Circuit Judge

STATE OF SOUTH CAROLINA COUNTY OF HORRY	)	IN THE COURT OF COMMON PLEAS FIFTEENTH JUDICIAL CIRCUIT Civil Action No.: 2011-CP-26-9199
National Security Fire & Casualty Company, Plaintiff, vs. Rosemary Jenrette a/k/a Rosemary Long Jenrette and Horry County State Bank, Defendants.	)	ORDER DENYING DEFENDANT ROSEMARY JENRETTE a/k/a ROSEMARY LONG JENRETTE'S MOTION FOR SUMMARY JUDGMENT (Not Ending Action)

FILED
HORRY COUNTY
2013 AUG 30 AM 11:25
MELANIE HUGGINS-WARD
CLERK OF COURT

Presiding Judge:	The Honorable Larry B. Hyman, Jr.
Hearing Date:	July 30, 2013
Attorneys for Defendant Horry County State Bank:	Randall K. Mullins, Esquire Jarrod E. Ownbey, Esquire
Attorney for Defendant Rosemary Jenrette a/k/a Rosemary Long Jenrette:	William W. DesChamps, Jr., Esquire
Attorney for Plaintiff:	F. Truett Nettles, II (Not Present or Participating)
Court Reporter:	Natalie Dahl

This is an Interpleader action filed by the Plaintiff, National Security Fire and Casualty Company concerning the proceeds of a policy of fire insurance resulting from a fire loss occurring on real property owned by the Defendant Jenrette and pledged by the Defendant Jenrette to the Defendant Horry County State Bank to secure a loan given to the Defendant Jenrette's son. Both Defendants made a claim for the proceeds of the insurance policy and, as a result, the Plaintiff deposited the sum of One Hundred Five Thousand and 00/100ths Dollars ($105,000.00) with the Clerk of Court for Horry County. The Defendant Horry County State Bank moved for summary judgment on May 16, 2012, which was granted by Order of the

Honorable Larry B. Hyman, Jr. on October 4, 2012. Thereafter, the Defendant Jenrette filed a Motion for Reconsideration which was ultimately granted by Judge Hyman on January 23, 2013. On June 3, 2013, the Defendant Jenrette moved for summary judgment, which is now the issue before this Court.

The Court believes that a brief review of the underlying facts is appropriate and helpful to the analysis of the issue before the Court. On May 1, 2009, a loan closing occurred whereby the Defendant Horry County State Bank loaned Michael Brooks Quickel, the Defendant Jenrette's son, the sum of Three hundred Fifty Thousand and 00/100ths Dollars ($350,000.00). In order to secure the repayment of the loan, Mr. Quickel executed a mortgage encumbering two unimproved lots owned by Mr. Quickel. Additionally, further securing the loan was a mortgage executed on behalf of the Defendant Jenrette, pursuant to a valid Power of Attorney in favor of Mr. Quickel, in the Defendant Jenrette's name encumbering four unimproved lots and one lot which contained a residence, in which Mr. Quickel lived, owned by the Defendant Jenrette. It is uncontroverted that the mortgage executed on behalf of the Defendant Jenrette contained a covenant that the Defendant Jenrette would purchase and maintain a policy of insurance, for the benefit of the Defendant Horry County State Bank, insuring the structure against fire loss and other casualty at the Defendant Jenrette's expense. Additionally, the Defendant Jenrette assigned her right to any proceeds from any insurance policies affecting the property to the Defendant Horry County State Bank.

Subsequently, Mr. Quickel and his company, Cajun Carolina, LLC, defaulted on their obligations to the Defendant Horry County State Bank, and a foreclosure action was instituted, naming the Defendant Jenrette, among others, as a party to the lawsuit. During the pendency of the foreclosure action, prior to the foreclosure hearing, the structure was destroyed by fire.

Relative to the foreclosure hearing, a meeting between the Defendant Horry County State Bank, the Defendant Jenrette and their respective attorneys occurred. While the parties' testimony conflicts as to what the end result of the meeting was, it is uncontroverted that the foreclosure hearing was held as scheduled without the Plaintiff insurer being added as a party to the action. The Defendant Horry County State Bank contends that the Defendant Jenrette had agreed to apply the proceeds from the insurance policy to the debt as required by the Mortgage document, and would pursue the viability of the Defendant Jenrette purchasing the Promissory Note from the Defendant Horry County State Bank and that the Defendant bank would withhold the property from public auction until the June 2011 Master in Equity's Sale. The Defendant Jenrette suggests that there was no agreement concerning the application of the funds due to the Defendant Horry County State Bank denying her application for financing due to an open line of credit the Defendant Jenrette held jointly with her husband and for failing to discount the debt owed under the Promissory Note.

The real property was offered for sale at the August 2011 Master's Sale and was re-offered at the August Deficiency Sale, at which the Defendant Horry County State Bank was the winning bidder. The sale resulted in a deficiency judgment against Mr. Quickel and his entity, Cajun Carolina, LLC of One Hundred Seventeen Thousand Five Hundred Forty Six and 89/100ths Dollars ($117,546.89). After the sale, and incidental to the foreclosure action, the Master in Equity executed a Release of Lien satisfying the Mortgage encumbering the property at issue here on September 2, 2011 and filed in the Office of the Register of Deeds on September 8, 2011. Due to the dispute between the parties concerning the disposition of the proceeds of the insurance policy, the Plaintiff instituted this action on November 3, 2011 and deposited the disputed funds with the Clerk of Court on December 14, 2011.

After hearing the arguments of counsel, and reviewing the pleadings, the depositions and affidavits previously filed in this matter as well as the memoranda and other evidence presented in this action, I make the following findings of fact and conclusions of law:

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. I find and conclude that this Court has jurisdiction over the subject matter of this action; that the parties have submitted to the jurisdiction of this Court; and that venue is proper in Horry County, South Carolina.
2. I find and conclude that all parties had notice of the hearing and were present at the hearing.
3. I find and conclude that the Defendant Jenrette executed a Specific Power of Attorney on April 27, 2009, whereby the Defendant Jenrette authorized her agent, Michael Brooks Quickel to execute all forms and documents required by the Defendant Horry County State Bank, or necessary to effectuate the procurement of a loan from the Defendant Horry County State Bank, pertaining to the real property in dispute in this action.
4. I find and conclude that Mr. Quickel, pursuant to the Specific Power of Attorney, executed a Mortgage of Real Estate in the name of the Defendant Jenrette, in which the Defendant Jenrette was identified as "Borrower", which was filed in the Office of the Register of Deeds for Horry County in Mortgage Book 5166 at Page 3100.
5. I find and conclude that the Mortgage of Real Estate contains a provision requiring the Defendant Jenrette to maintain casualty insurance naming the Defendant Horry County State Bank, as lender, as a loss payee/ mortgagee on the insurance policy.

6. I further find and conclude that the Mortgage of Real Estate contains a provision that assigns any rights that the Defendant Jenrette has in the insurance proceeds to the Defendant Horry County State Bank.

7. I find and conclude that while the Defendant Jenrette was a Mortgagor of the property, she was not a Maker of the Note and was not a Guarantor on the Promissory Note.

8. I find and conclude that the Defendant Horry County State brought an action for the foreclosure of the Promissory Note and Mortgages naming the Defendant Jenrette, Mr. Quickel and Mr. Quickel's company, Cajun Carolina, LLC as parties thereto.

9. I find and conclude that during the pendency of the foreclosure action, the structure located on the subject property was lost to fire damage and was adjusted as a complete loss.

10. I find and conclude that prior to the foreclosure hearing previously scheduled concerning the loan given to Mr. Quickel, and for which the real property was pledged as collateral, a meeting occurred between the Defendant Jenrette and the Defendant Horry County State Bank and their counsel. I further find that the testimony contained in the affidavits submitted by both Defendants are contradictory in their recollection of the consensus reached at the meeting. I further find that this is a material fact in controversy as the Defendant Horry County State Bank has plead for relief under the theory of equitable estoppel relating to the promise by the Defendant Jenrette to apply the proceeds of the insurance policy to the unsatisfied debt owed to the Defendant Horry County State Bank.

11. I find and conclude that subsequently, the Defendant Horry County State Bank concluded their foreclosure action resulting in a deficiency judgment being entered against Mr. Quickel and the corporate entity, Cajun Carolina, LLC. That I further find and conclude that the Defendant Horry County State Bank made a successful credit bid relating to the property at the public auction.

12. I find and conclude that both Defendants made a claim for the proceeds of the insurance policy, and that as a result of the competing claims against the proceeds, the Plaintiff instituted this interpleader action.

13. I find and conclude that summary judgment is only proper, when there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law. Rule 56 (c), SCRCP. "In determining whether any triable issues of fact exist, the evidence and all inferences which can be reasonably drawn from the evidence must be viewed in the light most favorable to the non-moving party." Rakestraw v. S.C. Dep't. Hwys. & Public Trans., 323 S.C. 227, 473 S.E.2d 890 (Ct. App. 1996) *citing to* Koester v. Carolina Rental Ctr., Inc., 313 S.C. 490, 443 S.E.2d 392 (1994). "Even when there is no dispute as to evidentiary facts, but only as to the conclusions or inferences to be drawn from them, summary judgment should be denied." Id.

14. I find and conclude that genuine issues of material fact do exist which would preclude summary judgment. I further find and conclude that the Court would benefit from a full investigation into this matter and the claim should be fully adjudicated on the merits.

15. In the case at bar, the Defendant Jenrette argues that due to the satisfaction of the mortgage by the Master in Equity, incident to the sale of the property at public

auction, that the obligations and promises by the Defendant Jenrette cease and are cancelled of record. The Defendant Jenrette further argues that the principle espoused in Steinmeyer v. Steinmeyer, 64 S.C. 413, 42 S.E. 184 (1902), holding that an insurance contract is a personal contract between the insurer and the insured, bars the Defendant Horry County State Bank from any entitlement to the proceeds of the insurance policy.

16. The Defendant Horry County State Bank contends that § 29-3-780, S.C. Code Ann. (2007) requires the mortgage to be satisfied of record and that due to the mandatory nature of the statute and that the statute clearly and unambiguously allows the obligations contained in the mortgage to remain in full force and effect, at least to the extent of the debt secured by the mortgage. The Defendant Horry County State Bank further argues that the Steinmeyer case is factually distinguishable from the instant case and instead, points to the cases of Blackwell v. State Farm Mutual, 237 S.C. 649, 118 S.E.2d 701 (1961); Freshwater v. Colonial Production Credit Association, 286 S.C. 387, 334 S.E.2d 142 (1985); Lewis v. Aynor Farm Center, 290 S.C. 167, 348 S.E.2d 537 (Ct. App. 1986); and Jones v. Equicredit Corporation, 347 S.C. 535, 556 S.E.2d 713 (Ct. App. 2001) for the proposition that when insurance is required by the lender for its benefit and the mortgagor fails to name the mortgagee as a loss payee on the insurance policy, an equitable lien is established in favor of the mortgagee, even when the policy is in the name of the mortgagor alone.

17. I further find that after a review of the cases cited by the Defendant Horry County State Bank, that none of the cases are offensive to the Steinmeyer case in reaching the ultimate conclusions of the existence of an equitable lien in favor of the Mortgagee.

18. I find and conclude that the facts of this case can be distinguished from the facts in the Steinmeyer case cited by the Defendant Jenrette. I find that in the Steinmeyer case, there was no agreement between the judgment creditors and the grantee of the real property to provide insurance for the benefit of the judgment creditors, whereas in the instant action, there was such an agreement to provide insurance for the benefit of the Defendant Horry County State Bank. I further find that in Steinmeyer, the Plaintiffs were judgment creditors arising from a dispute over the misappropriation of assets of a probate estate, whereas here, the Defendant Jenrette was a mortgagor of real property given to the Defendant Horry County State Bank as collateral for a loan given to the Defendant Jenrette's son. Based upon the factual distinctions between the Steinmeyer case and the instant case, I find that there are substantive differences between the cases which hinders its application to this case.

19. I find and conclude that the Defendant Horry County State Bank's claim to the proceeds is based in part upon the equitable maxim of "equity regards as done that which ought to have been done." It is uncontroverted that the loan terms required Horry County State Bank to be named as a loss payee on the policy obtained by the Defendant Jenrette. Likewise it is also uncontroverted that the Defendant Jenrette and the Defendant Horry County State were the only entities with an insurable interest in the real property and as such Mr. Quickel could not have performed that portion of the requirements for the loan. Therefore, logic dictates that this responsibility falls to the Defendant Jenrette. Had the Defendant Jenrette placed the endorsement to the policy as required by the loan, this action would not have arisen. Therefore, a *prima*

facie case for an equitable lien has been made and should be decided at trial. Regions Bank v. Wingard Properties, Inc., 394 S.C. 241, 715 S.E.2d 348 (Ct. App. 2011).

20. I find and conclude that based upon the discrepancies between the testimony contained in the affidavits produced by the Defendants, a genuine issue of material fact exists relating to whether an agreement was reached by the parties prior to the foreclosure hearing.

21. I further find and conclude that there are genuine issues of material fact as shown by the Defendant Jenrette's deposition, where she admitted that she obtained the insurance policy to protect not only herself, but the bank as well. (See Deposition of Rosemary Long Jenrette p. 70, lines 1-5, as filed with this Court.)

22. I find and conclude in applying the standard of review for summary judgment and viewing the facts and evidence presented in this case and resolving all contested issues and inferences drawn therefrom in the light most favorable to the non-moving party, it is appropriate that the Defendant Jenrette's Motion for Summary Judgment be denied and that the Defendant Jenrette is not entitled to judgment as a matter of law.

THEREFORE, IT IS ORDERED, ADJUDGED AND DECREED that the Defendant Jenrette's Motion for Summary Judgment is denied.

IT IS SO ORDERED.

Larry B. Hyman, Jr.

The Honorable Larry B. Hyman, Jr.
Presiding Judge for the Fifteenth Judicial Circuit
Court of Common Pleas

Dated: 8-20-13

Conway, South Carolina

STATE OF SOUTH CAROLINA) **)** **COUNTY OF HORRY)**	**IN THE COURT OF COMMON PLEAS** **FIFTEENTH JUDICIAL CIRCUIT** **CIVIL ACTION NO.: 2011-CP-26-9199**
National Security Fire & Casualty Company, **Plaintiff,** **v.** **Rosemary Jenrette a/k/a Rosemary Long Jenrette, and Horry County State Bank,** **Defendants.**	**Order Granting Defendant Rosemary Jenrette a/k/a Rosemary Long Jenrette's Motion to Reconsider This Court's Prior Order Granting Defendant Horry County State Bank's Motion for Summary Judgment**

HORRY COUNTY
2013 MAR -5 PM 1:43
JEANNE HUGGINS WARD
CLERK OF COURT

William W. DesChamps, Jr., Esquire, on behalf the moving Defendant Rosemary Jenrette a/k/a Rosemary Long Jenrette "Jenrette" and Jarrod E. Ownbey, Esquire on behalf of the responding Defendant Horry County State Bank "Bank", appeared before me on January 23, 2013, on Jenrette's Motion to Reconsider this Court's prior order granting Bank's Motion for Summary Judgment. The Plaintiff, National Security Fire & Casualty Company "Casualty Company", and its counsel F. Truett Nettles, II, Esquire were not present nor participating in either the prior Motion for Summary Judgment nor the subsequent Motion to Reconsider said summary judgment.

Counsel for Jenrette timely filed and served his Motion to Reconsider the Court's Prior Order subsequent to the hearing before me on September 18, 2012, when this Court granted Bank's Motion for Summary Judgment. Jenrette requested this Court to reconsider its prior Order pursuant to Rule 59(e) of the South Carolina Rules of Civil Procedure to amend the Order on the following grounds:

1. The prior Order incorrectly found that Jenrette breached the mortgage contract with the Bank; and

2. The prior Order made an incorrect conclusion of law with respect to the Court's finding of an equitable lien.

After careful review of the record before me, the Affidavit of Robert W. Smith in Support of Bank's Motion for Summary Judgment "Smith Affidavit" and the Affidavit of Rosemary Jenrette a/k/a Rosemary Long Jenrette in Opposition to Bank's Motion for Summary Judgment "Jenrette Affidavit", the applicable case law, and arguments of counsel, I make the following findings of fact and conclusions of law:

1. The Prior Order of this Court Incorrectly Found that Jenrette Breached the Mortgage Contract with the Bank.

The parties to the prior foreclosure proceedings, Civil Action No.: 2010-CP-26-04456 were as follows:

1. The Bank as lender;
2. Cajun Carolina, LLC, "Cajun Carolina" as the maker of the promissory note in favor of lender;
3. Michael Brooks Quickel "Quickel" as guarantor of the Bank indebtedness and as mortgagor of real property owned by Quickel and pledged to Bank as security for payment of the Bank indebtedness; and
4. Jenrette as owner of additional property pledged to Bank as security for payment of the Bank indebtedness.

Jenrette was joined as a defendant in the prior foreclosure proceedings solely because she was record title holder for a portion of the real property being foreclosed. Jenrette was not obligated either on the promissory note evidencing the underlying indebtedness or any guaranty of the promissory note guaranteeing the payment and/or the collection of the promissory note

indebtedness. Therefore, the Bank did not request nor would it have been able to obtain a personal or deficiency judgment against Jenrette because she had no personal obligation for the payment of the indebtedness which was the subject of the foreclosure proceeding. The obligation for the payment of said indebtedness was that of the maker of the promissory note "Cajun Carolina", and its principal "Quickel" who guaranteed the payment.

As the fee title holder, Jenrette, for her own benefit, procured, at her expense, a policy of hazard and casualty insurance "insurance policy" from Casualty Company. Because Jenrette procured the insurance policy for her own benefit, and paid all premiums thereon, she was the only listed insured or lost payee of the insurance policy. At no time did the Bank make any notification, request, or demand to Jenrette to maintain a hazard or casualty insurance policy on the real property that was owned by her which was subsequently pledged as additional collateral for the Bank indebtedness.

As the Bank made no demand on Jenrette for placement of a casualty policy on the real property pledged by Jenrette as part of security for payment of the Cajun Carolina indebtedness, any such claim by the Bank of any obligation on the part of Jenrette to place casualty insurance for benefit of the Bank must, of necessity, arise from the mortgage instrument itself. Said mortgage was executed and delivered to the Bank on May 1, 2009. As a result of the default by Cajun Carolina under its obligations with the Bank, the Bank on May 19, 2010, filed foreclosure proceedings foreclosing the mortgages including the mortgage of real property pledged by Jenrette.

During the pendency of the foreclosure proceeding, the insurance policy issued by Casualty Company on behalf of and for the benefit of Jenrette was terminated as a result of the casualty by fire which occurred on January 15, 2011. Prior to the time of the final foreclosure

hearing, the Bank obtained knowledge of the fire loss on Jenrette's property, existence of the insurance proceeds, and that Jenrette's insurance policy did not name it as an additional insured or loss payee.

A final hearing of Foreclosure and Sale in the referenced foreclosure proceedings held by the Master in Equity for Horry County on April 18, 2011 resulted in the Master in Equity's Order of Foreclosure and Sale dated April 22, 2011, constituting judgment roll number 2010-CP-26-04456 filed April 26, 2011. The Master's Order was issued after the Bank obtained knowledge of the insurance proceeds payable to Jenrette under the policy. Said Order awarded joint and several judgment against Cajun Carolina and Quickel for the mortgage debt with deficiency being demanded against Cajun Carolina and Quickel in the event the sale of the real estate did not yield a sum sufficient to satisfy the indebtedness due to the Bank.

No findings were made as to the Defendant Jenrette in the Master's Order, other than the Bank was entitled to have the real property pledged by Jenrette as security for the Bank indebtedness sold pursuant to judicial sale. No findings were made as to any other obligations or responsibilities of Jenrette to the Bank which might have been enumerated in the mortgage document itself. A judgment issued by a Court constitutes a final determination of the rights of the parties in a specific proceeding. *Moore v. Holland,* 16 S.C. 15, 27 (1881). "The courts can enforce legal contracts of parties, as made, up to the time of the judgment, but, when the judgment is pronounced, the rights of the parties are determined up to that moment, and then the judgment must be enforced according to the law applicable to judgments." *Id.* at 28. The judgment evidenced by the Master's Order is final with no party having moved to reconsider or appeal said order. The Master's Order constitutes a final determination of Jenrette's obligations

under the terms of the subject mortgage and does not render Jenrette liable for the indebtedness owed by the debtor under the promissory note and by the guarantor under the guaranty.

Pursuant to S.C. Code Ann. § 29-3-780, upon the judicial sale of a property under a decree of foreclosure, the officer of the court making such sale shall record a release, cancellation, and satisfaction of the mortgage lien. Pursuant to such statute, the Honorable Cynthia Graham Howe, Master in Equity for Horry County, on September 2, 2011, signed a Release of Lien Mortgage Satisfaction ("Satisfaction") thereby releasing, cancelling, satisfying the mortgage instrument signed by Jenrette with said Satisfaction recorded in the Horry County Register of Deeds Office on September 8, 2011 in Mortgage Book 5345 at Page 1825.

All obligations of Jenrette pursuant to the terms of the subject mortgage were released, cancelled, and satisfied upon the filing of the Satisfaction as she was not obligated for the mortgage debt pursuant to the Master's Order. All obligations of Jenrette pursuant to the terms of the subject mortgage were released, cancelled, and satisfied upon the filing of the Satisfaction.

Therefore, the Bank's Motion for Summary Judgment based upon Jenrette breaching the mortgage contract with the Bank should have been denied by this Court because the rights and obligations of Jenrette and the Bank with respect to one another were determined under the Master's Order and were terminated upon the filing of the Satisfaction.

2. The Prior Order of this Court Made an Incorrect Conclusion of Law with Respect to This Court's Finding of an Equitable Lien.

The Prior Order of this Court Granting the Bank's Motion for Summary Judgment incorrectly concluded that the Bank possesses an equitable lien in the amount of the outstanding deficiency because there was a covenant in the mortgage to keep the property insured as further security for the payment of the mortgage debt. In the Prior Order of this Court Granting

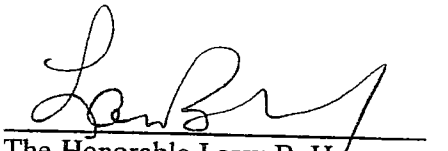
Summary Judgment this Court cited legal precedent that was applied in actions involving insurance policies issued to debtors who were obligated and liable to the mortgagees for the outstanding indebtedness. Those cases do not involve an action such as the case at bar where the insured under the policy is the mortgagor under a satisfied mortgage, and is not a debtor who is liable for the mortgage debt. "If the creditors have a lien by mortgage, judgment, or execution, they can insure their own interest, but they can have no right to attach insurance money due to anyone but their own debtor." *Steinmeyer v. Steinmeyer*, 64 S.C. 413, 421, 42 S.E. 184, 186 (1902). "A contract of fire insurance is a personal contract between the insurer and the insured, by which the former undertakes to indemnify the latter for the loss he sustains by fire. Being a personal contract, it does not run with the buildings said to be insured, is not an incident to the thing insured." *Id.* at 420, 42 S.E. at 186. An insurance contract "is a personal contract and does not run with the title to the property." *Id.* at 422, 42 S.E. at 186. In *Steinmeyer*, the judgment debtor conveyed a parcel of property to Steinmeyer who, thereafter, obtained an insurance policy insuring the premises in her own name and interest. *Id.* at 416, 42 S.E. at 184. The creditors of the judgment debtor commenced an action to set aside the conveyance to Steinmeyer on the grounds of fraud which resulted in a decree subjecting the property to the payment of the judgment. *Id.* Thereafter, the property conveyed to Steinmeyer was sold under a Court order, and the sale proceeds applied to the judgment in favor of the judgment creditors with the sales proceeds being insufficient to satisfy the judgment. *Id.* The South Carolina Supreme Court found that the insured was entitled to the insurance proceeds and that the proceeds cannot be taken by the creditors for the debt even though the property itself could be taken. *Id.* at 422, 42 S.E. at 187.

In the present case, like *Steinmeyer*, the insurance policy at issue was issued to the insured for the insured's benefit, and the insured was not liable for the outstanding indebtedness remaining unsatisfied after the judicial sale of the insured property. Therefore, the Bank is not entitled to an equitable lien on the insurance proceeds.

Therefore, the Bank's Motion for Summary Judgment based upon the finding of an equitable lien should have been denied by this Court due to the fact that the Bank was not entitled to an equitable lien on the insurance proceeds as the insured was not liable for the outstanding indebtedness remaining unsatisfied after the judicial sale of the insured property.

In conclusion, as this Court incorrectly found that Jenrette breached the mortgage contract with the Bank and this Court made an incorrect conclusion of law in finding an equitable lien, this Court grants Jenrette's Motion for Reconsideration and finds that summary judgment in favor of the Bank should not have been granted.

IT IS SO ORDERED.



The Honorable Larry B. Hyman

Dated: February 11, 2013
Conway, South Carolina

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FIFTEENTH JUDICIAL CIRCUIT
COUNTY OF HORRY	)	Civil Action No.: 2011-CP-26-9199
NATIONAL SECURITY FIRE & CASUALTY COMPANY,	)	
Plaintiff,	)	ORDER GRANTING DEFENDANT HORRY COUNTY STATE BANK'S MOTION FOR SUMMARY JUDGMENT
vs.	)	
ROSEMARY JENRETTE a/k/a ROSEMARY LONG JENRETTE and HORRY COUNTY STATE BANK,	)	(Ending Action)
Defendants.	)	

FILED
HORRY COUNTY
12 OCT -4 PM 4:04
MELANIE HUGGINS-WARD
CLERK OF COURT

Presiding Judge:	The Honorable Larry B. Hyman, Jr.
Hearing Date:	September 18, 2012
Attorneys for Defendant Horry County State Bank:	Jarrod E. Ownbey, Esquire and Randall K. Mullins, Esquire
Attorneys for Defendant Rosemary Jenrette a/k/a Rosemary Long Jenrette:	William D. DesChamps, III, Esquire and William D. DesChamps Jr., Esquire
Attorney for Plaintiff:	F. Truett Nettles, II, Esquire (Not Present or Participating)
Court Reporter:	Brenda R. Babb

This matter was before the Court on Motion for Summary Judgment filed May 16, 2012 by counsel for the Defendant Horry County State Bank. After receiving argument from counsel for the Defendant Horry County State Bank and the Defendant Rosemary Jenrette a/k/a Rosemary Long Jenrette, reviewing the pleadings of record, Defendant Horry County State Bank's Motion for Summary Judgment, Defendant Jenrette's Reply to Motion for Summary Judgment, Affidavits of the parties and the applicable case law, the Court makes the following Findings of Fact and Conclusions of Law.

BACKGROUND FACTS

This is an interpleader action filed by the Plaintiff, National Security Fire and Casualty Company as a result of competing claims made by the Defendants Horry County State Bank and Rosemary Jenrette a/k/a Rosemary Long Jenrette for the proceeds of an insurance policy insuring the insured real property located at 104 Country Club Drive in Conway, South Carolina and the improvements thereon which was lost due to a fire at the residence. The fire loss occurred during the pendency of a foreclosure action by the Defendant Horry County State Bank against the Defendant Jenrette, Michael Brooks Quickel and Mr. Quickel's company, Cajun Carolina, LLC in case number 2010-CP-26-4456 and captioned Horry County State Bank v. Cajun Carolina, LLC, Michael Brroks Quickel, Rosemary Long Jenrette, Conway Hospital, Inc. d/b/a Conway Medical Center and Canal Wood, LLC. Mr. Quickel, pursuant to that certain Specific Power of Attorney granted by the Defendant Jenrette and filed in Deed Book 399 at Page 613 on May 4, 2009, executed a Mortgage of Real Estate encumbering the subject real property and a Hypothecation Agreement pledging the subject real property as collateral for the loan made to Cajun Carolina, LLC. The Mortgage of Real Estate encumbering the real property located at 104 Country Club Drive in Conway, South Carolina and owned by the Defendant Jenrette required the mortgagor of the property, as a condition of the loan given to Cajun Carolina, LLC, to carry fire and casualty insurance for the benefit of the lender, the Defendant Horry County State Bank. While the Defendant Jenrette obtained a policy of insurance against fire, she did so in her own name, and failed to name the Defendant Horry County State Bank as a loss payee or as an additional insured on the policy of insurance as required by the Defendant Horry County State Bank's mortgage.

Due to the competing claims made by the Defendants for payment of the proceeds of the insurance policy, the Plaintiff filed this action and paid the insurance proceeds into the Clerk of Court for Horry County pending the adjudication of the competing claims by the Defendants. The Plaintiff, National Security Fire and Casualty Company was released as a party to this action after the filing of the interpleader action and payment of the disputed funds into the Clerk of Court's Office for Horry County.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. I find and conclude that this Court has jurisdiction over the parties to this action, the subject matter of this action and that venue is proper in Horry County, South Carolina.
2. I find and conclude that pursuant to Rule 56 (c), South Carolina Rules of Civil Procedure and applicable case law that "the judgment sought shall be rendered forthwith if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law." Olson v. Faculty House of Carolina, Inc., 344 S.C. 194, 544 S.E.2d 38 (Ct. App. 2001); Wells v. City of Lynchburg, 331 S.C. 296, 501 S.E.2d 746 (Ct. App. 1998).
3. I find and conclude that it is uncontroverted that the Defendant Jenrette executed a Mortgage of Real Estate and a Hypothecation Agreement by and through Michael Brooks Quickel pursuant to that certain Specific Power of Attorney filed on May 4, 2009, prior to the Mortgage of Real Estate held by the Defendant Horry County State Bank being filed.
4. I find and conclude that it is uncontroverted that the Defendant Jenrette was required, as a condition of the Mortgage of Real Estate filed May 4, 2009, to carry a policy of insurance

guarding against fire loss for the benefit of the Lender, the Defendant Horry County State Bank.

5. I find and conclude that it is uncontroverted that the Defendant Jenrette failed to meet her obligations under the terms and conditions of the Mortgage of Real Estate, in that she failed to carry insurance insuring the real property and the structures thereon for the benefit of the Lender, the Defendant Horry County State Bank, and that therefore, has breached the mortgage contract between the Defendant Horry County State Bank and the Defendant Jenrette.

6. I find and conclude that pursuant to Freshwater v. Colonial Production Credit Association, 286 S.C. 387, 334 S.E.2d 142 (1985), which reaffirms the proposition announced in Swearingen v. Hartford Fire Insurance Co., 52 S.C. 309, 29 S.E. 722 (1898), that "an insurance policy is a purely personal contract between the insurer and the insured." However, as in this case, "if, however, the mortgagor covenants in the mortgage to keep the property insured as further security for the payment of the mortgage debt, then the mortgagee is entitled to an equitable lien upon the insurance proceeds, even though the policy is in the name of the mortgagor alone." Blackwell v. State Farm Mutual Automobile Insurance Co., 237 S.C. 649, 118 S.E.2d 701 (1961).

7. I find and conclude that in this case, there remains a deficiency on the amount due to the Defendant Horry County State Bank, and as such, the Defendant Horry County State Bank possesses an equitable lien on the insurance proceeds in the amount of One Hundred Thousand and 00/100ths Dollars ($100,000.00) representing the deficient amount owed to the Defendant Horry County State Bank.

8. I find and conclude that there being no genuine issue of material fact in this action, that the issues brought before the Court are ripe for summary judgment and that the Defendant Horry County State Bank is entitled to judgment as a matter of law.

IT IS THEREFORE, ORDERED, ADJUDGED AND DECREED that the Defendant Horry County State Bank is granted Summary Judgment against the Defendant Jenrette.

IT IS FURTHER ORDERED that the Clerk of Court for Horry County is to release the funds being held in trust pending final adjudication of this action be disbursed directly to the Defendant Horry County State Bank upon presentation of this Order.

IT IS SO ORDERED.

The Honorable Larry B. Hyman, Jr.,
Presiding Judge of the Court of Common Pleas
Fifteenth Judicial Circuit

Dated: 10-2-2012, ~~2012~~
Conway, South Carolina

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE FIFTEENTH JUDICIAL CIRCUIT
COUNTY OF HORRY	)	CASE NUMBER 10-CP-26 ____

NATIONAL SECUIRTY FIRE & CASUALTY COMPANY Plaintiff, vs. ROSEMAEY JENRETTE a/k/a ROSEMARY LONG JENRETTE and HORRY COUNTY STATE BANK Defendants.	)	**COMPLAINT** (INTERPLEADER) (NON-JURY)

HORRY COUNTY
11 NOV -3 AM 9:02
CLERK OF COURT

The Plaintiff would allege and show unto this Honorable Court that:

1. The Plaintiff is an insurance company having its principal office located in Elba, Alabama and is authorized to enter into contracts of insurance in the State of South Carolina.

2. The Defendant Rosemary Jenrette is, upon information and belief, a citizen and resident of County of Horry, State of South Carolina.

3. The Defendant Horry County State Bank is, upon information and belief, a commercial bank organized and existing under the laws of South Carolina with its principal offices located in the County of Horry, State of South Carolina.

4. On or about March 9, 2009, the Plaintiff entered into a contract of insurance, policy # 836223, with the Defendant Jenrette insuring that Defendant for risks, losses or hazards from fire or other causes which property is located at 104 Country Club Drive, Conway, SC 29526.

5. The contract of insurance between the Plaintiff and the Defendant Jenrette does not contain any reference to a mortgage holder or other loss payee.

6. On or about May 1, 2009, the Defendant Jenrette, did upon information and belief, execute a mortgage of the above property to Horry County State Bank and the same is recorded in the Horry County Register of Deeds Office in Mortgage Book 5166 at Page 3100.

7. On or about January 15, 2011 the above residential property was consumed by fire and the Plaintiff determined this residential property to be a total fire loss under its insurance policy # 836223.

8. The total limits of coverage or maximum amount payable in the contract of insurance with the Defendant Jenrette is $100,000.00.

9. Upon investigation of this fire loss under its contract of insurance, the Plaintiff was informed that the Defendant Horry County State Bank held a mortgage interest in the property and asserted a claim or interest in the proceeds of the fire insurance policy.

10. The Plaintiff thereafter made a check for the total, covered loss payable to Defendant Jenrette and the Defendant Horry County State Bank and delivered the same to the Defendant Jenrette.

11. The Plaintiff is informed and believes that the Defendant Jenrette disputes any interest that the Defendant Horry County State Bank may have in the insurance proceeds and the Defendant Jenrette has refused to endorse or negotiate the above-referenced joint payable check of the Plaintiff.

12. As a result of the dispute between the Defendant Jenrette and the Defendant Horry County State Bank, the Plaintiff is unable to pay the fire loss under the above referenced contract

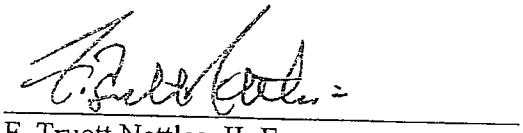
of insurance and the Plaintiff is, or may be exposed to, double or multiple liability to the Defendants in this case.

13. The Plaintiff brings this action before the Horry County Court of Common Pleas pursuant to Rule 22(a) SCRCP.

14. In order to satisfy and discharge all claims on the above referenced contract of insurance regarding the above referenced residential property, the Plaintiff further seeks an Order of this Court to deposit the proceeds of the above contract of insurance with the Horry County Clerk of Court so that the Plaintiff may be discharged from liability as to any and all claims made by the Defendants pursuant to Rule 22(b) SCRCP.

WHEREFORE, having fully set forth its legal and equitable position in this matter, the Plaintiff National Security Fire & Casualty Company hereby prays that this Court authorize the deposit of the proceeds of the Plaintiff's insurance contract with the Horry County Clerk of Court and issue an Order relieving and discharging the Plaintiff from any further liability to the parties in this case and afford such other and further relief as may be deemed just and proper by this Court.

Dated: October 31, 2011
Charleston, South Carolina



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Attorney for the Plaintiff

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FIFTEENTH JUDICIAL CIRCUIT
COUNTY OF HORRY	)	CIVIL ACTION NO.: 2011-CP26-9199
NATIONAL SECURITY FIRE & CASUALTY COMPANY,	)	
Plaintiff,	)	ANSWER AND CROSSCLAIM AGAINST HORRY COUNTY STATE BANK
vs.	)	
ROSEMARY JENRETTE A/K/A ROSEMARY LONG JENRETTE AND HORRY COUNTY STATE BANK.	)	
Defendants.	)	

FILED IN HORRY COUNTY
DEC -8 P 1:30
MELANIE HUGGINS CLERK OF COURT

The Defendant, Rosemary Jenrette a/k/a Rosemary Long Jenrette ("Mrs. Jenrette"), in answering the complaint of National Security Fire & Casualty Company ("NSFCC") and cross-claiming against Horry County State Bank ("HCSB"), respectfully shows and alleges unto this Honorable Court as follows:

FOR A FIRST DEFENSE

1. Mrs. Jenrette denies each and every allegation contained in each and every word of each and every sentence or phrase of each and every paragraph of each and every cause of action of Plaintiff's Complaint that is not hereinafter specifically admitted or denied and Mrs. Jenrette demands the strictest proof of all thereof.

FOR A SECOND DEFENSE

2. As to Paragraph 1 and 3 of Plaintiff's Complaint, Mrs. Jenrette is without sufficient information or knowledge to form an opinion or belief, and, therefore, denies same and demands strict proof thereof.
3. Mrs. Jenrette admits Paragraphs 2, 4, 5, 6, 7, and 8 of Plaintiff's Complaint.
4. Paragraphs 9 and 10 of Plaintiffs Complaint do not require a response by Mrs. Jenrette and if a response is required, Mrs. Jenrette denies same and demands strict proof thereof.
5. Mrs. Jenrette admits Paragraph 11 of Plaintiff's Complaint.

6. Paragraphs 12, 13, and 14 of Plaintiffs Complaint do not require a response by Mrs. Jenrette and if a response is required, Mrs. Jenrette denies same and demands strict proof thereof. Mrs. Jenrette requests onto this Honorable Court that the insurance proceeds be ordered to be released to her solely and not in the court as it is clear she is entitled to the insurance proceeds as stated below.

FOR A THIRD DEFENSE AND FIRST CROSS CLAIM AGAINST HORRY COUNTY STATE BANK
(Interference with a Contractual Relationship)

7. Mrs. Jenrette reiterates each and every allegation and denial as stated above.
8. Mrs. Jenrette has a contract of insurance with NSFCC, policy # 836223 insuring Mrs. Jenrette for risks, losses, or hazards from fire or other causes for property located at 104 Country Club Drive, Conway, SC 29526.
9. The contract states that if a loss were to occur for the property located at 104 Country Club Drive, Conway, SC 29526., NSFCC would pay Mrs. Jenrette the amount of $100,000.00 as her loss as the insured under the policy.
10. A fire loss occurred on the property located at 104 Country Club Drive, Conway, SC 29526 on or about January 15, 2011 under which NSFCC was to pay Mrs. Jenrette the amount of $100,000.00 for her loss as the insured under the policy.
11. HCSB came to have knowledge of this contract between Mrs. Jenrette and NSFCC after the fire loss occurred on the property located at 104 Country Club Drive, Conway, SC 29526 and has now proceeded to claim an interest in the proceeds of the fire insurance policy.
12. Due to HCSB's intentional interference with the contract between NSFCC and Mrs. Jenrette, NSFCC has now decided not to pay the $100,000.00 directly to Mrs. Jenrette and instead to pay said proceeds into Horry County Clerk of Court to be disbursed upon the courts determination at a later time.
13. Mrs. Jenrette has suffered the loss of interest on the $100,000.00 which she was entitled to as of the day of the loss, along with attorney's fees and other costs in filing this action.
14. Mrs. Jenrette asks that this Honorable Court order the release of the $100,000.00 to her so that she does not continue to incur the cost and attorneys of defending this action

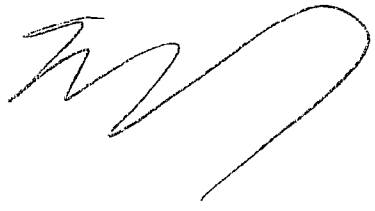
FOR A FOURTH DEFENSE AND SECOND CROSS CLAIM AGAINST HORRY COUNTY STATE BANK
(Declaratory Judgment)

15. Mrs. Jenrette reiterates each and every allegation and denial as stated above.
16. Mrs. Jenrette was the owner of the property located at 104 Country Club Drive, Conway, SC 29526.
17. Mrs. Jenrette did execute a mortgage in favor of HCSB, however, Mrs. Jenrette was solely the mortgagor and was not a borrower of any monies from HCSB.
18. HCSB did not require Mrs. Jenrette to procure insurance on the property and Mrs. Jenrette by her own will procured insurance on the property.
19. HCSB has subsequently satisfied its mortgage lien as stated in Mortgage Book 5345 at Page 1825, Horry County Records.
20. Therefore, HCSB and Mrs. Jenrette no longer have a mortgagor/mortgagee relationship as of the date the mortgage was satisfied.
21. Mrs. Jenrette has no further relationship with or obligations to HCSB.
22. Consequently, Mrs. Jenrette is solely entitled to the insurance proceeds and prays unto this Honorable Court to direct NSFCC to pay the entire amount of $100,000.00 directly to Mrs. Jenrette.

WHEREFORE, having fully answered Plaintiff's Complaint, the Defendants, Mrs. Jenrette, prays as follows:

a. An Order of this Court dismissing Plaintiff's action;
b. An Order of this Court awarding Mrs. Jenrette her damages as stated in her First Cross Claim against HCSB;
c. An Order of this Court directly NSFCC to pay the entire amount of $100,000.00 directly and solely to Mrs. Jenrette; and
d. For any such and further relief this Court deems just and proper.

[SIGNATURE APPEARS ON FOLLOWING PAGE]



DESCHAMPS LAW FIRM

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Attorney for Rosemary Jenrette
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December 7, 2011
Myrtle Beach, South Carolina

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FIFTEENTH JUDICIAL CIRCUIT
COUNTY OF HORRY	)	C/A No.: 2011-CP-26-9199
NATIONAL SECURITY FIRE & CASUALTY COMPANY,	)	
Plaintiff,	)	ANSWER AND CROSS-CLAIM AGAINST DEFENDANT JENRETTE
vs.	)	
ROSEMARY JENRETTE a/k/a ROSEMARY LONG JENRETTE and HORRY COUNTY STATE BANK,	)	
Defendants.	)	

FILED
HORRY COUNTY
2011 DEC -9 PM 2:40
ELAINE WIGGINS
CLERK OF COURT

TO: THE PLAINTIFF BY AND THROUGH ITS ATTORNEY, F. TRUETT NETTLES, III, ESQUIRE AND THE DEFENDANT ROSEMARY JENRETTE, BY AND THROUGH HER ATTORNEY OF RECORD, WILLIAM W. DESCHAMPS, JR., ESQUIRE:

COMES NOW the Defendant Horry County State Bank, by and through its undersigned counsel, and would show by way of Answer and Cross-claim against the Defendant Rosemary Jenrette as follows:

FOR A FIRST DEFENSE

1. This answering Defendant denies each and every allegation contained in the Plaintiff's Complaint not specifically hereinafter admitted, modified or explained and demands strict and absolute proof thereof.

2. This answering Defendant lacks sufficient information to either admit or deny the allegation contained in Paragraph 1 of the Plaintiff's Complaint, and therefore denies the same and demands strict and absolute proof thereof.

3. This answering Defendant admits the allegations contained in Paragraphs 2 and 3 of the Plaintiff's Complaint.

JSD

4. This answering Defendant admits the allegation contained in Paragraph 4 of the Plaintiff's Complaint to the extent that the Defendant Jenrette entered into a Contract of insurance concerning the subject property located at 104 Country Club Drive, Conway, South Carolina, 29526. However, this answering Defendant lacks sufficient information to either admit or deny the remaining parts of this allegation and therefore denies the same and demands strict and absolute proof thereof.

5. This answering Defendant lacks sufficient information to either admit or deny the allegations contained in Paragraph 5 of the Plaintiff's Complaint and therefore, denies the same and demands strict and absolute proof thereof.

6. This answering Defendant admits the allegations contained in Paragraph 6 of the Plaintiff's Complaint and craves reference to the recorded documents.

7. This answering Defendant admits the allegations contained in Paragraphs 7, 8, 9, 10, 11, and 12 of the Plaintiff's Complaint.

8. This answering Defendant is informed and believes that no response is required in response to the allegations contained in Paragraphs 13 and 14 of the Plaintiff's Complaint; however, to the extent that one is required, this answering Defendant admits the same.

FOR A SECOND DEFENSE AND BY WAY OF FIRST CROSS-CLAIM AGAINST THE DEFENDANT ROSEMARY JENRETTE a/k/a ROSEMARY LONG JENRETTE
(Claim for Insurance Proceeds)

9. This answering Defendant would re-allege and incorporate the prior defense as if set forth verbatim herein.

10. This answering Defendant would show that the Defendant Rosemary Jenrette a/k/a Rosemary Long Jenrette, by and through her attorney in fact, Michael Brooks Quickel, on May 1, 2009, executed and delivered unto this answering Defendant, Horry County State

Bank, a Mortgage of Real Estate covering the subject property. A copy of the Mortgage dated May 1, 2009 is attached hereto and incorporated by reference as Exhibit A.

11. This answering Defendant would show that pursuant to the Mortgage of Real Estate, the Defendant Jenrette was obligated to maintain an insurance policy for the benefit of the lender, the Defendant Horry County State Bank, insuring the property against loss resulting from fire and other insurable hazards at the Defendant Jenrette's sole expense.

12. This answering Defendant would further show that pursuant to the Mortgage of Real Estate, the Defendant Jenrette assigned all proceeds from any insurance policy to this answering Defendant and that the lender, Horry County State Bank is authorized to adjust or compromise any loss under those policies of insurance.

13. This answering Defendant would show that, due to Michael Brooks Quickel's default under the terms and conditions of the Promissory Note and the Mortgage of Real Estate, the lender, Horry County State Bank elected to bring a successful foreclosure action concerning the property which resulted in a deficiency judgment under the Note and Mortgage against Quickel and his business entity Cajun Carolina, LLC.

14. This answering Defendant would show that while the foreclosure action was pending, the structure on the subject property burned down, resulting in a claim under the policy for proceeds by the Defendant Horry County State Bank.

15. This answering Defendant would further show that upon making a claim for proceeds under the policy, Horry County State Bank was informed by the Plaintiff that the policy did not list Horry County State Bank as a loss payee as required under the terms and conditions of the Mortgage of Real Estate.

16. This answering Defendant would show that the Defendant Jenrette was the Mortgagor under the Mortgage contract's terms and conditions and due to the Defendant Jenrette's failure to provide an insurance policy for the benefit of Horry County State Bank, the Defendant has defaulted on her obligations under the Mortgage. That further, the Defendant Horry County State Bank was granted judgment of foreclosure on April 22, 2011 and deficiency judgment against the debtors on September 6, 2011.

17. That pursuant to the terms and conditions of the Mortgage of Real Estate and the existing case law in this State, this answering Defendant is informed and believes that it is entitled to an Order of this Court requiring the Clerk of Court to release the funds interplead by the Plaintiff to this answering Defendant, Horry County State Bank.

Therefore, having fully set forth its answer to the Plaintiff's Complaint and its complaint against the Defendant Jenrette, the Defendant Horry County State Bank prays as follows:

A. For an Order of this Court declaring the funds interplead by the Plaintiff to be the sole property of the Defendant Horry County State Bank;

B. For an Order of this Court requiring the Clerk of Court to release the funds interplead by the Plaintiff to the Defendant Horry County State Bank;

C. For an award of additional costs and attorney's fees under the both the Note and Mortgage for the maintenance of this action;

D. For such other and further relief as this Court deems just and proper.

JEW

MULLINS LAW FIRM, PA.

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Attorneys for the Defendant Horry County State Bank

Dated: December 6, 2011
North Myrtle Beach, South Carolina

Exhibit A 1-89395 corrected copy

Re-recorded to correct name of "note signer"

Instrument#: 2009000047322, MTG BK: 5166 PG: 3100 DOCTYPE: 002 05/05/2009 at 11:16:55 AM, 1 OF 5
BALLERY V. SKIPPER, HORRY COUNTY, SC REGISTRAR OF DEEDS

State of South Carolina

County of HORRY

Mortgage of Real Estate

THIS MORTGAGE is dated MAY 1, 2009.

THE MORTGAGOR ROSEMARY LONG JENRETTE will be referred to herein as "Borrower".

THE MORTGAGEE, HORRY COUNTY STATE BANK, will be referred to herein as "Lender".
Lender's address is P.O. Box 218, Loris, SC 29569-0218.

The note, note agreement, loan agreement or revolving loan agreement signed by CAJUN CAROLINA LLC, M BROOKS/ITS MEMBER Quickel
and dated MAY 1, 2009, will be referred to herein as the "Note" or "Obligation" and includes all documents renewing, extending, or modifying it and/or evidencing future advances. The Note amount is $ 350,000.00.

The amount of debt secured by this Mortgage, including the outstanding amount of the Note and all Future Advances under paragraph 13 shall at no time exceed $ 350,000.00 plus interest, reasonable attorney's fees and court costs incurred in collection of amounts due hereunder and expenditures by Lender under paragraph 5 below. Interest under the Note will be deferred, accrued, or capitalized, but Lender shall not be required to defer, accrue or capitalize any interest except as provided in the Note.

This Mortgage is given to secure the Lender the repayment of the following amounts, with interest: (A) the indebtedness evidenced by the Note; (B) any future Advances made under paragraph 13 below; (C) expenditures by Lender under paragraph 5 below; and (D) attorney's fees, court cost and other amounts which may be due under the Note and the Mortgage. In consideration of the above indebtedness and for other valuable consideration which Borrower acknowledges receiving, grant and convey to Lender, its successors and assigns, the following described property.

DESCRIPTION SET FORTH HEREINBELOW AND ON SCHEDULE "A", IF ANY, ATTACHED HERETO AND MADE A PART HEREOF

"SEE EXHIBIT A"

TOGETHER with all singular rights, members, hereditaments and appurtenances belonging or in any way incident or appertaining thereto; 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);

LD-12

Instrument#: 2009000047052, MTG BK: 5166 PG: 2466 DOCTYPE: 002 05/04/2009 at 03:40:58 PM, 1 OF 5
BALLERY V. SKIPPER, HORRY COUNTY, SC REGISTRAR OF DEEDS

215

TO HAVE AND TO HOLD all and singular the Property unto the Lender and the successors and assigns of Lender forever.

BORROWER covenants that Borrower is lawfully seized of the Property in fee simple absolute, that Borrower 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 in paragraph 15 and otherwise herein. Borrower covenants to warrant and forever defend all and singular the Property unto Lender and the successors or assigns of Lender from and against Borrower and all persons whomsoever lawfully claiming the same or any part thereof.

PROVIDED ALWAYS, nevertheless, and it is the true intent and meaning of Borrower and Lender, that if Borrower pays or causes to be paid to Lender 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.

IT IS AGREED that Borrower shall be entitled to hold and enjoy the Property until a default as herein defined has occurred.

BORROWER further covenants and agrees with Lender as follows:

1. **Assignment of Rents and Profits.** As further security for all sums secured by this Mortgage, Borrower assigns to Lender all rents and profits arising from the Property; provided, however, that so long as no Default as hereinafter defined has occurred, Borrower shall be entitled to collect and retain all such rents and profits as the sole property of Borrower without accounting to Lender thereof.

2. **Care of Property.** Borrower will maintain the Property in good condition and repair and will neither permit nor allow waste thereof. Borrower 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 will not remove or demolish any improvement or fixture which is now or hereafter part of the Property and will cut no timber on the Property without the express written consent of Lender. Lender shall be entitled to specific performance of the provisions of this paragraph.

3. **Insurance.** (A) Borrower shall at its sole expense obtain for, deliver to, and maintain for the benefit of Lender, during the life of the Mortgage, insurance policies in such amounts as Lender may require; in no event less than the full insurable value, insuring the Property against fire, extended coverage and such other insurable hazards, casualties and contingencies as Lender may require including flood damage, and shall pay promptly, when due, any premiums on such insurance policies and on any renewals thereof. The form of such policies, the companies issuing them, and the coverages provided shall be acceptable to Lender and shall contain a non-contributory mortgage endorsement making losses payable to Lender. At least thirty (30) days prior to the expiration date of all such policies, renewals thereof satisfactory to Lender shall be delivered to Lender. Borrower shall deliver to Lender receipts evidencing the payment of all premiums on such insurance policies and renewals. In the event of loss, Borrower will give written notice to Lender, and Lender may make proof of loss if not made promptly by Borrower. In the event of the foreclosure of this Mortgage or any other transfer of title to the Property in extinguishment of the indebtedness and other sums secured hereby, all right, title, and interest of Borrower in and to all insurance policies and renewals thereof then in force shall pass to the grantee. Upon the failure of Borrower to obtain and maintain insurance satisfactory to Lender, Lender may at its own discretion procure and substitute for any and all of the insurance so held as aforesaid, such other policy or policies of insurance, in such amount as Lender, acting in its sole discretion, may determine; all without prejudice to its right to foreclosure hereunder should Borrower fail or refuse to keep said premises so insured.

(B) Borrower hereby assigns to Lender all proceeds from any insurance policies, and Lender is hereby authorized and empowered in its reasonable discretion, to adjust or compromise any loss under any insurance policies on the Property, and to collect and receive the proceeds from any such policy or policies. Each insurance company is hereby authorized and directed to make payment for all such losses directly to Lender alone, and not to Borrower and Lender jointly. After deducting such insurance proceeds any expenses incurred by Lender in the collection or handling of such funds, Lender, acting in its sole discretion, may; apply the net proceeds (I) to the payment of any sum secured by this Mortgage in such order as Lender may determine or (II) to the replacement, repair or restoration of the portion of the Property damaged or destroyed in a manner determined by Lender; or may release said net proceeds to the Borrower upon such conditions as Lender shall determine; or may apply said net proceeds for any combination of the foregoing; all without affecting the lien of this Mortgage for the full amount secured hereby before such payment took place. If Lender elects to restore the improvements, any balance of such monies after restoration shall either be applied toward the reduction of indebtedness and any other sums secured hereby or shall be paid to Borrower. Lender shall not be responsible for any failure to collect any insurance proceeds due under the terms or any policy regardless of the cause of such failure.

(C) Borrower shall at its sole expense obtain for, deliver to and maintain for the benefit of Lender, during the life of this Mortgage, liability insurance policies relating to the Property, in such amounts, with such companies and in such form as may be reasonably required by Lender. Lender may require such policies to contain an endorsement, in form satisfactory to Lender, naming Lender as an additional insured thereof. Borrower shall pay promptly, when due, any premiums on such insurance policies and renewals thereof.

4. **Taxes and Assessments.** Borrower will pay all taxes, assessments and other charges which constitute or are secured by a lien upon the Property which is superior to the lien of this Mortgage and will deliver to Lender proof of payment of the same not less than ten (10) days prior to the date the same becomes delinquent; provided, however, that Borrower shall be entitled by 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 deposits with the authority to which such tax, assessment or charge is payable or with Lender 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 Lender.** If Borrower 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, Lender may, but shall not be obligated to, pay for the same, and any such payment by lender 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 Lender 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 will pay to the Lender in cash on demand an amount equal to any payment made by Lender pursuant to this paragraph plus interest thereon as herein provided.

6. **Condemnation.** Lender shall be entitled to be made a party to and to participate in any proceedings, whether formal or informal, for condemnation or acquisition pursuant to power of eminent domain of any portion of the Property. Borrower hereby assigns to Lender the right to collect and receive any payment or award to which Borrower would otherwise be entitled by reason of condemnation or acquisition pursuant tot he power of eminent domain of any portion of the Property. Any such payment or award received by Lender may, at the option of Lender, (I) be applied by Lender to payment of any sums secured by this Mortgage in such order as Lender may determine (II) be applied in a manner determined by Lender to the replacement of the portion of the Property taken and to the repair or restoration of the remaining portion of the Property (III) be released to Borrower upon such conditions as Lender may determine or (IV) 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 shall be deemed a payment against any sums secured by this Mortgage.

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

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

8. **Default.** The occurrences of any of the following events shall be deemed a Default under this Mortgage:

(A) any default by Borrower as described in the Note;

(B) failure of Borrower to pay any other sum secured by this Mortgage when due;

(C) failure of Borrower to observe or perform any covenant or agreement set forth in this Mortgage or in any loan agreement entered into between the Borrower and Lender with respect to the indebtedness hereby secured within ten (10) days following the giving of notice by Lender to Borrower to observe or perform the same.

9. **Acceleration; Remedies.** Lender shall give notice to Borrower prior to acceleration following Borrower's breach of any covenant or agreement in this Security Instrument (but not prior to acceleration under paragraph 7 unless applicable law provides otherwise). The notice shall specify: (a) the default; (b) the action required to cure the default; (c) a date not less than 20 days from the date the notice is given to Borrower, by which the default must be cured; and (d) that failure to cure the default on or before the date specified in the notice may result in acceleration of the sums secured by this Security Instrument, foreclosure by judicial proceeding and sale of the Property. The notice shall further inform Borrower of the right to reinstate after acceleration and the right to assert in the foreclosure proceeding the non-existence of a default or any other defense of Borrower to acceleration and foreclosure. If the default is not cured on or before the date specified in the notice, Lender, at its option, may require immediate payment in full of all sums secured by this Security Instrument without further demand and may foreclose

this Security Instrument by judicial proceeding. Lender shall be entitled to collect all expenses incurred in pursuing the remedies provided in this paragraph 9, including, but not limited to, reasonable attorneys' fees and costs of title evidence, all of which shall be additional sums secured by this Security Instrument.

10. Appointment of Receiver. Upon the occurrence of a Default as hereinabove defined, Lender 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 or modification of leases, the making of repairs to the Property and the execution or termination of contracts providing for the management or maintenance of the Property, all on such terms as 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 of and managing the Property and collecting the rents, including, but not limited to, attorney's fees, receiver's fees, premiums on receiver bonds, costs of repairs to the Property, premiums on insurance policies, taxes, assessments and other charges on the Property, and the costs of discharging any obligation or liability of Borrower as lessor or landlord of the Property and then to the sums secured by this Mortgage. Lender 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. Lender shall not be liable to Borrower, anyone claiming under or through Borrower, or anyone having an interest in the Property by reason of anything done or left undone by Borrower under this paragraph. If the rents of the Property are not sufficient to meet the cost of taking control and managing the Property and collecting the rents, Lender, at its sole option, may advance funds to meet the costs. Any funds expended by Lender for such purposes shall become indebtedness of Borrower to Lender secured by this Mortgage. Unless Lender and Borrower agree in writing to other terms of payment, such amounts shall be payable upon notice from Lender to Borrower 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 Lender 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 Lender hereunder.

11. Waiver by Lender. Lender may, in its sole discretion, from time to time waive or forebear from enforcing any provision of this Mortgage, and no such waiver or forbearance shall be deemed a waiver by Lender of any right or remedy provided herein or by law or be deemed a waiver of the right at any later time to enforce strictly all provisions of this Mortgage and to exercise any and all remedies provided herein and by law.

12. Waiver by Borrower. Borrower understands that upon default hereunder, among other remedies set out herein and in the above referenced Note, the Lender may foreclose upon the mortgaged premises and ask for a deficiency judgement pursuant to Section 29-3-660, South Carolina Code of Laws (1976). Borrower hereby expressly waives and relinquishes any appraisal rights which Borrower may have under Section 29-3-680 through Section 29-3-780, South Carolina Code of Laws (1976) as amended and understands and agrees that a deficiency judgement, if pursued by Lender shall be determined by the highest price bid at the judicial sale of the Property. Borrower does expressly waive, release and discharge any and all homestead exemptions and rights of redemption as allowed by South Carolina law.

13. Future Advances. Lender, pursuant to Sections 29-3-40 and 50, South Carolina Code of Laws (1976) and at its option, may make Future Advances to Borrower. 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. Lender may make but is not obligated to make such Future Advances (A) at the request of the Borrower, whether or not there is an 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, any amounts which may be due under any other mortgage or lien affecting the Property.

14. Notices. Any notice given by either party hereto to the other party shall be in writing and shall be signed by the party giving notice. Any notice or other document to be delivered to either party hereto by the other party shall be deemed delivered if mailed postage prepaid to the party to whom directed at the latest address of such party is known to the party sending the same. This paragraph shall not be deemed to prohibit any other manner of delivering a notice or other document.

15. Covenants. Mortgagor covenants that he will not perform any act which might impair or tend to impair the continuation on the real property herein described of all crop allotments and acreage allotments now established or hereafter established on any of the property herein described, and Mortgagor hereby grants to the Mortgagee a lien on and a security interest in all such crop allotments and acreage allotments.

16. Hazardous Substances. Mortgagor for itself, its successors, and assigns represents, warrants and agrees that (a) neither Mortgagor nor any other person has used or installed any Hazardous Material (as hereinafter defined) on the Property or received any notice from any government agency, entity or other person with regard to Hazardous Materials on, from or affecting the Property; (b) neither Mortgagor or any other person has violated any applicable Environmental Laws (as hereinafter defined) relating to or affecting the Property; (c) the Property is presently in compliance with all Environmental Laws; there are no circumstances presently existing upon or under the Property, or relating to the Property which may violate any applicable Environmental Laws, and there is not now pending, or threatened, any action, suit, investigation or proceeding against Mortgagor relating to the Property (or against any other party relating to the Property) seeking to enforce any right or remedy under any of the Environmental Laws; (d) the Property shall be kept free of Hazardous Materials, and shall not be used to generate, manufacture, transport, treat, store, handle, dispose, or process Hazardous Materials; (e) Mortgagor shall not cause nor permit the installation of Hazardous Materials in the Property nor a release of Hazardous Material onto or from the Property or suffer the presence of Hazardous Materials on the Property; (f) Mortgagor shall at all times comply with and ensure compliance by all other parties with all applicable Environmental Laws relating to or affecting the Property and shall keep the Property free and clear of any liens imposed pursuant to any applicable Environmental Laws; (g) the Mortgagor has obtained and will at all times continue to obtain and/or maintain all licenses, permits and/or other governmental or regulatory actions necessary to comply with Environmental Laws (the "Permits") and the Mortgagor is in full compliance with the terms and provisions of the Permits and will continue to comply with the terms and provisions of the Permits; (h) Mortgagor shall immediately give the Beneficiary oral and written notice in the event that Mortgagor receives any notice from governmental agency, entity, or any other party with regard to Hazardous Materials on, from or affecting the Property and shall conduct and complete all investigations, sampling, and testing, and all remedial, removal, and other actions necessary to clean up and remove all Hazardous Materials on, from or affecting the Property in accordance with all applicable Environmental Laws. The Mortgagor hereby agrees to indemnify the Mortgagee and hold the Mortgagee harmless from and against any and all losses, liabilities, damages, injuries (including, without limitation, attorneys' fees) and claims of any and every kind whatsoever paid, incurred or suffered by, or asserted against Mortgagee for, with respect to, or as a direct or indirect result of (a) the presence on, or under, or the escape, spillage, emission or release from the Property of any Hazardous Material regardless of whether or not caused by or within the control of Mortgagor; (b) the violation of any environmental Laws relating to or affecting the Property, whether or not caused by or within the control of Mortgagor; (c) the failure by Mortgagor to comply fully with the terms and provisions of this paragraph; or (d) any warranty or representation made by Mortgagor in this paragraph being false or untrue in any material respect. For purposes of this Mortgage, "Hazardous Material" means and includes petroleum products, any flammable explosives, radioactive materials, asbestos or any material containing asbestos, and/or any hazardous, toxic or dangerous waste, substance or material defined as such in (or for the purposes of) the Environmental Laws. For the purpose of this Mortgage, "Environmental Laws" means the Comprehensive Environmental Response, Compensation and Liability Act, the Hazardous Materials Transportation Act, the Resource Conservation and Recovery Act, and "Super Fund" or "Super Lien" law, or any other federal, state, or local law, regulation, or decree regulating, relating to, or imposing liability or standards of conduct concerning petroleum products, any flammable explosives, radioactive materials, asbestos or any material containing asbestos, and/or any hazardous, toxic or dangerous waste, substance or material, as may now or at any time hereafter be in effect. The obligations and liabilities of Mortgagor under this paragraph shall survive the foreclosure of the Mortgage, the delivery of a deed in lieu of foreclosure, the cancellation or release of record of this Mortgage or the payment and cancellation of the Note; or if otherwise expressly permitted in writing by the Mortgagee, the sale or alienation of any part of the Property.

17. Miscellaneous.

(A) The agreements herein shall bind and inure to the benefit of the Borrower, Lender and their respective heirs, successors and assigns.

(B) Whenever in this Mortgage one of the parties hereto is named or referred to, the heirs, legal representatives, successors and assigns of such parties shall be included and all covenants and agreements contained in this Mortgage by or on behalf of the Borrower or by or on behalf of the Lender shall bind and inure to the benefit of their representatives, heirs, successors and assigns, whether so expressed or not.

(C) The headings of the 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.

(D) If any provision of this Mortgage conflicts with applicable law, 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.

(E) Lender may make or cause to be made reasonable entries upon and inspections of the Property upon giving Borrower notice.

(F) All covenants of Mortgage shall be joint and several.

(G) This Mortgage shall be governed by, construed and enforced in accordance with the laws of South Carolina.

RLS

(H) If this is not a first Mortgage, Borrower has provided Lender with an attorney's opinion letter (or title insurance) setting out in detail any and all prior Mortgages or liens including the date of the existing mortgage liens and the original amounts.
(I) If the Borrower is not obligated on the debt which this Mortgage secures, then the Borrower acknowledges that Note was made in consideration for this transaction and the owner of the Property agrees to be bound by all the terms and conditions of the Note and the Mortgage.

IN WITNESS WHEREOF, Borrower has executed this Mortgage the day and year first above written.

IN WITNESS WHEREOF, the Borrower has hereunto set his hand and seal, or if corporate, has caused this instrument to be signed in its corporate name by its duly authorized officers and its seal to be hereunto affixed by authority of its Board of Directors, the day and year first above written.

(Corporate Name)

By: _____

_____ President

ATTEST:

_____ Secretary (Corporate Seal)

Signed, Sealed and Delivered in the Presence of:

USE BLACK INK ONLY

Rosemary Long Jenrette (SEAL)
(Borrower)

ROSEMARY LONG JENRETTE, f/n/a Rosemary Long
By Michael Brooks Quickel, Attorney-in-Fact (SEAL)
(Borrower)

FKA Rosemary Long By (SEAL)
(Borrower)

Michael Brooks Quickel (SEAL)
(Borrower)
Attorney in Fact

Patricia Ward
(Witness)

(Witness)

STATE OF SOUTH CAROLINA,

PROBATE

COUNTY OF Horry

PERSONALLY appeared before me the undersigned witness and made oath

that he saw the within named Rosemary Loan Jenrette, by Michael Brooks Quickel, AttorneyInFact

sign, seal, and as their act and deed deliver the within written Mortgage, and that S he with

the other witness above witnessed the execution thereof.

Sworn to before me this 1st day A.D., May 2009 Patricia Ward

_____ (L.S.)
Notary Public for South Carolina.

My Commission expires 1-14-2018

RLS

EXHIBIT "A"

PARCEL I: ALL AND SINGULAR, that certain piece, parcel of land lying and being in Conway Township, containing one (1) acre more or less, the same being more particularly described as follows:

Beginning at a point at the corner at the intersection of the Airport Road and D. M. Burroughs Road and running northeast a distance of 140 ft. to an iron pin on the D. M. Burroughs Road; thence running 240 feet in a northwestern direction to an iron pen corner thence 220 ft. in a southeastern direction to an iron pen on the Airport Road thence along the said road in a southeastern direction a distance of 238 ft. along the said road to the beginning corner. Being bound on the north by lands of W. M. Long; on the east by lands of W. M. Long; on the south by D. M. Burroughs road and on the west by the Airport.

This being the identical property conveyed unto Rosemary Long Jenrette f/n/a Rosemary Long by Deed dated September 10, 2007, and recorded September 11, 2007, in Deed Book 3275 at Page 2145, in the office of the Register of Deeds for Horry County, South Carolina.

TMS#123-00-02-069

PARCEL II: ALL AND SINGULAR, those certain pieces, parcels or lots of land lying situate and being in Conway Township, Horry County, and being shown and designated as Lot Forty (40), Forty-Eight (48), Sixty-Seven (67), and Sixty-Eight (68) on plat of subdivision of W.M. Long Subdivision by S. D. Cox Surveyors, Inc., dated June 22, 1967 and revised October 6, 1967. The said map is recorded in Plat Book 47 at Page 69, in the office of the Register of Deeds for Horry County, South Carolina, and is by reference made a part of this description.

This being a portion of the property conveyed unto Rosemary Long, n/k/a Rosemary Long Jenrette by Deed dated May 10, 2002, and recorded May 13, 2002, in Deed Book 2479 at Page 1474, in the office of the Register of Deeds for Horry County, South Carolina.

TMS# (Lot 40) 123-00-02-170, (Lot 48) 123-00-02-171, (Lot 67) 123-00-03-064 and (Lot 68) 123-00-03-065

STATE OF SOUTH CAROLINA COUNTY OF HORRY	)	IN THE COURT OF COMMON PLEAS FIFTEENTH JUDICIAL CIRCUIT C/A No.: 2011-CP-26-9199
NATIONAL SECURITY FIRE & CASUALTY COMPANY, Plaintiff, vs. ROSEMARY JENRETTE a/k/a ROSEMARY LONG JENRETTE and HORRY COUNTY STATE BANK, Defendants.	)	REPLY TO DEFENDANT ROSEMARY JENRETTE A/K/A ROSEMARY LONG JENRETTE'S CROSSCLAIM BY DEFENDANT HORRY COUNTY STATE BANK

FILED
2011 DEC 19 AM 8:39
CLERK OF COURT

TO: THE DEFENDANT ROSEMARY JENRETTE A/K/A ROSEMARY LONG JENRETTE AND HER COUNSEL OF RECORD, WILLIAM W. DESCHAMPS, JR., ESQUIRE:

COMES NOW, the Defendant, Horry County State Bank, by and through its undersigned counsel and would show by way of answer to the Defendant Rosemary Jenrette a/k/a Rosemary Long Jenrette's cross-claim unto this Court as follows:

FOR A FIRST DEFENSE
(General Denial)

1. The Defendant Horry County State Bank denies each and every allegation contained in the Defendant's Cross-claim not hereinafter specifically admitted, modified or explained, and demands strict and absolute proof thereof.

FOR A SECOND DEFENSE
(Specific Denial)

2. The Defendant Horry County State Bank re-alleges and incorporates the prior defense as if set forth verbatim herein.
3. The Defendant Horry County State Bank is informed and believes that the allegations contained in Paragraph 7 of the Defendant's Cross-claim does not require a response,

however, to the extent that a response is required, the same is denied and strict and absolute proof is demanded thereof.

4. The Defendant Horry County State Bank admits the allegations contained in Paragraph 8 of the Defendant's Cross-claim, however with the modification that the Defendant Jenrette was contractual obligated to maintain a contract of insurance for the benefit of the Defendant Horry County State Bank, pursuant to the Mortgage of Real Estate dated May 1, 2009, yet failed to do so. A copy of the Mortgage of Real Estate is attached hereto and incorporated by reference as Exhibit A.

5. The Defendant Horry County State Bank is without sufficient knowledge to either admit or deny the allegations contained in Paragraph 9 of the Defendant's Cross-claim, and therefore, denies the same and demands strict and absolute proof thereof.

6. The Defendant Horry County State Bank admits so much of the allegations contained in Paragraph 10 of the Defendant's Cross-claim, as to admit that the structure affixed to the subject property burned down resulting in a total fire loss, however, denies the remaining allegations and demands strict proof thereof.

7. The Defendant Horry County State Bank admits the allegations contained in Paragraph 11 of the Defendant's Cross-claim.

8. The Defendant Horry County State Bank denies the allegations contained in Paragraphs 12, 13, and 14 of the Defendant's Cross-claim and demands strict and absolute proof thereof.

FOR A THIRD DEFENSE
(Specific Denial as to Defendant Jenrette's Second Cross-claim)

9. The Defendant Horry County State would re-allege and incorporate the prior defenses by reference as if set forth verbatim herein.

10. The Defendant Horry County State Bank is informed and believes that the allegations contained in Paragraph 15 of the Defendant's Cross-claim does not require a response, however, to the extent one is required this Defendant denies the same and demands strict and absolute proof thereof.

11. The Defendant Horry County State Bank admits the allegations contained in Paragraphs 16, and 17 of the Defendant's Cross-claim.

12. The Defendant Horry County State Bank denies the allegations contained in Paragraph 18 of the Defendant's Cross-claim. Further, the Defendant Horry County State Bank would show that the terms of the Mortgage of Real Estate executed by the Defendant Jenrette's attorney in fact required the Mortgagor of the subject property to carry and provide insurance for the Defendant Horry County State Bank's benefit in Paragraph 3 of the terms and conditions of the Mortgage filed in Book 5166 at Page 3100 in the Office of the Register of Deeds Office for Horry County and attached hereto as Exhibit A.

13. The Defendant Horry County State Bank admits the allegations contained in Paragraph 19 of the Defendant's Cross-claim.

14. The Defendant Horry County State Bank admits the allegations contained in Paragraph 20 of the Defendant's Cross-claim with the modifications that pursuant to conversations between the Defendant Jenrette, her counsel of record and the Defendant Horry County State Bank, the Defendant Jenrette promised to sign the insurance proceeds over to the Defendant Horry County State Bank, however, again refused and failed to perform her obligations.

15. The Defendant Horry County State Bank denies the allegations contained in Paragraphs 21 and 22of the Defendant's Cross-claim.

FOR A FOURTH DEFENSE
(First-breaching Party)

16. The Defendant Horry County State Bank would re-allege and incorporate by reference, the prior defenses as if set forth verbatim herein.

17. The Defendant Horry County State Bank would show that the Defendant Jenrette was obligated under the terms and conditions of the Mortgage of Real Estate, attached hereto as Exhibit A, to provide insurance on the subject property against fire and other casualty for the benefit of the lender, Defendant Horry County State Bank at the Defendant Jenrette's expense.

18. The Defendant Horry County State Bank would show that the Defendant Jenrette failed to provide said insurance coverage.

19. The Defendant Horry County State Bank would show that the failure of the Defendant Jenrette to provide insurance for the benefit of the lender, Defendant Horry County State Bank constitutes a breach of the Mortgage contract and that therefore, the Defendant Jenrette was the first-breaching party under the Mortgage of Real Estate.

FOR A FIFTH DEFENSE
(Equitable Estoppel)

20. The Defendant Horry County State Bank would show that the Defendant Jenrette had agreed to pay the insurance proceeds to the Defendant Horry County State Bank and to purchase the Note from the Defendant during the pendency of the foreclosure proceedings.

21. That further, the Defendant Jenrette advised to continue on with the foreclosure action and that she would endorse the proceeds to the Defendant Horry County State Bank,

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however, the Defendant Jenrette refused to endorse the proceeds to the Defendant Horry County State Bank at the conclusion of the foreclosure process.

22. That the actions and the representations of the Defendant Jenrette were wrongful and intended to deceive the Defendant Horry County State Bank, and therefore, the Defendant Jenrette should be equitably estopped from realizing the payment of the insurance proceeds.

WHEREFORE, having fully replied to the Defendant Jenrette's Cross-claims, the Defendant Horry County State Bank prays as follows:

A. That the Defendant Jenrette's Cross-claims be dismissed with prejudice;

B. For an Order of this Court granting the relief requested in the Defendant Horry County State Bank's Cross-claims;

C. For an award of attorney's fees and costs associated with this case;

D. For such other and further relief as this Court may deem just and proper.

MULLINS LAW FIRM, PA.

Jarrod E. Ownbey, SC Bar No. 75417
Randall K. Mullins, SC Bar No. 06466
Post Office Box 585
North Myrtle Beach, SC 29597
(843) 272-8902
(843) 272-3075 Facsimile
mullinslawfirm@aol.com
Attorneys for the Defendant Horry County State Bank

Dated: December 12, 2011
North Myrtle Beach, South Carolina

Exhibit A

1-89395 corrected dig

Re-recorded to correct name of "note signer"

Instrument#: 2009000047322, MTG BK: 5166 PG: 3100 DOCTYPE: 002 05/05/2009 at 11:16:56 AM, 1 OF 5
BALLERY V. SKIPPER, HORRY COUNTY, SC REGISTRAR OF DEEDS

State of South Carolina

County of HORRY

Mortgage of Real Estate

THIS MORTGAGE is dated MAY 1, 2009

THE MORTGAGOR ROSEMARY LONG JENRETTE will be referred to herein as "Borrower".

THE MORTGAGEE, HORRY COUNTY STATE BANK, will be referred to herein as "Lender". Lender's address is P.O. Box 218, Loris, SC 29569-0218.

The note, note agreement, loan agreement or revolving loan agreement signed by CAJUN CAROLINA LLC, M BROOKS/ITS MEMBER (Quicken) and dated MAY 1, 2009, will be referred to herein as the "Note" or "Obligation" and includes all documents renewing, extending, or modifying it and/or evidencing future advances. The Note amount is $ 350,000.00.

The amount of debt secured by this Mortgage, including the outstanding amount of the Note and all Future Advances under paragraph 13 shall at no time exceed $ 350,000.00 plus interest, reasonable attorney's fees and court costs incurred in collection of amounts due hereunder and expenditures by Lender under paragraph 5 below. Interest under the Note will be deferred, accrued, or capitalized, but Lender shall not be required to defer, accrue or capitalize any interest except as provided in the Note.

This Mortgage is given to secure the Lender the repayment of the following amounts, with interest: (A) the indebtedness evidenced by the Note; (B) any future Advances made under paragraph 13 below; (C) expenditures by Lender under paragraph 5 below; and (D) attorney's fees, court cost and other amounts which may be due under the Note and the Mortgage. In consideration of the above indebtedness and for other valuable consideration which Borrower acknowledges receiving, grant and convey to Lender, its successors and assigns, the following described property:

DESCRIPTION SET FORTH HEREINBELOW AND ON SCHEDULE "A", IF ANY, ATTACHED HERETO AND MADE A PART HEREOF

"SEE EXHIBIT A"

TOGETHER with all singular rights, members, hereditaments and appurtenances belonging or in any way incident or appertaining thereto; 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 herein).

Instrument#: 2009000047052, MTG BK: 5166 PG: 2466 DOCTYPE: 002 05/04/2009 at 03:40:58 PM, 1 OF 5
BALLERY V. SKIPPER, HORRY COUNTY, SC REGISTRAR OF DEEDS

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TO HAVE AND TO HOLD all and singular the Property unto the Lender and the successors and assigns of Lender forever.

BORROWER covenants that Borrower is lawfully seized of the Property in fee simple absolute; that Borrower 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 in paragraph 13 and otherwise herein. Borrower covenants to warrant and forever defend all and singular the Property unto Lender and the successors or assigns of Lender from and against Borrower and all persons whomsoever lawfully claiming the same or any part thereof.

PROVIDED ALWAYS, nevertheless, and it is the true intent and meaning of Borrower and Lender, that if Borrower pays or causes to be paid to Lender 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.

IT IS AGREED that Borrower shall be entitled to hold and enjoy the Property until a default as herein defined has occurred.

BORROWER further covenants and agrees with Lender as follows:

1. **Assignment of Rents and Profits.** As further security for all sums secured by this Mortgage, Borrower assigns to Lender all rents and profits arising from the Property; provided, however, that so long as no Default as hereinafter defined has occurred, Borrower shall be entitled to collect and retain all such rents and profits as the sole property of Borrower without accounting to Lender thereof.

2. **Care of Property.** Borrower will maintain the Property in good condition and repair and will neither permit nor allow waste thereof. Borrower 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 will not remove or demolish any improvement or fixture which is now or hereafter part of the Property and will cut no timber on the Property without the express written consent of Lender. Lender shall be entitled to specific performance of the provisions of this paragraph.

3. **Insurance.** (A) Borrower shall at its sole expense obtain for, deliver to, and maintain for the benefit of Lender, during the life of the Mortgage, insurance policies in such amounts as Lender may require, in no event less than the full insurable value, insuring the Property against fire, extended coverage and such other insurable hazards, casualties and contingencies as Lender may require including flood damage, and shall pay promptly, when due, any premiums on such insurance policies and on any renewals thereof. The form of such policies, the companies issuing them, and the coverages provided shall be acceptable to Lender and shall contain a non-contributory mortgage endorsement making losses payable to Lender. At least thirty (30) days prior to the expiration date of all such policies, renewals thereof satisfactory to Lender shall be delivered to Lender. Borrower shall deliver to Lender receipts evidencing the payment of all premiums on such insurance policies and renewals. In the event of loss, Borrower will give written notice to Lender, and Lender may make proof of loss if not made promptly by Borrower. In the event of the foreclosure of this Mortgage or any other transfer of title to the Property in extinguishment of the indebtedness and other sums secured hereby, all right, title, and interest of Borrower in and to all insurance policies and renewals thereof then in force shall pass to the grantee. Upon the failure of Borrower to obtain and maintain insurance satisfactory to Lender, Lender may at its own discretion procure and substitute for any and all of the insurance so held as aforesaid, such other policy or policies of insurance, in such amount as Lender, acting in its sole discretion, may determine; all without prejudice to the right to foreclosure hereunder should Borrower fail or refuse to keep said premises so insured.

(B) Borrower hereby assigns to Lender all proceeds from any insurance policies, and Lender is hereby authorized and empowered in its reasonable discretion, to adjust or compromise any loss under any insurance policies on the Property, and to collect and receive the proceeds from any such policy or policies. Each insurance company is hereby authorized and directed to make payment for all such losses directly to Lender alone, and not to Borrower and Lender jointly. After deducting such insurance proceeds any expenses incurred by Lender in the collection or handling of such funds, Lender, acting in its sole discretion, may apply the net proceeds (i) to the payment of any sums secured by this Mortgage in such order as Lender may determine or (ii) to the replacement, repair or restoration of the portion of the Property damaged or destroyed in a manner determined by Lender, or may release said net proceeds to the Borrower upon such conditions as Lender shall determine or may apply said net proceeds for any combination of the foregoing; all without affecting the lien of this Mortgage for the full amount secured hereby before such payment took place. If Lender elects to restore the improvements, any balance of such monies after restoration shall either be applied toward the reduction of indebtedness and any other sums secured hereby or shall be paid to Borrower. Lender shall not be responsible for any failure to collect any insurance proceeds due under the terms or any policy regardless of the cause of such failure.

(C) Borrower shall at its sole expense obtain for, deliver to and maintain for the benefit of Lender, during the life of this Mortgage, liability insurance policies relating to the Property, in such amounts, with such companies and in such form as may be reasonably required by Lender. Lender may require such policies to contain an endorsement, in form satisfactory to Lender, naming Lender as an additional insured thereof. Borrower shall pay promptly, when due, any premiums on such insurance policies and renewals thereof.

4. **Taxes and Assessments.** Borrower will pay all taxes, assessments and other charges which constitute or are secured by a lien upon the Property which is superior to the lien of this Mortgage and will deliver to Lender proof of payment of the same not less than ten (10) days prior to the date the same becomes delinquent; provided, however, that Borrower shall be entitled by 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 deposits with the authority to which such tax, assessment or charge is payable or with Lender 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 Lender.** If Borrower 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, Lender may, but shall not be obligated to, pay for the same, and any such payment by Lender 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 Lender 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 will pay to the Lender in cash on demand an amount equal to any payment made by Lender pursuant to this paragraph plus interest thereon as herein provided.

6. **Condemnation.** Lender shall be entitled to be made a party to and to participate in any proceedings, whether formal or informal, for condemnation or acquisition pursuant to power of eminent domain of any portion of the Property. Borrower hereby assigns to Lender the right to collect and receive any payment or award to which Borrower would otherwise be entitled by reason of condemnation or acquisition pursuant to the power of eminent domain of any portion of the Property. Any such payments or award received by Lender may, at the option of Lender, (i) be applied by Lender to payment of any sums secured by this Mortgage in such order as Lender may determine (ii) be applied in a manner determined by Lender to the replacement of the portion of the Property taken and to the repair or restoration of the remaining portion of the Property (iii) be released to Borrower upon such conditions as Lender may determine or (iv) 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 shall be deemed a payment against any sums secured by this Mortgage.

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

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

8. **Default.** The occurrence of any of the following events shall be deemed a Default under this Mortgage:

(A) any default by Borrower as described in the Note;

(B) failure of Borrower to pay any other sum secured by this Mortgage when due;

(C) failure of Borrower to observe or perform any covenant or agreement set forth in this Mortgage or in any loan agreement entered into between the Borrower and Lender with respect to the indebtedness hereby secured within ten (10) days following the giving of notice by Lender to Borrower to observe or perform the same.

9. **Acceleration; Remedies.** Lender shall give notice to Borrower prior to acceleration following Borrower's breach of any covenant or agreement in this Security Instrument (but not prior to acceleration under paragraph 7 unless applicable law provides otherwise). The notice shall specify: (a) the default; (b) the action required to cure the default; (c) a date not less than 30 days from the date the notice is given to Borrower, by which the default must be cured; and (d) that failure to cure the default on or before the date specified in the notice may result in acceleration of the sums secured by this Security Instrument, foreclosure by judicial proceeding and sale of the Property. The notice shall further inform Borrower of the right to reinstate after acceleration and the right to assert in the foreclosure proceeding the non-existence of a default or any other defense of Borrower to acceleration and foreclosure. If the default is not cured on or before the date specified in the notice, Lender, at its option, may require immediate payment in full of all sums secured by this Security Instrument without further demand and may foreclose

this Security Instrument by judicial proceeding. Lender shall be entitled to collect all expenses incurred in pursuing the remedies provided in this paragraph 9, including, but not limited to, reasonable attorneys' fees and costs of title evidence, all of which shall be additional sums secured by this Security Instrument.

10. Appointment of Receiver. Upon the occurrence of a Default as hereinabove defined, Lender 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 or modification of leases, the making of repairs to the Property and the execution or termination of contracts providing for the management or maintenance of the Property, all on such terms as 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 of and managing the Property and collecting the rents, including, but not limited to, attorney's fees, receiver's fees, premiums on receiver bonds, costs of repairs to the Property, premiums on insurance policies, taxes, assessments and other charges on the Property, and the costs of discharging any obligation or liability of Borrower as lessor or landlord of the Property and then to the sums secured by this Mortgage. Lender 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. Lender shall not be liable to Borrower, anyone claiming under or through Borrower, or anyone having an interest in the Property by reason of anything done or left undone by Borrower under this paragraph. If the rents of the Property are not sufficient to meet the cost of taking control and managing the Property and collecting the rents, Lender, at its sole option, may advance funds to meet the costs. Any funds expended by Lender for such purposes shall become indebtedness of Borrower to Lender secured by this Mortgage. Unless Lender and Borrower agree in writing to other terms of payment, such amounts shall be payable upon notice from Lender to Borrower 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 Lender 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 Lender hereunder, or forbearance shall be deemed a waiver by Lender of any right or remedy provided herein or by law or be deemed a waiver of the right at any later time to enforce strictly all provisions of this Mortgage and to exercise any and all remedies provided herein and by law.

11. Waiver by Lender. Lender 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 Lender of any right or remedy provided herein or by law or be deemed a waiver of the right at any later time to enforce strictly all provisions of this Mortgage and to exercise any and all remedies provided herein and by law.

12. Waiver by Borrower. Borrower understands that upon default hereunder, among other remedies set out herein and in the above referenced Note, the Lender may foreclose upon the mortgaged premises and ask for a deficiency judgement pursuant to Section 29-3-680, South Carolina Code of Laws (1976), as amended. Borrower hereby expressly waives and relinquishes any appraisal rights which Borrower may have under Section 29-3-680 through Section 29-3-730, South Carolina Code of Laws (1976) as amended and understands and agrees that a deficiency judgement, if pursued by Lender shall be determined by the highest price bid at the judicial sale of the Property. Borrower does expressly waive, release and discharge any and all homestead exemptions and rights of redemption as allowed by South Carolina law.

13. Future Advances. Lender, pursuant to Sections 29-3-10 and 50, South Carolina Code of Laws (1976) and at its option, may make Future Advances to Borrower. 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. Lender may make but is not obligated to make such Future Advances (A) at the request of the Borrower, whether or not there is an obligation to make Future Advances; (B) pursuant to an advance of funds under paragraph 18 above; or (C) to pay, with or without the consent or request of Borrower, any amounts which may be due under any other mortgage or lien affecting the Property.

14. Notices. Any notice given by either party hereto to the other party shall be in writing and shall be signed by the party giving notice. Any notice or other documents to be delivered to either party hereto by the other party shall be deemed delivered if mailed postage prepaid to the party to whom directed at the latest address of such party is known to the party sending the same. This paragraph shall not be deemed to prohibit any other manner of delivering a notice or other document.

15. Covenants. Mortgagor covenants that he will not perform any act which might impair or tend to impair the consideration on the real property herein described or all crop allotments and acreage allotments now established or hereafter established on any of the property herein described, and Mortgagor hereby grants to the Mortgagee a lien on and a security interest in all such crop allotments and acreage allotments.

16. Hazardous Substances. Mortgagor for itself, its successors, and assigns represents, warrants and agrees that (a) neither Mortgagor nor any other person who has used or installed any Hazardous Material (as hereinafter defined) on the Property or received any notice from any governmental agency, entity or other person with regard to Hazardous Materials on, from or affecting the Property; (b) neither Mortgagor or any other person has violated any applicable Environmental Laws (as hereinafter defined) relating to or affecting the Property; (c) the Property is presently in compliance with all Environmental Laws, and there are no circumstance presently existing upon or under the Property, or relating to the Property which may violate any applicable Environmental Laws; there are no threatened, or threatened, any action, suit, investigation or proceeding against Mortgagor relating to the Property (or against any other party relating to the Property) seeking to enforce any right or remedy under any of the Environmental Laws; (d) the Property shall be kept free of Hazardous Materials, and shall not be used to generate, manufacture, transport, treat, store, handle, dispose, or process Hazardous Materials; (e) Mortgagor shall not cause nor permit the installation of Hazardous Materials in the Property nor a release of Hazardous Material on to or from the Property or under the presence of Hazardous Materials on the Property; (f) Mortgagor shall at all times comply with and ensure compliance by all other parties with all Applicable Environmental Laws relating to or affecting the Property and shall keep the Property free and clear of any liens imposed pursuant to any applicable Environmental Laws; (g) the Mortgagor has obtained and will at all times continue to obtain and/or maintain all licenses, permits and/or other governmental or regulatory actions necessary to comply with Environmental Laws (the "Permits") and the Mortgagor is in full compliance with the terms and provisions of the Permits and will continue to comply with the terms and provisions of the Permits; (h) Mortgagor shall immediately give the Beneficiary oral and written notice in the event that Mortgagor receives any notice from governmental agency, entity or any other party with regard to Hazardous Materials on, from or affecting the Property and shall conduct and complete all investigations, sampling, and testing, and all remedial, removal, and other actions necessary to clean up and remove all Hazardous Materials on, from or affecting the Property in accordance with all applicable Environmental Laws. The Mortgagor hereby agrees to indemnify the Mortgagee and hold the Mortgagee harmless from and against any and all losses, liabilities, damages, injuries (including, without limitation, attorneys' fees) and claims of any and every kind whatsoever paid, incurred or suffered by, or asserted against Mortgagee by, with respect to, or as a direct or indirect result of (a) the presence on, or under, or the escape, seepage, leakage, spillage, emission or release from the Property of any Hazardous Material regardless of whether or not caused by or within the control of Mortgagor; (b) the violation of any environmental Laws relating to or affecting the Property, whether or not caused by or within the control of Mortgagor; (c) the failure by Mortgagor to comply fully with the terms and provisions of this paragraph or (d) any warranty or representation made by Mortgagor in this paragraph being false or untrue in any material respect. For purposes of this Mortgage, "Hazardous Material" means and includes petroleum products, any flammable explosives, radioactive materials, asbestos or any material containing asbestos, and/or any hazardous, toxic or dangerous waste, substance or material defined as such in (or for the purposes of) the Environmental Laws. For the purpose of this Mortgage, "Environmental Laws" means the Comprehensive Environmental Response, Compensation and Liability Act, the Hazardous Materials Transportation Act, the Resource Conservation and Recovery Act, and "Super Fund" or "Super Lien" law, or any other federal, state, or local law, regulation, or decree regarding, relating to, or imposing liability or standards of conduct concerning petroleum products, any flammable explosives, radioactive materials, asbestos or any material containing asbestos, and/or any hazardous, toxic or dangerous waste, substance or material, as they now or at any time hereafter be in effect. The obligations and liabilities of Mortgagor under this paragraph shall survive the foreclosure of the Mortgage, the delivery of a deed in lieu of foreclosure, the cancellation or release of record of this Mortgage or the payment and perpetuation of the Note, or if otherwise expressly permitted in writing by the Mortgagee, the sale or alienation of any part of the Property.

17. Miscellaneous.

(A) The agreements herein shall bind and inure to the benefit of the Borrower, Lender and their respective heirs, successors and assigns.

(B) Whenever in this Mortgage one of the parties hereto is named or referred to, the heirs, legal representatives, successors and assigns of such parties shall be included and all covenants and agreements contained in this Mortgage by or on behalf of the Borrower or by or on behalf of the Lender shall bind and inure to the benefit of their representatives, heirs, successors and assigns, whether so expressed or not.

(C) The headings of the 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.

(D) If any provision of this Mortgage conflicts with applicable law, 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.

(E) Lender may make or cause to be made reasonable entries upon and inspections of the Property upon giving Borrower notice.

(F) All covenants of Mortgagor shall be joint and several.

(G) This Mortgage shall be governed by construed and enforced in accordance with the laws of South Carolina.

RLS

(ii) If this is not a first Mortgage, Borrower has provided Lender with an attorney's opinion letter (or title insurance) setting out in detail any and all prior Mortgages or liens including the date of the existing mortgage liens and the original amounts.

(j) If the Borrower is not obligated on the debt which this Mortgage secures, then the Borrower acknowledges that Note was made in consideration for this transaction and the owner of the Property agrees to be bound by all the terms and conditions of the Note and the Mortgage.

IN WITNESS WHEREOF, Borrower has executed this Mortgage the day and year first above written.

IN WITNESS WHEREOF, the Borrower has hereunto set his hand and seal, or if corporate, has caused this instrument to be signed in its corporate name by its duly authorized officers and its seal to be hereunto affixed by authority of its Board of Directors, the day and year first above written.

(Corporate Name)

By: _____

_____ President

ATTEST:

_____ Secretary (Corporate Seal)

Signed, Sealed and Delivered in the Presence of:

Rosemary Long Jenrette (SEAL)
(Borrower)

ROSEMARY LONG JENRETTE, f/n/a Rosemary Long
By Michael Brooks Quickel, Attorney-In-Fact
(Borrower)

F/K/A Rosemary Long By (SEAL)
(Borrower)

Michael Brooks Quickel (SEAL)
(Borrower)
attorney in fact

Patricia Ward
(Witness)

(Witness)

USE BLACK INK ONLY

STATE OF SOUTH CAROLINA,

COUNTY OF Horry

PROBATE

PERSONALLY appeared before me the undersigned witness and made oath that he saw the within named Rosemary Loan Jenrette, by Michael Brooks Quickel, AttorneyInFact sign, seal, and as their act and deed deliver the within written Mortgage, and that S he with the other witness above witnessed the execution thereof.

Sworn to before me this 1st day of May A.D., 2009

Patricia Ward

Notary Public for South Carolina (L.S.)

My Commission expires 1-14-2018

RLS

EXHIBIT "A"

PARCEL I: ALL AND SINGULAR, that certain piece, parcel of land lying and being in Conway Township, containing one (1) acre more or less, the same being more particularly described as follows:

Beginning at a point at the corner at the intersection of the Airport Road and D. M. Burroughs Road and running northeast a distance of 140 ft. to an iron pin on the D. M. Burroughs Road; thence running 240 feet in a northwestern direction to an iron pen corner thence 220 ft. in a southeastern direction to an iron pen on the Airport Road thence along the said road in a southeastern direction a distance of 238 ft. along the said road to the beginning corner. Being bound on the north by lands of W. M. Long; on the east by lands of W. M. Long; on the south by D. M. Burroughs road and on the west by the Airport.

This being the identical property conveyed unto Rosemary Long Jenrette f/n/a Rosemary Long by Deed dated September 10, 2007, and recorded September 11, 2007, in Deed Book 3275 at Page 2145, in the office of the Register of Deeds for Horry County, South Carolina.

TMS#123-00-02-069

PARCEL II: ALL AND SINGULAR, those certain pieces, parcels or lots of land lying situate and being in Conway Township, Horry County, and being shown and designated as Lot Forty (40), Forty-Eight (48), Sixty-Seven (67), and Sixty-Eight (68) on plat of subdivision of W.M. Long Subdivision by S. D. Cox Surveyors, Inc., dated June 22, 1967 and revised October 6, 1967. The said map is recorded in Plat Book 47 at Page 69, in the office of the Register of Deeds for Horry County, South Carolina, and is by reference made a part of this description.

This being a portion of the property conveyed unto Rosemary Long, n/k/a Rosemary Long Jenrette by Deed dated May 10, 2002, and recorded May 13, 2002, in Deed Book 2479 at Page 1474, in the office of the Register of Deeds for Horry County, South Carolina.

TMS# (Lot 40) 123-00-02-170, (Lot 48) 123-00-02-171, (Lot 67) 123-00-03-064 and (Lot 68) 123-00-03-066

COPY

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FIFTEENTH JUDICIAL CIRCUIT
COUNTY OF HORRY	)	CIVIL ACTION NO.: 2011-CP26-9199
NATIONAL SECURITY FIRE & CASUALTY COMPANY,	)	
Plaintiff,	)	**ROSEMARY JENRETTE, a/k/a ROSEMARY LONG JENRETTE'S ANSWER TO CROSSCLAIM OF HORRY COUNTY STATE BANK**
vs.	)	
ROSEMARY JENRETTE A/K/A ROSEMARY LONG JENRETTE AND HORRY COUNTY STATE BANK.	)	
Defendants.	)	

FILED IN THE OFFICE OF THE CLERK OF COURT HORRY COUNTY, S.C. 12 JUN 11 A 11:14

The Defendant, Rosemary Jenrette a/k/a Rosemary Long Jenrette ("Mrs. Jenrette"), in answering the Cross-Claim Horry County State Bank ("HCSB"), respectfully shows and alleges unto this Honorable Court as follows:

FOR A FIRST DEFENSE

1. Mrs. Jenrette denies each and every allegation contained in each and every word of each and every sentence or phrase of each and every paragraph of each and every cause of action of Defendant Horry County State Bank that is not hereinafter specifically admitted or denied and Mrs. Jenrette demands the strictest proof of all thereof.

FOR A SECOND DEFENSE

2. As to paragraph 9 Defendant Horry County State Bank's Cross-Claim, do not require a response by Mrs. Jenrette and if a response is required, Mrs. Jenrette denies same and demands strict proof thereof.
3. Mrs. Jenrette admits paragraph 10 of Defendant's Cross-Claim.
4. Mrs. Jenrette denies the allegations contained in paragraphs 11 and 12.
5. As to paragraphs 13 through 15 of Defendant's Cross-Claim, Mrs. Jenrette is without sufficient information or knowledge to form an opinion or belief, and, therefore, denies same and demands strict proof therefor.

6. Mrs. Jenrette denies any allegations of paragraph 16 against Defendant Jenrette and is without sufficient information or knowledge as to the other allegations and demands strict proof therefor.
7. Mrs. Jenrette denies the allegations contained in paragraph 17 and demands strict proof therefor.

WHEREFORE, having fully answered the Cross-Claim of Defendant, Horry County State Bank, Mrs. Jenrette, prays as follows:

a. An Order of this Court dismissing Defendant's Cross-Claim;
b. An Order of this Court awarding Mrs. Jenrette her damages as stated in her Cross Claims against HCSB;
c. An Order of this Court directing the Plaintiff to pay the entire amount of $100,000.00 directly and solely to Mrs. Jenrette; and
d. For any such and further relief this Court deems just and proper.

DESCHAMPS LAW FIRM

William W. DesChamps, Jr. SC Bar # 01658
Bhumi A. Patel SC Bar # 77447
William W. DesChamps, III SC Bar # 77150
Attorney for Rosemary Jenrette
1357 21st Avenue North, Suite 102 *(29577)*
P O Box 2402
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Phone: (843) 448-2391
Fax: (843) 448-3308
E-mail: bap@deschampslaw.com

Dated: January 5, 2012

STATE OF SOUTH CAROLINA COUNTY OF HORRY	IN THE COURT OF COMMON PLEAS FIFTEENTH JUDICIAL CIRCUIT C/A No.: 2011-CP-26-9199
NATIONAL SECURITY FIRE & CASUALTY COMPANY, Plaintiff, vs. ROSEMARY JENRETTE a/k/a ROSEMARY LONG JENRETTE and HORRY COUNTY STATE BANK, Defendants.	DEFENDANT HORRY COUNTY STATE BANK'S NOTICE OF MOTION AND MOTION FOR SUMMARY JUDGMENT

MAY 16 PM 4:22
CLERK OF COURT
HORRY

TO: THE DEFENDANT ROSEMARY JENRETTE A/K/A ROSEMARY LONG JENRETTE AND HER COUNSEL OF RECORD, WILLIAM W. DESCHAMPS, JR., ESQUIRE:

PLEASE TAKE NOTICE that the Defendant Horry County State Bank, by and through its undersigned counsel, will move before the Presiding Judge of the Horry County Court of Common Pleas, then ten (10) days hence, or as soon thereafter as counsel may be heard, for an Order granting Summary Judgment to the Defendant Horry County State Bank for the relief as set out in the Defendant Jenrette's Answer and Crossclaim. The grounds for this motion are more fully set out below.

BACKGROUND FACTS

On May 1, 2009, Michael Brooks Quickel, on behalf of a single member limited liability company he owned, Cajun Carolina, LLC, executed a Promissory Note, Mortgage of Real Estate and several other security documents incidental to a loan closing whereby Mr. Quickel and Cajun Carolina, LLC received the sum of Three Hundred Fifty Thousand and 00/100ths Dollars ($350,000.00) to be repaid at the interest rate of Seven and 00/100ths Percent (7.00%). Mr.

Quickel provided to the Defendant Horry County State Bank two (2) mortgages covering seven (7) tracts of land. Mr. Quickel owned two (2) of the seven (7) tracts of land, namely Lots 7 and 14 of the W.M. Long Subdivision, which he pledged as collateral for the loan. The remainder of the tracts were owned by Mr. Quickel's mother, the Defendant Rosemary Jenrette. Incidental to the transaction, the Defendant Rosemary Jenrette had granted to Mr. Quickel, as alternate agent, a durable power of attorney which was filed in Deed Book 3253 at Page 1386 in the Register of Deeds Office for Horry County on June 15, 2007. Additionally, the Defendant Rosemary Jenrette, on April 27, 2009, executed a specific power of attorney, specifically referencing the transaction with Horry County State Bank authorizing Mr. Quickel to execute the necessary documents on the Defendant Jenrette's behalf which was filed in Deed Book 3399 at Page 613 in the Register of Deeds Office for Horry County on May 4, 2009. Furthermore, Mr. Quickel, on the Defendant Jenrette's behalf, executed a Hypothecation agreement, authorizing Mr. Quickel to pledge the property known as 104 Country Club Drive, Conway, South Carolina (TMS # 123-00-02-069) as collateral for the loan to Cajun Carolina, LLC.

On May 4, 2009, the mortgages and the specific power of attorney were filed in the Register of Deeds Office for Horry County. The Mortgage of Real Estate covering the property located at 104 Country Club Drive in Conway, South Carolina (TMS # 123-00-02-069) identified the Defendant Jenrette as the Mortgagor of the subject property and was executed by Mr. Quickel as her attorney in fact. The terms and conditions of the Mortgage of Real Estate required the Mortgagor, the Defendant Jenrette to carry insurance on the real property and improvements as a condition of the loan to Cajun Carolina, LLC, to wit:

> **3. Insurance. (A) Borrower shall at its sole expense obtain for, deliver to, and maintain for the benefit of Lender, during the life of the Mortgage, insurance policies in such amounts as Lender may require, in no event less than the full insurable value, insuring the Property against fire extended coverage and such**

other insurable hazards, casualties and contingencies as Lender may require including flood damage, and shall pay promptly, when due, any premiums on such insurance policies and on any renewals thereof. The form of such policies, the company issuing them, and the coverages provided shall be acceptable to Lender and shall contain a non-contributory mortgage endorsement making losses payable to Lender. At least thirty (30) days prior to the expiration date of all such policies, renewals thereof satisfactory to Lender shall be delivered to Lender. Borrower shall deliver to Lender receipts evidencing the payment of all premiums on such insurance policies and renewals. In the event of loss, Borrower will give written notice to Lender and Lender may make proof of loss if not made promptly by Borrower. In the event of the foreclosure of this Mortgage or any other transfer of title to the Property in extinguishment of the indebtedness and other sums secured hereby, all right title and interest of Borrower in and to all insurance policies and renewals thereof then in force shall pass to the grantee. Upon the failure of Borrower to obtain and maintain insurance satisfactory to Lender, Lender may at its own discretion procure and substitute for any and all of the insurance so held as aforesaid, such other policy or policies of insurance, in such amount as Lender, acting in its sole discretion, may determine; all without prejudice to its right to foreclosure hereunder should Borrower fail or refuse to keep said premises so insured.

(B) Borrower hereby assigns to Lender all proceeds from any insurance policies, and Lender is hereby authorized an empowered in its reasonable discretion, to adjust or compromise any loss under any insurance policies on the Property, and to collect and receive the proceeds from any such policy or policies. Each insurance company is hereby authorized and directed to make payment for all such losses directly to Lender alone, and not to Borrower and Lender jointly. After deducting such insurance proceeds and any expenses incurred by Lender in the collection or handling of such funds, Lender acting in its sole discretion, may, apply the net proceeds (I) to the payment of any sum secured by this Mortgage in such order as Lender may determine or (II) to the replacement, repair or restoration of that portion of the Property damaged or destroyed in a manner determined by Lender; or may release said net proceeds to the Borrower upon such conditions as Lender shall determine; or may apply said net proceeds for any combination of the foregoing; all without affecting the lien of this Mortgage for the full amount secured hereby before such payment took place. If Lender elects to restore the improvements, any balance of such monies after restoration shall either be applied toward the reduction of indebtedness and any other sums secured hereby or shall be paid to Borrower. Lender shall not be responsible for any failure to collect any insurance proceeds due under the terms of any policy regardless of the cause of such failure.

Subsequently, Mr. Quickel defaulted on the loan repayment to the Defendant Horry County State Bank, which resulted in the Defendant Horry County State Bank filing a *lis*

pendens on the property and initiating foreclosure proceedings against Mr. Quickel, Cajun Carolina and the Defendant Jenrette February 26, 2010. Mr. Quickel brought the account current and on March 11, 2010, the Defendant Horry County State Bank cancelled the *lis pendens* and stopped all foreclosure proceedings against Mr. Quickel, Cajun Carolina and the Defendant Jenrette. However, by May 5, 2010, Mr. Quickel was again in default under the terms and conditions of the Note and Mortgages and the Defendant Horry County State Bank again initiated foreclosure proceedings against those Defendants in Civil Action Number 2010-CP-26-04456, filed May 19, 2010.

During the pendency of the foreclosure action, the structure affixed on the mortgaged premises located at 104 Country Club Drive, Conway, South Carolina, caught fire and burned down. The Defendant Horry County State Bank was informed of the fire and sought to make a claim against the insurance policy for the fire loss, however, became aware that while the Defendant Jenrette had purchased an insurance policy insuring the property against fire loss, the Defendant Jenrette failed to name the Defendant Horry County State Bank as an additional named insured/ loss payee on the insurance policy, although required to by virtue of the terms and conditions of the Mortgage of Real Estate affecting the real property.

On April 7, 2011, Robert Smith, Assistant Vice President of the Defendant Horry County State Bank, counsel for the Defendant Horry County State Bank, the Defendant Jenrette, and her counsel, William W. DesChamps, Jr., Esquire, attended a meeting at Mr. DesChamps's office, where the Defendant Jenrette proposed purchasing the debt from the Defendant Horry County State Bank. After a discussion, it was determined that the Defendant Jenrette would apply for financing from HCSB or another financial institution in order to purchase the Note, and that the insurance proceeds would be applied to the outstanding balance left on the account. The

Defendant Horry County State Bank was to proceed with the foreclosure hearing that had already been scheduled, but would hold the sale of the property in abeyance until the July 2011 Master in Equity's Sale, to allow the Defendant Jenrette enough time to apply for the financing to purchase the Note.

Unfortunately, while the Defendant Jenrette did apply for financing from the Defendant Horry County State Bank, she was denied based upon an open, although unused, credit line with the Defendant Horry County State Bank. The Defendant Jenrette did, close the credit line, but did not reapply for financing of the Note purchase.

Sometime in early to mid May, 2011, the Defendant Horry County State Bank was notified by the insurance agent that the Plaintiff herein, National Security Fire and Casualty Company, had issued a check in the name of the Defendant Jenrette and the Defendant Horry County State Bank, but that the Defendant Jenrette had refused to endorse the check, and refused to sign a release because the check was payable to both her and the Defendant Horry County State Bank.

Pursuant to the Master in Equity's Order of Foreclosure filed April 26, 2011, the seven (7) tracts of land securing the loan were auctioned by the Honorable Cynthia Graham Howe on August 1, 2011, at the Master's sale. Due to the Defendant Horry County State Bank seeking a deficiency judgment, the bidding was reopened on August 31, 2011 and the Defendant Horry County State Bank was declared the high bidder and leaving a One Hundred Thousand and 00/100ths Dollars ($100,000.00) deficiency. Subsequently, this action was initiated by the Plaintiff National Security Fire and Casualty Company to determine who the rightful owner of the insurance proceeds is.

Additionally, the City of Conway provided the cleanup of the debris left by the Defendant Jenrette and Mr. Quickel, which was presenting a safety hazard. The Defendant Horry County State Bank authorized the cleanup of the property after it became the legal title holder of the real property. The City of Conway has charged Five Thousand and 00/100ths Dollars ($5,000.00) for the cleanup service. The sum of One Hundred Five Thousand and 00/100ths Dollars ($105,000.00) has been paid into the Clerk of Court for Horry County's Office by the Plaintiff pending the resolution of this action.

ARGUMENT

Summary judgment is appropriate when it is clear there is no genuine issue of material facts and the moving party is entitled to judgment as a matter of law. Rule 56 (c), South Carolina Rules of Civil Procedure; Olson v. Faculty House of Carolina, Inc., 344 S.C. 194, 544 S.E.2d 38 (Ct. App. 2001). "A Trial Court should grant a motion for summary judgment when 'the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law.' Rule 56 (c), SCRCP." Wells v. City of Lynchburg, 331 S.C. 296, 501 S.E.2d 746 (Ct. App. 1998). "The purpose of summary judgment is to expedite disposition of cases which do not require the services of a fact finder." George v. Fabri, 345 S.C. 440, 548 S.E.2d 868 (2001), *citing to* Bankers Trust of South Carolina v. Benson, 267 S.C. 152, 155, 226 S.E.2d 703, 704 (1976).

It is uncontroverted that the Defendant Jenrette, by and through her lawful agent, executed a Mortgage in favor of the Defendant Horry County State Bank covering the subject real property. It is also uncontroverted that the residence upon the property located at 104 Country Club Drive, Conway, South Carolina (TMS # 123-00-02-069) was lost to a fire during

the pendency of the foreclosure action. Likewise it is uncontroverted that the Mortgage required the Defendant Jenrette as Mortgagor of the subject real property to purchase and maintain an insurance policy insuring the property and improvements against fire loss for the benefit of the lender, the Defendant Horry County State Bank. The Mortgage specifically states:

> **3. Insurance. (A) Borrower shall at its sole expense obtain for, deliver to, and maintain for the benefit of Lender, during the life of the Mortgage, insurance policies in such amounts as Lender may require, in no event less than the full insurable value, insuring the Property against fire extended coverage and such other insurable hazards, casualties and contingencies as Lender may require including flood damage, and shall pay promptly, when due, any premiums on such insurance policies and on any renewals thereof. The form of such policies, the company issuing them, and the coverages provided shall be acceptable to Lender and shall contain a non-contributory mortgage endorsement making losses payable to Lender. At least thirty (30) days prior to the expiration date of all such policies, renewals thereof satisfactory to Lender shall be delivered to Lender. Borrower shall deliver to Lender receipts evidencing the payment of all premiums on such insurance policies and renewals. In the event of loss, Borrower will give written notice to Lender and Lender may make proof of loss if not made promptly by Borrower. In the event of the foreclosure of this Mortgage or any other transfer of title to the Property in extinguishment of the indebtedness and other sums secured hereby, all right title and interest of Borrower in and to all insurance policies and renewals thereof then in force shall pass to the grantee. Upon the failure of Borrower to obtain and maintain insurance satisfactory to Lender, Lender may at its own discretion procure and substitute for any and all of the insurance so held as aforesaid, such other policy or policies of insurance, in such amount as Lender, acting in its sole discretion, may determine; all without prejudice to its right to foreclosure hereunder should Borrower fail or refuse to keep said premises so insured.**
>
> **(B) Borrower hereby assigns to Lender all proceeds from any insurance policies, and Lender is hereby authorized an empowered in its reasonable discretion, to adjust or compromise any loss under any insurance policies on the Property, and to collect and receive the proceeds from any such policy or policies. Each insurance company is hereby authorized and directed to make payment for all such losses directly to Lender alone, and not to Borrower and Lender jointly. After deducting such insurance proceeds and any expenses incurred by Lender in the collection or handling of such funds, Lender acting in its sole discretion, may, apply the net proceeds (I) to the payment of any sum secured by this Mortgage in such order as Lender may determine or (II) to the replacement, repair or restoration of that portion of the Property damaged or destroyed in a manner determined by Lender; or may release said net proceeds to the Borrower upon such conditions as Lender shall determine; or may apply said net proceeds for any combination of the**

foregoing; all without affecting the lien of this Mortgage for the full amount secured hereby before such payment took place. If Lender elects to restore the improvements, any balance of such monies after restoration shall either be applied toward the reduction of indebtedness and any other sums secured hereby or shall be paid to Borrower. Lender shall not be responsible for any failure to collect any insurance proceeds due under the terms of any policy regardless of the cause of such failure.

The above referenced Mortgage of Real Estate was filed in Mtg. Book 5166 at Page 2466 in the Office of the Register of Deeds for Horry County on May 4, 2009. It is also indisputable that the Defendant Jenrette, even though obligated to by virtue of the Mortgage of Real Estate , failed to name the Defendant Horry County State Bank as an additional insured/ loss payee on the insurance policy covering the subject property purchased from the Plaintiff National Security Fire and Casualty Company. This failure by the Defendant Jenrette constitutes a breach of the Mortgage terms and conditions.

Due to the failure by the Defendant Jenrette to maintain insurance on the subject property for the benefit the lender as required under the terms and conditions of the Mortgage, the Defendant Horry County State Bank asserts that it possesses an equitable lien on the insurance proceeds paid into the Horry County Clerk of Court's Office.

South Carolina case law is clear on this point. The South Carolina Supreme Court in Blackwell v. State Farm Mutual held that when, by its terms, a mortgage requires a Mortgagor of property to provide insurance, an equitable lien is created for the benefit of the Mortgagee on the insurance proceeds. 237 S.C.649, 118 S.E.2d 701 (1961). The Court specifically stated:

It is well settled that if the mortgagor is bound by covenant in the mortgage or otherwise to insure the mortgaged premises for the better security of the mortgagee, the latter will have an equitable lien upon the money due on a policy taken out by the mortgagor to the extent of the mortgagee's interest in the property damaged or destroyed. Swearingen v. Hartford Fire Insurance Co., 52 S.C. 309, 29 S.E. 722 (1898); Farmers' & Merchants' National Bank of Lake City v. Moore, 135 S.C. 391, 133 S.E. 913 (1926); 47 A.L.R. 1001... This equitable lien

> **arises solely from the unperformed contract to protect, the theory being that since equity regards as done that which ought to have been done, if the mortgagor, having so covenanted fails to make the insurance payable to the mortgagee, or to assign the same, the fund arising therefrom is within the operation of the maxim.**

Id. at 653, 654. The South Carolina Court of Appeals extended this principle in Freshwater v. Colonial Production Credit Association. The Court opined:

> **An insurance policy is purely a personal contract between the insurer and the insured, and hence a mortgagee of insured property has no interest, either in law or in equity, in a policy of insurance obtained by the mortgagor in his own name and for his own benefit. Swearingen v. Hartford Fire Insurance Co., 52 S.C. 309, 29 S.E. 722 (1898). If, however, the mortgagor covenants in the mortgage to keep the property insured as further security for the payment of the mortgage debt, then the mortgagee is entitled to an equitable lien upon the insurance proceeds, even though the policy is in the name of the mortgagor alone. Id.; Blackwell v. State Farm Mutual Automobile Insurance Co., 237 S.C. 649, 118 S.E.2d 701 (1961).**

286 S.C. 387, 334 S.E.2d 142 (1985).

In Lewis v. Aynor Farm Center, 290 S.C. 167, 348 S.E.2d 537 (Ct. App. 1986), the Court of Appeals affirmed the ruling of the trial court where a mortgagee was awarded a judgment against the insurance company with substantially similar facts to the case at bar. In Lewis, the mortgagee sold his business to the mortgagor and financed the transaction. The mortgagee took back a mortgage on the real property and improvements and a security interest in the inventory and equipment. The property sustained fire damage however was not a total loss. The mortgage in Lewis contained a clause requiring the mortgagor to insure the property against fire loss and assign the policy to the mortgagee. The trial court questioned whether the inventory and equipment were included in this requirement and ultimately decided due to parol evidence, that the inventory and equipment were included. The trial court determined that the mortgagee had an equitable lien on the insurance proceeds.

In Jones v. Equicredit Corporation, 347 S.C. 535, 556 S.E.2d 713 (Ct. App. 2001), the Court of Appeals opined that the election to seek or waive a deficiency judgment in a foreclosure action has no effect upon the mortgagee's interest in and to the available insurance proceeds, as long as the mortgage indebtedness is not satisfied. The only relevant issues with regard to the existence of an equitable lien against the insurance proceeds are whether insurance was required by the mortgagee for their benefit and whether the indebtedness has been satisfied.

Here, it is undisputed that the Mortgage required the mortgagor to maintain insurance on the property for the benefit of the mortgagee, the Defendant Horry County State Bank. It is also clear that the mortgage indebtedness has not been satisfied, as the foreclosure action resulted in a deficiency judgment against Mr. Quickel and Cajun Carolina, LLC in the amount of One Hundred Thousand and 00/100ths Dollars ($100,000.00). It is uncontroverted that the deficiency judgment granted in the foreclosure action preceding this case has not been paid. However, with respect to the real property located at 104 Country Club Drive, Conway, South Carolina, the Defendant Jenrette was the mortgagor of the real property. While the Defendant Jenrette was not obligated on the Promissory Note, and thus, the Defendant Horry County State Bank could not obtain a deficiency judgment against her, she was still obligated under the Mortgage to provide insurance for the benefit of the Defendant Horry County State Bank, which she failed to do. As a result of her failure to maintain insurance on the real property for the benefit of the Defendant Horry County State Bank, has been injured.

It is clear from the applicable case law and the documents at issue in this case that the Defendant Horry County State Bank is entitled to an equitable lien on the insurance proceeds which have been placed with the Horry County Clerk of Court.

CONCLUSION

For the reasons set forth above, the Defendant Horry County State Bank respectfully requests that this Court grant summary judgment in favor of the Defendant Horry County State Bank and order the funds being held by the Horry County Clerk of Court to be paid directly to the Defendant Horry County State Bank.

Pursuant to Rule 11, SCRCP plaintiff's counsel submits that consultation with the opposing attorneys is not required as this is a dispositive motion.

"I SO MOVE."

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ATTORNEYS FOR THE DEFENDANT HORRY COUNTY STATE BANK

Dated: May 16, 2012
North Myrtle Beach, South Carolina

STATE OF SOUTH CAROLINA COUNTY OF HORRY	IN THE COURT OF COMMON PLEAS FIFTEENTH JUDICIAL CIRCUIT CIVIL ACTION NO.: 2011-CP26-9199
NATIONAL SECURITY FIRE & CASUALTY COMPANY, Plaintiff, vs. ROSEMARY JENRETTE A/K/A ROSEMARY LONG JENRETTE AND HORRY COUNTY STATE BANK. Defendants.	DEFENDANT ROSEMARY JENRETTE'S MOTION TO RECONSIDER THE COURT'S PRIOR ORDER GRANTING DEFENDANT HORRY COUNTY STATE BANK'S MOTION FOR SUMMARY JUDGMENT

FILED
HORRY COUNTY
2012 OCT 25 PM 2:39
MELANIE HUGGINS-WARD
CLERK OF COURT

TO: THE HONORABLE LARRY B. HYMAN, JR., AND THE DEFENDANT HORRY COUNTY STATE BANK, BY AND THROUGH ITS ATTORNEY, JARROD E. OWNBEY, ESQUIRE:

PLEASE TAKE NOTICE that Defendant Rosemary Jenrette ("Jenrette"), through her undersigned attorney, does hereby move for the Court to reconsider its prior Order granting Defendant Horry County State Bank's ("Bank") Motion for Summary Judgment. Notice of entry of said Order was received by Jenrette, through her undersigned counsel, on October 15, 2012. Jenrette moves pursuant to Rule 59(e), *South Carolina Rules of Civil Procedure*, and basis this Motion on the following grounds:

1. **The Order Incorrectly Finds that Jenrette Breached the Mortgage Contract with the Bank.**

Pursuant to S.C. Code Ann. § 29-3-780, upon the judicial sale of a property under a decree of foreclosure, the officer of the court making such sale shall record a release, cancellation, and satisfaction of the mortgage lien. A judgment issued by a court constitutes a final determination of the rights of the parties in a specific proceeding. *Moore v. Holland*, 16 S.C. 15, 27 (1881). "The courts can enforce legal contracts of parties, as made, up to the time of the judgment, but, when the judgment is pronounced, the rights of the parties are determined up to that moment, and then the judgment must be enforced according to the law applicable to judgments." *Id.* at 28.

In the prior foreclosure proceeding, the Bank did not obtain a deficiency judgment against Jenrette because she was not obligated on the subject promissory note.[1] Jenrette was the owner of the subject property and her contractual relationship with the Bank arose solely out of the subject mortgage securing repayment of the promissory note executed by Michael Brooks Quickel. The insurance policy that was the source of the insurance proceeds in dispute was issued on March 9, 2009.[2] The subject mortgage was executed and delivered to the Bank on May 1, 2009.[3] The Master-In-Equity's Order of Foreclosure and Sale ("Master's Order") issued in the prior foreclosure proceeding, a copy of which is attached hereto as Exhibit "1", found that the Bank demanded a deficiency judgment against Cajun Carolina, LLC, and Michael Brooks Quickel "in the event the sale of the real estate herein does not yield a sum sufficient to satisfy all indebtedness due to the Plaintiff, including costs and attorney's fees."[4] The Master's Order rendered judgment against Cajun Carolina, LLC, and Michael Brooks Quickel for the mortgage debt.[5] At hearing, Jenrette introduced a Release of Lien Mortgage Satisfaction ("Satisfaction") recorded in the Horry County Register of Deeds on September 8, 2011 in Mortgage Book 5345 at Page 1825, a copy of which is attached hereto as Exhibit "2". The Satisfaction was executed by the Honorable Cynthia Graham Howe, Master-in-Equity of Horry County, on September 2, 2011 thereby releasing, canceling, and satisfying the subject mortgage by the August 31, 2011 sale of the subject property under foreclosure.[6] All obligations of Jenrette pursuant to the terms of the subject mortgage were released, cancelled, and satisfied upon the filing of the Satisfaction as she was not obligated for the mortgage debt pursuant to the Master's Order. Prior to the foreclosure of the subject mortgage, the Bank obtained knowledge of the fire loss incurred by the subject property, the existence of the insurance proceeds, and that Jenrette's insurance policy did not name it as an additional insured or loss payee.[7] The Master's Order was issued after the Bank obtained knowledge of the insurance proceeds payable to Jenrette under the policy. The Master's Order constitutes a final determination of Jenrette's obligations under the terms of the subject mortgage, and does not render Jenrette liable for the indebtedness owed by the debtor under the promissory note. All obligations of Jenrette pursuant to the terms of the subject mortgage were

[1] Horry County State Bank's Motion for Summary Judgment, p.10.
[2] Jenrette Affidavit, ¶5.
[3] Exhibit A, Answer and Cross-Claim Against Defendant Jenrette.
[4] Master's Order, ¶23.
[5] Master's Order, p.7.
[6] See Exhibit 2 attached to Motion to Reconsider.
[7] Smith Affidavit in Support of Motion for Summary Judgment, ¶13-18.

released, cancelled, and satisfied upon the filing of the Satisfaction. Therefore, the Order must be amended to deny the Bank's Motion for Summary Judgment because the rights and obligations of Jenrette and the Bank with respect to one another were determined under the Master's Order and terminated upon the filing of the Satisfaction.

2. The Order Made an Incorrect Conclusion of Law with Respect to Its Finding of an Equitable Lien.

The Order Granting Defendant Horry County State Bank's Motion for Summary Judgment ("Order Granting Summary Judgment") concludes that the Bank possesses an equitable lien in the amount of the outstanding deficiency because Jenrette, as mortgagor, "covenants in the mortgage to keep the property insured as further security for the payment of the mortgage debt."[8] The Order Granting Summary Judgment cites *Freshwater v. Colonial Production Credit Association*, 286 S.C. 387, 334 S.E.2d 142 (1985), *Swearingen v. Hartford Fire Insurance Co.*, 52 S.C. 309, 29 S.E. 722 (1898), and *Blackwell v. State Farm Mutual Automobile Insurance Co.*, 237 S.C. 649, 118 S.E.2d 701 (1961) to establish an equitable lien in favor of the Bank upon the insurance proceeds. In *Freshwater*, the debtor's brother brought an action against the mortgagee alleging that he was subrogated to the mortgagee's rights as a secured creditor of the debtor. *Id.* at 390, 334 S.E.2d at 143-44. A loan was given to the debtor in favor of the mortgagee to purchase a shrimp boat, and was secured by a mortgage on real property owned by the debtor's brother. *Id.* at 389, 334 S.E.2d at 143. The debtor received insurance proceeds for the loss of the shrimp boat after it was involved in a collision. *Id.* The debtor insured the shrimp boat for his own benefit. *Id.* at 391, 334 S.E.2d at 144. The sole issue for the Court's decision was whether the debtor's brother was damaged by the satisfaction of the note and mortgage on the shrimp boat. *Id.* at 389-90, 334 S.E.2d at 143-33. In *Swearingen*, the debtor was the mortgagor as she gave the mortgagee notes for the balance of the purchase money that were secured by a mortgage on the land she purchased. *Swearingen*, 52 S.C. at 313, 29 S.E. at 722. The insurance policy was issued to the mortgagor after the mortgage was executed, and the mortgagee obtained a deficiency judgment against the mortgagor through foreclosure. *Id.* at 313-15, 29 S.E. at 722-23. Thereafter, the mortgagee commenced the action alleging that she had an equitable lien upon the

[8] Order of the Honorable Larry B. Hyman, Jr., Granting Defendant Horry County State Bank's Motion for Summary Judgment.

amount of the policy issued to the mortgagor. *Id.* at 312-13, 29 S.E. at 722. In *Blackwell*, the insured borrowed a sum of money from a chattel mortgagee to pay the purchase price and insurance premium on an automobile. *Blackwell*, 237 S.C. at 650-51, 118 S.E.2d at 702. The loan was evidenced by a note that was secured by a chattel mortgage on the automobile purchased by the insured. *Id.* at 651, 118 S.E.2d at 702. The chattel mortgagee immediately applied to the insurer for coverage on the automobile and paid the premium at the time the loan was made. *Id.* at 651, 118 S.E.2d at 703.

The cases cited in the Order Granting Summary Judgment do not involve an action where the insured under the policy is a mortgagor on a satisfied mortgage, and is not a debtor who is liable for the mortgage debt. "If the creditors have a lien by mortgage, judgment or execution, they can insure their own interest, but they can have no right to attach insurance money due to any one but their own debtor." *Steinmeyer v. Steinmeyer*, 64 S.C. 413, 421, 42 S.E. 184, 186 (1902). "A contract of fire insurance is a personal contract between the insurer and insured, by which the former undertakes to indemnify the latter for the loss he sustains by fire. Being a personal contract, it does not run with the buildings said to be insured, is not an incident to the thing insured." *Id.* at 420, 42 S.E. at 186. An insurance contract "is a personal contract and does not run with the title to the property." *Id.* at 422, 42 S.E. at 186. In *Steinmeyer*, the judgment debtor conveyed a parcel of property to Steinmeyer who, thereafter, obtained an insurance policy insuring the premises in her own name and interest. *Id.* at 416, 42 S.E. at 184. The creditors of the judgment debtor commenced an action to set aside the conveyance to Steinmeyer on the grounds of fraud which resulted in a decree subjecting the property to the payment of the judgment. *Id.* Thereafter, the property conveyed to Steinmeyer was sold under a Court order, and the sale proceeds applied to the judgment in favor of the judgment creditors were insufficient to satisfy the judgment. *Id.* The South Carolina Supreme Court found that the insured was entitled to the insurance proceeds and that the proceeds cannot be taken by the creditors for the debt even though the property itself could be taken. *Id.* at 422, 42 S.E. at 187.

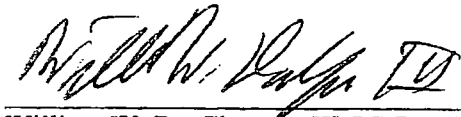
In the present case, like *Steinmeyer*, the insurance policy at issue was issued to the insured for the insured's benefit, and the insured was not liable for the outstanding indebtedness remaining unsatisfied after the judicial sale of the insured property. The legal authority cited in the Order Granting Summary Judgment uses legal precedent that was applied in actions involving insurance policies issued to debtors who were obligated and liable to the mortgagees

for the outstanding indebtedness. The *Steinmeyer* case is more analogous to the instant action than the legal authority cited in the Order Granting Summary Judgment, and the South Carolina Supreme Court's decision in that case was rendered after the *Swearingen* decision. Therefore, this Honorable Court must reconsider the Order Granting Summary Judgment and apply the *Steinmeyer* case rather than the legal authority supporting the Court's prior decision granting the Bank's Motion for Summary Judgment.

For the reasons set forth above, Defendant Jenrette respectfully requests this Honorable Court to reconsider its prior order and issue an order denying the Bank's Motion for Summary Judgment.

The undersigned certifies, pursuant to Rule 11, *South Carolina Rules of Civil Procedure*, that prior consultation with opposing counsel would serve no useful purposes as the filing of the instant Motion is required to preserve the record in the event of an appeal.

DESCHAMPS LAW FIRM



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October 16, 2012
Myrtle Beach, South Carolina

STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON PLEAS
)	FIFTEENTH JUDICIAL CIRCUIT
COUNTY OF HORRY)	CIVIL ACTION NO.: 2011-CP-26-09199
National Security Fire & Casualty Company,)	
Plaintiff,	**CROSS-CLAIMING DEFENDANT ROSEMARY JENRETTE A/K/A ROSEMARY LONG JENRETTE'S NOTICE OF MOTION AND MOTION FOR SUMMARY JUDGMENT**
v.	
Rosemary Jenrette a/k/a Rosemary Long Jenrette and Horry County State Bank,	
Defendants.	

FILED IN THE COURT OF COMMON PLEAS
13 JUN -3 PM 1:25

TO: THE DEFENDANT HORRY COUNTY STATE BANK AND ITS COUNSEL OF RECORD, JARROD E. OWNBEY, ESQUIRE:

PLEASE TAKE NOTICE that the cross-claiming Defendant Rosemary Jenrette a/ka Rosemary Long Jenrette "Jenrette" by and through her undersigned counsel will move before the Presiding Judge of the Horry County Court of Common Pleas, ten (10) days hence, or as soon thereafter as counsel may be heard, for an Order granting Summary Judgment to the Defendant Rosemary Jenrette a/k/a Rosemary Long Jenrette, entitling her to the relief set forth in her Cross-claims against Horry County State Bank "Bank", more specifically, an Order from the Court directing payment to her of the monies "insurance proceeds" previously paid by National Security Fire and Casualty Company, Plaintiff herein, to the Clerk of Court, in the within action.

The grounds for this motion are based on the fact that the Bank has failed to make a showing sufficient to establish the existence of either of the two elements essential to its case and on which the Bank will bear the burden of proof at trial.

In order to prove that it is entitled to the insurance proceeds, the Bank must rely on:

1. The covenants of the mortgage instrument, and

2. An equitable lien theory attaching proceeds otherwise inuring to the benefit of the obligor of the mortgage indebtedness.

The rights and obligations of Jenrette as mortgagor and "Bank" as mortgagee with respect to one another were determined under the Master's Order of Foreclosure and Sale dated April 22, 2011, constituting Judgment Roll No. 2010-CP-26-04456 filed April 26, 2011, and were terminated upon the filing of the Release of Lien Mortgage Satisfaction on September 8, 2011, in Mortgage Book 5345 at Page 1825, Horry County records. Therefore, any covenant or obligation of Jenrette as mortgagor to assign the proceeds of the casualty policy should have been determined under the referenced Master's Order of Foreclosure and Sale and any such covenant or obligation was terminated upon the filing of the Release of Lien Mortgage Satisfaction.

As the mortgage instrument and the covenants contained therein were terminated at the time of the satisfaction of the mortgage there are no factual issues needed to be given to the finder of fact and Jenrette is entitled to judgment as a matter of law on the Bank's mortgage covenant theory of recovery.

Inasmuch as Jenrette was not a maker of the Promissory Note or a guarantor of the indebtedness evidenced thereby, she was not liable for the outstanding indebtedness remaining unsatisfied after the judicial sale of the mortgaged property. Jenrette had no personal obligation to pay any deficiency judgment remaining after the foreclosure and sale of the mortgaged property and satisfaction of the mortgaged indebtedness and, therefore, the Bank has no claim on the insurance proceeds which would otherwise inure to her benefit. As there are no factual issues to be given to the finder of fact Jenrette is entitled to judgment as a matter of law on the Bank's equitable lien theory of recovery.

As a Motion for Summary Judgment is dispositive in nature, Rule 11 certification is not needed or required.

Respectfully Submitted,

DESCHAMPS LAW FIRM

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May 29 2013
Myrtle Beach, South Carolina

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FIFTEENTH JUDICIAL CIRCUIT
COUNTY OF HORRY	)	CIVIL ACTION NO.: 2011-CP-26-09199
National Security Fire & Casualty Company, Plaintiff,	)	**DEFENDANT ROSEMARY JENRETTE'S MOTION TO RECONSIDER THE COURT'S PRIOR ORDER FILED ON FEBRUARY 11, 2014**
v.	)	
Rosemary Jenrette a/k/a Rosemary Long Jenrette and Horry County State Bank, Defendants.	)	

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TO: THE DEFENDANT HORRY COUNTY STATE BANK, BY AND THROUGH ITS ATTORNEYS, RANDALL K. MULLINS AND JARROD E. OWNBEY:

PLEASE TAKE NOTICE that Defendant Rosemary Jenrette, a/k/a Rosemary Long Jenrette (hereinafter "Mrs. Jenrette"), through her undersigned counsel, hereby moves pursuant to Rule 59(e) and Rule 52(b) of the South Carolina Rules of Civil Procedure, to alter or amend the Court's Order (hereinafter "Prior Order") directing the holder of the subject insurance proceeds to pay the entire sum on deposit to Defendant Horry County State Bank (hereinafter "Bank"). The Prior Order was filed with the Horry County Clerk of Court on February 11, 2014. Mrs. Jenrette received notice of entry of the Prior Order on February 21, 2014. The within Motion is made upon the grounds that: (i) the Court erred in making Findings of Fact, as set forth below, in that they were not supported by the evidence introduced during the trial; (ii) the Court did not make Findings of Fact that were supported by the evidence introduced during the trial; (iii) the Court erred in making various Conclusions of Law as set forth below; and (iv) the Court failed to consider and/or rule upon various issues raised at the trial that have a direct and substantial bearing on the determinative issues of fact and law. To the extent any of the below

Findings of Fact may be considered Conclusions of Law, they shall be considered the same, and vice versa.

ERRORS IN FINDINGS OF FACT

The Court erred in making the following Findings of Fact in that such findings are not supported by the evidence introduced during the trial:

1. The POA gave Quickel authority to execute a note in Mrs. Jenrette's name. (Prior Order, p. 3).
    - This Finding of Fact is erroneous because the POA appointed Quickel as Mrs. Jenrette's true and lawful attorney pertaining to the property described therein to procure the loan with the Bank. In addition, there is no evidence in the record that Quickel executed a note as Mrs. Jenrette's attorney-in-fact. The evidence introduced during the trial is that Quickel executed the note as a member of Cajun.
2. The mortgagor was noted to be Mrs. Jenrette, and she was referred to within the mortgage as "Borrower". (Prior Order, p. 4).
    - This Finding of Fact is erroneous because Mrs. Jenrette is defined on page 1 of the mortgage as the "Mortgagor" and merely referenced sometimes therein as "Borrower". In addition, paragraphs 15 and 16 of the mortgage refer to covenants and warranties of "Mortgagor" and make no reference to the "Mortgagor" as the "Borrower."

3. The mortgage was duly recorded in the public records of Horry County. On that same date, Quickel signed a promissory note in the same principal amount. (Prior Order, p. 4).

    - This Finding of Fact is erroneous because the promissory note was executed by Quickel, as member of Cajun, on May 1, 2009, and the mortgage was initially recorded in the public records of Horry County on May 4, 2009 and re-recorded on May 5, 2009.

4. The assignment was binding upon Mrs. Jenrette, as it was contained in the mortgage the POA authorized Quickel to sign. (Prior Order, p. 5).

    - This Finding of Fact is erroneous due to the following: (a) the various provisions contained within the mortgage; (b) the POA does not contain any language relating to an insurance policy or policy proceeds; and (c) the POA lists the following property descriptions for which the POA pertains: Lot 67/Country Club @ Long Ave/ TMS 123-00-03-064, Lot 68/Country Club @ Long Ave/ TMS 123-00-03-065, 1600 Country Club Drive/ TMS 123-00-02-069, Lot 40/Country Club @ Long Ave/ TMS 123-00-02-170, Lot 48/Country Club @ Long Ave/ TMS 123-00-02-171, but the subject property is located at 104 Country Club Drive.

5. Mrs. Jenrette was joined as a defendant as the record owner of the subject property and her other four lots. (Prior Order, p. 5).

    - Pursuant to the Master-in-Equity's Order of Foreclosure and Sale that was introduced into evidence as Jenrette's Exhibit 7 during the trial, Mrs. Jenrette was also joined as a mortgagor in the foreclosure action (Horry County Civil Action No. 2010-CP-26-04456).

6. On April 18, 2011, a hearing for foreclosure and sale was held, and the Master-in-Equity issued an Order of Foreclosure and Sale which was filed April 25, 2011. (Prior Order, p. 6).

    - The Master-in-Equity's Order of Foreclosure and Sale introduced into evidence during the trial was filed on April 26, 2011.

FAILURE TO MAKE FINDINGS OF FACT SUPPORTED BY THE EVIDENCE

The Court failed to make the following Findings of Fact, all of which were supported by substantial evidence introduced during the trial:

1. No sums secured by the mortgage were advanced or otherwise lent by the Bank to Mrs. Jenrette.
2. The obligation for the payment of the indebtedness secured by the mortgage was that of the maker of the promissory note, Cajun, and its principal, Quickel, who was a guarantor of the repayment of the indebtedness.
3. Because Mrs. Jenrette procured the insurance policy for her own benefit and paid all premiums thereon, she was the sole insured or loss payee listed on the insurance policy.
4. The Master-in-Equity's Order of Foreclosure and Sale that was introduced into evidence during the trial as Jenrette's Exhibit 7 provides that the total debt secured by the mortgage in the sum of $390,951.97 shall constitute the total judgment debt due to the Bank, and that Cajun and Quickel are liable for the aforesaid mortgage debt.
5. The Bank claims it is entitled to the entire proceeds on deposit to satisfy the remaining total judgment debt owed by the judgment debtors Cajun and Quickel pursuant to the Master-in-Equity's Order of Foreclosure and Sale filed on April 26, 2011 and the Order of Deficiency Judgment as to Cajun and Quickel filed on September 6, 2011.

6. Mrs. Jenrette also claims that the Bank is not entitled to an equitable lien as she is not obligated in law or in equity to pay the indebtedness owed by Cajun and Quickel under the Order of Deficiency Judgment.

7. Page 1 of the mortgage defines "Mortgagor" as Rosemary Long Jenrette and provides that the note, note agreement, loan agreement or revolving loan agreement signed by Cajun and Quickel, as Cajun's member, will be referred herein as the "Note" or "obligation."

8. Paragraph 1 of the mortgage provides in pertinent part: "As further security for all sums secured by this Mortgage, Borrower assigns to Lender all rents and profits arising from the Property." However, paragraph 3 of the mortgage omits any such language regarding any insurance policy or insurance proceeds serving as further security for all sums secured by the mortgage.

9. Paragraph 8A of the mortgage provides that any default by Borrower as described in the note shall be deemed a default under the mortgage. However, the record reflects that Mrs. Jenrette was not a party to the note.

10. Paragraph 15 and Paragraph 16 of the mortgage contain provisions and/or obligations between Mortgagor and Lender rather than Borrower, as those provisions do not make reference to a "Borrower."

11. Paragraph 16 of the mortgage provides in pertinent part: "The obligations and liabilities of Mortgagor under this paragraph shall survive the foreclosure of the Mortgage, the delivery of a deed in lieu of foreclosure, the cancellation or release of record of this Mortgage." However, paragraph 3 of the mortgage omits any such language relating to any insurance policies or insurance proceeds.

12. The Bank never requested Mrs. Jenrette to obtain an insurance policy which named the Bank as an additional insured or loss payee. At trial, the Bank introduced the Bank's exhibit 17 over the objection of Mrs. Jenrette even though it was executed by Quickel in his capacity as a member of Cajun. Pursuant to the Bank's exhibit 17, the Bank was in possession of the agency name and policy number pertaining to Mrs. Jenrette's insurance policy at the time of the closing of the loan that was secured by the mortgage. However, the Bank never inquired or took any action with respect to any insurance policy or any insurance proceeds paid thereunder prior to the date on which the subject property incurred a fire loss.

13. The record reflects that Quickel did not sign any document as Mrs. Quickel's attorney-in-fact which made Mrs. Jenrette a party to the note or otherwise obligated her to pay the indebtedness due under the note.

14. The Bank's Exhibit 18, admitted over Mrs. Jenrette's objection, was signed by Quickel in his individual capacity.

ERRORS IN CONCLUSIONS OF LAW

The Court erred in making the following Conclusions of Law:

1. "Mrs. Jenrette was the "Borrower" as that term is defined in the mortgage." (Prior Order, p. 7).

    - This Conclusion of Law is erroneous due to the following: (a) Mrs. Jenrette is defined on page 1 of the mortgage as the "Mortgagor" and merely referenced sometimes therein as "Borrower;" and (b) the term "Borrower" is not defined in the mortgage. "In South Carolina, a mortgage is a mere security for a debt. Care must be taken to remember that a security instrument is not a debt; at most it is

evidence of a debt." Blackwell v. Blackwell, 289 S.C. 470, 472, 346 S.E.2d 731, 732 (Ct. App. 1986). "A court must enforce an unambiguous contract according to its terms regardless of its wisdom or folly, apparent unreasonableness, or the parties' failure to guard their rights carefully." U.S. Bank Trust National Association v. Bell, 385 S.C. 364, 379, 684 S.E.2d 199, 207 (Ct. App. 2009). "Where the agreement in question is a written contract, the intention of the parties must be inferred from the contents of the whole agreement and not from any one of its several parts." Harmon v. Bank of Danville, 287 S.C. 449, 453, 339 S.E.2d 150, 153 (Ct. App. 1985). Borrower is defined as "a person or entity to whom money or something else is lent." Black's Law Dictionary (7th ed. 1999). "'A court of equity may not add or substitute other parties for those appearing on the face of a contract where the effect may be to make a new contract'" Independence National Bank v. Buncombe Professional Park, LLC, 402 S.C. 514, 521, 741 S.E.2d 572, 576 (Ct. App. 2013) (quoting 66 Am. Jur. 2d Reformation of Instruments § 51 (2011)). Paragraph 15 of the mortgage references "Mortgagor" and makes no reference to a "Borrower." Paragraph 7 of the mortgage provides in pertinent part that: "The notice shall provide a period of not less than 30 days from the date the notice is delivered or mailed within which Borrower must pay all sums secured by this Security Instrument." The record reflects that Mrs. Jenrette was not an obligor of the indebtedness due under the note. There is no evidence that could reasonably support a finding that the Bank ever loaned anything to Mrs. Jenrette. Therefore, Mrs. Jenrette is not the "Borrower" in the context to which that term is referenced in the Mortgage.

2. "These provisions are enforceable against Mrs. Jenrette because her son, Mr. Quickel, signed the mortgage as her duly appointed attorney-in-fact, and the power of attorney states that 'any act lawfully done hereunder shall be binding on me.'" (Prior Order, p. 7).

    - This Conclusion of Law is erroneous because the record reflects that Quickel did not execute any document as Mrs. Jenrette's attorney-in-fact which obligated her to pay the indebtedness due under the note, nor did Mrs. Jenrette dispute the validity of the execution of the mortgage by Quickel as her attorney-in-fact. The POA makes no reference to any insurance policy or insurance proceeds, nor does it describe any of the properties referenced therein as "104 Country Club Drive." Page 1 of the mortgage provides that the note and loan agreement signed by Cajun and Quickel, as member of Cajun, is referenced therein as "obligation." Mrs. Jenrette is not the "Borrower" in the context to which that terms is referenced in the mortgage. Therefore, the Court erred in concluding that the language in the POA that states: "any act lawfully done shall be binding on me" operates to bind Mrs. Jenrette to paragraphs 3A and 3B of the mortgage.

3. "The provisions of paragraphs 3A and 3B of the mortgage are clear and these provisions control and are binding on Mrs. Jenrette." (Prior Order, pp. 7-8).

    - This Conclusion of Law is erroneous because Mrs. Jenrette is defined by the mortgage as "Mortgagor" and merely referenced sometimes therein as "Borrower." In addition, the Bank was awarded both legal and equitable remedies when it was awarded judgment against Cajun and Quickel for the indebtedness due under the note, and judgment of foreclosure and sale of the subject property secured by the mortgage. "The courts can enforce legal contracts of parties, as

made, up to the time of the judgment, but, when the judgment is pronounced, the rights of the parties are determined up to that moment, and then the judgment must be enforced according to the law applicable to judgments." Moore v. Holland, 16 S.C. 15, 28 (1881). "A judgment is the final determination of the rights of the parties in the action, and is conclusive of all matter necessarily involved, whether raised or not, especially if the party denying the adjudication knew of the matter and could have interposed it at the previous trial, either in support of a claim or as a defense." Ryan v. The Southern B. & L. Association, 50 S.C. 185, 188, 27 S.E. 618, 619 (1897). The Master-in-Equity's Order of Foreclosure and Sale constituted a final determination of the rights of the Bank and Mrs. Jenrette with respect to the mortgage. The Release of Lien Mortgage Satisfaction filed on September 8, 2011 operated to release, cancel, and satisfy the mortgage. Further, the record is clear that the Bank had knowledge of the insurance proceeds and that it was not named in Mrs. Jenrette's insurance policy as an additional insured or loss payee before it was awarded judgment of foreclosure and sale. Despite such knowledge, the Bank elected to proceed with the hearing before the Master-in-Equity to obtain judgment against Quickel and Cajun for the indebtedness due under the note, and to obtain foreclosure of the mortgage. Therefore, the terms of paragraphs 3A and 3B of the mortgage are not binding on Mrs. Jenrette.

4. "The assignment in the mortgage survived the cancellation of the mortgage and binds Mrs. Jenrette." (Prior Order, p. 7).

   - This Conclusion of Law is erroneous because the terms of the mortgage are clear that the parties did not intend paragraphs 3A and 3B of the mortgage to survive foreclosure, cancellation, or release of the mortgage. "Where the agreement in question is a written contract, the intention of the parties must be inferred from the contents of the whole agreement and not from any one of its several parts." Harmon, at 453, 339 S.E.2d at 153. Paragraph 16 of the mortgage provides in pertinent part that: "The obligations and liabilities of Mortgagor under this paragraph shall survive the foreclosure of the Mortgage, the delivery of a deed in lieu of foreclosure, the cancellation or release of record of this Mortgage." Paragraphs 3A and 3B of the mortgage do not reference a "Mortgagor," nor do those paragraphs reference any obligations or liabilities of "Mortgagor." In addition, paragraphs 3A and 3B do not provide that any obligations or liabilities shall, may, or will survive the foreclosure of the mortgage, or the cancellation or release of the mortgage. The clear and unambiguous terms of paragraphs 3A, 3B, and 16 of the mortgage establish that the parties to the mortgage intended that the "Mortgagor's" obligations or liabilities, if any, under paragraphs 3A and 3B shall terminate upon the foreclosure, cancellation, or release of the mortgage.

5. "Mrs. Jenrette is the 'Borrower' under the duly authorized and executed mortgage, and as Borrower, she made the assignment contained in paragraph 3B."

   - This Conclusion of Law is erroneous pursuant to Sections 1, 2, and 3 above.

6. "Mrs. Jenrette (through Mr. Quickel's execution of the mortgage under the authority of the power of attorney) indisputably assigned her personal rights under the insurance contract to the Lender in paragraph 3B." (Prior Order, p. 8).

   - This Conclusion of Law is erroneous pursuant to Sections 1, 2, and 3 above.

7. "The purpose of the assignment was, in my view, to provide additional security for the mortgage debt." (Prior Order, p. 12).

   - This Conclusion of Law is erroneous because the provisions of the mortgage are clear that the parties to the mortgage did not intend that the insurance proceeds serve as additional security for the indebtedness due under the note. "A court must enforce an unambiguous contract according to its terms regardless of its wisdom or folly, apparent unreasonableness, or the parties' failure to guard their rights carefully." Bell, at 379, 684 S.E.2d at 207. "Where the agreement in question is a written contract, the intention of the parties must be inferred from the contents of the whole agreement and not from any one of its several parts." Harmon, at 453, 339 S.E.2d at 153. "Generally, a mortgagee is not entitled to the rents and profits from the mortgaged property as a legal incident to, or as a legal right growing out of, his mortgage." Sellars v. The First Colonial Corp., 276 S.C. 548, 550, 280 S.E.2d 805, 806 (1981). Whether the Bank is able to "subject the rents and profits of the mortgage premises to the payment of ... [its] debt, depends entirely upon the contract of the parties, as stated in the mortgage." Id. at 551, 280 S.E.2d at 806. Paragraph 1 of the mortgage provides in pertinent part that: "As further security for all sums secured by this Mortgage, Borrower assigns to Lender all rents and profits arising from the Property." However, paragraph 3 of the

mortgage does not provide that any insurance policy or insurance proceeds shall, may, or will serve as security for any sums secured by the mortgage. The record is clear that the Bank did not require Mrs. Jenrette to obtain or provide proof of any insurance policy prior to the closing of the loan secured by the mortgage. At trial, there was no evidence introduced that could reasonably support a factual finding that the Bank required or requested Mrs. Jenrette to obtain an insurance policy naming it as an additional insured or loss payee. Pursuant to the Bank's exhibit 17, the Bank was in possession of the agency name and policy number pertaining to Mrs. Jenrette's insurance policy in May of 2009. The record is clear that the Bank neither contacted Mrs. Jenrette nor the insurance company prior to the date on which the subject property incurred a fire loss. Based upon the clear and unambiguous language of paragraph 1 and paragraph 3 of the mortgage, there was not an express intent that any insurance policy or insurance proceeds serve as additional security for the mortgage debt.

8. "In the instant case, there was a mortgage debt, specific property (the insurance proceeds) to which the debt attached under paragraph 3B of the mortgage, and an expressed intent that the proceeds serve as additional security for payment of the mortgage debt." (Prior Order, p. 13).

- This Conclusion of Law is erroneous because the Bank failed to introduce any evidence that could reasonably support a factual finding that Mrs. Jenrette owed a debt to the Bank, or that there was an express intent that any insurance policy or insurance proceeds serve as collateral to secure the loan to Cajun and Quickel. '"For an equitable lien to arise, there must be a debt, specific property to which

the debt attaches, and an express or implied intent that the property serve as security for payment of the debt."' Chase Home Finance, LLC v. Risher, 405 S.C. 202, 209, 746 S.E.2d 471, 475 (Ct. App. 2013) (quoting Regions Bank v. Wingard Props., Inc., 394 S.C. 241, 250, 715 S.E.2d 348, 353 (Ct. App. 2011)). If the party asserting "an equitable lien cannot satisfy any one of these requirements, this remedy is not available." Id. "If the creditors have a lien by mortgage, judgment, or execution, they can insure their own interest, but they can have no right to attach insurance money due to anyone but their own debtor." Steinmeyer v. Steinmeyer, 64 S.C. 413, 421, 42 S.E. 184, 186 (1902). In Risher, the South Carolina Court of Appeals held that the Master-in-Equity was correct in requiring the bank to show that a specific debt was owed by the defendant, and holding that no property existed on which the obligation could attach since the defendant had no obligation to the bank. Risher, at 208-9, 746 S.E.2d at 475. In the instant action, the record is clear that Mrs. Jenrette was not a party to the note or otherwise obligated to repay the indebtedness due under the note. Paragraph 3 of the mortgage, unlike paragraph 1 therein relating to the assignment of rents and profits, does not provide that any insurance policy or insurance proceeds shall, may, or will serve as security for any sums secured by the mortgage. In addition, the Court found the provisions of paragraph 3 of the mortgage to be clear, and no issue of ambiguity with respect to the mortgage was raised by the Bank during the trial. Therefore, the record is clear that the Bank failed to offer any evidence that could reasonably support a finding that Mrs. Jenrette owed a specific debt to the

Bank, and that there was an express intent that any insurance policy or insurance proceeds serve as security for the loan to Cajun and Quickel.

9. "Reliance upon that statute [S.C. Code Section 29-3-660] is misplaced, as the Bank is not seeking a deficiency judgment against Mrs. Jenrette." (Prior Order, p. 13).

- This Conclusion of Law is erroneous because the entry of the Master-in-Equity's Order of Foreclosure and Sale extinguished the mortgage from serving as security of the indebtedness due under the note. More specifically, "a mortgage represents a security for an obligation, but not the full payment thereof." American General Financial Services, Inc. v. Brown, 376 S.C. 580, 583, 658 S.E.2d 99, 100 (2008). "A judgment is the final determination of the rights of the parties in the action, and is conclusive of all matter necessarily involved," Ryan, at 188, 27 S.E. at 619, and the recordation of the Release of Lien Mortgage Satisfaction operated to release, cancel, and satisfy the mortgage. S.C. Code Ann. § 29-3-780 (2012). However, S.C. Code Section 29-3-780 is not "construed to satisfy any unpaid portion of the debt secured by the mortgage." Id. South Carolina Courts have found "that if the mortgaged premises are sold under a foreclosure decree and fail to bring a sufficient amount to satisfy the debt, the mortgagee is entitled, absent any statutory limitation or waiver on his part, to a personal judgment for the remaining deficiency." Perpetual Bldg. & Loan Ass'n of Anderson v. Braun, 270 S.C. 338, 340, 242 S.E.2d 407, 408 (1978). This remedy is codified by statute and permits a court in a mortgage foreclosure action to "adjudge and direct the payment by the mortgagor of any residue of the mortgage debt that may remain unsatisfied after a sale of the mortgaged premises in cases in which the mortgagor

shall be personally liable for the debt secured by such mortgage." S.C. Code Ann. § 29-3-660 (2012). In the instant action, the Bank foreclosed on the mortgage and was awarded judgment against Cajun and Quickel for the debt secured by the mortgage, and judicial sale of the subject property. The Bank seeks to assert an equitable lien on the insurance proceeds to satisfy the indebtedness owed by Cajun and Quickel under the Order of Deficiency Judgment. Mrs. Jenrette relies on the Deficiency Judgment Statute to show that construction of S.C. Code Section 29-3-780 with respect to the unpaid portion of the debt is intended to apply to deficiency judgments awarded under S.C. Code Section 29-3-660. Therefore, Mrs. Jenrette's reliance on S.C. Code Section 29-3-660 is not misplaced as it must be considered when determining whether the provisions of the mortgage survived the recordation of the Release of Lien Mortgage Satisfaction.

10. The Court's reliance on Freshwater v. Colonial Production Credit Association, 286 S.C. 387, 334 S.E.2d 142 (Ct. App. 1985); Blackwell v. State Farm Mutual Automobile Insurance, Co., 237 S.C. 649, 118 S.E.2d 701 (1961); Jones v. Equicredit Corporation of South Carolina, 347 S.C. 535, 556 S.E.2d 713 (Ct. App. 2001); and the persuasive authority from other jurisdictions that are in accord with the South Carolina Court of Appeals' conclusion in Jones v. Equicredit, *supra*, to conclude that the Bank, as mortgagee, is entitled to collect insurance proceeds if the foreclosure sale does not satisfy the mortgage indebtedness. (Prior Order, pp. 8-12).

- Freshwater and Blackwell do not apply to the instant action as the insured persons in those cases were obligated to pay the indebtedness. In addition, those cases did

not involve a real estate mortgage, real property, or the foreclosure of a mortgage subsequent to the parties' knowledge of the existence of the insurance proceeds. The items of personal property in Freshwater and Blackwell which secured the loan were an automobile and a shrimp boat. In the instant action, Mrs. Jenrette, as a non-debtor mortgagor, was not obligated to pay the indebtedness owed under the note as she merely pledged her real property as additional security for the loan to Cajun.

- Jones does not apply to the instant action as the insured in that case was obligated to repay the indebtedness due under the note. In Jones, the insured was a mortgagor to a purchase money mortgage which secured a loan that was obtained to purchase the secured real property, and the insurance policy was obtained by the insured two years after the mortgagor/debtor received the loan proceeds to purchase the secured real property. "A mortgagee's rights under an insurance policy are dependent upon the existence of a secured debt owed [to] the mortgagee by the mortgagor-insured." Fort Hill Federal Savings & Loan Ass'n v. South Carolina Farm Bureau Insurance Company, 281 S.C. 532, 537, 316 S.E.2d 684, 687 (Ct. App. 1984).

ISSUES RAISED AT TRIAL, BUT NOT RULED UPON

1. The effect of S.C. Code Sections 29-3-660 and 29-3-780 with respect to the recordation of the Release of Lien Mortgage Satisfaction, and whether the provisions of the mortgage survive the recordation thereof and require the insurance proceeds to be paid to the Bank as partial satisfaction of the indebtedness owed under the Order of Deficiency Judgment.

2. Whether the Master-in-Equity's Order of Foreclosure and Sale constituted a final determination of the rights and obligations with respect to the mortgage.
3. Whether the Bank's failure to allege or prove it lacked an adequate remedy at law bars an award of an equitable lien as '"equity is generally only available when a party is without an adequate remedy at law"' Risher, at 209, 746 S.E.2d at 574.
4. The rules pertaining to the construction of the mortgage as a contract when the issue of ambiguity is not raised during the trial.

In support of this Motion, Mrs. Jenrette will rely upon the pleadings, the trial transcript, the evidence admitted during the trial, the Trial Brief, applicable law, and such other matters as may be presented to the Court at the time of the hearing on this matter. For the reasons set forth above, Defendant Rosemary Jenrette respectfully requests this Honorable Court to reconsider its prior order and issue an amended order.

The undersigned certifies, pursuant to Rule 11, South Carolina Rules of Civil Procedure, that prior consultation with opposing counsel is not required prior to the service and filing of the within Motion.

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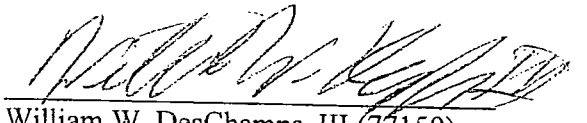

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February 28, 2014
Myrtle Beach, South Carolina

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
COUNTY OF HORRY	)	2011-CP-26-9199
National Security Fire and Casualty Company,	)	
Plaintiff,	)	Transcript of Record
vs.	)	December 16, 2013
Rosemary Jenrette, a/k/a Rosemary Long Jenrette And Horry County State Bank,	)	
Defendants.	)	

B E F O R E :

Honorable George C. James, Jr.
Horry County Courthouse
Conway, South Carolina

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

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(On the record, December 16, 2013.)

THE COURT: All right, we're on the record now, National Security Fire and Casualty Company versus Rosemary Jenrette and others, the other being Horry County State Bank. In the pretrial conference I believe it was established that Horry County State Bank would proceed first, is that right?

MR. MULLINS: That's correct, Your Honor.

MR. DESCHAMPS: Yes, sir, Your Honor.

THE COURT: All right, if either side wants to make any opening remarks I'll be glad to hear from you or you can just call your first witness. I've read your pretrial briefs. I just wanted to ---

MR. MULLINS: It's non-jury, Your Honor. If Mr. DesChamps doesn't want to make an opening I certainly don't see the need to.

THE COURT: All right, that's fine. Has everything been pre-marked at least for ID?

MR. MULLINS: Yes, sir.

THE COURT: Okay, and you'll let me know when the disputed exhibits arise; is that right?

MR. MULLINS: Yes, sir.

MR. DESCHAMPS: Yes, yes, Your Honor. I don't believe we've pre-marked ours for identification purposes, but ours are pretty simple.

THE COURT: All right.

MR. DESCHAMPS: We only - we, you know, yeah, we only got five or six of them.

THE COURT: Okay.

MR. DESCHAMPS: We'll take them - take that long, Your Honor.

THE COURT: All right, you can call your first witness.

MR. MULLINS: Your Honor, I'd like to call a witness a bit out of order. She's under my subpoena and she's here in Conway, Ms. Faye Bradham.

THE COURT: Okay.

MR. MULLINS: If I could go ahead and get her out of the way, Your Honor.

THE COURT: All right.

Whereupon, Faye Bradham was called to the stand, duly sworn by the clerk and testified as follows:

MR. DESCHAMPS: Your Honor, prior to the witness being sworn in if I might I don't believe that I was, and I could be wrong, that I was served with a copy of a subpoena for, for Ms. Bradham if she was under subpoena.

THE COURT: Do you object to her being called?

MR. DESCHAMPS: Yes, sir.

THE COURT: The basis for that is that you didn't get a copy of the subpoena?

MR. DESCHAMPS: Yes, sir, Your Honor.

THE COURT: Well, would she not be a logical witness in the case regardless?

MR. DESCHAMPS: Your Honor, I mean, there's an existing policy in effect and I wouldn't know what her, what her testimony would have any ---

THE COURT: All right, I'll, I'll ---

MR. DESCHAMPS: I wouldn't think it would be relevant at all, Your Honor.

THE COURT: I'll overrule your objection on the fact, on the basis that she wasn't - you didn't get a copy of the subpoena. Mr. Mullins, do you want to cover that for the record?

MR. MULLINS: Yes, Your Honor, I'd have a copy of the document that was sent and CC'd to Mr. DesChamps on November 2nd, 2013. That was also the subpoena that was also sent to Ms. - that was to Mr. Quickel, I'm sorry, give me just a moment, please.

THE COURT: Okay.

MR. MULLINS: This case was also previously continued, Judge. It was set in front of Judge Seals and at that time we had filed a motion to continue it. Ms. Bradham had a convention she had to attend at that time and for convenience of everyone we continued it there. She was under subpoena for that term of court.

THE COURT: Well, she's listed as a witness on

his pretrial brief. Is it, is it a surprise that she's being called at all?

MR. DESCHAMPS: No, sir, Your Honor.

THE COURT: All right, I'm going to allow her to testify and you can raise any ---

MR. DESCHAMPS: Yes, sir.

THE COURT: --- relevance or other objections that you'd like to.

MR. DESCHAMPS: Yes, sir. Thank you, Your Honor.

THE COURT: All right.

MR. DESCHAMPS: Yes, sir.

THE CLERK: State your name for the Court, please, ma'am, and spell your last name.

MS. BRADHAM: Faye Bradham, B-R-A-D-H-A-M.

MR. MULLINS: May it please the Court, Your Honor?

THE COURT: Yes, sir.

DIRECT EXAMINATION

BY MR. MULLINS:

Q Ms. Bradham, tell the Court where you work at, ma'am.

A I'm employed by Bradham Insurance Agency.

Q Okay, is that here in Conway, South Carolina?

A That is correct.

Q And how long have you been an insurance agent, Ms. Bradham?

A Since 1987.

Q Okay, and do you know either the Horry County State Bank or Ms. Jenrette who are the parties in this case?
A Do I know them?
Q Yes, ma'am.
A I know who they are, yes.
Q Okay, were you aware of some coverage that was written on a property here in Conway at 104 Country Club Drive?
A Yes.
Q All right, could you tell us about that particular - how you became aware of that?
A How I became aware of it?
Q Yes, ma'am.
A Ms. Jenrette came into our office and purchased the policy.
Q Okay, let me hand you what's been pre-marked as Defendant Horry County State Bank's Number One and ask you if you recognize that document.
A Yes, sir.
Q What is that?
A That's a copy of the declaration page.
Q Okay, and is there a policy number on that document, ma'am?
A Yes, sir.
Q What's that - is that the letters at the top?
A Yes, sir.

Q I can and I realize they're a little small, I'm having difficulty with it, can you tell me what the number is if you know right off?

A Let me look on mine. It might be a little bit better. The policy number is 836223.

Q And there are another series of numbers following after that. What is that?

A 205638.

Q Okay, and who was the person that purchased that coverage?

A Rosemary Jenrette.

Q All right, is that document kept in the ordinary course of business of both Bradham Insurance Company?

A Yes, sir.

Q All right, and did you issue this on behalf of National Security Fire?

A Yes, sir.

Q Was that who you placed the coverage with?

A Yes, sir.

Q All right, is this a true and accurate copy of your records that you provided to me and Mr. DesChamps?

A Yes, sir.

Q Okay.

MR. MULLINS: Your Honor, we'd move to admit Defendant Horry County State Bank's One.

THE COURT: Any objection?

MR. DESCHAMPS: No objection, Your Honor.

THE COURT: Okay, that's in.

(Whereupon, Defendant, Horry County State Bank's Exhibit Number One [Policy] admitted into evidence and appropriately marked.)

BY MR. MULLINS:

Q Ms. Bradham, looking through that, ma'am, what kind of coverage was provided for that property at 104 Country Club Drive?

A It was a dwelling fire policy.

Q Okay, and when was that placed in effect?

A March of 2009.

Q What was the coverage available?

A $100,000 on the dwelling.

Q Okay, was there anything for cleanup costs in the event of catastrophe?

A I think there was maybe $5,000 debris removal.

Q Okay, and let me ask you a question, ma'am, about another document. Did we - did you also provide a full copy of your file in this matter to both Mr. DesChamps and I pursuant to my subpoena?

A Yes, sir.

Q All right, did you bring a copy of that file, your original file with you today?

A Yes, sir.
Q Let me ask you, this has been pre-marked as Defendant's Number Two, Defendant Horry County State Bank's Number Two for the purpose of the record. Do you recognize that document?
A Yes, sir.
Q Is that a true and accurate copy of the rest of your file?
A Yes, sir.
Q Okay, all right, do you keep that in the ordinary course of business?
A Yes, sir.
MR. MULLINS: We'd move to admit Defendant's Number Two, Your Honor.
THE COURT: Any objection?
MR. DESCHAMPS: No, Your Honor.
THE COURT: All right, Two is in. So, Number One is the policy. Number Two is her office file, is that right?
MR. MULLINS: That's correct, Your Honor.
(Whereupon, Defendant Horry County State Bank's Exhibit Number Two [Office File of Bradham] admitted into evidence and appropriately marked.)
BY MR. MULLINS:
Q And Ms. Bradham, were you aware of an unfortunate fire loss on this property?
A Yes, sir.

Q How did that happen? How did you become aware of that?
A Well, I live in the neighborhood. First of all, I - when something like that happens we normally everybody pretty much knows about it, but first of all I knew that there had been a fire there and then Ms. Jenrette called our office and reported the claim.
Q Okay, after the fire loss incurred were you also contacted by Defendant Horry County State Bank regarding the claim?
A Yes, sir.
Q All right, and did they send you a copy of their mortgage and ask you to protect their interest?
A Yes, sir.
Q All right, when a dispute arose over these proceeds, ma'am, what did you do?
A Of course I contacted our company.
Q Okay, and was a check eventually - was this claim eventually processed and the policy honored?
A Yes, sir.
Q All right, in your records, ma'am, did you see where anyone requested Horry County State Bank be added as a loss payee anywhere on the policy?
A Not before the loss.
Q Okay, and as a result of the dispute over the funds how was the check issued?

A The check was issued to Ms. Jenrette and Horry County State Bank.
Q All right, do you know if that check was ever negotiated?
A Not to my knowledge.
MR. MULLINS: If I may have just a moment, Your Honor.
THE COURT: All right.
BY MR. MULLINS:
Q Ms. Bradham, what is the beginning date on the policy where you first got that coverage for Ms. Jenrette?
A March 9th of 2009.
Q Thank you, ma'am. Please answer any questions that Mr. DesChamps or the Court has for you.

CROSS EXAMINATION

BY MR. DESCHAMPS:
Q Good morning, Ms. Bradham?
A Good morning.
Q I ask you to look at the dec page, the declaration page for the policy period from March 9, 2009 to March 9, 2010?
A Yes, sir.
Q Do you have that in front of you?
A Yes, sir.
Q And if you will look down on that form ---
THE COURT: Is this Exhibit One or Two?
MR. DESCHAMPS: That is Exhibit Two I believe.

THE COURT: Okay.

MR. DESCHAMPS:

Q Exhibit Two, the dec page, the front, front page of your entire exhibit from your file?

A Yes, sir.

Q Okay, and you see where it says down, the information it says mortgage information, mortgagee name and address and loan number. Is there any mortgagee listed there?

A No, sir.

Q Okay, there's no loan number and no mortgagee?

A No, sir.

Q That is blank, correct?

A No, sir.

Q And going in, also in the documents that you have just discussed or that was in your file that is Exhibit Two there appears to be an application for the time period March 9, 2009 to March 9, 2010, one, two, three, four, it's the fifth page back I believe in the, in the Exhibit Two that, that you've been given?

A Yes, sir.

Q Okay, and in that document where it says mortgage information and it has mortgagee name and address and loan number, is that blank?

A There is no mortgage listed on the - that page.

Q Okay, all right, all right, and if you go to page two

which is underwriting questions?
A Yes, sir.
Q Could you read to the Court or publish number two which is the underwriting question begins, "Does applicant," could you read that please?
A "Does applicant have full unconditional ownership of the building and upon which it is located?"
Q I believe that's land upon which it is located?
A It says, "Does applicant have full unconditional ownership of the building and land upon which it is located."
Q And then it has a place where yes or no and how is that marked?
A Yes.
Q How is that marked, yes, and at the bottom of that page that is signed by Rosemary Jenrette and by Barbara Bradham; is that correct?
A Yes, sir.
Q And that was on March 15, 2009; is that correct?
A Yes, sir.
Q And I think it is your testimony that during the period of time from the inception of the insurance in March of 2009 until the casualty loss in January of 2011 you received no correspondence from or did you receive any correspondence at all from Horry County State Bank asking that they be named, that the bank be named as a loss payee or under the insurance

policy?
A No, sir.
Q Okay, to your knowledge who paid the premiums on the insurance policy?
A Ms. Jenrette.
Q And she would've paid the premium in - from March of 2009 till March of 2010; correct?
A Correct.
Q And then the policy was renewed again in March of 2010 for an additional year; is that correct?
A That is correct.
Q And she paid the premium there; is that correct?
A That's correct.
MR. DESCHAMPS: I have no further questions, Your Honor.
THE COURT: Redirect?
MR. MULLINS: No redirect, Your Honor.
THE COURT: All right, thank you, ma'am. You can step down.
MR. MULLINS: Since she's under my subpoena, Judge, I'd ask she be excused unless she'd like to stay.
THE COURT: Any objection?
MR. DESCHAMPS: No, no objections, Your Honor.
THE COURT: All right, Ms. Bradham, you can stay if you'd like or you can leave.

MS. BRADHAM: I think I'll leave.

THE COURT: All right, okay, next witness.

MR. MULLINS: We'd call Robert Smith of Horry County State Bank.

Whereupon, Robert W. Smith was called to the stand, duly sworn by the clerk and testified as follows:

THE CLERK: State your name for the Court, please, sir.

MR. SMITH: Robert W. Smith.

MR. MULLINS: May it please the Court, Your Honor?

THE COURT: Yes, sir.

DIRECT EXAMINATION

BY MR. MULLINS:

Q Mr. Smith, is and I'm used to calling you Robert. Would that be okay for the record?

A Absolutely.

Q All right, Robert, tell the Court where you work at?

A Horry County State Bank.

Q And how long have you worked there?

A About four years.

Q Okay, is this your first employment in the banking industry?

A No, it's not.

Q How often have you worked at a bank in your career?

A Probably a total of about 19 or 20 years.

Q All right, what banks have you worked for?
A C&S Bank and then Anchor Bank and then Horry County State Bank.
Q All right, did you and I forgot to ask you for the record, how old are you, Mr. Smith?
A Have to think about that, 57.
Q All right, and your current position at Horry County State Bank?
A Vice President in charge of special assets as well as city exec for Conway.
Q Okay, have you held any prior positions at the bank?
A With this bank?
Q Yes, sir.
A No, I've been in special assets the whole time I've been employed with the bank.
Q And when you worked for other banks what positions did you hold?
A I was a lending officer, I was a branch manager, management trainee, assistant branch manager and a commercial loan officer.
Q Have you attended any schools or institutions to study banking?
A I have.
Q And where at?
A South Carolina Banking School and then the School of

Banking of the South at LSU.

Q All right, and when did you attend those?

A South Carolina Banking School was three summers like 1980 through '82 and then LSU was 1988 through '91 I think.

Q Did you complete those courses?

A I did.

Q All right, is that a requirement for your job at Horry County State Bank?

A Not really.

Q Now, are you familiar with the transactions involving Rosemary Jenrette, Michael Brooks Quickel and Cajun Carolina LLC?

A I am.

Q How did you become familiar with those?

A In special assets that loan was turned over to me to begin the litigation of the foreclosure.

Q Okay, and what foreclosure was that, Robert, that - are you in charge of - let me rephrase that question. Are you in charge of deciding when something is special assets that's going to go to foreclosure?

A Yes.

Q All right, do you have a loan committee also?

A We do.

Q Okay, and when did you make the decision that the - that particular transaction was in financial dire straits?

A I don't remember the exact date. All I know is that when the loan became 90 days past due the loan officer refers it to me and then at that time I met with the loan committee that week and they requested that I engage an attorney to begin the litigation.

Q Okay, and did you begin litigation against both Cajun Carolina LLC, Ms. Jenrette and Mr. Michael Brooks Quickel?

A We did.

Q Why did you name all three of those as parties in the foreclosure?

A Because they were the - either the borrower or the guarantor of the note and/or landowner.

Q Okay, and if you - are you familiar with all the books and records of Horry County State Bank?

A I am.

Q Including how this loan came about?

A I am.

Q Do you have full access to all those documents?

A I do.

Q Let me hand you what has been marked as Defendant Horry County State Bank's Number Three and ask if you recognize that document?

A I do.

Q All right, what is that?

A This is a commitment letter that we issued whenever we

originated the debt.

Q All right, and what was this - this commitment letter that was issued what was the purpose of that?

A To refinance existing business debt and to be used for working capital.

Q All right, and in the ordinary course of your bank's business do they have the person requesting the loan agree to the commitment letter?

A We do.

Q All right, and if you would can I draw your attention to page three of that document. Was that signed by the person requesting the loan?

A It was.

Q All right, and also by a bank vice president?

A Yeah, assistant vice president Ann Marion.

Q And is this document kept in the ordinary course of business of Horry County State Bank?

A It is.

Q Uh-huh, and it was - was it the commitment letter upon which this transaction was based?

A It is.

MR. MULLINS: Move to admit that as Defendant Horry County State Bank's Three, Your Honor.

MR. DESCHAMPS: Your Honor, I object to the admission of this document. This document at no, at no place discusses

or is directed to Rosemary Jenrette, my client. This loan commitment is directed to Cajun Carolina LLC and M. Brooks Quickel. It talks about a loan from Horry County State Bank to Cajun Carolina LLC. It is not directed to nor does it concern the issues we are here today with regard to which is the insurance policy, the existing insurance policy that is a personal contract between the insurance company and my client Rosemary Jenrette and who is entitled to the proceeds of that insurance policy as a result of the casualty loss.

THE COURT: So you're saying it's not relevant.

MR. DESCHAMPS: It is, it is not relevant whatsoever to this. There's nothing that could be gained from this that would make a determination as to who is entitled to the insurance proceeds.

THE COURT: All right, can I see the exhibit?

MR. MULLINS: Yes, sir. If I may hand the witness another copy, Judge.

THE COURT: All right, okay, your response, Mr. Mullins?

MR. MULLINS: Your Honor, we requested an equitable lien on these proceeds. In order to understand my client's claim for the equitable lien I think the Court needs to understand how the transaction occurred and what was represented at the time. This, the repayment terms in REM, Your Honor, on page one standard industry real estate and I'm

sure the Court's aware of that, but that involves a real estate mortgage on 104 Country Club Drive. In addition, paragraph 10 there's a requirement for insurance to be carried on the property in the event of the collateral which was 104 Country Club Drive.

THE COURT: Let me, let me ask a question. Did Mr. Quickel obtain the loan on 104 Country Club Drive as an individual or with a power of attorney?

MR. MULLINS: With the power of attorney, Your Honor.

THE COURT: Okay, and is that power of attorney going to be in evidence or has it been put in evidence yet?

MR. MULLINS: Shortly, Your Honor.

THE COURT: All right, okay, I'll have to rule on your relevance objection later. I don't know whether it's relevant. What I'm trying to determine in my mind is if Mr. Quickel obtained the loan on 104 Country Club Drive using a power of attorney, why is that not binding on Ms. Jenrette as far as the lien on the land is concerned? I mean, you don't dispute that?

MR. DESCHAMPS: I can, I can address that.

THE COURT: Okay.

MR. DESCHAMPS: Your Honor, I'll go to the dates and then I'll address your question.

THE COURT: Okay.

MR. DESCHAMPS: Okay, my client, the dates are somewhat important. My client at the time of this, this letter in April 24, 2009 ---

THE COURT: Yes, sir.

MR. DESCHAMPS: --- as was evidenced by the testimony that's already come up from the insurance agent, my client had an existing ---

THE COURT: Policy.

MR. DESCHAMPS: --- casualty policy in place.

THE COURT: Right.

MR. DESCHAMPS: Okay, for, for Mr. Mullins to succeed on an equitable lien as to a specific property one of the things he has to show and this is what he wants to get away from is a secure debt, okay, a debt, a mortgagee debt that has to do with the mortgage itself which was foreclosed. The only thing that's relevant at all is the fact that the mortgage was foreclosed and was satisfied of record and when that mortgage was foreclosed and satisfied of record that mortgage is gone. It's, it's no longer around. So, so there is no right to an equitable lien. The equitable ---

THE COURT: So but the house burned during the foreclosure proceeding, right?

MR. DESCHAMPS: Yes, sir. There's, there's no right to - there's no right to an equitable lien as a result of M. Brooks Quickel or Cajun Carolina. That's where, that's where

Mr. Mullins' arguments fail. Cajun Carolina and Brooks Quickel are the folks that owe Horry County State Bank the money, okay. If ---

THE COURT: Well, I haven't seen the loan document, so.

MR. DESCHAMPS: Well, and that - but that's, but that's the point.

THE COURT: Haven't seen it.

MR. DESCHAMPS: None of those documents are relative, are relevant. The only thing that is relevant at all is the mortgage instrument and we're not contesting the fact that there was a mortgage instrument that was signed by M. Brooks Quickel under a power of attorney granted to him by Rosemary Jenrette. That is - that is not a fact that's being contested. There was then a mortgage recorded in the courthouse. There was then an order of foreclosure and sale which said that mortgage, the property is going to be sold and then that mortgage pursuant to the order of foreclosure and sale, Judge Howe signed a satisfaction, and that mortgage and all terms and conditions and everything in the mortgage was ---

THE COURT: All right.

MR. DESCHAMPS: --- terminated as of that date.

THE COURT: I understand.

MR. DESCHAMPS: So the other obligations are not, and

aren't relevant to any determination the Court needs to make or the documents the Court needs to make.

THE COURT: Well, that's what your summary judgment argument was based on, correct, pretty much?

MR. DESCHAMPS: Yes, sir.

THE COURT: Okay, so I understand your argument, but the relevance of this document why is it at least not relevant for me to know the background of the loan transaction?

MR. DESCHAMPS: Well, the loan commitment ---

THE COURT: In other words, you're saying this document is not relevant so you should pretty much win right now, period. Is, is the document not relevant to their case to show that there was a loan, that there was a requirement for insurance coverage and that there was - well, number 10 in this Exhibit Number Three is relevant to their case?

MR. DESCHAMPS: If - the only way it would be relevant if that, if that document had been directed to Rosemary Jenrette and informed Rosemary Jenrette that there had to be, that she had to get mortgage, had to get insurance on the property.

THE COURT: Well she - okay.

MR. DESCHAMPS: The power of attorney, Your Honor, the loan commitment, this loan commitment is 4-24. Nothing happened, you know, then after the loan commitment things,

things occur, but, but we already had the policy in effect.

THE COURT: Right.

MR. DESCHAMPS: And, and what happens with Brooks Quickel, the terms of his note, whether he defaulted or not, I mean, there's an order of foreclosure and sale that would be a matter of record, but ---

THE COURT: But we haven't even gotten there yet.

MR. DESCHAMPS: Yes, sir. I'm sorry.

THE COURT: So, so I, I think, I think the document is relevant to what they're claiming. It's just not relevant to what you think the ultimate defense is, excuse me, you say it's not relevant because of your defense. Your defense is the mortgage was discharged, marked satisfied, so it doesn't, all of this makes no difference at all.

MR. DESCHAMPS: Yes, sir. I think the only way it's relevant to them is if and it can't be if this, if this - if Rosemary Jenrette had been the maker or the ---

THE COURT: Had been the what?

MR. DESCHAMPS: Had been the maker of the note.

THE COURT: Right.

MR. DESCHAMPS: Or the guarantor of the note and there was a debt somewhere out there that they could attach, okay, that they - and as a result there was a debt that was owed by Rosemary Jenrette and there was insurance proceeds I think that's the only way this would be relevant at all

because this is the terms of a note with a third-party. It's the terms of a note that Mr., Mr. Quickel and Cajun Carolina. It has nothing to do with Ms. Jenrette or anything that Ms. Jenrette has with the insurance company.

THE COURT: All right, I don't know if it does or not because I haven't seen any of the loan documents and I haven't seen the power of attorney. Anything else before I rule?

MR. MULLINS: No, sir, I'm trying to get there. I thought we waived opening so.

THE COURT: Okay, I, I'll overrule your objection. To whether or not it makes any legal or factual difference remains to be seen, but I think it's relevant to at least their, their, their theory.

MR. DESCHAMPS: Thank you, Your Honor.

(Whereupon, Defendant Horry County State Bank's Exhibit Number Three [Commitment Letter] admitted into evidence and appropriately marked.)

BY MR. MULLINS:

Q And Mr. Smith, as to the real estate mortgages on those properties what's your understanding as to who owned those six lots and the house?

A The six lot, there were five properties that were owned by Rosemary and two properties that were owned by Brooks.

Q All right, and was that your understanding of the

security the bank was taking in order to satisfy this commitment letter?

A That's correct.

THE COURT: How many were improved?

A Just one.

THE COURT: And that was the Country Club?

A Yes, sir.

THE COURT: So that one improved, one improved lot and how many unimproved lots?

A Six.

THE COURT: All right.

MR. MULLINS: Thank you, Your Honor.

BY MR. MULLINS:

Q Did the closing occur on that transaction?

A It did.

Q And is it anything - do banks ever allow people to close using a power of attorney?

A We do.

Q Was there anything unusual about that?

A I mean, it was a power of attorney.

Q Let me show you what's been marked, pre-marked as Defendant Horry County State Bank's Exhibit Number Four. Do you recognize that document?

A I do.

Q What is that document?

A This is a specific power of attorney for this closing.
Q Okay, and from - who granted the power of attorney and who had the authority to exercise it?
A It was granted by Rosemary Long Jenrette and Rosemary Long.
Q All right, and who had the power to exercise it?
A Rosemary - oh, who did, who did she grant it to?
Q Yes, sir.
A Michael Brooks Quickel.
Q All right, and are there specific properties up there covered by the power of attorney?
A Yes, those are the five that she owned.
Q All right, and is there any restriction on authority for Mr. Quickel to go to closing to close this transaction?
A Not that I see on here.
Q Thank you.

MR. MULLINS: We'd move to admit Defendant Horry County State Bank's Four into evidence.

THE COURT: Any objection?

MR. DESCHAMPS: No, sir, I don't have any objection to that particular document.

THE COURT: Okay, that's in.

(Whereupon, Defendant Horry County State Bank's Exhibit Number Four [Specific Power of Attorney] admitted into evidence and appropriately marked.)

MR. MULLINS: And, Judge, I tend to move around the courtroom.

THE COURT: That's fine.

MR. MULLINS: I know that drives fellow judges nuts, but ---

THE COURT: That's fine.

MR. MULLINS: --- this is my first time appearing in front of you. So I didn't know your preference.

THE COURT: That's all right. Just for my purposes which Country Club, which, which one is 104?

A 069 is the last TMS number.

THE COURT: All right.

Q And Robert, when things go to closing is there a note and mortgage that is normally is obtained by the closing attorney?

A Excuse me?

Q I said when - in a real estate closing do the bank normally take back a note and mortgage from - that's signed by the - at the office of the real estate attorney?

A We do.

Q All right, let me show you what's been pre-marked as Defendant Horry County State Bank's Number Five. Do you recognize that document?

A Yes, this is the note that was used in the closing.

Q Okay, and who are the makers of that particular note,

Robert?
A Cajun Carolina LLC.
Q Okay, and was there any security taken that's noted on the note?
A There's a mortgage dated 5-1-2009.
Q Okay, and how about the maturity date?
A Maturity date is 5-1-2010.
Q Okay, and did that reflect the terms of the commitment letter?
A Yes, it did.
Q Okay, and is there anything unusual about this note?
A Not really.
Q Is this a standard form of Horry County State Bank document?
A It is.
Q Is it kept in the ordinary course of business?
A It is.
Q All right, and was it - and this, this is part of your file as to the bank's tracking of this transaction?
A That's correct.
MR. MULLINS: Move to admit Defendant Horry County State Bank's Five, Your Honor.
MR. DESCHAMPS: Your Honor, I object to that on the same grounds. This is a, this is a note from Cajun Carolina LLC signed by M. Brooks Quickel in May of - May 1, 2009. It

doesn't concern Rosemary Jenrette. It doesn't talk about the insurance policy on the, on the property that Rosemary obtained for her own interest. It has - there's - it's irrelevant because the introduction of this is not a factor in the determination that the Court is going to have to make as to who is entitled to the proceeds of the insurance policy and our claim is based upon the fact that we purchased the insurance for our behalf. It's, it's, it's not a - it's not necessary even in Mr. Mullin's case because he has to - all - what he has to do is establish a secured debt which is the mortgage instrument, not the promissory note and the terms of the note between Cajun Carolina and, and, and Horry County State Bank.

THE COURT: Mr. Mullins.

MR. MULLINS: Your Honor, I think it is relevant, once again, to establish the underlying transaction, secondly, to show that there was - the note was signed contemporaneously with a real estate closing and that the security was a mortgage dated May 1st, 2009 which is signed contemporaneously with the entire transaction. I'm trying to walk through the loan documents one at a time, Judge. I mean, I've got the HUD and everything else, but I have to take them in some order, so ---

THE COURT: All right.

MR. MULLINS: --- I just picked that order.

THE COURT: Could I see it, please? All right, anything else, Mr. DesChamps? Anything else on your objection?

MR. DESCHAMPS: No, sir, Your Honor, that was, that was my objection. I don't want to belabor the point.

THE COURT: Okay, all right, objection is overruled, the same thing that I mentioned earlier, it may not end up having any bearing on my ultimate determination, but it is relevant to establish the timeline, and there's a legitimate fact in issue about the timing of the note as you've yourself said, Mr. DesChamps. You can go ahead, Mr. Mullins. Document Number Five is in.

(Defendant Horry County State Bank's Exhibit Number Five [Exhibit A - Note] admitted into evidence and appropriately marked.)

BY MR. MULLINS:

Q Mr. Smith, did you - did the bank also obtain a mortgage on some property as security for the note that you've just identified?

A Yes, we did.

Q All right, I'm going to show you what's been pre-marked as Defendant Horry County State Bank's Number Six. Do you recognize that document?

A I do. That's one of the two mortgages.

Q Okay, and was part of that mortgage the subject of which

the security was 104 Country Club Drive?

A This is the other mortgage.

Q Okay.

A You brought me the wrong mortgage.

Q Oh, sorry.

A That's okay.

MR. MULLINS: I think we've pre-marked them as one. If I could have just a moment, Your Honor.

THE COURT: Okay, so, you're going to - Number Six will be what you're going to put a sticker on now?

MR. MULLINS: Yes, Your Honor. I got - I'm sorry. I left off the other one here. Let me show counsel, make sure he's got them.

THE COURT: All right.

MR. MULLINS: And Your Honor, for the record, Number Six is two mortgages dated May 1st, 2009, one by Michael Brooks Quickel and the other one by Rosemary Long Jenrette.

THE COURT: All right, so, that's Number Six is two documents?

MR. MULLINS: Yes, sir, that's correct.

THE COURT: Okay.

MR. DESCHAMPS: Your Honor, for purposes of the record the one, the mortgage document that - on, on Rosemary Jenrette's property, okay, is being put in without objection from me.

THE COURT: Okay.

MR. DESCHAMPS: The mortgage document that is part of Number Six that has to pertain with Mr. Quickel pledging his property I'm objecting to under the same grounds that I think that is irrelevant. It has nothing to do with what we are here for today which is the determination of fire loss on the property but the mortgage that Ms. Jenrette, that Mr. Quickel signed under power of attorney that's recorded on Ms. Jenrette's property I have no objection to.

THE COURT: And those are her five properties; is that correct?

MR. MULLINS: That's correct, Your Honor.

THE COURT: And the one you object to is Mr. Quickel's ---

MR. DESCHAMPS: Mr. Quickel's.

THE COURT: --- or Cajun's two properties.

MR. DESCHAMPS: Yeah, yes, sir, because I think that's irrelevant.

THE COURT: I think I'll probably end up ignoring that one anyway, won't I, the one on Mr. Quickel's property?

MR. MULLINS: To a certain extent, Your Honor. I think it's important though to go through the entire transaction.

THE COURT: All right, I'll allow, I'll allow that one in, too, as part of Exhibit Number Six.

(Whereupon, Defendant Horry County State Bank's Exhibit Number Six [Mortgages] admitted into evidence and appropriately marked.)

BY MR. MULLINS:

Q And having made that small change, Mr. Smith, is that both of the mortgages that Horry County State Bank obtained in this transaction pursuant to the commitment letter?

A It is.

Q Okay, and was one of those signed on behalf of Rosemary Jenrette by Mr. Quickel?

A Yes, it was.

Q Does that represent the entire mortgages that were secured by this transaction?

A It does.

MR. MULLINS: And we move to admit both, Your Honor. I think you've already ruled on that.

THE COURT: I've ruled on that and I think your objection is noted clearly, Mr. DesChamps.

MR. DESCHAMPS: Yes, sir.

THE COURT: You object to the one that's the Cajun or Quickel mortgage?

MR. DESCHAMPS: Yes, Your Honor.

THE COURT: All right, that's overruled.

BY MR. MULLINS:

Q Did those go to closing at the same time, Mr. Smith,

according to the bank's records?
A They did.
Q Let me skip an exhibit for a moment here. Let me show you Defendant's Exhibit Horry County's Exhibit Number Eight. Do you recognize that document?
A That's the HUD that came from the closing.
Q Okay, and is that required for and normally used by banks in order to track costs and expenses pursuant to federal guidelines?
A It is.
Q Okay, and who was listed as borrowers on the HUD up in ---
A Michael Brooks Quickel and Rosemary Long Jenrette.
Q All right.
MR. MULLINS: We'd move to admit that document, Your Honor, as Defendant's Number Eight.
MR. DESCHAMPS: Your Honor, for the same reasons that I have said before, this document is irrelevant unless, unless Ms. Jenrette was an actual obligor, which she was not. I think, I think that's the case. She was only the mortgagor of the property located at Country Club Drive. This document, this is a settlement statement as to the closing of Mr. Quickel's loan and it's irrelevant to the determination of who is entitled to the insurance proceeds even under the equitable lien period for the same reasons I've already said before.

THE COURT: Okay, objection is overruled.

MR. DESCHAMPS: Thank you.

(Whereupon, Defendant Horry County State Bank's Exhibit Number Eight [HUD Settlement Statement] admitted into evidence and appropriately marked.)

BY MR. MULLINS:

Q Mr. Smith, let me show you another document that was marked, pre-marked as Defendant's Number Seven, sir. Do you recognize that language which has been blown up for easy reading?

A I do.

Q What is that?

A That's the language that's in our mortgage.

Q All right, is that the language that Horry County State Bank uses in most of their mortgages?

A It is.

Q Was there anything special created for this, this particular closing?

A No, this is our standard mortgage.

Q All right, is that the same language that is in Rosemary Jenrette's mortgage?

A It is.

Q All right, and what does that do by way of insurance proceeds on the property?

A Well, it pledges the insurance proceeds for any insurance

policies that the borrower has to the bank.
Q All right, is there an assignment?
A Uh-huh, it does.
Q All right, and what portion of that, if you can identify that, is the assignment.
A 3-B is the assignment portion. It says, "Borrower hereby assigns to lender all proceeds from any insurance proceeds."
Q Okay.
MR. MULLINS: Your Honor, we'd like to admit that, please, as Defendant's Number Seven. It's identical to what's already in evidence. It's just easier to read.
THE COURT: Is that part of the un-objected to Number Six?
MR. DESCHAMPS: Sir, the mortgage, this is part of the un-objected to Number Six. The blowing up of it and the fact that it was done I think that's hearsay, I mean, unless Mr. Smith blew it - I don't see the necessity for it. I believe that's hearsay. This is blowing up of something, the document ---
THE COURT: Well, it's cumulative, but whether or not it's needlessly cumulative I think is the key. I'll, I'll overrule your objection.
MR. DESCHAMPS: All right.
THE COURT: Certainly is easier to read, but if everybody wants me to I can read small print and blow it up

myself.

MR. DESCHAMPS: Yes, yes, sir.

THE COURT: So I think it's - it doesn't make any difference. So that objection is overruled.

MR. DESCHAMPS: Thank you, Your Honor.

(Whereupon, Defendant Horry County State Bank's Exhibit Number Seven [Blowup of Mortgage] admitted into evidence and appropriately marked.)

BY MR. MULLINS:

Q And Mr. Smith, was - in your documents does it indicate that that policy was assigned?

A It does.

Q All right, and was Ms. Jenrette listed as a borrower on the mortgage?

A On the first page of the mortgage she was, yes, sir.

Q And what - did the bank take part of Ms. Jenrette's property as security?

A We did.

Q All right, and did you at the time think that you were getting a secured transaction where you had insurance on the property?

A We did.

Q All right.

MR. MULLINS: To jump a little bit out of order here, Your Honor, we'll go over to Number 17.

Q Let me hand you what's been pre-marked as Horry County State Bank's Exhibit Number 17. Do you recognize what that is?
A Yes, it's a ---
THE COURT: Number what?
MR. MULLINS: 17, Your Honor.
THE COURT: 17.
MR. MULLINS: I'm a little bit out of order, please.
A It's an agreement to provide insurance.
Q All right, and does the bank - is that a standard form bank for Horry County State Bank?
A It is.
Q Do you use that in the ordinary course of business of Horry County State Bank directly for real estate closings?
A We do.
Q All right, and is that part of the bank's records on how this transaction was handled?
A Yes, it is.
Q Is it dated the same date at the bottom that the transaction closed at Evans and Evans Law Firm?
A It is.
THE COURT: And what date is that?
A May 1st, 2009.
Q All right, and who's it signed by?
A Cajun Carolina LLC by M. Brooks Quickel as a member and

by the lending officer of the bank.
Q All right, and also is there a description of the property that is subject to the agreement?
A Yes, first real estate mortgage on 104 Country Club Drive, Conway, South Carolina.
Q And that's abbreviated REM?
A Yes.
Q Is that a normal abbreviation in bank documents?
A It is.
Q All right, and what type of coverage did they require in this agreement?
A Property coverage is fire, theft, collision, comprehensive and liability.
Q Okay, is there an insurance policy that's referenced in the document?
A There is.
Q And what policy is that?
A It's the policy with National Security and it's referenced with the policy number. Looks like it's 838223-206838 and the effective dates are 3-9-2009 to 3 - looks like 3-3-2010.
Q All right, is there an insurance company referenced?
A National Security and ---
Q All right, is there an agency referenced?
A Yes, Bradham Insurance Agency.

Q Okay.

MR. MULLINS: Your Honor, move to admit Defendant Horry County State Bank's Number 17 into evidence.

THE COURT: Yes, sir.

MR. DESCHAMPS: Your Honor, for the same objection I've been making, this is, this is M. Brooks Quickel for Cajun Carolina. Appears to be an agreement with him for Cajun Carolina to provide insurance on the property. Cajun Carolina could have provided insurance on the property. The bank could have provided security insurance on the property.

THE COURT: All right.

MR. DESCHAMPS: The fact is they didn't.

THE COURT: Mr. Mullins.

MR. DESCHAMPS: Ms. Quickel did. This doesn't - she's not a party to this agreement. It doesn't direct her to get insurance. It's an agreement that apparently is signed by - may be signed by Cajun Carolina, Mr. Quickel in May after my client obtained insurance for her benefit.

THE COURT: All right, Mr. Mullins.

MR. MULLINS: Your Honor, it is relevant for several reasons. One it shows that there was an agreement to provide insurance pursuant to the insurance, the commitment letter. Secondly it references the identical policy that was in force and effect at the time.

THE COURT: But it's not signed by Mr. Quickel as

attorney in fact.

MR. MULLINS: No, it is signed by Mr. Quickel as Cajun LLC.

THE COURT: Why didn't the bank get him to sign it as attorney in fact?

MR. MULLINS: I have no idea, Your Honor. That normally would have been done by the closing attorney in this situation, but we don't have Mr. Evans available to answer that question.

THE COURT: So, this is a closing document or is this a pre-closing document?

MR. MULLINS: This is a - normally a closing document. I normally have these come into my office.

THE COURT: All right, would you, would you ask the witness that question?

BY MR. MULLINS:

Q Mr. Smith, do you know if this was a closing document?

A It can be done both ways.

Q It can be done both ways.

THE COURT: Who prepares the document?

A I think the bank does and then it's filled in at the attorney's office.

THE COURT: All right, I'll rule on that objection later. I may agree with Mr. DesChamps on this one because it's not signed by the attorney in fact. I know that

that may sound hyper-technical but it's - if the bank wanted - and it may not end up making any difference. An agreement to provide insurance may not make a difference as to whether or not the insurance policy in question is payable to the bank or to Mrs. Jenrette, but it may not be relevant at all because it does not appear to be an agreement by Ms. Jenrette by and through her attorney in fact.

MR. MULLINS: Thank you.

THE COURT: Even though it references the policy I'll rule on this particular objection later.

MR. MULLINS: All right, thank you, Your Honor.

BY MR. MULLINS:

Q While this property was in foreclosure was there a loss that occurred?

A Yes, there was.

Q How did you become aware of that?

A Initially somebody called me and told me that the house was burning down.

Q Don't tell me who called you and told you.

A No.

Q Did you receive a phone call?

A Correct.

Q All right, did you follow up on that phone call?

A I did. I went by the property to see that it was, in fact, burning.

Q All right, and was the - how would you clarify the loss what you observed?
A It, it was definitely a total loss.
Q Did you get a copy of the fire report from the City of Conway?
A We did.
Q Let me hand you what's been marked as Defendant Horry County State Bank's Number Nine. Do you recognize that document?
A I do. This is the form that was completed by Arnold Spain with the fire department.
Q And do you normally go and get this form when there's a loss on the property that the bank has a security interest in?
A If we have a security interest in it, yes.
Q And did you obtain this from government records?
A We did.
Q And do you keep this in the ordinary course of business?
A We do.
MR. MULLINS: Move to admit Defendant Horry County State Bank's Nine, Your Honor.
THE COURT: Any objection?
MR. DESCHAMPS: First objection, Your Honor, this is clearly hearsay. It's ---
THE COURT: Well, did the, did the house burn?
MR. DESCHAMPS: Yes, sir.

THE COURT: Was it a total loss?

MR. DESCHAMPS: Yeah, some of that's ---

THE COURT: Okay, what, what are you offering this to prove?

MR. DESCHAMPS: It's, it's ---

MR. MULLINS: Just clearing the record, Your Honor, that the house burned and the date of the loss and so it fits in the timeline of the policy and the security.

MR. DESCHAMPS: There are two objections, hearsay and relevance. Your Honor, we have insurance proceeds that are there that have been paid to the Court.

THE COURT: Okay.

MR. DESCHAMPS: The - any report on the fire loss is totally irrelevant. It is not necessary. This evidence is not necessary for the, for the Court's use in making the determination of who's entitled to the insurance proceeds and this is hearsay. This was not prepared by the bank. It's prepared by apparently Arnold Spanger [spelled phonetically] of Horry County or something. He's not here to testify as to the preparation of it. So, it's a double prong sword as to why it shouldn't be admitted.

THE COURT: Is there, is there anything in here that's uniquely important to this case other than to establish the fact that the house burned?

MR. MULLINS: That's it, Judge.

THE COURT: Is there any, any question about how the fire started? Does that make any difference?

MR. MULLINS: We really don't know, Your Honor.

THE COURT: Okay, so you stipulate that the house burned during the policy period and during the term of the mortgage?

MR. DESCHAMPS: Yes, Your Honor.

THE COURT: Okay.

MR. MULLINS: That solves the problem.

THE COURT: All right, so Number Nine it's - I'll exclude it as long as the stipulation is there. It burned during the foreclosure proceeding?

MR. DESCHAMPS: Yes, Your Honor.

THE COURT: But while the mortgage was still in effect, before the mortgage had been satisfied?

MR. DESCHAMPS: Before the mortgage had been satisfied.

THE COURT: Okay, and that's the key to your theory is that once that mortgage is marked satisfied it's in the wind?

MR. DESCHAMPS: Yes.

THE COURT: Okay, all right, Number Nine is out. I don't think it's going to make any difference to the fact that the house did burn during the effective period of the policy and the mortgage.

BY MR. MULLINS:
Q And Mr. Smith, does the bank normally have appraisals on property?
A We do.
Q All right, and did you - did the bank obtain an appraisal both before this transaction closed?
A We did.
Q All right, and did you obtain an appraisal while the foreclosure was pending?
A We did.
Q Who orders the - what's the purpose of an appraisal while the foreclosure is pending, I mean, of the appraisal while the foreclosure is pending?
A We are required in special assets when we start the foreclosure action to review the appraisal and file, and if it's a current appraisal we don't have to have a current appraisal. If it's older than a year then we have a new appraisal ordered. So I ordered one in December 2010.
Q Okay, and is that put on a certain form at the bank?
A The order of the appraisal or the actual appraisal?
Q The actual appraisal.
A Yeah, the actual appraisal is completed by the appraiser on his own document.
Q When was that appraisal completed?
A The second appraisal?

Q Yes, sir.
A January the 7th, 2011.
Q Let me hand you what's been pre-marked as Defendant's Number 15. Let me ask you if you recognize that document.
A The top document is the appraisal of the property that was done on - let me make sure my date's right - January 7th, 2011.
Q Okay, and does it indicate any dwelling upon the property at that point?
A It does.
Q All right.
A Says it's a traditional style home with crawlspace foundation, gross living space is 1897 square feet.
Q Okay, and is there a value on there?
A The appraised value is $150,000 with land valued at 60 and improvements at 90.
Q All right, and did - who is Larry Cribb?
A He's the bank's appraiser.
Q Okay, and do you rely upon this document in special assets as to whether to foreclose on the property or not?
A Do we rely on it to foreclose?
Q Yes, why is it important?
A No, we're required to get one by the FDIC that's a current appraisal. So, you know, we have to - we're required by law to have an appraisal in the file.

MR. MULLINS: And we move to admit Defendant's Number 15, Your Honor.

MR. DESCHAMPS: Your Honor, objection. This is irrelevant. The value of the property, a, when Mr. - is irrelevant if it was for a loan for Cajun Carolina. It's irrelevant at any point in time even in the foreclosure proceedings. We have money that's sitting, the value of any property is irrelevant to these proceedings. It isn't going to help the Court make a determination whatsoever with regard to who's entitled to those insurance proceeds.

THE COURT: If ---

MR. DESCHAMPS: The bank is - if it's an equitable lien he can establish it, he's entitled to it. If he can't, if it died, if the mortgage is not there he is, he's not entitled to it.

THE COURT: So, if, if I rule that they've - they established or Horry County State Bank establishes by the greater weight of the evidence that the equitable lien exists then the funds on deposit will go to Horry County State Bank?

MR. DESCHAMPS: If they have an equitable lien on that, if it satisfies all the parameters, the equitable lien, there's several theories and ways that you can combat them under the law.

THE COURT: But what I'm saying is is that you're not, you're not demanding that they prove the value of the

property?

MR. DESCHAMPS: I think the value of the property is irrelevant.

THE COURT: All right, so, in other words if they prevail on their theory they get the money.

MR. DESCHAMPS: Well, yes, sir, but I mean, there'd have to be more arguments that, you know, if, if everything - they've got, they've got - they can't - at the same time they can't be unjustly enriched. They have, they have property they have already taken. They've taken, they've set a value, okay, there's going to be an order of judgment of foreclosure and sale that will probably come into the evidence and then they successfully bid on the property at the sale, they then established a value for the property that they took. They established that value. Then they pursued a deficiency judgment against Mr. Quickel. They have a - they have a - they, they've satisfied themselves in full for the entire amount of the debt before the insurance proceeds are there because they have a judgment against Mr. Quickel and Cajun Carolina. So they have a full satisfaction. They satisfied the mortgage and they got a judgment against their maker and guarantor. So the entire amount of the indebtedness that was owed to them has been satisfied. That's one of my theories. That's why they're not entitled to this, to this - the bank - the money there because in essence if they were to get it

they're going to double collect.

THE COURT: So you're objection to Number 15 is relevance?

MR. DESCHAMPS: Yes, sir, totally irrelevant.

THE COURT: Okay, any, any points you'd like to make, Mr. Mullins?

MR. MULLINS: Just, Your Honor, this was taken right before the fire loss occurred to show that there was only one dwelling on the property and it's the one that's in question here.

THE COURT: All right, anything else on your objection?

MR. DESCHAMPS: No, sir, no, sir.

THE COURT: All right, relevance objection is overruled.

(Whereupon, Defendant Horry County State Bank's Exhibit Number Fifteen [Appraisal Form] admitted into evidence and appropriately marked.)

BY MR. MULLINS:

Q Mr. Smith, on behalf of Horry County State Bank are you asking this Court to establish an equitable lien here?

A I am.

Q All right, and are you asking for - what are you asking the Court to do by way of the proceeds in this fire insurance policy?

A We're asking that they be paid to the bank.
Q All right, are you asking for any other relief before the Court?
A The full proceeds is all we're asking for.
Q All right, let me ask you a question, sir, there's been a couple of cross-claims here that were filed against Horry County State Bank. Let me ask you some questions about those. Did you in any way interfere between Ms. Jenrette and this insurance company?
A I put the insurance company on notice that we had a mortgage and I sent - and they requested a copy of the mortgage.
Q All right, do your loan documents that's already in evidence here give an assignment to Horry County State Bank for the insurance proceeds?
A I think they do, yes.
Q All right, at the ---
THE COURT: Do you have an objection?
MR. DESCHAMPS: Yes, sir, that is a legal conclusion, but we're not, for the purposes of the record and in keeping this thing moving as quickly as it is, we're no - we're not pursuing and I think I have told Mr. Mullins before but maybe I didn't, we're only pursuing - we're pursuing the declaratory judgment to get that money that's on deposit.
THE COURT: Okay.

MR. DESCHAMPS: Okay, our - any - through the course of discovery any cross-claims that we have or anything that we filed in pleadings against Horry County State Bank we're not pursuing and I'll go ahead and stipulate to that and that'll save ---

THE COURT: Okay.

MR. DESCHAMPS: --- the Court, if, if, if that's where his testimony is going.

MR. MULLINS: That's where it's going. If it's with prejudice, Your Honor, I accept.

MR. DESCHAMPS: Yes, sir, yes, sir, we'll ---

THE COURT: All right.

MR. DESCHAMPS: Yeah, we're still pursuing our declaratory judgment.

THE COURT: For the money.

MR. DESCHAMPS: It's the tortuous interference with a contract, I mean.

THE COURT: So you're asking for damages for tortuous interference with a contract?

MR. DESCHAMPS: Well, I was, but I'm not.

THE COURT: Okay.

MR. DESCHAMPS: That's what I'm withdrawing. I want to make sure when he says with prejudice we were - we're, we're, we're going after that money, the declaratory judgment and I'm not ---

THE COURT: Just like they are.

MR. DESCHAMPS: --- releasing all rights I might have against Horry County State Bank. I'm only releasing for the tortuous interference.

THE COURT: Okay.

MR. DESCHAMPS: I mean, if that's where he was going.

THE COURT: So your demand in your declaratory judgment action is for a declaration that the money is your client's?

MR. DESCHAMPS: Yes, sir.

THE COURT: All right.

MR. MULLINS: That solves it, Your Honor.

THE COURT: All right, so I will - there's no document accompanying this part of the testimony, so you can just continue.

MR. MULLINS: Thank you, Your Honor.

THE COURT: I mean, there's no objection to the document. It's just the testimony. All right, go ahead.

MR. MULLINS: If I may have just a moment, Judge.

BY MR. MULLINS:

Q And Mr. Smith, that assignment that we were previously discussing is that clearly in the documents that are already of record?

A It is.

Q All right, was there anything special about that

assignment document?
A That's our standard form.
Q All right, were you under the impression that those proceeds had been assigned?
A To the bank.
Q Is that why the bank has decided to pursue this today through you?
A That's correct.
Q Thank you. Answer any questions that opposing counsel or the Court has for you.
THE COURT: Mr. DesChamps, any questions?
MR. DESCHAMPS: Yes, Your Honor. If you'd bear with me. Thank you. May I approach, Your Honor?
THE COURT: Yes, sir.
MR. DESCHAMPS: I just wanted to get the loan commitment.
THE COURT: The commitment?
MR. DESCHAMPS: Yes, sir.
THE COURT: I don't believe I have the commitment.
MR. DESCHAMPS: Oh, yes, I'm sorry.

CROSS EXAMINATION

BY MR. DESCHAMPS:
Q Mr. Smith, the loan commitment that you were discussing with Cajun Carolina ---

MR. DESCHAMPS: May I approach?

THE COURT: Yes, sir.

BY MR. DESCHAMPS:

Q If I could show you this, this document. That's dated April 24, 2009; is that correct?

A That is correct.

Q All right, and you were discussing a power of attorney for Mr. Quickel; is that correct?

THE COURT: I've got the power of attorney if you want that.

MR. DESCHAMPS: Yes, sir, may I approach?

THE COURT: Yes, sir.

MR. DESCHAMPS: Thank you, Your Honor.

THE COURT: Here we go.

BY MR. DESCHAMPS:

Q I believe that's Defendant's Exhibit Four and the - could you tell the Court the date of that power of attorney?

A 27th day of April 2009.

Q So the power of attorney is dated and signed after Mr. Quickel signed the loan commitment?

A That's correct.

Q So, on April 24 Mr. Quickel did not have the capacity under that power of attorney that was dated April 27 to sign the loan commitment; did he?

A You say he didn't have the capacity?

Q Yes, sir.
A He didn't have the ability to pledge this collateral?
Q He didn't - did he have the authority on, on April 24 under the power of attorney dated April 27 to sign the loan commitment?
A I couldn't answer that. I'm not an attorney. That would be for you to answer.
Q All right, yes, sir, yes, sir, thank you.
A I will agree that it's dated afterwards though, yeah.
Q Let me give those documents back to the Court, thank you. Mr. Smith, you're in special assets; is that correct?
A Yes, sir.
Q All right, were you at the bank at the time that this loan was made?
A I was not.
Q Okay.
THE COURT: Were you physically present or working there?
Q Working at the bank.
A I was not.
Q All right, did you prepare any of these documents that are, that are, that are used in this loan transaction?
A No, for the loan itself?
Q Yes, sir.
A No, I did not.

Q Were you involved in the underwriting procedures on the loan?
A Before I was working at the bank?
Q Yes, sir.
A No, sir, I was not.
Q All right, so you can't really testify here today as to what the underwriting - to your personal knowledge as to what the underwriting procedures on this particular loan were, can you?
A I cannot testify here today because I wasn't at the bank at that time.
Q All right, yes, sir.
A I can testify what the rules and procedures are, but I can't testify that I was employed by the bank at that time.
Q This particular loan, can you testify as to this particular loan and what the - and the underwriting requirements?
A What the rules are for the underwriting requirements for the bank?
Q Yes, sir.
A Yes, I ---
Q You were at the bank at this time?
A No, I was not at the bank at that time.
Q All right, and to your knowledge as a result of the sale of the property to your knowledge was the mortgage satisfied?

A I don't know that answer.
Q You don't have any independent knowledge?
A No, sir.
Q Okay.
MR. DESCHAMPS: Thank you. I have no further questions.
THE COURT: Redirect?
MR. MULLINS: No redirect, Your Honor.
THE COURT: Thank you, sir. You can step down.
MR. MULLINS: Your Honor, we would renew our request to admit Defendant Horry County State Bank's Number Three which was the loan commitment letter, correct, agreement to provide insurance, Your Honor.
THE COURT: Number Three?
MR. MULLINS: That's correct.
THE COURT: I overruled his objection.
MR. MULLINS: Oh, I'm sorry, Your Honor.
THE COURT: For that, I believe, didn't I? The commitment letter is Number Three. Mr. DesChamps objected on the - on a relevance basis and I overruled that objection.
MR. MULLINS: Thank you, Your Honor.
THE COURT: Okay, now, I did - I did not rule yet on Number 17 and if you want to renew ---
MR. MULLINS: I, I ---
THE COURT: --- put that in, I'm still going to

determine whether or not I need to let that in or not.

MR. MULLINS: That was my next one, Your Honor, is Number 17.

THE COURT: Okay, all right, I note your request to have it placed into evidence and I'll continue to keep that under advisement.

MR. MULLINS: Thank you, Your Honor.

THE COURT: All right, next witness.

MR. MULLINS: We'd call Michael Brooks Quickel to the stand.

THE COURT: All right. All right, let's take about ten minutes. How long do you think he'll take?

MR. MULLINS: I think I can finish Mr. Quickel before one, Your Honor.

THE COURT: All right, you, you agree with that?

MR. DESCHAMPS: Yes, sir, because I'm going to be objecting to most of the testimony.

THE COURT: You will?

MR. DESCHAMPS: Yes, sir.

THE COURT: All right, we'll - let's take about five minutes then.

MR. DESCHAMPS: Yes, sir.

THE COURT: Okay?

MR. MULLINS: Thank you, Your Honor.

OFF THE RECORD

(On the record.)

THE COURT: All right, we're ready to go?

MR. MULLINS: Yes, sir.

THE COURT: Is he in the courtroom?

MR. MULLINS: Well, he was. Defendant Horry County State Bank calls Michael Brooks Quickel to the stand, please.

Whereupon, Michael Brooks Quickel is called to the stand, duly sworn by the clerk and testified as follows:

THE CLERK: Have a seat, please, sir. State your name for the Court, please, sir, and spell your last name.

MR. QUICKEL: Michael Brooks Quickel, Q-U-I-C-K-E-L.

MR. MULLINS: May it please the Court?

DIRECT EXAMINATION

BY MR. MULLINS:

Q Mr. Quickel, tell the Court where you reside at.

A 809 McNabb Shortcut Road.

Q All right, is that here in Horry County, South Carolina?

A Yes, sir.

Q Are you related to Ms. Jenrette who's one of the parties in this case?

A Yes, she's my mother.

Q Okay, and Mr. Quickel, tell us how old you are, sir.

A I'm sorry?

Q How old are you?

A 41.
Q Are you employed?
A Yes.
Q Where are you employed at?
A Keller Williams.
Q And that was the same place you were employed when I took your deposition as I recall.
A I believe so, yes, sir.
Q Has that worked out well for you?
A So, so, yes, sir.
Q All right, what are you doing at Keller Williams?
A Work with the new project sales, new developments.
Q You work in real estate?
A Yes, sir.
Q All right, and so Judge James is a visiting judge. What is Keller Williams?
A National real estate company, primarily does general brokerage. We have one small division that does new home developments and which is the division that I'm with.
Q And you've been to several real estate closings throughout your life; haven't you?
A Yes, sir.
Q All right, tell us do you hold any licenses anywhere?
A Hold - I have held South Carolina real estate license for a number of years as well as in Florida.

Q Okay, and you - did you live in Florida at one point?
A Yes, sir.
Q All right, did you hold a license down there at one point as well?
A Yes, sir.
Q How long have you worked in real estate, Mr. Quickel?
A Twenty years.
Q And I think I asked you this before, but how many closings would you say you've personally been involved in, real estate closings?
A Hundreds, personally or been involved in, in real estate?
Q Well, let's divide it down. Personally how many would you say you've had?
A Twenty-five.
Q Okay, and how many have you been involved with professionally?
A Hundreds.
Q Do you recall soliciting Horry County State Bank to loan you some money for a business venture?
A Yes.
Q What business venture was that?
A Cajun Carolina.
Q All right, was that an LLC?
A Yes, sir.
Q Was that a South Carolina LLC?

A Yes, sir.
Q What did Cajun Carolina do?
A Brokered lumber from Louisiana.
Q Okay, for what purpose?
A Resale profit.
Q All right, and what was the reason that you decided to go to Horry County State Bank to obtain a loan?
A Past relationships.
Q Okay, did you have an outstanding loan there at the time you requested this loan?
A Yes, sir.
Q Okay, at the time that you asked for the loan from Horry County State Bank where were you living?
A 104 Country Club Drive.
Q All right, is that the property that's, for lack of a better word, been in your family for years?
A Yes, sir.
Q Going back to your, I guess, great-grandfather?
A No, grandfather.
Q Grandfather, okay, is there a house at 104 Country Club Drive?
A There was.
Q All right, now, let me show you a document that's been admitted into evidence as Defendant's Exhibit Number Three. Do you recognize that document?

A I believe so, yes, sir.
Q All right, and is that your signature, sir, on the third page of Defendant's Number Three?
A I believe so, yes, sir.
Q Did you understand the terms and conditions of that commitment letter that Horry County State Bank issued to you for your loan request?
A Yes, sir.
Q All right, and was one of those terms and conditions a real estate mortgage?
A Yes, sir.
Q All right, and REM down there you're no stranger to those terms, that's shorthand for real estate mortgage; isn't it?
A Correct.
Q Okay, did you understand that six lots were being pledged on this matter?
A Yes, sir.
Q All right, who owned those lots?
A It was a combination between myself and my mother. I had two. She had five.
Q Okay, so, seven lots total?
A Seven, I believe.
Q All right, was - did any of those have improvements on it when you solicited a loan from Horry County State Bank?
A One did, yes, sir.

Q Is that the one at 104 Country Club?
A Yes, sir.
Q And you were residing in that property?
A Correct.
Q Okay, now, was there an obligation to provide any casualty insurance to the bank for that?
A There was an existing residential loan application that was denied by Horry County State Bank and when I reapplied through Ron Page it was a commercial loan. So I don't believe there was on the commercial loan.
Q All right, let me draw your attention to Section 10 of the same document, Defendant's Number Three, is there a provision there for what should be provided to the bank at closing?
A I - yes, sir.
Q And is that insurance?
A Yes, sir.
Q Okay, so you were aware of the bank's requirement there would be insurance on the improvements; correct?
A Incorrect.
Q You were not aware of that?
A I was not aware. It wasn't a stipulation. It wasn't, "Go get insurance and have this." It was, you know, it - conversation with Ron Page in his office when he agreed to do this loan was that he didn't care about the house because I

had talked to him about doing some improvements. He said that they were looking at just the land value and that's why the percentage of the loan was based so low to the value of the appraisal.

Q All right, I think I asked you this before when I took your deposition back in April. Do you have any piece of paper that shows different terms other than this loan commitment letter?

A No, sir.

Q Okay, and no question that the loan commitment letter in April of 2009 requires insurance.

A As I see there, yes.

Q Okay, now, since the property was in both yours and your mother's name how did you intend to go to closing? Was your mother going to appear or were you going to sign on her behalf?

A It was a hypothecation agreement that was prepared by the closing attorneys referred by Horry County State Bank.

Q All right, let me show you what's been marked as Defendant's Exhibit Number Four. Do you recognize that document?

A Yes.

Q And did you, in fact, sign as a witness on that document?

A Yes.

Q All right, and was that the power of attorney granted

from your mother to you to go to closing?
A Correct.
Q Did that reference five lots?
A Correct.
Q All right, and one of the lots referenced there was that the County Club Drive lot?
A Yes.
Q All right, and you could sign for your own lots; correct?
A Correct.
Q All right, and when you say hypothecation agreement you're not referring - would you - did you just misspoke, you meant to say power of attorney?
A There - as I recall I thought it was a hypothecation agreement or something that would allow me to use the property as collateral.
Q Okay, we'll get to that in just a moment. All right, no question that you did go to closing at the firm of Evans and Evans.
A Correct.
Q And no question that you signed on behalf of your mother.
A Correct.
Q And no question you had authority to do that.
A Correct.
Q Let me show you the HUD-1 which has been marked, admitted as Defendant's Number Eight, Mr. Quickel.

A Yes, sir.
Q Do you recognize that document?
A Appears to be the closing statement for - yes.
Q All right, and how did you execute the third page of that closing statement?
A As attorney in fact.
Q For whom?
A For my mother.
Q Okay, all right, and did you understand that you were placing a lien on all the property that, that day?
A Correct.
Q Okay, let me show you what's been marked as Defendant's Exhibit Number Six and ask you do you recognize that document?
A Yes, sir.
Q All right, did you execute those mortgages both on your behalf and on your mother's behalf?
A It appears so, yes.
Q And did you have authority to do so?
A Yes.
Q All right, now, no question that at some point you fell in arrears on the loan?
A Yes, sir.
Q Okay, and you received notice from the bank that they were calling the loan due to it being past due?
A Correct.

Q All right, now, you previously referred to a hypothecation agreement that you remember signing in this matter. I'm going to show you a document. I did not pre-mark this one, Your Honor.

THE COURT: Okay, that'd be Number 18.

MR. MULLINS: That'll be Number 18, if I could have that marked for identification at this time.

THE COURT: Okay.

MR. MULLINS: I've given a copy to counsel already.

BY MR. MULLINS:

Q Let me show you what's been pre-marked as Defendant's Number, Defendant Horry County State Bank's Number 18. Do you recognize that document?

A Uh-huh, yes.

Q Okay, and did you - is that the hypothecation agreement that you were previously referring to?

A I believe, yes.

Q And no question that's your signature on the document?

A It appears so, yes, sir.

Q No question you signed that at closing?

A It appears so, yes, sir.

Q All right.

MR. MULLINS: Would like to move to admit Defendant's Number 18, Your Honor.

MR. DESCHAMPS: Your Honor, I've got to, to object.

The agreement, the copy that Mr. Mullins gave me has Brooks Quickel, M. Brooks Quickel signs a hypothecation agreement talking about collateral security. He's not signing on behalf of Rosemary Long Jenrette. He's not signing pursuant to a power of attorney of Rosemary Long Jenrette. He just signed M. Brooks Quickel an hypothecation agreement I guess purporting to pledge something for the loan to Cajun Carolina LLC.

THE COURT: Okay, Mr. Mullins.

MR. DESCHAMPS: He's signing M. Brooks Quickel, it has nothing to do with Rosemary Long Jenrette.

MR. MULLINS: And I agree, Your Honor, the execution, this probably wasn't as intense as I require during a real estate closing at my office, but it's relevant for the standpoint of Mr. Brooks Quickel signed this at closing on the exact same day in the exact same closing and part of that hypothecation agreement states that he's assigning those interests. That's why I think it's relevant.

THE COURT: Let me see the document, please. What, what does, what does the hypothecation agreement accomplish and I know what one is, but what is it accomplishing here? You've got a note and you've got a mortgage. What does this hypothecation agreement do?

MR. MULLINS: The hypothecation agreement, Your Honor, I think is additional security to the bank for - on

behalf of both Mr. Quickel and Rosemary Jenrette. If you notice at the top, and like I said it wasn't executed as formally as I would like for it to be, but it shows at the top that it's on behalf of Rosemary Long Jenrette. It references her address.

THE COURT: It doesn't say on behalf. It's just got her name up there.

MR. MULLINS: It just has her name up there.

THE COURT: There's no on behalf of in here.

MR. MULLINS: That, that is clear, Your Honor.

THE COURT: Okay, to prove an equitable theory don't you have to have pretty clean hands? In other words what are you - what does this do? What if it had 204 Elm Street on here?

MR. MULLINS: My point being, Judge, that at the time he went to closing the closing documents referenced it, the power of attorney referenced it, the loan commitment referenced it and the fact that he just didn't formally sign it that way I think is just a technicality, but it did show that in all respects he was acting consistently with the power of attorney and with the loan commitment.

THE COURT: What is the significance of the address 3806 North Ocean Boulevard?

MR. MULLINS: That's Ms. Jenrette's address, Your Honor.

THE COURT: That's where she lives?

MR. MULLINS: Yeah, that's correct, Your Honor.

THE COURT: And ---

MR. MULLINS: As I understand it from her deposition.

THE COURT: One, two - there are five properties listed on this hypothecation agreement and two on the other?

MR. MULLINS: Yes, sir.

THE COURT: And these are the five properties on the first page that are, that are owned by Mrs. Jenrette?

MR. MULLINS: That's correct.

THE COURT: Anything else, Mr. DesChamps?

MR. DESCHAMPS: No, sir.

THE COURT: All right, anything else, Mr. Mullins, on this?

MR. MULLINS: No, sir.

THE COURT: I'm going to - I'll, I'll have to read the document. I don't think it's going to come in because if the bank wants to hold or it wants to obtain rights to the money I believe that the bank is going to have to do a little bit better in how these documents are executed. I see what you're saying. I don't know whether the absence of this document from the stream of evidence is going to make a difference, but I don't know if I'm going to let it in. So I'll have to make note that Number 18 is neither in nor out

right now.

MR. MULLINS: Thank you, Your Honor.

THE COURT: Who, who is the witness? May I ask that? Who's the - who witnessed your signature?

A That's - I don't know.

THE COURT: Okay, all right.

MR. MULLINS: Your Honor, I wasn't there. It appears to be Greg Evans, and I'm basing that assumption, if I could hold the HUD for a moment.

THE COURT: All right, that's okay. I'll, I'll - he's, he's already confirmed he signed this at the closing, so whatever this document may add.

MR. MULLINS: And I assume that just by looking at Mr. Evans' signature on the HUD.

THE COURT: All right, you can continue. The document's not in right now.

MR. MULLINS: Thank you, Your Honor.

BY MR. MULLINS:

Q Did you go get an insurance policy on the house?

A No, sir.

Q Were you aware that your mother had an insurance policy on the house?

A At a later date I found out, yes, sir.

Q Okay, did you sign a document with Horry County State Bank where you agreed to provide insurance coverage on the

house?
A I remember with Ann Marion there was a stack of documents and the easiest and the path of least resistance was to sign everything and she would figure out exactly what she needed to do.
THE COURT: Who?
A Ann Marion who was the loan officer who had originally declined the loan, but when a superior approved it she was instructed just to do the paperwork and she didn't know exactly how the loan was going to be placed in the bank. So we signed, you know, a lot of things and I don't know what was used and what wasn't.
Q I'm looking for Number 17, Your Honor. Let me show you a document that's been marked and admitted into evidence as Defendant Horry County Bank, Horry County State Bank's Number 17. Do you recognize the signature on that document?
A Appears so, yes.
THE COURT: I haven't, haven't let that in yet, but you can - you said it's been admitted but it has not.
MR. MULLINS: I'm sorry, Your Honor.
THE COURT: That's okay.
MR. MULLINS: I stand corrected.
BY MR. MULLINS:
Q Which has been marked for identification as Defendant's Exhibit Number 17, do you recognize that document?

A Yes.
Q Okay.
A Yeah.
Q And is that your signature, sir, on that document?
A I recognize my signature, yes.
Q All right, and did you sign it on May 1st, 2009, like the other documents you signed in this case?
A It appears so, yes.
Q Okay, and did you agree that there would be insurance provided to Horry County State Bank on the property?
A Again, there were documents that were signed and the date stamped. So I don't know when that was stamped. I don't ---
Q Well ---
A --- so it could have been that I signed those with Ann for the previous residential loan that was declined. So I don't know.
Q Well, let's look at the dates, Mr. Quickel, if you would, no question that you ---
A This was the closing.
Q Right, no question that this is dated May 1st, 2009; isn't it?
A Yes.
Q Okay, no question that there was a real estate closing at Mr. Evans' office on May 1st, 2009; wasn't there?
A Correct.

Q Okay.
A The ---
Q No question that the prior loan was denied prior to the commitment letter being received?
A There's no date with Ann's signature and there's - so I don't know when it was signed. It could have just been stamped.
Q Are you saying that you didn't agree to provide insurance to Horry County State Bank?
A There was never a discussion is what I'm ---
Q So all of these documents and from what you're telling me you think are ---
A And I will tell you ---
Q Hang on.
A --- Mr. Mullins, and not being difficult, in my hundreds of real estate closings that I've been through and HUD statements I've looked at, maybe it's my fault and I will - I have never been present in a closing where someone has read every single document that they were signing.
Q All right, well, give me just a second to finish my question, okay, all right. I understand from your prior deposition you're quick to answer, all right. You've been in many real estate closings; haven't you?
A Correct.
Q All right, and normally when you're - the bank is taking

a loan on something with a building you have to provide insurance; don't you?

A Under this circumstances with the conversation that I had with Ron Page that was not my ---

Q All right, I ---

A --- understanding. In fact, you know, not to - I mean, Ron's comment was, "I don't give a about the house. We're looking at just the land."

MR. MULLINS: Your Honor, objection and move to strike as non-responsive.

THE COURT: All right, overruled. Go ahead. You have an objection?

MR. DESCHAMPS: Yes, sir, well, Your Honor, he's leading.

THE COURT: I think, I think he needs to answer the question first. The question was what has been the course during your hundreds of real estate closings. What is the answer to that? If there's a building that's going to be - is on property that is going to be secured by a mortgage is there to be insurance, that was his first question.

A In most instances, yes, sir.

Q Okay.

THE COURT: And he indicated that in this particular instance that was not part of the deal.

A Depending on loan to value, land value, I mean, sometimes

a building on a property could be a hindrance.
Q No question, and now, did you pledge these lots as security for the loan?
A Yes, sir.
Q All right, and the foreclosure unfortunately began as a result of your inability to pay?
A Correct.
Q All right, during the time that foreclosure was pending was there a fire loss?
A During the second foreclosure proceeding.
Q All right, let's clarify that for a moment. Foreclosure was initially filed against you and you brought the loan and did you bring the loan current?
A Paid them $20,000.
Q Okay, all right, was there a second foreclosure filed?
A Correct.
Q And did you pay that loan current?
A When I was able to shortly after they wouldn't accept payment.
Q All right, did it proceed to foreclosure and sale?
A Correct.
Q During the time that foreclosure was pending was there a fire loss?
A Correct.
Q All right, was that while you were occupying the

property?
A Correct.
Q Was the, was the house at 104 Country Club demolished?
A Yes.
Q A total loss?
A Correct.
Q All right, no question that you had a valid power of attorney for your mother to do this closing?
A Correct.
Q Now, in that document is there a provision for assignment of insurance policies?
A I don't recall.
Q In the document, the mortgage, was there a provision for assignment of insurance policies?
A I don't recall.
Q I've blown up part of this, and as I recall I asked you about this during your deposition.
THE COURT: Wait just a second. Do you have an objection?
MR. DESCHAMPS: Your Honor, I think his question is call - is calling for a legal conclusion. He asked if there was an assignment in the mortgage.
THE COURT: Well, it's a - it's in the mortgage. Does it matter what he thinks of it, Mr. Mullins?
MR. MULLINS: Not particularly, Your Honor.

THE COURT: Okay, well, I'll, I'll let him answer. I'll let him answer the question. The provision says what it says.

MR. DESCHAMPS: Yes, sir.

THE COURT: But you can ask him. I'll overrule your objection.

MR. DESCHAMPS: Yes, Your Honor.

BY MR. MULLINS:

Q Let me show you what's been marked and admitted as Defendant's Number Six and Number Seven, sir. Is there a provision in the mortgage itself, and I had the language blown up because it's hard to read, but is there a provision for an assignment of any real, of any insurance?

A If you say - if it's in there, yes.

Q All right, well, this isn't the first time I've asked you this question.

A Yeah, and I understand.

Q Didn't I ask you that question back at your deposition?

A I don't recall.

Q You don't recall, all right. Is there a provision there where your mother is referred to as the borrower in the mortgage?

A If it's in black and white, yes, sir.

Q Okay, well, let's look at that, part of Defendant's Number Six. Is your mother there listed as Rosemary Long

Jenrette?
A Yes.
Q And is she there as borrower, hereinafter borrower?
A That's what it says.
Q Okay, and isn't there a provision and I'm going to show you the blown-up language, Defendant's Number Seven, that the borrower assigns the right to an insurance policy?
A It states that, yes.
Q All right, and Mr. Quickel, were there any other improvements on any of the other lots other than 104 Country Club Drive?
A No, sir.
Q All right, now, there is a deficiency judgment against you for about $117,000 as a result of this foreclosure?
A I have no idea.
Q You have no idea, okay.
MR. DESCHAMPS: Your Honor, that - I object to that question in the first place because it's, it's not relevant, the deficiency, the deficiency judgment is not relevant.
THE COURT: Overruled, well, if - do you agree that if the bank receives this money the deficiency judgment will go down accordingly?
MR. MULLINS: Yes, sir, it has to be applied.
THE COURT: Okay, I'll, I'll allow the question. It may, may not have anything to do with whether or not I

declare that an equitable lien.

MR. DESCHAMPS: Yes, sir.

THE COURT: I agree that it's not relevant to the issue of whether that is the question, but a while ago, I mean, whether that is the answer to the question but a while ago you were claiming that there would be some type of double recovery if they were - the bank were allowed to obtain this money.

MR. DESCHAMPS: Yes, yes, sir, because they have a - according to the public records - I was objecting to the deficiency judgment. According to the public records they, they bid the property in at an amount and a deductible and left it open for 30 days because they've pursued a deficiency judgment. Of course no one redeemed it.

THE COURT: Right.

MR. DESCHAMPS: So they, they had - the bank got a deficiency judgment between the amount that they bid in, okay, and the amount of the entire indebtedness, principal, interest, attorney's fees, everything, and that deficiency judgment as I understand the public records is against Mr. Quickel and Cajun Carolina. Of course it's not a debt of my client's. They have a - they have received all of the property. They bid it in at what they established the value to be and they have a deficiency judgment against Mr. Quickel and Cajun Carolina for the difference. There's no provision

in any documents, despite the fact that there was an order of foreclosure and sale and everything after applied, there's no provision, there's no addressing the insurance proceeds anywhere. So conceptually if they were to be successful in getting the insurance proceeds they get the insurance proceeds there. They've got the property and they've got the judgment against Cajun Carolina and Mr. Quickel. So they can double collect. It's not like in a - and that's the whole problem with their theory. If, in fact ---

THE COURT: But - okay, but that, again, we're getting to your ---

MR. DESCHAMPS: Yes, sir, I'm sorry.

THE COURT: --- your ultimate argument ---

MR. DESCHAMPS: Yes, sir, I'm sorry.

THE COURT: --- which, at least from the order I read did not prevail on summary judgment. That, that was your argument to the tee; right?

MR. DESCHAMPS: Yes, sir.

THE COURT: And it may be end up being right as a matter of fact, but as a matter of law we're not there yet.

MR. DESCHAMPS: Yes, sir.

THE COURT: But your objection is, is overruled.

MR. DESCHAMPS: Yes, sir, we were both unsuccessful in summary judgment.

THE COURT: All right.

MR. DESCHAMPS: Both of us, so, so.

THE COURT: Okay, all right, go ahead, Mr. Mullins.

BY MR. MULLINS:

Q Mr. Quickel, does Cajun Carolina have any for you, have any ability to satisfy that outstanding deficiency judgment?

A Presently right now, no.

Q All right, and you had some other difficulties as I recall in Florida ---

A Correct.

Q --- when you lived there. All right, was there any judgments against you in Florida?

A Not that I'm aware of.

Q All right, you don't - do you recall testifying previously in your deposition regarding a Florida judgment?

A I, I understand that I had a home that was foreclosed in Florida. I understand that a judgment was filed against me. I have not read it to see it in black and white in front of my face, nor have I had the money to pay it. So I haven't gone and looked for it.

MR. DESCHAMPS: Your Honor, again, I object to the - this testimony.

THE COURT: Is that relevant, what's going on in Florida.

MR. MULLINS: It's relevant, Your Honor, just to

show that, first of all, I'm trying to counter the argument that says, "Well, you've got a deficiency judgment. You're not entitled to anything else." I'm trying to show that Cajun Carolina owns nothing. Mr. Quickel doesn't have any assets and that there's a $2 million judgment in Florida that's ahead of this anyway.

THE COURT: Well, has the judgment been domesticated here?

MR. MULLINS: It has not.

THE COURT: Well, then what difference does that make?

MR. MULLINS: Well, from the standpoint of I don't know what Mr. Quickel - we haven't been through supplemental proceedings yet, but I don't know what he owns anywhere else, but I'm just trying to ---

THE COURT: He, he's not a party to this?

MR. MULLINS: Not to this.

THE COURT: This is an equitable lien that has nothing to do with anything but this insurance money.

MR. MULLINS: Yes, sir.

THE COURT: All right, you don't need to go into all that.

MR. MULLINS: Thank you, Your Honor. If I may have just a moment, Your Honor.

THE COURT: You can proffer it, but ---

MR. MULLINS: And Your Honor, I would only proffer for the record the reason I'm pursuing that is from page 25 of Mr. Quickel's deposition I asked - well, starting on page 24, line 21, I asked, "Is there a deficiency judgment against you in the State of Florida?" "Yes, sir," was his response. My question, "How much?" Answer, "It was an additional home that we were building in the same neighborhood. I believe the judgment is in excess of $2 million." Question, "Do you have a copy of those judgments?" Answer, "No, sir."

THE COURT: Okay, well, your proffer is that there is a $2 million judgment against him in the State of Florida. You don't contest that at least as a matter of record, do you, Mr. DesChamps, that the judgment exists? In other words, he's making a proffer. It can be done formally with the, the document being, excuse me, the deposition being marked as a Court's Exhibit or you can accept the proffer as he stated it.

MR. DESCHAMPS: I still have the objection on relevancy, Your Honor.

THE COURT: Well, I understand you had the objection on relevancy, but he still has the right to proffer the evidence. All right, so the evidence has been properly proffered ---

MR. DESCHAMPS: Yes, sir.

THE COURT: --- then the record reflects as the

proffer a $2 million judgment against him in the State of Florida. Okay, go ahead, Mr. Mullins.

MR. MULLINS: Thank you, Your Honor, could I have just a moment, please?

THE COURT: Yes, sir.

MR. MULLINS: Thank you, sir. Please answer any questions that opposing counsel or the Court has for you.

CROSS EXAMINATION

BY MR. DESCHAMPS:

Q Good afternoon, Mr. Quickel.

A Good afternoon.

MR. DESCHAMPS: May I, may I approach, Your Honor, to get an exhibit?

THE COURT: Yes, sir, which one you need?

MR. DESCHAMPS: Four, 17 ---

THE COURT: All right.

MR. DESCHAMPS: May I approach the witness, Your Honor?

THE COURT: Yes, sir.

BY MR. DESCHAMPS:

Q Mr. Quickel, the specific power of attorney that was put in as Defendant's Exhibit Four do you recognize that document, sir?

A Yes, sir.

Q All right, is there anywhere on there talk about 104

Country Club Drive? Is that address noted on that document?
A I think - it says 1600 Country Club Drive on the cover of it.
Q All right, sir, okay, that particular document is there anything in that document that - the power of attorney, that specifically directs you to procure hazard insurance?
A Can I take a moment to read it?
Q Yes, sir, please look at that.
A No, sir.
Q No, sir, and what's the date of that power of attorney, please?
A The 27th day of April.
Q Thank you.
THE COURT: 2010? Well, it says what it says.
Q Go ahead and the date of it?
A Oh, I'm sorry, in witness thereof the 27th.
Q Day of April, the year?
A Oh, 2009, I'm sorry.
THE COURT: 2009, I'm sorry.
Q Thank you.
THE COURT: Which one you looking for?
MR. DESCHAMPS: Number Three, Your Honor.
THE COURT: What is Number Three?
REPORTER: The commitment letter.
MR. MULLINS: Loan commitment, Your Honor.

MR. DESCHAMPS: Loan commitment letter.

THE COURT: I know the witness had it a minute ago. I assume he doesn't have it anymore because I don't see it. It's probably up here.

MR. DESCHAMPS: That's fine.

BY MR. DESCHAMPS:

Q All right, I just - I'll just - I'll refer to this one. Previously the commitment letter had been marked as Exhibit Number Three, okay.

THE COURT: Here we go.

MR. DESCHAMPS: Oh, I'm sorry, Your Honor.

BY MR. DESCHAMPS:

Q And what was the date of that commitment letter and your signature?

A It appears the letter was drafted on April 24th, 2009.

Q Okay, and look at your signature.

A It appears that I signed it on the 24th of April, 2009.

Q Okay, all right, and the power of attorney was April 27, 2009; is that correct?

A Correct.

Q Okay, so you signed the commitment letter before you had authority from Rosemary Long to do anything with regard to the property at 104 Country Club Drive; is that correct?

A It appears so, yes.

Q So on April 24, 2009, you didn't have any authority from

your mother to sign any type of commitment letter purporting to encumber her property; did you?

MR. MULLINS: Objection, Your Honor, that would call for a legal conclusion.

THE COURT: Overruled. I can, I can make that determination.

MR. DESCHAMPS: Yes, sir.

THE COURT: But I don't have a problem with you.

A It appears ---

THE COURT: You've already asked him that once, so ---

MR. DESCHAMPS: Yes, sir.

BY MR. DESCHAMPS:

Q I show you Defendant's Exhibit 17.

THE COURT: Just to be clear that's Horry County State Bank's Number 17?

MR. DESCHAMPS: Yeah, excuse me, yes, sir.

BY MR. DESCHAMPS:

Q Horry County State Bank's Number 17 which it appears that you signed as a member of Cajun Carolina, LLC, is that correct?

A Appears so, yes, sir.

Q And, all right, and you signed that, you signed that on behalf of Cajun Carolina; did you not?

A It appears so, yes.

Q You didn't sign that document on behalf of your mother, Rosemary Long Jenrette; did you?
A No, sir.
Q Did you or - do you recall if any of that information on that form was, was, was filled out at the time you signed it or could it have been filled out later?
MR. MULLINS: Objection. That calls for speculation, Your Honor.
THE COURT: He can ask him if he knows, not what it appears. He can ask if he knows.
Q Yeah, do you have ---
A As I stated to Mr. Mullins, when I originally sat down with Ann Marion and the loan was directed by Ron Page for her to do it she didn't know everything that she needed and it was where her office was and where I lived. I lived in Conway. Her office was in Socastee. It was, "Sign everything so I'll have it and I'll use what I need to."
Q So you don't, you don't know one way or the other?
A I don't.
Q All right.
A I - looking at every other form they were all had handwritten dates in it. This one has a stamp date. So I don't know. I can't say.
Q With regard to the specific power of attorney that you signed on April 27 is - to your knowledge is there any - are

there any conditions in the power of attorney which would allow you to sign any documents on behalf of Rosemary Long other than the mortgage?

A Is that the one that I just read just a second ago?

Q The specific power of attorney.

A Yeah, could you repeat the question again?

Q Does the specific power of attorney authorize you to sign a mortgage document on behalf of your mother?

A Yes.

Q Does it authorize you to sign any other documents on behalf of your mother?

A Yes.

Q And what documents are those?

A Company forms required necessary to effect the foregoing, endorse checks, drafts, money orders, you know, whatever the bank put in front of me, I guess.

Q And does it authorize you to take out an insurance policy ---

A No, sir.

Q --- on behalf of your mother?

A No, sir.

Q Did you ever take out an insurance policy on behalf of your mother?

A No, sir.

Q Did you ever take out an insurance policy whatsoever?

A No, sir. For the - this specific piece of property, no, or contents involved with this piece of property, no.
Q Were you aware of any requirement for your mother to take out an insurance policy on your behalf of or behalf of the bank?
A As I had stated to Mr. Mullins, there was conversation when Ann was trying to do a residential loan which was denied, but in the commercial side and the way that they did this loan in Cajun Carolina, no, it was not a discussion or a requirement.
Q At the time of the closing did you sign the mortgage instrument under your power of attorney to the best of your knowledge?
A To the best of my knowledge, yes.
Q Okay, to your knowledge did you sign any other documents at the closing under your power of attorney signed as attorney in fact?
A As well as I can remember I think I was in Evans and Evans office about 20 minutes. So I don't recall specifically what was there, what wasn't there and what was signed.
MR. DESCHAMPS: No further questions of Mr. Quickel.
THE COURT: Redirect?
MR. MULLINS: Briefly, Your Honor.

REDIRECT EXAMINATION

BY MR. MULLINS:

Q Going back to the power of attorney, Mr. Quickel, and I'm confused. Let me see if I can clear this up. This third paragraph here gives you authority to sign. Does it give you authority to sign at the loan closing?
A Yes, sir.
Q Does it give you authority to sign any documents that the bank required?
A Correct.
Q And at the bottom of it does it on behalf of your mother ratify everything that you did?
A Yes.
Q Okay.
MR. MULLINS: No further questions, Your Honor.
THE COURT: Anything else, Mr. DesChamps?
MR. DESCHAMPS: None, Your Honor.
THE COURT: Thank you, Mr. Quickel, you can step down. Any additional witnesses from the bank?
MR. MULLINS: I would have my Rule 32 designations to read into the record, Your Honor.
THE COURT: All right, and those would be Ms. Jenrette's?
MR. MULLINS: That's correct.
THE COURT: And I know that you stated earlier in the office that you had some objections to those. Do you have all of that ready for me to look at and if I allow those will

you have any counter-designations or will you just simply call your client?

MR. DESCHAMPS: I'll just call my client.

THE COURT: All right, and your - are your objections to those designations in writing or you want to make those when we get back from lunch?

MR. DESCHAMPS: I'll make them on the record, yes, sir.

THE COURT: Can we do that when we get back from lunch?

MR. DESCHAMPS: Yes, sir.

THE COURT: Because I'd like to read them beforehand so I'll know what your - everybody's talking about. That okay?

MR. DESCHAMPS: Yes, sir, I mean, I haven't done them in writing.

THE COURT: No, you don't have to.

MR. DESCHAMPS: Yes, sir.

THE COURT: I was just saying if you did I could look at all of that, too, but if you're going to make them verbally that's certainly fine.

MR. DESCHAMPS: Yes, sir, yes, sir.

THE COURT: I'll have to read through it so I'll be able to logically follow what your objections are.

MR. DESCHAMPS: Yes, Your Honor.

THE COURT: Okay, you can hand those up and let's break until - just give me some time to look at this. We'll break until 2:30.

MR. DESCHAMPS: Yes, sir.

THE COURT: Will you have any other witnesses, Mr. Mullins?

MR. MULLINS: That will be the end of our case, Your Honor.

THE COURT: All right, and you'll have how many witnesses?

MR. DESCHAMPS: One witness, Your Honor.

THE COURT: Okay, 2:30.

MR. DESCHAMPS: Thank you.

OFF THE RECORD

(On the record.)

THE COURT: All right, Mr. Mullins, you have the deposition excerpts you want to proffer?

MR. MULLINS: Yes, Your Honor, under Rule 32 we're ready to read those excerpts into the record. We can do - either do that ---

THE COURT: We're not, we're not going to read them. I mean, they'll just be put - if I let them in they'll just be put in. I've already read them. So I - you don't want to read them all, do you?

MR. MULLINS: No, sir.

THE COURT: Okay, all right.

MR. MULLINS: Not, not - there's no jury here, Your Honor. I assume you can read.

THE COURT: Do you have an, you have an objection?

MR. DESCHAMPS: Yes, sir, I do not have any objection to the first excerpt that he identifies on page six, line 25, nor do I have objection to the excerpt on page seven, lines one through 25.

THE COURT: And that pretty much just says what her name is.

MR. DESCHAMPS: And I don't - all right, I don't have objections to - let me, let me, let me get them. I'm sorry. I was wrong. I've got some others. I do not have objections to page 41, lines 17 through 25, page 42, lines one through six. I do not have objections to page 46, lines four through 11, nor do I have objection to page 50, lines five through 25 or page 51, line one, nor do I have objection to page 54, lines 18 through 25, nor do I have objection to page 55, lines 11 through 25.

THE COURT: All right, and the rest of them you do object to?

MR. DESCHAMPS: Yes, sir, yes, sir.

THE COURT: And are there different reasons or do you have the same reason?

MR. DESCHAMPS: Most of my, most of my grounds are the grounds of relevancy. I can go through each one quickly.

THE COURT: Well, isn't this testimony just having her go through the loan documents pretty much?

MR. DESCHAMPS: If, if - if I - I'm going to let Trey because he actually went through those if you don't mind, Your Honor. Let him object to it.

THE COURT: All right, if, if there, if there is a common thread throughout all of your objections that's what I want to know because what I'm not going to do is go over all 60 some odd designations with the - in other words, well, I say 60. There may not be that many but your - you've got the floor, Mr. DesChamps, you can let me know what your objections are.

MR. DESCHAMPS, III: I'm sorry. Page 58, lines two through page 65, line 25.

THE COURT: Okay, page 58, line ---

MR. DESCHAMPS, III: I believe it goes through questions regarding the responses to the Requests for Admissions that were subject of the prior foreclosure action and I would object to those on the grounds of Rule 36(B).

THE COURT: What's 36(B)?

MR. DESCHAMPS, III: South Carolina Rules of Civil Procedure that in responses to Requests for Admissions in a proceeding by a party are only for that specific proceeding and cannot be admitted as an admission in a subsequent

proceeding.

THE COURT: What is, what is - what are they talking about in that exchange on page 58?

MR. DESCHAMPS, III: They introduce the, the Requests for Admissions into record as Exhibit Seven.

THE COURT: I know, but what request, what Request for Admissions? She admitted she signed the power of attorney, right? You all don't dispute that.

MR. DESCHAMPS, III: No, sir, Your Honor.

THE COURT: Doesn't this talk about her having signed the power of attorney because that - when you're talking about in the deposition Exhibit Number Seven, Exhibit Number so forth I don't know what in the world you're talking about because I don't have those exhibits.

MR. DESCHAMPS, III: Yes, sir, I was objecting as it references that document in there as Exhibit Seven, the Request for Admissions in the prior foreclosure action.

THE COURT: Okay, did he ask her any questions about it?

MR. DESCHAMPS, III: Going forward they put the responses.

THE COURT: All right, Mr. Mullins, what, what are - what's supremely important about the Request for Admissions in the prior foreclosure proceedings?

MR. MULLINS: Well, it may be anticipating, Your Honor. I think I can better handle that by cross examination

of Ms. Jenrette. So, I'll withdraw that from my designation, that portion.

THE COURT: All right, so, Mr. DesChamps, are you going to go through each one individually here because frankly ---

MR. DESCHAMPS, III: If, if he's ---

THE COURT: --- the easiest thing to do would be for me to listen to her testimony.

MR. DESCHAMPS, III: If he's withdrawing the Requests for Admission that's, that's fine.

THE COURT: Well, I'm talking about just as a whole, okay, she hasn't testified yet. I would assume that none of what she says in her deposition is absolutely crucial to your case; is it?

MR. MULLINS: Yes.

THE COURT: What?

MR. MULLINS: The part that's crucial to our case, Your Honor, is the portion where I ask her what was the purpose of taking out the loan documents, and of course, you know ---

THE COURT: Is for him to get money.

MR. MULLINS: Well, the - one of the things she testified to in there that's absolutely crucial is that she said it was also for the protection of the bank.

THE COURT: What, the mortgage?

MR. MULLINS: Yes, sir.

THE COURT: Well, I can take judicial notice that a mortgage is there to protect the bank as far as collateral is concerned.

MR. MULLINS: But that was such a remarkable admission in her deposition, Your Honor, that it was crucial and I think I cited that in our summary judgment motion and I know I designated it in this.

THE COURT: Okay, so ---

MR. MULLINS: And the other part, well, I'm sorry.

THE COURT: No, go ahead.

MR. MULLINS: And the other parts of it there seems to be - her testimony is different than the affidavit she submitted at summary judgment and I was trying to show and impeach her credibility based upon that affidavit.

THE COURT: But you don't impeach somebody's credibility just by offering excerpts because let's assume she didn't testify.

MR. MULLINS: That's true.

THE COURT: So what in here substantively what adds to your case?

MR. MULLINS: The major point, Your Honor, substantively is that she was not present during the loan negotiations, she gave a power of attorney to her son, that it's a valid power of attorney.

THE COURT: I agree with that what I've heard so far. I don't think they're, I don't think they're disputing the validity and legal efficacy of the power of attorney.

MR. MULLINS: The language that's different than her affidavit when she says she didn't have a loan for the bank, that was never an issue, it was her policy, but yet when she testifies and I can get the exact page and line she says, "It was to protect me, it was to protect everybody including the bank."

THE COURT: What was?

MR. MULLINS: The insurance policy.

THE COURT: Okay, what page was that?

MR. MULLINS: And Your Honor, that is ---

THE COURT: Well, I did have some questions just from what I've heard earlier as to why she took until 2009 to get an insurance policy on the house, but I guess here's my big question, why not just call her to the stand and if she testifies inconsistently impeach her? This is real cumbersome, you have the burden of proof and you have perhaps, more importantly, the burden of persuasion. There's not much persuading going on with me reading all of this stuff when people are talking about exhibit number this or exhibit number that and I don't have those exhibits.

MR. MULLINS: Understand, Your Honor.

THE COURT: So, so you still want these excerpts

to be in the record?

MR. MULLINS: But particularly, Your Honor, page 70 is crucial.

THE COURT: All right, what's page 70? I - well, page 70 is not designated.

MR. MULLINS: I'll call Ms. Jenrette to the stand, Your Honor. It seems to be the easiest way to handle this.

THE COURT: Okay, all right.

MR. MULLINS: But I, but I would move to lead her as hostile.

THE COURT: Oh, certainly, she's certainly an opposing party. So you can call her, okay. They can't keep you from doing that.

MR. DESCHAMPS: No, sir, we can't.

THE COURT: Okay, come on up, please, Ms. Jenrette.

MR. MULLINS: Just seems the easiest way to handle it.

THE COURT: Yeah, I think - I agree.

Whereupon, Rosemary Long Jenrette was called to the stand, duly sworn by the clerk and testified as follows:

THE CLERK: State your name for the Court, please, ma'am.

MS. JENRETTE: Rosemary Long Jenrette.

MR. MULLINS: May it please the Court, Your Honor?

THE COURT: Yes, sir.

DIRECT EXAMINATION

BY MR. MULLINS:

Q Ms. Jenrette, you are the - one of the Defendants in this case?

A Yes.

Q All right, and tell the Court where you live, Ms. Jenrette.

A Where I live?

Q Yes, ma'am.

A I live in Myrtle Beach.

Q What's your address in Myrtle Beach?

A 3806 North Ocean Boulevard.

Q Okay, and, ma'am, I know you should never inquire about a lady's age, but I understand you're of retirement age?

A Uh-huh.

Q And did you retire from somewhere here in Horry County?

A Yes, I retired from Horry County schools.

Q All right, and what position did you hold there?

A I was a school principal and construction manager.

Q Okay, so holding those positions you probably have in excess of a master's degree plus in education?

A That's correct.

Q All right, you know the witness that just testified, Mr. Quickel?

A Yes.
Q That's your son ---
A That is correct.
Q --- that was previously here? Okay, now, tell me, ma'am, have you ever done any business with Horry County State Bank?
A Some.
Q All right, in fact, were you a shareholder at Horry County State Bank at one point?
A Yes.
Q And did you pledge those shares for a prior loan for Mr. Quickel?
A That is correct.
Q All right, were you aware that your son was going to apply for a loan from Horry County State Bank?
A Sometime during the process I did hear about that, yes.
Q All right, and were you going to pledge part of your property as collateral for that loan?
A Before he got the loan that discussion was held.
Q Okay.
A Yes, I did pledge the property.
Q All right, and you, you were aware of that, weren't you?
A Yes.
Q All right, and did your son have full authority to go to the bank and negotiate the terms of that loan using your property?

A I did pledge the property.
Q Well, that's not my question, ma'am.
A Okay.
Q Did your son have authority to go to the bank and make that arrangement, didn't he?
MR. DESCHAMPS: Your Honor, I object. Again, that's irrelevant.
THE COURT: Overruled.
MR. DESCHAMPS: Yes, sir.
A Yes, he did.
Q Okay, and you were fully aware of that?
A I was aware he was at the bank trying to negotiate a loan.
Q All right, now, your son was trying to take out a business loan with Horry County State Bank; wasn't he?
A That is correct.
Q All right, and part of that business loan was to pay off a prior loan; correct?
A I don't think - I didn't know that at the time.
Q But through discovery ---
A But, but yes.
Q --- you're aware of it now.
A Yes, I am.
Q Now, the loan that was eventually taken out were you here when that was closed?

A No, I was not.
Q You didn't attend the closing at Evans and Evans Law Firm; did you?
A I did not.
Q And as I recall you had never done any business with Evans and Evans Law Firm in the past?
A I never have.
Q They're not like the family attorneys; are they?
A I don't have any idea who they are.
Q Okay, your son requested that you sign a power of attorney authorizing him to close the loan?
A The purpose for me to sign the power of attorney was to pledge the property that was part of the loan.
Q Okay, well, let me ask you, ma'am, if I could approach, Your Honor.
A Yes, sir.
Q Document that's been marked and admitted as Defendant's Exhibit Number Four ---
A Uh-huh.
Q --- does your signature appear on that document?
A It is on this document.
Q Okay, and that was the power of attorney you granted to your son; wasn't it?
A That's correct.
Q Okay, and in this power of attorney do you put any

limitations on what your son can do for this loan?
A I did not.
Q Okay, now, were you aware of the terms of the loan?
A Not at that time I was not.
Q All right, did you become aware of it after closing?
A No.
Q Now, when did you ---
MR. DESCHAMPS: Your Honor, I would object to the terms of the loan. Again, this is my standard objection. This is not relevant. The fact is she executed a power of attorney for a mortgage and a mortgage was executed. The other documents are not relevant to the decision that the Court is going to be making with regard to who's entitled to the insurance proceeds.
THE COURT: Mr. Mullins.
MR. MULLINS: Your Honor, I think it is relevant in that the bank was under an expectation there was going to be insurance proceeds here.
THE COURT: Well, but her son and maybe this is not his objection, but her son got a power of attorney from her. What difference does it make what this witness thought? She gave all of her - in other words, the power of attorney gives the attorney in fact this, this, this, this and this. So what difference does it make what the grantor thinks? She gave the power of attorney. So whatever she thinks to me

doesn't make any difference.

MR. MULLINS: I'll move on, Your Honor.

THE COURT: Okay, the objection is sustained.

BY MR. MULLINS:

Q And ma'am, did you ever review the loan documents that were signed at Evans and Evans Law Firm?

A I did not.

Q You did not, okay. Did you receive a default letter that was sent to you on behalf of Horry County State Bank regarding a default in this loan?

A Yes, I did.

Q All right, and at that point were you aware that your son wasn't paying the loan?

A I was not.

Q All right, did you - were you joined as a party in the prior foreclosure proceeding?

A My name was on there because I had pledged the property.

Q Okay.

A That guaranteed the loan.

Q So, were you aware of the foreclosure that was occurring on the property?

A No, not until I got the papers.

Q Okay, well, once you received the papers and we call those pleadings in the court system ---

A Uh-huh.

Q --- were you aware that it was in foreclosure at that time?
A Yes, I was.
Q All right, and what - did DesChamps Law Firm represent you and your son and the corporate entity during that foreclosure?
A They did take care of my paperwork, my part of it, yes, they did represent me.
Q Okay, and was during the time that foreclosure was pending did the property burn?
A The property did burn.
Q Okay, who - what - for whatever reason the property burned it burned?
A Yes, it did.
Q All right, now, at the time the property burned did you have an insurance - insurance coverage on the property?
A Yes, I did.
Q Was that through Ms. Bradham's agency who previously testified?
A That's correct.
Q All right, why did you have insurance coverage on the property?
A I had insurance for my interest in the property and for my protection.
Q Okay, did you put any insurance on there to protect the

bank?
A I did not.
Q All right, do you recall me giving - you giving your deposition on March 1st, I'm sorry, March 19th, 2013?
A I do.
Q All right, do you recall testifying at one point ---
THE COURT: You show her the ---
Q Let me, let me show her.
THE COURT: I've got an - I got the extra copy. If you want to - if you want to use the ---
A I, I know what you're talking about and I can tell you what I meant by that.
THE COURT: Well, he has to do this for the ---
A Oh, okay.
THE COURT: --- he has to do this for the record.
A All right, okay.
THE COURT: Okay.
Q Let me show you the cover page, ma'am.
A Yes.
Q Is that any question that's your deposition?
A That is my deposition.
Q All right, let me draw your attention, please, to page 70 of your deposition.
A Yes.
Q All right, did you state there, after you have a moment,

would you read one through nine of that particular paragraph.
A Okay, and you want me to start with six?
Q No, I just want you to review it.
A Okay, I have, uh-huh.
Q All right, and having now reviewed it did you not testify that it was to protect the bank?
A In that sentence I said it was to protect the bank.
Q Okay, all right, were you aware that the bank was supposed to have what's called a - well, last me ask you, let me back - withdraw that and ask it this way. Do you know what a loss payee clause is?
A It - yes.
Q You do?
A Yeah, I think I do.
Q Have you ever taken out a loan where a bank required that they be an endorser on the loss payee clause before?
A I don't think so.
Q You don't think so.
A I've never noticed that, no, sir.
Q Okay, all right, but no question that you previously testified under oath back in March that it was to protect the bank; correct?
A That's what that sentence says, yes.
Q All right, well, do you think your deposition's been altered in some way?

A No, it hasn't been altered, but it's been misinterpreted.
Q Misinterpreted, okay. Now, did you previously sign an affidavit with this Court that Horry County State Bank never had any interest in these insurance proceeds?
A I did I think.
Q All right, and did you later in your deposition state that you misspoke during that affidavit?
A Might need to see that. That's a little confusing.
Q Okay.
THE COURT: Yes, sir, Mr. DesChamps. If you want to question her about the affidavit you can give her a copy. I think she is entitled to have a copy of that if you want to ask her about it. Did you have an objection, Mr. DesChamps?
MR. DESCHAMPS: I was going to.
THE COURT: Okay.
MR. DESCHAMPS: The Court addressed it.
Q Let me show you a document.
MR. MULLINS: I haven't pre-marked this one, Your Honor.
A Uh-huh, okay.
Q Show you a document and ask if you recognize that.
A Yes, I have seen this, uh-huh.
Q Okay, is that your statement under oath that you signed?
A Okay, yes.
Q On September 12th, 2012?

A Yes.
Q Okay, and did you - was that your statement under oath on that occasion?
A Yes.
Q All right, and in your deposition did you later admit that that was inaccurate?
MR. DESCHAMPS: Your Honor, I object. I think that's a mischaracterization.
THE COURT: Okay, wait just a second. Has that, has that been marked for ID yet?
MR. MULLINS: I'm getting ready to.
THE COURT: Okay, let's mark it for ID and then you keep on saying ---
A I don't ---
THE COURT: --- wait just a second, ma'am. You can mark it for ID as Number 20, is that right, and then you can have her refer to it and let her answer questions about it and I don't remember what the rule number is. If she equivocates you can use that to try to impeach her, but when you say did you not say that that was inaccurate I don't know what that is. There's two or three thats.
MR. MULLINS: I'll clear it up.
THE COURT: We've got the deposition. We've got that affidavit and we've got maybe something else. So that's Number 20.

A Number 20, okay.

REPORTER: Have you already marked that? Is that the same thing?

MR. MULLINS: I have marked it. I'm sorry, Your Honor.

THE COURT: Okay.

MR. MULLINS: That is, that is pre-marked as Defendant's Number 11.

THE COURT: Okay, do you have a copy, Mr. DesChamps?

MR. DESCHAMPS: Yes, yes, sir, he just gave me one, sir.

THE COURT: All right.

A So which item am I looking at here?

Q I'll be right back with you.

A Okay.

THE COURT: So this is number, actually Number 11.

MR. MULLINS: Number 11, Your Honor.

THE COURT: Okay, 11 for ID because it's not been offered yet, right? All right, go ahead.

BY MR. MULLINS:

Q All right, now, ma'am, in that affidavit ---

A Uh-huh.

Q --- do you state that you never entered into an agreement

with Horry County State Bank relating to the indebtedness or repayment that was the subject of the prior case?

THE COURT: You have paragraph number?

A Yes, I did state that I never entered.

Q Okay, all right, now, no question that Mr. Quickel had the ability to sign your name to these loan documents; correct?

A That's correct.

Q Okay, let me show you what's been marked as Defendant's Exhibit Number Six ---

A Uh-huh.

Q --- Horry County Defendant's Number.Six.

A Yes.

Q All right, which is the mortgage.

A Yes.

Q Is your name on that mortgage?

A Yes, it is.

Q All right, and are you listed as borrower on that mortgage?

A Yes.

Q All right, so then, ma'am, in fact you did enter into a document to repay Horry County State Bank; didn't you?

A I did not because I didn't see this paper.

Q Okay.

A And I was also told by the bank that the property is

what, was what I was pledging and I would not have to make any payments or pay any money. I asked that specifically and gave enough property to cover the loan.

THE COURT: What is Exhibit Number Six?

MR. MULLINS: That is the mortgage, Your Honor.

THE COURT: Okay, not the note? The note is the indebtedness. The mortgage is the security, right?

MR. MULLINS: Yes, Your Honor.

THE COURT: Okay.

BY MR. MULLINS:

Q All right, does the mortgage provide that insurance proceeds are assigned?

MR. DESCHAMPS: Your Honor, that's - he's asking for a conclusion from a party who was not a party to the instrument. She gave - no one ---

THE COURT: She is a party to the mortgage because it was signed by her attorney in fact. Whether or not what she thinks about paragraph three makes any difference I don't know. It says what it says and I know that ---

MR. DESCHAMPS: It says what it says and her opinion of it or something - I mean, she testified she never saw it. Her opinion of the document, she gave, she gave Mr. Quickel power of attorney to execute a mortgage. The mortgage was executed and, and ---

THE COURT: And she's bound by the terms of the

mortgage, whatever they may be ---

MR. DESCHAMPS: Whatever they may be ---

THE COURT: --- and however they ---

MR. DESCHAMPS: --- and if they've been extinguished they've been extinguished and that's all the Court and those things are all the Court has to have necessary to make its decision at the end and the other stuff is just not relevant.

THE COURT: Unless by some stretch he can procure an admission from her that amounts to an admission. Okay, so objection is overruled.

MR. DESCHAMPS: Yes, sir.

THE COURT: But the mortgage paragraph three I know exactly what it says and you can, you can go ahead and ask your questions.

BY MR. MULLINS:

Q You through your son, that document was signed by you; was it not?

A Yes.

Q Okay, and you were bound by those terms?

A Yes.

Q All right, and there was an assignment of the insurance on the property by you; wasn't there?

A That's what Number Three says, yes.

Q Okay, thank you. So when you - and by the time you had signed this affidavit in this case the foreclosure had already

occurred; hadn't it?
A Yes.
Q Okay, so at that point when you signed the affidavit you knew what the terms of the mortgage were; didn't you?
A If I had read it I would have.
Q All right, so when you signed this affidavit you hadn't read the mortgage? I'm trying to get to the bottom of this.
A Not - well, not as well as I should have, I guess.
Q Okay, very good. To the best of your knowledge, ma'am, has your son satisfied the outstanding deficiency judgment from the foreclosure?
A I heard this morning he has not.
Q Okay, all right, and no question that this policy was the only policy on the only building that was pledged as security for this loan?
A That's the only insurance I had.
MR. MULLINS: If I may have just a moment, Judge.
THE COURT: All right.
BY MR. MULLINS:
Q Thank you, Ms. Quickel. Answer any questions the Court or opposing counsel has for you.
THE COURT: Any questions at this time?
MR. DESCHAMPS: Yes, sir, just some on cross examination ---
THE COURT: Yes, sir.

MR. DESCHAMPS: --- on what he was, what he was talking about.

CROSS EXAMINATION

BY MR. DESCHAMPS:

Q Mr. Mullins was speaking with you with regard to the mortgage document itself and provisions in the mortgage document that may have applied to assignment of insurance premiums. Did you go out and get a hazard policy yourself?

A Yes, I did.

Q And you did that in 2009, is that correct?

A That's correct.

Q And you didn't - you did that prior to the time of this loan; is that correct?

A That is correct.

Q Did you do that for your benefit?

A I did that for my benefit, yes.

Q I show you what I have previously marked for identification as - it really doesn't matter. I'd previously just marked it as an exhibit, but I'm going to put it in. Do you know what that document is?

A This was the information about the insurance that ---

Q Is that the insurance policy?

A Yes, it is, uh-huh.

Q Okay, all right.

MR. DESCHAMPS: I'd like to, if I could, put this in

as Defendant Jenrette's Number One, is that okay?

MR. MULLINS: Your Honor, to save time, I'll stipulate to counsel's - okay.

REPORTER: Judge, I've already marked his exhibits.

THE COURT: Wait just a second.

REPORTER: I apologize, but you had already marked all your exhibits.

MR. DESCHAMPS: All right, I'd already marked it, okay, I'm sorry.

REPORTER: I'm sorry.

THE COURT: Isn't there a policy already in evidence?

MR. MULLINS: It is.

THE COURT: Is that the same thing?

MR. DESCHAMPS: I don't believe the policy itself is in evidence.

THE COURT: All right.

MR. DESCHAMPS: I think the dec page is in evidence.

THE COURT: Okay.

MR. DESCHAMPS: And I'm going to go ahead and get the policy in.

THE COURT: Any objection?

MR. DESCHAMPS: Without objection?

MR. MULLINS: Your Honor, I'll stipulate to

counsel's one through eight that he's given me pre-marked.

THE COURT: Okay, number, that's number one?

MR. DESCHAMPS: Well, this one is Number Five.

THE COURT: Number Five is in.

MR. DESCHAMPS: Okay.

THE COURT: Okay, all right, okay. Ms. Jenrette's Number Five is in without objection.

(Whereupon, Defendant Jenrette's Exhibit Numbers One through Eight [See Index for Description] admitted into evidence and appropriately marked.)

BY MR. DESCHAMPS:

Q Okay, and there, there it is.

A Okay.

Q And if I - if I could ask you to please turn to page nine of the policy.

A I'm on page nine, yes.

Q Paragraph three says assignment.

A This one's talking about hazardous materials. It's a different page, nine, hazardous materials. I can look for it.

Q If I might show you, this is page nine, looking over into the second page.

A Okay, I'm sorry.

THE COURT: Page nine you said paragraph three.

MR. DESCHAMPS: Paragraph three.

A Pages nine, paragraph three.

Q Okay, and could you read that and publish, what we call publish that to the Court?
A "Assignment, this policy may not be assigned without our written consent."
Q Okay, so, so any assignment of the insurance policy to Horry County State Bank would have had to get the consent of the insurance company?
A That's what it says there.
Q All right, did you or anyone else to your knowledge get the consent of the insurance company to assign the policy to Horry County State Bank?
A I didn't do that and I never received any communication to do that.
Q And Horry County State Bank never contacted you about getting casualty insurance on the property?
A No.
Q Okay, you originally got the casualty insurance on the property in March of '09; is that correct?
A That's correct.
Q Okay, and did you get a second - did you renew the policy in March of 2010?
A Yes, I did.
Q Okay, did you ever hear from Horry County State Bank about making sure that the - that Horry County State Bank was listed as a mortgagee prior to the time of the casualty?

A No, I did not hear from the bank.
Q Okay, did you ever hear from the bank regarding?
A No.
Q When did you obtain title to the piece of property that we're talking about?
A September 11th, 2007.
Q Okay, and who did, who did you, who did you get title from?
A My mother conveyed the deed to me.
Q Okay, and I show you what is Jenrette's Defendant's Exhibit Number One. Is this the deed of conveyance into, into you?
A Yes, it is.
Q Okay, at the time the property was conveyed to you did you get insurance on the property at that time?
A When it was conveyed to me no one was living there. I did not get insurance then.
Q Did subsequent to that time did you find it necessary to get insurance?
A Yes.
Q Okay, and for what reason did you obtain the insurance?
A I had trees that had fallen on a fence. I had the Department of Transportation telling me that trees had to be cut because if people had a wreck I could be sued. The trees were in the way. I had - my son moved into the house in

December of 2008 so that was the first time it was occupied since my mother moved out and they had animals. They had horses. They had dogs, cats, lots of vehicles, four-wheelers and all I saw were children playing and other adults in the yard, and so, yes, I thought I need insurance for my protection if someone has an accident on that property.

Q And you went out and you obtained insurance before, before there was ever any commitment letter or any kind of letter from Cajun Carolina or any kind of loan from Cajun Carolina with Horry County State Bank, is that correct?

A That is correct.

Q Okay, and you obtained that insurance for your benefit; is that correct?

A I did, and I went back to Bradham because that's where we had had it before on the house when my mother was there and I actually paid those policies for her. I'd look it up and take care of that. So that's why I continued with them.

Q Okay, and I show you what has been put into evidence and agreed upon as Jenrette Defendant Number Two which appears to be a declaration page for, for the policy of insurance from March 9, 2009, to March 9, 2010. Is that correct?

A That is correct.

Q Okay, and, and on the, on the first page of, of that, of that declaration page do you see under the mortgagee information is there, is the name of any mortgagee there?

A It is blank.
Q It is blank, okay, all right. When you, when you turn to the second page on that declaration I believe there are, there are two questions there. Could you read or publish to the Court question number two?
A "Does applicant have full unconditional ownership of the building and upon which it is located?"
Q And, and did you, did you mark the box that said yes?
A Yes, I did.
Q Okay, and did you sign that on the bottom of the policy?
A Yes, I did.
Q Okay, and, and, and on the front page on the amount of coverage, the amount of coverage could you tell the Court what it was? It's broken down into dwelling insurance and liability insurance.
A The dwelling was 100,000 and the personal liability was 100,000.
Q Okay, and you paid the premium for both of those; is that correct?
A That is correct.
Q And the premium in March of 2009 was $397; is that correct?
A That's correct.
Q Okay, did you pay that?
A Yes, I did.

Q Okay, and I show you what has already been put into evidence as Defense Jenrette Exhibit Number Three. Is that a receipt for the payment of the insurance, $397?
A Yes, it is.
THE COURT: That's Number Three, Mr. DesChamps?
MR. DESCHAMPS: Yes, yes, sir.
A Yes.
Q Did Horry County State Bank ask you to pay that insurance?
A They did not.
Q Okay, all right, and you then renewed that policy in 2010; is that correct?
A Yes, I did.
Q Okay, and did you pay the premium at that time?
A Yes.
Q Okay, and I'll show you what, what's already been put into evidence as Jenrette's Number Six.
THE COURT: Six?
MR. DESCHAMPS: Yes, sir.
BY MR. DESCHAMPS:
Q And the amount of that insurance is how much?
A It's 100,000 on the dwelling and 100,000 for personal liability.
Q Okay, same coverage that you had before.
A Same coverage.

Q Is that correct?
A And the premium was 571.
Q The premium went up?
A Yes, sir.
Q Did you pay that premium?
A Yes, I did.
Q Okay, you were the only one that paid that premium? No one else did?
A That's correct.
Q You didn't consult with that, with - either with regard to your son or to Horry County State Bank?
A I did not.
Q Okay, and at that time even when you renewed the policy at that time you were getting the insurance solely for your benefit and not the benefit of any other person; is that correct?
A That's right.
Q Okay, and at no time initially and at no other time has Horry County State Bank ever been listed as an insured on the policy?
A No.
Q Okay, and at all times during the term of the policy if any loss had occurred who did you expect to receive the insurance money?
A Me, the same person that would have paid for the damages.

Q Okay, all right, and you were a party to the prior action in case number 2010-CP-26-04456, the foreclosure action that Horry County State Bank brought; is that correct?
A Yes, I was listed on there.
Q Yeah, and I'll show you what has been put into evidence as Jenrette Number Seven. Do you recall seeing the order of foreclosure and sale, being served with that document?
A Yes, I was served with this.
Q Okay, and ---
THE COURT: What number is that, please?
MR. DESCHAMPS: Number seven, Your Honor.
THE COURT: Okay.
BY MR. DESCHAMPS:
Q And you were listed, you were, you were joined in that action as, as an owner of the real estate; is that correct?
A That's correct.
Q And that was the sole reason that you were joined in that action; is that correct?
A Yes.
Q Okay, and pursuant to that action, pursuant to that final order of judgment and foreclosure and sale the property was, in fact, sold, is that correct, at the courthouse steps?
A Yes, it was.
Q Okay, and that included the house that, the house and residence that you pledged; is that correct?

A That included that parcel of land, yes.
Q Okay, okay, and no, no judgment was sought after, Horry County State Bank did not sue you for any monies, did they?
A No.
Q Okay, and at no time to the best of your knowledge did Horry - did, did Horry County State Bank assert any cause of action against you or anything that is evidenced in that document with regard to the insurance proceeds, did they?
A No.
Q Okay, and pursuant to that order of foreclosure and sale did you, did you receive a copy of what has been put into evidence as Jenrette Number Eight of a release of lien and mortgage satisfaction signed by the Honorable Cynthia Graham Howe as Master-In-Equity dated September 2, 2011?
A Yes, I did receive that.
Q And did, did that ---
THE COURT: What, what is that document again?
MR. DESCHAMPS: I'm sorry. It's entitled, Your Honor, it's entitled the release of lien mortgage satisfaction. It's the document that actually satisfied the mortgage of record ---
THE COURT: Okay.
MR. DESCHAMPS: --- pursuant to the order of foreclosure and sale in which it was directed.
BY MR. DESCHAMPS:

Q And at that time was the mortgage, was the mortgage instrument satisfied of record?
A Yes, it says it was satisfied.
Q All right, did you have - to your knowledge did you have any obligation to Horry County State Bank other than the pledging of the real estate?
A That was all I was ever told.
Q Okay, and you gave the power of attorney to your son, Brooks Quickel, to pledge the real estate; is that correct?
A Yes, I did.
Q All right, and when that mortgage was satisfied there was no further obligations or any obligations on your behalf; is that correct?
MR. MULLINS: Objection.
THE COURT: Wait just a second.
MR. MULLINS: Objection, Your Honor, that calls for a legal conclusion for the Court to enter.
THE COURT: Well, that's the same - you've been asking the same questions just in a different way. So I'll resolve all the legal conclusions, but I'll overrule your objection ---
MR. MULLINS: Thank you.
THE COURT: --- just like I overruled his. Go ahead, Mr. DesChamps.
MR. DESCHAMPS: Thank you, Your Honor.

BY MR. DESCHAMPS:

Q Did you - subsequent to that time do you - when that mortgage was satisfied did you have, to your knowledge, do you have any obligation whatsoever to Horry County State Bank?

A No.

Q Okay, did you ever execute a note to Horry County State Bank ---

A No.

Q --- in connection with - did you ever sign a guaranty agreement?

A No.

Q Okay, all right, and Mr. Mullins referred to your receipt of some type of demand letter for, for the debt. Was there anything in the demand letter from Horry County State Bank that demanded that you procure any kind of insurance for the benefit of Horry County State Bank?

A It did not mention insurance.

MR. DESCHAMPS: Bear, bear with me just a moment.

THE COURT: Yes, sir.

MR. DESCHAMPS: I don't have any further questions for this witness at this time in cross examination, Your Honor.

THE COURT: All right, anything else, Mr. Mullins?

MR. MULLINS: Yes, sir.

THE COURT: All right.

REDIRECT EXAMINATION

BY MR. MULLINS:

Q Ms. Jenrette, just to follow up to your attorney's questioning, at the time the fire loss occurred that was in the middle of the foreclosure; wasn't it?

A It was.

Q At the time the fire loss occurred there had been a mortgage signed by your son, but your mortgage assigned the proceeds, correct, proceeds of the insurance?

MR. DESCHAMPS: Your Honor, I'm going to object on legal conclusion.

THE COURT: Overruled.

MR. DESCHAMPS: Yes, sir, understand.

A You're referring to the loan document?

Q Yes, ma'am.

A That's what it says, yes.

Q All right, and no question when the loan was taken out and the money given by Horry County State Bank to your son for whatever purposes he wanted there was an existing residence at 104 Country Club Drive.

A Yes, there was.

Q Okay, and no question that that burnt during the term of the loan?

A It was burned, yes.

Q Okay, and no question that your son was living there with your consent?
A Yes, he was.
Q And your son was the one who also got the money from Horry County State Bank?
A He did, yes.
Q Okay, and no question that two months prior to taking out the loan you put insurance back on the property.
A Because he moved in the house. That's why I put insurance back on the property.
Q All right, well, I'm confused about the time, ma'am, so if we could refresh my recollection a little on that.
A Okay.
Q I thought your son moved in there in December.
A He moved like December 31st and I started talking to the insurance company probably in February.
Q Okay.
A And I was in Florida. So it went back and forth by mail and telephone. That's why there's a gap between when I received the declaration and when I got the final figure, but yes, I did start that in February.
Q But no question that there's a - also there's $100,000 worth of coverage for the house.
A That's correct.
Q Okay, and no question the insurance company paid the

100,000.

A They did.

Q And 5,000 for the cleanup.

A Yes.

Q And no question Horry County State Bank did the cleanup?

A Not totally they did not.

Q You didn't finish it, did you?

A I couldn't finish it.

Q Now, also, ma'am, no question that ---

MR. DESCHAMPS: Your Honor, I'm going to object. There's been no testimony as to the cleanup and that Horry County State Bank. I don't believe that's in the record.

THE COURT: I think, I think, I think the bank witness testified to that.

MR. DESCHAMPS: All right, I'll withdraw the objection.

THE COURT: Okay.

Q Now, the check - no question that during the prior foreclosure proceeding the check was issued both to you and Horry County State Bank?

A That's right.

Q And no question you refused to sign it.

A That's right.

MR. MULLINS: May I have just a moment, Judge?

THE COURT: Yes, sir.

MR. MULLINS: Thank you. No further questions at this time.

THE COURT: Anything else, Mr. DesChamps?

MR. DESCHAMPS: No, sir, Your Honor.

THE COURT: All right, you can step down, ma'am. Thank you. Any other witnesses from the bank?

MR. MULLINS: The bank rests, Your Honor.

THE COURT: All right, any motions, Mr. DesChamps? I guess it would be an involuntary non-suit under the ---

MR. DESCHAMPS: Yes, sir, under, under rule - I think it's Rule 41(B). The - Your Honor, I'm going to, I'm going to kind of rehash it a little bit when I make my motion if that's, if that's okay with Your Honor.

THE COURT: Yes, sir.

MR. DESCHAMPS: Okay, I believe it is Rule 41(B). The Plaintiff hasn't proved his case. I think the Plaintiff has the burden of proof to establish an equitable lien and under the facts and the law the Plaintiff hasn't shown that right. An insurance policy is a personal contract between the insurer and the insured and that's normally the way it is. A mortgagee has no interest if the mortgagor obtains the policy in his own name and for his own benefit. Now, that is what happened here, okay?

There are several ways that Mr. Mullins can go at trying

to get that insurance policy, but that is a personal contract between us and, and that's what happened. If Mrs. Jenrette had been the maker or obligor on the note and had gotten a policy for insurance under and pursuant to the terms of the mortgage and there had been a deficiency judgment afterwards then the lender could follow that, but in this case, in this case Ms. Jenrette is not the debtor. All of the cases that are, that are out there with the lenders following proceeds of insurance are when the mortgagor or the person who pledges something is also the debtor. In this case Mrs. Jenrette is not the debtor. There - her obligations and any obligations at all solely are under the mortgage instrument itself.

THE COURT: Do those cases say, are those coincidental or do those cases say that if the mortgagor is not also the note obligor the bank can't follow the or obtain the insurance money?

MR. DESCHAMPS: Yeah, there is - there's actually a case, the Fort Hill case that there must be a secured debt owed to the mortgagee by the mortgagor. There must be that secured debt. All right.

THE COURT: There must be a secured debt ---

MR. DESCHAMPS: A ---

THE COURT: --- owed by the mortgagor?

MR. DESCHAMPS: To the mortgagee, okay. The only - there was a security instrument. That security instrument

died at the time that the mortgage was satisfied. So if there were any covenants, anything whatsoever arising out of the mortgage instrument, those covenants died at the time of the satisfaction of the mortgage. They chose their remedy. To, to be able to claim equity you don't have a - you supposedly don't have an adequate remedy at law. What they did is they sought their remedy at law by suit on the promissory note and the guaranty. They were successful. They got a judgment on the promissory note and guaranty in their order of foreclosure and sale. Not only that they continued with their equitable remedy which was foreclosure of the mortgage. They got their mortgage foreclosed. They have the property and they have a deficiency judgment, the deficiency judgment as a result of that legal remedy following the promissory note, suing on that promissory note, which they did, and they, and they won and they obtained it. Then to go to the insurance policy they have no right to that insurance policy. The bank's rights were terminated when the mortgage indebtedness was satisfied at the foreclosure sale. There is a particular case almost close, very closely on point and this, I apologize, was one of the cases that I did not cite in my pretrial brief.

THE COURT: Okay.

MR. DESCHAMPS: But if you go to Singletary and Turner versus the Aetna Casualty Company that is a Supreme Court case in 1994.

THE COURT: What's the cite?

MR. DESCHAMPS: It is 361 S.C. 199, 447 S.E.2d 869.

THE COURT: You got to go a little bit slower.

MR. DESCHAMPS: I'm sorry, sir.

THE COURT: 361 S.C. 199?

MR. DESCHAMPS: Yes, sir, 447 S.E.2d 869, 1994.

THE COURT: Okay, what's it say?

MR. DESCHAMPS: If subsequent to the fire the mortgage, the mortgagee had a secured debt satisfied by the purchase at the foreclosure sale even if its own bidding, okay - let me, let me just run through the facts. Then everything is terminated at that time. In that particular case there was, there was - I believe it was SCN had a mortgage and the property had burned. I think there was arson or something that the mortgagor had done. The property had burned. SCN goes ahead and foreclose and assigns and then assigns the policy and stuff to the person that did, that purchased the property from them, okay? Well, that policy couldn't be assigned because any rights to assign that policy terminated when the mortgage itself terminated, when that mortgage was satisfied by virtue of the foreclosure and that case says it doesn't matter who, who got the bid or, you know, who was the successful bidder, whether it was the bank and the case says that it can be the mortgagee or another third party. In this case the mortgagee was the successful bidder. Okay, so that,

that mortgagee, they elected their remedy. They became the successful bidder at the foreclosure sale. They got title. The secured debt under the mortgage was extinguished at that time. That mortgage was extinguished. The liability of Mr. Quickel at the judgment, at the order of judgment in foreclosure and sale had become a judgment, the promissory note. So, so, they got both of their remedies there. The Regents Bank case and the Chase Home Finance versus Risher case are also fairly important because to establish an equitable lien as to specific property the bank must show first a debt, second, specific property to which the debt attaches, and third, an express or implied intent that the property serve as security for the payment of the debt, and according to the Chase Home Finance versus Risher case if a party seeking an equitable lien cannot satisfy any one of those requirements the right of an equity lien is not available and in the Chase case the lady and her husband went in and got a loan, but she only, she only signed documents. No one knew why but she never signed a mortgage. She didn't sign the note. She didn't know - sign the mortgage but she knew all about the loan and she was there.

THE COURT: She didn't sign what?

MR. DESCHAMPS: She didn't, she didn't sign the mortgage instrument so she still had a half interest in the property.

THE COURT: Just signed the note.

MR. DESCHAMPS: And so - and they couldn't, the - they - no one could get to the, to her half interest. You couldn't go to her half interest in the property, the mortgagee couldn't because she didn't pledge it.

THE COURT: Did that, did that house burn, too?

MR. DESCHAMPS: No, sir, that didn't happen to that, but, but, but they were trying to establish an equitable lien. The bank was trying to establish an equitable lien in her half of the real estate. There's nothing to which it can attach. There is no debt. The security instrument died. The secured indebtedness, the mortgage is not a debt instrument. It's, it's, it's the security instrument. The note and the guaranty are the debt instruments. The mortgage is not a debt instrument. It is the security instrument.

THE COURT: Well, I closed a loan probably back in 1990 where the bank said it didn't care to have the wife - she had a survivorship interest in the house, in other words she had - they had a survivorship deed and they said they didn't want the wife to sign the mortgage and I begged them in writing three times to get her to sign the mortgage or the mortgage wouldn't be worth much and they - and it ended up the thing went into foreclosure and I think they learned that the hard way but what does that have to do with an assignment within a mortgage? Are you just talking about the overall

theory that you can't get to - how, how does Ms. Jenrette equate to the lady who didn't sign the mortgage?

MR. DESCHAMPS: They're trying to establish an equitable lien and rights to something ---

THE COURT: She did sign the mortgage here.

MR. DESCHAMPS: She signed the mortgage here, but she didn't sign anything on the insurance policy. She didn't do an assignment of the insurance policy. The only possible assignment that Mr. Mullins is talking about are the insurance policies in the boilerplate of the mortgage instrument and that mortgage instrument terminated when they satisfied. There was no document, there was nothing that was done with regard to the insurance coverage to assign that, to add them as a loss payee as it's normally done. There was not an assignment of the mortgage, nothing was like that, there was never requested.

THE COURT: What if everything had been done correctly like it is 99 times out of a hundred or more and the bank had been listed as a loss payee and they still went forward to the foreclosure sale and got, bid it, bid the property in and also got the deficiency judgment? Would they have the right to go back and also get the mortgage proceeds, I mean, excuse me, the insurance proceeds?

MR. DESCHAMPS: No, sir, it would be listed as their interests might appear. If Ms. Jenrette already had $100,000

worth of insurance and they wanted to add $100,000 worth of insurance they, they probably could have. The bank could have gone out and gotten an insurance policy. Banks do that every day.

THE COURT: No, what I'm saying is let's say at the closing everything had been done the way it typically is done and let's just move Ms. - let's just say this was her loan, her note, she signed the note, she signed the mortgage and the insurance and the insurance, the bank was listed as a loss payee, take the son out of the equation, if everything was done like it always is done and that it would have gone in foreclosure, burned and then the property was sold would the bank have the right to claim the insurance money because I thought that was the tone of your argument earlier is because they picked what they wanted to do and since they picked what they picked they can't come back and pick another.

MR. DESCHAMPS: That's absolutely correct. They - if they had gone in and done that but if it had been done like it was supposed to have been done, okay ---

THE COURT: Uh-huh.

MR. DESCHAMPS: --- Ms. Jenrette as the owner of the policy, of the owner of the property would have consent - had to consent with the insurance company to have a mortgagee listed. An insurance company is not going to just, just ---

THE COURT: I'm just saying what ---

MR. DESCHAMPS: --- without an additional premium.

THE COURT: --- what would have happened if the bank had been listed properly? Would your argument be the same?

MR. DESCHAMPS: They would have had a different debt, if they had gone in, they established an order of judgment and foreclosure and sale ---

THE COURT: Uh-huh.

MR. DESCHAMPS: --- it's kind of hard to answer your question because that's not how it was done. There became a judgment amount on the date of the order of judgment and foreclosure of sale, okay. If they had gone in and applied for the proceeds of the loan, if they ---

THE COURT: Insurance.

MR. DESCHAMPS: --- insurance and they had been entitled and a court had determined that they were entitled they would not have gotten a judgment for that amount. They would have had to foreclose, they bid in a certain amount for their property ---

THE COURT: All right.

MR. DESCHAMPS: --- for that real estate. They, they, they bid in a dollar amount. If they had been entitled to that and assuming they were and I can't really say that because they would have then had - there's no testimony in here that Ms. Jenrette ever consented, ever consented to

her premiums being paid and the contract that she had being for the benefit of the bank. If they had - if it had done like it was supposed to be done at closing then they would have had to get, get her consent with the insurance company to, to, to have the mortgagee added as a loss payee. Now, the mortgagee could have paid it or Brooks Quickel could have paid it, they could add an additional premium and had additional money in there. They may have had an insurance of 200,000 but they elected not to do that. Ms. Quickel [sic] insured it for her own benefit and her benefit only.

THE COURT: Well, the way I read her testimony, quite frankly, is she was looking for insurance to cover liability.

MR. DESCHAMPS: Yes, sir.

THE COURT: That's what she and when I read that that's what - it was apparent to me that she meant by her benefit was in case something happened on the property and somebody got hurt, but maybe my question is not pertinent. So I won't ask it again.

MR. DESCHAMPS: Yes, sir, I'm sorry.

THE COURT: Okay, any other points you'd like to make, Mr. DesChamps?

MR. DESCHAMPS: I mean, there would have had to have been, yeah, there has to be a specific obligation, the Chase case says that.

THE COURT: Okay, I haven't read the Chase case.

MR. DESCHAMPS: Yes, sir, and I would ask you, and I would ask you to, I mean.

THE COURT: Okay.

MR. DESCHAMPS: And it's just not there. With - there's just - in all of the cases when we've been going up on motions before, all the cases that Mr. Mullins cite have to do with debtor mortgagors or debtors. Any cases that and the cases I've cited specifically when they're not and they say that anything that arises from the mortgage is extinguished at the time, and if you read and if you read that case, and particularly if you read the last one that I, that I read to you on the Singletary case, I mean, you can't even raise a defense as to what happened if the - what, what were the positions of the time of the sale. It's, it's at the time, at the time of the casualty. It's at the time - when they extinguish their debt they extinguished, they - when they extinguish the mortgage they extinguish the mortgage and any, anything - to have the right to an equity, and maybe I'm not saying this right, but to have the right to an equitable lien it's got to be pursuant to the terms of the mortgage because they're not the debtor. I mean, Ms. Jenrette is not the debtor and that's the only reason - way an equitable lien can arise under the terms of the mortgage instrument, that mortgage instrument was extinguished at the time of

satisfaction.

THE COURT: So, an - you're saying an equitable lien is different from this particular mortgage lien before the mortgage was satisfied.

MR. DESCHAMPS: Sir, I'm sorry?

THE COURT: You're saying that an equitable lien is different from this mortgage that was a lien before it was satisfied?

MR. DESCHAMPS: That's the only way they can get an equitable lien is resulting from their position as, as, as mortgagee.

THE COURT: Okay.

MR. DESCHAMPS: And, and I - and, and, and the only way they can get that would be is if the mortgage had not been satisfied because there's no debt, there's no debt at all. The debt's gone.

THE COURT: All right.

MR. DESCHAMPS: Thank you.

THE COURT: Okay, Mr. Mullins.

MR. MULLINS: May it please the Court, Your Honor?

THE COURT: Yes, sir.

MR. MULLINS: Of course the Court's well aware of Rule 41, construes the evidence in the light most favorable to the non-moving party. In this case, and admittedly, Your Honor, I was listening carefully to the questions you were

asking opposing counsel, in this case one piece of paper, a binder with a loss payee clause and we're not here today.

THE COURT: Well, that's what was I asking Mr. DesChamps and if it had been done like it is always done and I guess everybody in here has closed a gazillion loans, I'm glad I don't do that anymore, but if there had been a loss payee clause like you always find, even with a stranger mortgagor, that being Ms. Jenrette, would the answer just be a slam dunk?

MR. MULLINS: Yes, sir.

THE COURT: And he's saying, I took it from Mr. DesChamps that it wouldn't even be a slam dunk then because she was not the maker of the note.

MR. MULLINS: I respectfully disagree.

THE COURT: And so what does the case law that he cites say then?

MR. MULLINS: Well, Your Honor, I didn't look the one case that was new. We've hashed these cases over as you can see in two motions for summary judgment and we - the ones that we cited and relied upon were all people that were debtors and there's no question that this was a debt instrument.

THE COURT: She's not a debtor.

MR. MULLINS: Well, but she did sign a secured instrument assigning proceeds, and admittedly, Judge, these set of facts is outside the set of facts that we've had in

many other courts in this state. I understand that. You know, our position is quite simple. Our equitable lien arises as a result of the fact that it was asked for in the loan commitment.

THE COURT: Well, you got a long row to hoe there because he signed the loan commitment before there was a power of attorney.

MR. MULLINS: I understand that, Judge. It was in the agreement to provide insurance.

THE COURT: Where, where in, where - what document was that again?

MR. MULLINS: That's the agreement signed by Mr. Quickel and the bank saying that he had to put insurance on the property he was giving.

THE COURT: Which was when in conjunction with the power of attorney?

MR. MULLINS: Three days afterwards at the closing.

THE COURT: Okay.

MR. MULLINS: There was a debt, a mortgage that ---

THE COURT: Not signed by him as attorney in fact. It's signed by him as a member.

MR. MULLINS: Admittedly, Judge.

THE COURT: Well, you - so all those things I have to sift through?

MR. MULLINS: Yes, sir. There was the debt

instrument that assigns the proceeds.

THE COURT: The mortgage.

MR. MULLINS: The debt instrument at the time was still in full force and effect when the loss occurred.

THE COURT: Why didn't, why didn't you hold off on the foreclosure till you got your insurance money?

MR. MULLINS: Well, Your Honor, it was a matter at that point of property, with banks, local banks especially have to be moved and sold under these FDIC orders and we just we couldn't wait, didn't think we had to. Of course, you look through the books you try to find this transaction and it's not there.

THE COURT: All right.

MR. MULLINS: In addition, Judge, counsel keeps saying, "Well, the mortgage is satisfied." Well, that requires the 29-3-780 statute. This is a routine satisfaction that Masters-In-Equity issue all over the state once a foreclosure occurs. It's mandatory. The word is shall. The last sentence of that though says, however, nothing in this section may be construed to satisfy any unpaid portion of the debt secured by the mortgage.

THE COURT: Which is the deficiency?

MR. MULLINS: Yes, and we would submit that just the routine ministerial satisfaction of the mortgage in and of itself doesn't extinguish our right to these proceeds.

THE COURT: But there's no case law that you all can find anywhere that addresses this type of issue, anywhere in the country?

MR. MULLINS: Well, I think Blackwell, Freshwater, Lewis and Jones which are all in Judge Hyman's order, I can reargue all those, Your Honor, but I'm sure that you've read the order.

THE COURT: Well, you'll be doing that when you move for a voluntary non-suit or directed verdict whatever it's going to end up being called.

MR. MULLINS: Obviously.

THE COURT: Okay.

MR. MULLINS: Okay, but they are on point. They are debtors. They're dealing with losses. We're dealing with the fact that an equitable lien was imposed, and like Your Honor asked, but for one piece of paper we wouldn't be here. There's no question that ---

THE COURT: Why didn't the bank get - make sure it got it? I know that it was the closing attorney's responsibility, but where is the loan officer, what was his name?

MR. MULLINS: She's no longer with the bank.

THE COURT: No, the other one, the one that Mr. Quickel said that - he said he didn't give a blank about insurance or the house, he just ---

MR. MULLINS: He's a regional executive, Your Honor. That's what my client just whispered to me.

THE COURT: Okay.

MR. MULLINS: But, you know, when I asked Mr. Quickel about that both here in this courtroom they can't produce one piece of paper that says that. It's just Mr. Quickel's testimony of, "Well, I know what I signed."

THE COURT: I understand. I don't put much weight on what he said about what the original loan officer said, but I thought they would have been here. Okay.

MR. MULLINS: So I think there's more than enough evidence in the record to justify at this point at least a rebuttal of presumption that an equitable lien is entitled to to Horry County State Bank.

THE COURT: All right.

MR. MULLINS: We ask the Court to deny the motion.

THE COURT: All right, anything else, Mr. DesChamps?

MR. DESCHAMPS: No, sir, Your Honor.

THE COURT: Okay, for the purposes of the record I'm going to deny your motion. I think that if you are correct my final order will include your reasoning or at least the case law reasoning that would end up giving you the result that you want, but for now I'm going to deny your motion and ask if you're going to present any witnesses. Does anybody

need to take a break?

MR. DESCHAMPS: Yes, sir. Could we? I will just have one witness anyway.

THE COURT: Five minutes, okay.

MR. DESCHAMPS: It won't take as long. Thank you, Your Honor.

OFF THE RECORD

(On the record.)

THE COURT: All right, Mr. DesChamps.

MR. DESCHAMPS: Your Honor, I believe I've probably, as I'm also a Plaintiff with regard to the monies I'm going to call Ms. Jenrette to the stand ---

THE COURT: Okay.

MR. DESCHAMPS: --- to testify.

THE COURT: She's still under oath. She can just have a seat. You just can't lead this time.

MR. DESCHAMPS: Which, which is difficult for me.

DIRECT EXAMINATION

BY MR. DESCHAMPS:

Q Ms. Jenrette, could you please state your name for the record?

A Rosemary Long Jenrette.

Q Okay, and where do you reside, Ms. Jenrette?

A Myrtle Beach.

Q Okay, and you're a resident of Horry County?

A Yes, I am.
Q How long have you been a resident of Horry County?
A I have been a resident of Horry County 61 years.
Q Okay, and in this particular did you, did you own a home, excuse me, at 104 Country Club Drive in Conway?
A Yes.
Q And when did you purchase or when did you acquire that home?
A September 11th, 2007.
Q And subsequent to that time did you obtain casualty insurance on the property?
A I had casualty insurance a couple of years before that and then right after that, but there was a little lapse.
Q Okay, all right, all right, did you, did you obtain a policy of casualty and liability insurance in March of 2009?
A Yes, I did.
Q Did you pay the premiums for that?
A Yes, I did.
Q For whose benefit did you obtain that policy?
A It was for my benefit.
Q Did you renew that policy?
A Yes, I did.
Q And when did you renew that policy?
A I renewed it in March of 2010.
Q And for whose benefit was that policy?

A That was for my benefit.
Q Did, did you at any time - were you at any time requested by Horry County State Bank to obtain casualty insurance or liability insurance for their benefit on 104 Country Club Drive?
A No.
Q Okay, at any time were you directed by Horry County State Bank to pay any premiums for casualty insurance or liability insurance on 104 Country Club Drive in Conway, South Carolina?
A No, I was not.
Q All right, at any time between the time that you obtained casualty insurance and liability insurance and the time of the casualty did Horry County State Bank contact you in any way with regard to casualty insurance?
A No, they did not.
Q Okay, when the casualty occurred and after, after the loss was investigated did you expect to receive the check for the insurance proceeds?
A I did.
Q Okay.
MR. DESCHAMPS: I have no further questions of this witness.
THE COURT: Mr. Mullins, any questions?
MR. MULLINS: Briefly, Your Honor. I'm not sure there's anything new ---

THE COURT: Okay.

MR. MULLINS: --- on this recall.

CROSS EXAMINATION

BY MR. MULLINS:

Q But just to make sure, ma'am, the policy you're referring to, ma'am, did you ever send a copy of that to Horry County State Bank?

A I did not.

Q When you renewed the policy did you ever tell your insurance company that a mortgage had been placed on the property?

A I did not.

Q And no question at one point you testified under oath that this policy was not only for your benefit but to protect the bank as well?

A I did say that.

MR. MULLINS: No further questions, Your Honor.

THE COURT: Anything else?

MR. DESCHAMPS: Just on redirect, just ---

THE COURT: Yes, sir.

MR. DESCHAMPS: --- just with regard to what he just said.

REDIRECT EXAMINATION

BY MR. DESCHAMPS:

Q You expected to receive any proceeds from any insurance

on the, on the - as a result of the casualty; is that correct?
A I did, yes.
MR. MULLINS: Objection, leading, move to strike.
THE COURT: It's - that's, that's already her testimony. Your objection is overruled. Anything else, Mr. Mullins?
MR. MULLINS: No, Your Honor. I'm not going to get the last the word with Mr. DesChamps. I'm not going to try to start.
THE COURT: You can step down. Thank you.
A Thank you.
THE COURT: All right, additional, any additional witnesses from the - from Mrs. Jenrette?
MR. DESCHAMPS: No, sir, Your Honor.
THE COURT: All right, any reply?
MR. MULLINS: No, Your Honor, you've heard it all.
THE COURT: Any motions under 41, Mr. Mullins?
MR. MULLINS: We'd move under 41(B), Your Honor, for a non-suit of the Defendant Jenrette's cross-claims and claims on the grounds construing the evidence in the light most favorable now to Horry County, most favorable to Ms. Jenrette that there was, in fact, a policy here, that she was a mortgagor. There are several cases, Judge, that are and I looked back over them again while I was - we were on, on recess and we cited all these to the Court. I know the Court

read that prior order because you've referenced it several times today.

THE COURT: Right.

MR. MULLINS: No question that there are several cases that say that a mortgagee is entitled to the proceeds of a mortgagor when the loss occurs. That's what the purpose of an equitable lien when all ---

THE COURT: Entitled to the proceeds of insurance coverage.

MR. MULLINS: The insurance proceeds. Going all the way back, Your Honor, to a case, I believe it was decided right around the time I was born, it was dealing, unfortunately it wasn't dealing with real estate. It was dealing with an automobile case and that was the Lewis case from 1961. Even back then there was no loss payee clause in the Lewis case, but they said, "Well, we're going to oppose this equitable lien because that's what should have been done." That's the equitable maxim here, Your Honor, is imposing the purpose of equity, this Court imposing, what we're asking it to do is what should have happened in this scenario and I don't think there's any, after reviewing all the evidence in this matter and, you know, good or bad we've put it up for the Court, whatever was signed in the transaction. So, yes, it isn't perfect, but good or bad that's what we ask this Court using its equitable powers to do

and we think we've shown at least a prima fascia case of that everyone was well aware there was insurance needed here, there was insurance on the property and that to come forward now and say, "Well, we didn't know anything about any of that," we think is - lacks credibility. So we ask the Court to impose the equitable lien and dismiss under Rule 41(B).

THE COURT: All right, Mr. DesChamps.

MR. DESCHAMPS: Your Honor, I'm not going to keep belaboring the point. I've kind of said what, what we believe. We would - my client has a right to those proceeds. My client contracted with the insurance company and we've got to get it, you know, we have a contractual right to receive those and that's what the insurance company thought, that's what we thought. I mean, there's even a prohibition against assignment. So for a creditor to go get that money they have to go under certain vehicles and I, really I guess I haven't explained it properly, but if, if my client were the obligor and they got a judgment and then they could go against proceeds that would otherwise inuring, be inuring to the benefit of my client, there's no doubt that these proceeds inured, should go to, to my client if not for other things and the other things had not been reached by then because if my client was the debtor on the, on the instrument and was also the maker of the instrument and therefore they got a judgment against my client, a deficiency judgment or a monetary

judgment award, they have that judgment award and could go against these proceeds to satisfy that judgment award and it would go toward that judgment award, be no double collection, it would go toward that judgment award. They don't have those facts. Those are the cases they set, they set forth in, in their prior arguments in the cases where there was the debtor obligor who may have been the mortgagor if it was a mortgage instrument or a pledge, pledgor under a pledge instrument because I think the cases they cited were really had to do with automobiles and stuff instead of real estate but it was a, it was a debtor. For them to go under the, under the mortgage instrument it has to be the mortgage instrument itself, those covenants and obligations in the mortgage instrument. If they had been breached and Ms. Jenrette gave power of attorney to her son to sign a mortgage and he signs this mortgage, if those, those covenants are breached the remedy, if you'll read the document itself and the remedy under the foreclosure law and mortgage law is we accelerate the debt. You don't, you don't maintain insurance on the property. You don't do this, you don't do that. That's the covenants of the mortgagor, okay. If they hadn't done that, if, if the mortgagor did not maintain insurance on the property for the benefit of the bank, the bank could have done several things in the mortgage. They themselves could have gone out and gotten a policy of insurance which banks tend to

do a lot and could have added it back into the debt amount, what they paid for the policy of insurance or they could have under the terms of the mortgage accelerated the debt and foreclosed. They did. They accelerated the debt and foreclosed not for that reason but that would have been a covenant of default. It's not a contract. It was the - it was a security instrument and if it was breached they had their remedy and they did it. They foreclosed.

THE COURT: All right.

MR. DESCHAMPS: And they took that remedy and they did their foreclosure and they got a judgment of foreclosure and sale and they took the property and whatever other debt they had they went against their maker and their guarantor and got that judgment and all of that stuff is conceded to and that's what they did, that's what their election to do and, and they could have done otherwise but they did not do otherwise and if the mortgage had not been satisfied I don't know what would have happened, but it would have been a different situation because they wouldn't have already established an amount of a debt. That was part of the order in foreclosure of sale.

THE COURT: Nothing's in evidence about this, but when the foreclosure proceedings started I would assume when they either re-underwrote the loan or started looking into the nooks and crannies and there was no decision made about or

there's no testimony about any decision having been made about getting force placed coverage.

MR. DESCHAMPS: Yes, sir, there's no coverage.

THE COURT: So, that's, that's certainly not - at least that part's not in evidence. To me one of the questions is whether or not the assignment in the mortgage survives the satisfaction of the mortgage itself and that's what I asked earlier if there's any case law on that point and apparently there's not.

MR. DESCHAMPS: Don't believe there is, and I would again call to the Court's attention the Fort Hill Federal Savings and Loan case and I've cited it in, in my materials. That was a 1984 Court of Appeals case that says, "A mortgagee's rights under a fire insurance policy are dependent upon the existence of a secured debt owed the mortgagee by the mortgagor insured," and that's ---

THE COURT: Well, I'll have to look at the ---

MR. DESCHAMPS: Yes, sir.

THE COURT: --- specific facts of that ---

MR. DESCHAMPS: Yes, sir.

THE COURT: --- to see if they say ---

MR. DESCHAMPS: I understand.

THE COURT: --- to the exclusion of a situation such as this.

MR. DESCHAMPS: Yes, sir.

THE COURT: Okay, all right, I think I've got a good handle on what everybody's ---

MR. DESCHAMPS: Yes, sir.

THE COURT: --- legal arguments are. The facts aren't in dispute to me. There was a power of attorney. There was a note. There was a mortgage. There was a default and there was a foreclosure and before the foreclosure was finalized there was a fire and then there was a satisfaction of the mortgage.

MR. MULLINS: That's correct, Your Honor.

THE COURT: That's ---

MR. DESCHAMPS: Yes, Your Honor.

THE COURT: --- nobody can dispute those, those are what the facts are.

MR. DESCHAMPS: Yes, Your Honor.

MR. MULLINS: And Your Honor, you had asked previously on that, you know, as to law on point, there was a case that was very close but that opinion's been withdrawn, not overruled but withdrawn.

THE COURT: Because the parties settled the case?

MR. MULLINS: Because the parties settled the case, and that's Blanding versus Long Beach Mortgage. I'm going to live to cite, to cite it because Mr. DesChamps is going to tell me I'm citing overruled cases.

MR. DESCHAMPS: But it's also a debtor. That's one

of his other problems with the case. I'm sorry, but it's, it's not ---

MR. MULLINS: But that is close.

THE COURT: Is it a published opinion that was withdrawn?

MR. MULLINS: Yes, sir.

THE COURT: I don't know why they do that.

MR. MULLINS: I wish they hadn't, Judge, but once again, we come to these courts with the facts as we have them, not as we would like to have them.

MR. DESCHAMPS: But then as I said, Your Honor, that, that opinion also can be distinguished even if it hadn't been withdrawn. It again is the debtor which is not our situation. Our situation is distinct. It would be, that case would be more akin to Cajun Carolina, I believe that was the debtor in this case, I believe or Mr. Quickel.

THE COURT: If, Mr. Mullins, talking about equity, if Mrs. Jenrette obtained insurance and you get the insurance money how's that equity to her? She paid for insurance, her house burned and all she has is ashes.

MR. MULLINS: Well, Your Honor, but also we would have to reduce her son's debt by a likewise amount.

THE COURT: Her and her son are legal strangers ---

MR. MULLINS: That I understand.

THE COURT: --- except for the power of attorney.

MR. MULLINS: But if Ms. Jenrette had been sitting there and I hate to answer a question with a question, Judge. I know that irritates you from the bench.

THE COURT: No.

MR. MULLINS: But if Ms. Jenrette had been sitting there and signed all these loan terms in the same scenario and the house burned it's unfortunate, but a bank went $350,000 out in what a transaction they thought they were secured. You know, it's almost a windfall from our standpoint to Ms. Jenrette because now we have an uncollectible judgment and our other remedy, had we done all the things Mr. DesChamps has urged this Court that we should have done, we also would have been another two years down the road trying to move these six properties, seven properties if this had all been done in one action. We'd be trying a foreclosure in this court or we could try this whole thing in front of the Master-In-Equity. So the delay was highly prejudicial to my client to do it that way.

THE COURT: Okay.

MR. DESCHAMPS: Obviously Ms. Jenrette hasn't benefited from anything. She didn't benefit from the loan. I mean, there's no testimony to that. She agreed to pledge property, which she did. That's all.

THE COURT: Okay, I'll - anything else, Mr.

Mullins?

MR. MULLINS: I could - we could argue these back and forth. Your Honor, we've argued these cases for two years. They're the cases, same cases we've relied upon throughout the course of this litigation, so.

THE COURT: Okay.

MR. MULLINS: Except for the Long Beach case. Like I said, it was unfortunately withdrawn.

THE COURT: All right, thank you, gentlemen.

MR. DESCHAMPS: Thank you, thank you, Your Honor.

MR. MULLINS: Thank you, Your Honor.

MR. DESCHAMPS: Thank you, Your Honor.

(Adjourned.)

C E R T I F I C A T E

I, the undersigned, Grace L. Hurley, Official Court Reporter for the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the hearing held in the case of National Security Fire and Casualty Company v. Rosemary Jenrette, a/k/a Rosemary Long Jenrette and Horry County State Bank, held in the Court of Common Pleas for Horry County, Horry County Courthouse, Conway, South Carolina, on December 16, 2013.

I do hereby certify that I am neither of kin, counsel, nor interest to any party hereto.

Grace L. Hurley

Grace L. Hurley, CVR-CM-M

Official Reporter

April 23, 2014.

Instrument#: 2007000128887, DEED BK: 3275 PG: 2145 DOCTYPE: 001 09/11/2007 at 09:49:53 AM, 1 OF 4, EXEMPT, BALLERT V. SKIPPER, HORRY COUNTY, SC REGISTRAR OF DEEDS TMS Number correct 1230002069

280

ORIGINAL

RECORDING SPACE ABOVE:
Please Return To: Richard N. Booth, Attorney, 1905 Main Street, Conway, SC 29526
This Deed has been prepared without benefit of title examination.
RNB-File No. 07-09-20795

STATE OF SOUTH CAROLINA)
)
COUNTY OF HORRY)

DEED

KNOW ALL MEN BY THESE PRESENTS, THAT I, **DORETHA M. LONG A/K/A DORETHEA M. LONG,** hereinafter called grantor(s), in consideration of the sum of **FIVE 00/100 ($5.00) DOLLARS,** to the grantor(s) in hand paid at and before the sealing of these presents by the grantee(s) hereinafter named, the receipt of which is hereby acknowledged, have granted, bargained, sold and released, and by these presents do grant, bargain, sell and release unto the following named grantee(s), to wit:

ROSEMARY LONG JENRETTE
fka ROSEMARY LONG
3806 North Ocean Blvd.
Myrtle Beach, South Carolina 29577-2760

SEE EXHIBIT "A" ATTACHED FOR LEGAL DESCRIPTION

TOGETHER with all and singular, the rights, hereditaments and appurtenances to said premises belonging, or in anywise incident or appertaining; to have and to hold all and singular the premises before mentioned unto the grantee(s), and grantee's(s') heirs, successors and assigns forever.

AND the grantor(s) do(es) hereby bind the grantor(s) and the grantor's(s') heirs, successors, executors and administrators to warrant and forever defend all and singular the said premises unto

the grantee(s) and the grantee's(s') heirs, successors and assigns against the grantor(s) and this grantor's(s') heirs, successors and against every person whomsoever lawfully claiming or to claim the same or any part thereof.

WITNESS the execution by grantor(s) this 10th day of September in the year of our Lord two thousand seven and in the two hundred and thirty-second year of the Sovereignty and Independence of the United States of America.

Signed, Sealed and Delivered
In the Presence of:

witness #1, sign here

Notary Sign here

Doretha M. Long (L.S.)
DORETHA M. LONG

Doretha M. Long (L.S.)
a/k/a DORETHEA M. LONG

STATE OF SOUTH CAROLINA)
) ACKNOWLEDGEMENT
COUNTY OF HORRY)

The foregoing instrument was acknowledged before me this 10th DAY OF **SEPTEMBER 2007**, by **DORETHA M. LONG a/k/a DORETHEA M. LONG**

(L.S.)
Notary Public for South Carolina
My Commission Expires: 7/9/2008

Instrument#: 2007000128887, DEED BK: 3275 PG: 2147 DOCTYPE: 001 09/11/2007 at 09:49:53 AM, 3 OF 4, EXEMPT, BALLERY W SKIPPER, HORRY COUNTY, SC REGISTRAR OF DEEDS

STATE OF SOUTH CAROLINA)
) AFFIDAVIT
COUNTY OF HORRY)

PERSONALLY appeared before me the undersigned, who being duly sworn, deposes and says:

Property located at **Conway Township**, Horry County, South Carolina, bearing Horry County Tax Map No. **123-00-02-069**, was transferred by **DORETHA M. LONG A/K/A DORETHEA M. LONG to ROSEMARY LONG JENRETTE, fka ROSEMARY LONG on SEPTEMBER 10, 2007.**

The transaction was (Check One)
_____ an arm's length real property transaction and the sales price paid or to be paid in money or money's worth was

_____ not an arm length real property transaction and the fair market value of the property is.

The above transaction is exempt, or partially exempt, from the recording fee as set forth in S.C. Code Ann. Section 12-24-10 et. Seq. because the deed is (See Back of affidavit) **Gift from Mother to Daughter**/Deed of Gift

As required by Code Sections 12-24-70, I state that I am a responsible person who was connected with the transaction as _____SELLER_____.

I further understand that a person required to furnish this affidavit who willfully furnishes a false or fraudulent affidavit is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than one year, or both.

Doretha M. Long
DORETHA M. LONG

SWORN to before me this
10th day of SEPTEMBER, 2007.
Notary Public for South Carolina
My Commission Expires:

Instrument#: 2007000128887, DEED BK: 3275 PG: 2148 DOCTYPE: 001 09/11/2007 at 09:49:53 AM, 4 OF 4, EXEMPT, BALLERY SKIPPER, HORRY COUNTY, SC REGISTRAR OF DEEDS

ATTACHED TO DEED FROM DORETHA M. LONG A/K/A DORETHEA M. LONG to ROSEMARY LONG JENRETTE, fka ROSEMARY LONG dated SEPTEMBER 6TH 2007.

EXHIBIT "A"

All of my right, title and interest in and to the following described property, to wit:

ALL AND SINGULAR that certain piece or parcel of land lying and being in Conway Township, containing one (1) acre more or less, the same being more particularly described as follows:

Beginning at a point at the corner at the intersection of the Airport Road and D. M. Burroughs Road and running northeast a distance of 140 ft. to an iron pin on the D. M. Burroughs Road; thence running 240 feet in a northwestern direction to an iron pen corner; thence 220 ft. in a southwestern direction to an iron pen on the Airport Road; thence along the said road in a southeastern direction a distance of 238 ft. along the said road to the beginning corner. Being bound on the north by lands of W. M. Long; on the east by lands of W. M. Long; on the south by D. M. Burroughs road; and on the west by the Airport.

This is the identical property conveyed to Rosemary Long by Woodrow W. Long by deed recorded in the Office of the ROD for Horry County in **Deed Book 2479** at **Page 1470,** wherein Woodrow W. Long and Doretha M. Long were reserved a lifetime right. Thereafter, the said Woodrow W. Long died as will appear in the Office of the Probate Court for Horry County.

TMS#123-00-02-069

Doretha M. Long
DORETHA M. LONG

Doretha M. Long
A/K/A DORETHEA M. LONG

Dwelling / Mobile Home Fire & E.C. Application SC

National Security Fire & Casualty Company

P.O. Box 709
451 East Davis Street
Elba, Alabama 36323
334.897.2273 • 800.239.2358 • Fax: 334.897.5694

Agency# / Agent#
3274 / 1614
Policy # / Risk #
616233 / 301758

APPLICANT: JENRETTE, ROSEMARY

NAME	ROLE	SS#	MARITAL STATUS	TELEPHONE
ROSEMARY JENRETTE	Individual / Billing	250-02-8367	M	

BILLING ADDRESS

ROSEMARY JENRETTE
3605 N OCEAN BLVD
MYRTLE BEACH SC 29577-2760

LOCATION OF PROPERTY

104 COUNTRY CLUB DR
CONWAY SC 29526-3205

County: HORRY
Territory: 2

COVERAGES From 3/3/2009 To 3/3/2010 County HORRY

AMOUNT OF COVERAGE	DESCRIPTION	PREMIUM
$100,000.00	A - Dwelling	$419.00
	No Related Private Structures Coverage	
	No Personal Property Coverage	
	No Additional Living Costs Coverage	
$100,000.00	L - Personal Liability	$45.00
	No Medical Payments To Others	$0.00
	No Fire Legal Liability Coverage	$0.00
	Optional Perils - Extended Coverage	Included
	No Vandalism Coverage	
	$1000 Deductible	($84.00)
	Age of Home Surcharge	$17.00
	Annual Premium:	$397.00
	Mode Premium:	$397.00
	Billing Fee:	$0.00
	Total Mode Premium	$397.00

Initial Payment Method	Payment Mode	Deductible	Total Contract Premium
☐ Agent to mail check ☐ Bill Mortgagee ☐ Charge to agent's account ☒ Charge agent's account	☐ Monthly ☐ Quarterly ☐ Semi-annual ☒ Annual	☐ $500 ☐ $250 ☒ $1,000	Monthly 1/4 or 1/2 annual Billing Fee Total Mode Premium $397.00

*Applies for 2 months after payment and out of escrow ADH Form 1001.

MORTGAGE INFORMATION

Mortgagee Name & Address	1st	2nd	
Loan #	1st	2nd	

MOBILE HOME DESCRIPTION

Year		Make		Model		Annex 1	Size x
Size	x	Serial #				Annex 2	Size x
Central Air		2-3 ton 3 Main	Tied Down	Yes No	Skirting	Yes No Type:	

RATING INFORMATION

Date Purchased 1/1/2007		Price Paid (mobile home only) $0.00		Year Built 1950	Square Footage by Floor (mobile) 1st 0 2nd 0
Construction FRAME	Occupancy TENANT	# of Families 1	Protection Class 3	Servicing Fire Department CONWAY	# of Stories 0 / Cov Limits On Out
Attached Garage (Enclosed)	Size 0 x 0	Attached Carport (Open)	Size 0 x 0	Porches / Decks	Covered: Size 0 x 0 Size 0 x 0 Uncovered: Size 0 x 0 Size 0 x 0

Home Office Use Only	☐ Agent	☐ Insured	☐ Mtg.	☐ MO	Check No.	Amount $

FC-953 A

(Applicant must receive copy of application.)
HOME OFFICE COPY

UNDERWRITING QUESTIONS	YES	NO	REMARKS
1. Does risk contain a fireplace? (Mobile Home–1976 or later & UL approved)	Yes		
2. Does applicant have full unconditional ownership of the building and land upon which it is located? (Dwelling or mobile home with annexes – if not, declined.)	Yes		

LOSS HISTORY

Any losses, whether or not paid by insurance, during the last 5 years, at this or any other location? Yes ☐ No ☒ If yes, explain below

Date	Type	Description of Loss	Amount

PRIOR COVERAGE — IS RISK A NEW PURCHASE? Yes ☐ No ☒ If no, provide prior carrier information.

Prior Carrier	Prior Policy Number	Expiration Date
AMERICAN MODERN	111111	3/6/2009

IMPORTANT NOTICE

In compliance with the requirements of the Fair Credit Reporting Act (Public Law 91-508), we advise that as part of our routine procedure in reviewing applications for insurance or renewals of insurance policies, this Insurance Company may procure an investigative Consumer Report including information as to the consumer's character, general reputation, personal characteristics, or mode of living, if such insurance is for an individual and is primarily for personal, family, or household purposes. Such information will be obtained through personal interview with neighbors, friends, or others with whom the consumer is acquainted. Upon written request to this Insurance Company, made within a reasonable period of time after receipt of this notice, this Company will provide in writing a complete and accurate disclosure of the nature and scope of the investigative request. If no such request is received, no report was requested.

I hereby apply to National Security Fire and Casualty Company for a policy of insurance for the coverage set forth above. I certify that I have read the statements above and the notice relative to the Fair Credit Reporting Act. I further certify that there is no other insurance and that I own title in fee simple to any land upon which an insured building is located. I understand that other insurance is prohibited. It is understood and agreed that any policy issued is based upon the above statements which I warrant to be true. If I have given incorrect information herein and this information is material to the Company's acceptance or rating of the risk, it may result in coverage under the policy being null and void under state law relative to Material Misrepresentation.

Barbara Bradham
Signature of Agent or Broker (Application will be returned without signature or printed)

BARBARA A BRADHAM
BRADHAM INSURANCE AGENCY
P O BOX 1694
CONWAY SC 29528

X Rosemary L. Jarrett
Signature of Applicant (Must be signed by applicant only, no proxy permitted.)

X 9:53 AM PM 3-16-09
Time Signed (Required) Date Signed (Required)

Date Printed: 3/6/2009

FC-953 A

(Applicant must receive copy of application.)
HOME OFFICE COPY

Dwelling / Mobile Home Fire & E.C. Policy Declarations

National Security
Fire & Casualty Company
P.O. Box 703 • 661 East Davis Street • Elba, Alabama 36323 • 334.897.2273 • 800.788.2207 • Fax: 334.897.5694

POLICY NUMBER:	836223 - 205638
NAMED INSURED:	JENRETTE, ROSEMARY

POLICY PERIOD: 3/9/2009 TO 3/9/2010 This insurance is effective at 12:01 AM Standard Time at the address of the property insured herein for the period above, and may be renewed for successive policy periods, at the option of the Company, providing the required renewal premium is received by the Company on or before the expiration date.

PRIMARY CONTACT & MAILING ADDRESS

ROSEMARY JENRETTE
3806 N OCEAN BLVD
MYRTLE BEACH SC 29577-2760

AGENCY & MAILING ADDRESS AGENT# S274

BRADHAM INSURANCE AGENCY
P O BOX 1694
CONWAY SC 29528

PROPERTY INSURED

104 COUNTRY CLUB DR
CONWAY SC 29526-3903

PROTECTION CLASS: 3
TERRITORY: 2
CONSTRUCTION: FRAME
OCCUPANCY: TENANT

MORTGAGES INFORMATION - SUBJECT TO THE PROVISIONS OF THE MORTGAGE CLAUSE, LOSS IF ANY ON BUILDING ITEMS SHALL BE PAYABLE TO THE NAMED INSURED AND:

NAME & ADDRESS	1st		2nd	
LOAN #	1st		2nd	

COVERAGES

AMOUNT OF INSURANCE	DESCRIPTION	PREMIUM
$100,000.00	A - Dwelling	$419.00
	No Related Private Structures Coverage	
	No Personal Property Coverage	
	No Additional Living Costs Coverage	
$100,000.00	L - Personal Liability	$45.00
	No Medical Payments To Others	$0.00
	No Fire Legal Liability Coverage	$0.00
	Optional Perils - Extended Coverage	Included
	No Vandalism Coverage	
	$1000 Deductible	($84.00)
	Age of Home Surcharge	$17.00
	Annual Premium:	$397.00
	Mode Premium:	$397.00
	Billing Fee:	$0.00
	Total Mode Premium:	$397.00

FORMS MAKING UP THE POLICY:

FL - 1 Ed 1.0, GL - 600 6-88, FL 0097 06 07, FL - 9921 10 07, ML- 195 Ed 7-88, GL- 425 Ed 1-87

Insurance is provided against only those perils and for only those coverages indicated above by a premium charge and for which an amount of insurance is indicated and against other perils and for other coverages only when endorsed hereon or added hereto. The limit of the company's liability against each such coverage shall be as stated hereon subject to all terms of the policy having reference thereto. These declarations when attached with appropriate policy, complete the policy numbered hereon.

NOTICE: This policy is based on information in the application. If building insured, named insured must have full legal title to the building and the land.

DATE: 3/9/2009

AGENT'S SIGNATURE _____

National Security Fire And Casualty Company
661 E Davis St
Elba, AL 36323

Date: 3/9/2009

Received From: BRADHAM INSURANCE AGENCY

$397.00

Three Hundred Ninety Seven dollars and Zero cents********

For: Policy 836223 -- JENRETTE, ROSEMARY

SWEEP AGENCY ACCOUNT RECEIPT

The National Security Group

National Security Fire & Casualty Company

Date: 3/9/2009

To: **ROSEMARY JENRETTE**
3806 N OCEAN BLVD
MYRTLE BEACH SC 29577-2760

In Re: Policy No.: **836223**
Location of Property: **104 COUNTRY CLUB DR**
CONWAY SC 29526-3903

Dear Sir or Madam:

We are pleased to tell you that your application for insurance has been received and that we have issued your policy. Your policy has been mailed to your local independent agent. He or she will sign it and deliver it to you. Once you receive your policy, *please read it*. Please let your agent know if you have any questions. If you do not receive your policy within the next few days, please call your agent. If your agent is unable to assist you for any reason, please call us at 1-800-239-2358.

A copy of your "declarations" page is enclosed. This tells you how much insurance coverage you have, when you are covered, and the cost for your policy. Please take a minute to review this page. If the amount of insurance coverage we issued is different from the amount you requested or agreed to, please call your agent. Also, *if the premium amount shown is less than the amount you paid, please call your agent, as you might be entitled to a refund from your agent. If the premium amount shown is more than the amount you paid, please call your agent, as you might owe some additional premium.*

National Security will send you a bill for future premiums based on the payment option you have selected. You will be billed (called a premium notice) 45 days before your premium payment is due. If you want to continue your coverage with National Security, you should mail a check or money order for the premium directly to National Security, not to your agent.

Finally, if you suffer a loss or damage to your insured property, you should immediately call your agent, who will help you file a claim with us. If your agent is unable to assist you for any reason, please call our Claims Department at 1-800-239-2358 Ext. 5122 or visit our website at www.nationalsecuritygroup.com.

We truly appreciate the opportunity to serve your insurance needs.

Sincerely,

National Security Fire & Casualty Company
Underwriting Department

BRADHAM INSURANCE AGENCY
P O BOX 1694
CONWAY SC 29528
(843) 488-2886

BASIC FORM

The following Table of Contents shows how the policy is organized. It will help **you** locate particular sections of the policy.

TABLE OF CONTENTS

	Page
Agreement	1
Definitions	2
Principal Coverages	2
Incidental Coverages	4
Perils Insured Against – Coverages A, B, C, and D	5
General Exclusions	6
What **You** Must Do in Case of Loss	7
How Much **We** Pay for Loss or Claim	8
Payment of Loss	9
Policy Conditions	9
Farm Coverages (when applicable)	Separate Forms

Required state endorsements may also be part of this policy.

Refer to the Definitions for words that have special meaning. These words are shown in **"bold type"**.

AGREEMENT

This policy, subject to all of its **terms**, provides property insurance and other described coverages during the policy period. In return **you** must pay the required premium. Each of the Principal Coverages described in this policy applies only if a **limit** is shown on the Declarations for that coverage.

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290 DEFINITIONS

1. The words **you** and **your** mean the person or persons named on the Declarations and **your** spouse if a resident of **your** household. The words **we**, **us**, and **our** mean the company providing this insurance.

2. **Business** means a trade, profession, or occupation including farming, all whether full or part time.

3. **Credit Card** means a card, plate, coupon book, or other credit device used to obtain money, property, labor, or services on credit. This includes debit cards or fund transfer cards used to deposit, withdraw or transfer funds.

4. **Insured Premises** means the location shown on the Declarations.

5. **Limit** means the limit of liability that applies.

6. **Motorized Vehicle** means a self-propelled land amphibious vehicle regardless of method surface contact.

7. **Pollutant** means any solid, liquid, gaseo thermal, or radioactive irritant or contamina including acids, alkalis, chemicals, fumes, smo soot, vapor, or waste. Waste includes materials be disposed of, recycled, reconditioned, reclaimed.

8. **Terms** means all provisions, limitations, exc sions, conditions, and definitions used in t policy.

PRINCIPAL COVERAGES

Coverage A – Residence

1. **We** cover the residence on the **insured premises**, including its additions, built-in components, and attached fixtures. On the **insured premises**, **we** also cover:

   a. building items that can be detached from the covered residence, such as screens and storm doors;

   b. appliances, carpets, and window coverings in that part of the residence **you** rent to others;

   c. building materials and supplies for use in construction on the **insured premises**; and

   d. if this policy does not provide Coverage C, tools and equipment used to service the **insured premises**. This includes **motorized vehicles** used only to service the **insured premises** that are not required to be licensed for road use.

2. Coverage A does not cover:

   a. land, including the land on which the property is located, underground water or surface water;

   b. trees, plants, shrubs, and lawns; and

   c. farm tools, farm equipment, and farm **motorized vehicles**.

Coverage B – Related Private Structures

1. **We** cover related private structures on the **insure premises** which are not attached to the residenc including their additions, built-in components, ar attached fixtures. Structures that are connected i the residence by only a fence, a utility line, or similar connection are not considered attache On the **insured premises**, **we** also cover:

   a. fences, driveways, and sidewalks;

   b. other permanently installed outdoor fixture and

   c. building items that can be detached fro covered related private structures, such a screens and storm doors.

2. Coverage B does not cover:

   a. land, including the land on which the property i located, underground water or surface water;

   b. trees, plants, shrubs, and lawns;

   c. structures used for **business**; and

   d. structures rented or held for rental. This doe not apply to structures:

      1) rented or held for rental to a tenant of th covered residence and not used fo **business** by the tenant; or
      2) used solely as a private garage.

1. **While on the Insured Premises** -- This policy covers personal property, while on the **insured premises**, which is usual to the occupancy of the dwelling as a residence. The personal property must be owned or used by **you** or **your** family members who reside with **you**.

2. **While Away from the Insured Premises** -- **You** may apply up to 10 percent of the Coverage C **limit** to cover personal property, while away from the **insured premises**, which is usual to the occupancy of the dwelling as a residence. The personal property must be owned or used by **you**, or **your** family members who reside with **you**.

3. **While in a Newly Acquired Principal Residence** -- **We** pay for loss to covered personal property in a newly acquired principal residence. The full Coverage C **limit** applies for 30 days from the date **you** begin to move. After that, coverage for personal property in a newly acquired principal residence is limited to 10 percent of the Coverage C **limit**. This coverage does not extend past the date on which the policy expires or the date on which the policy is terminated.

4. **Property of Others** -- At **your** option, personal property owned by a guest or domestic employee is covered while it is in that part of the **insured premises** occupied by **you**.

5. **Limitations on Certain Property** -- The special **limits** shown below do not increase the Coverage C **limit**. The **limit** for each class is the total **limit** per occurrence for all items in that class.

   a. $200 on money, bank notes, bullion, gold other than goldware and gold-plated ware, silver other than silverware and silver-plated ware, platinum, coins, and numismatic prop-erty.

   b. Regardless of their storage medium, $1,000 on securities, bills, letters of credit, notes other than bank notes, tickets, accounts, deeds, evidence of debt, passports, manuscripts, stamps, and philatelic property.

   c. $1,000 on watercraft including their trailers, furnishings, equipment, and motors.

   d. **Business** property, up to the amounts shown below:
      1) $2,500 while on the **insured premises**;
      2) $250 while away from the **insured premises**.

   e. $1,000 on trailers not otherwise provided for.

6. **Personal Property Not Covered** -- Coverage C does not cover:

   a. land, including the land on which the property is located, underground water or surface water;

   b. trees, plants, shrubs, and lawns;

   c. animals, birds, fish, or insects;

   d. **motorized vehicles**. This includes their parts, equipment, and accessories while in or on a **motorized vehicle**. **We** do cover **motor-ized vehicles** that are not subject to motor vehicle registration if they are designed and used to assist the handicapped or used only to service the **insured premises**;

   e. aircraft, including their parts and equipment;

   f. electronic devices, accessories, or antennas that may be operated from the electrical system of a **motorized vehicle**, farm equipment, or watercraft while in or on the **motorized vehicle**, farm equipment, or watercraft. This includes films, tapes, wires, discs, records, or other media for use with such devices;

   g. loss that results from **credit cards**; or

   h. farm property.

Coverage D -- Additional Living Costs and Fair Rental Value

We pay the necessary and reasonable increase in living costs **you** incur to maintain the normal standard of living of **your** household if the part of the **insured premises** containing **your** household is made unfit for use by an insured loss. **We** pay only for the period of time reasonably required to make that part of the **insured premises** containing **your** household fit for use or to settle **your** household in new quarters, whichever is less. This period of time is not limited by the policy period.

We pay for the fair rental value if the part of the **insured premises** rented or held for rental to others is made unfit for use by an insured loss. **We** only

pay for the period of time reasonably required to make that part of the **insured premises** rented or held for rental to others fit for use. Fair rental value is the amount **you** would have received less the charges and expenses that do not continue while the **insured premises** is unfit for use. This period of time is not limited by the policy period.

We pay **your** additional living costs and fair rental value for up to two weeks if the premises next to the **insured premises** is damaged by a peril insure against and **you** may not, by order of civil authorit use the **insured premises**. This period of time is n limited by the policy period.

We do not pay for additional living costs or fair rent value due to the cancellation of a lease or a agreement.

INCIDENTAL COVERAGES

This policy provides the following Incidental Coverages. They are subject to all of the terms of the applicable Coverages A, B, or C. They are not extended to farm property. These coverages provide additional insurance unless otherwise stated.

1. **Emergency Removal** -- **We** pay for loss to covered property that is moved to prevent loss by a peril insured against. The property is covered for direct physical loss not excluded, for up to 30 days. This coverage does not extend past the date on which this policy terminates.

   We pay up to a $250 towing charge to move a covered mobile home that is in danger from a peril insured against.

   This coverage does not increase the **limits** shown for the property being removed.

2. **Debris Removal** -- **We** pay for the cost to remove the debris of covered property after an insured loss. This includes the cost to remove volcanic ash, dust, or particulate matter that causes direct physical loss to covered property.

   You may apply up to 25% of the **limit** that applies to the damaged property to cover debris removal. **We** will not pay more for direct loss to property and debris removal combined than the **limit** that applies to the damaged property. However, when the covered loss plus the cost of debris removal is more than the applicable **limit**, **we** will pay up to an extra 5% of the applicable **limit** to cover the cost of debris removal.

   This coverage does not include costs to extract **pollutants** from land or water; or remove, restore, or replace polluted land or water.

   We also pay the cost to remove fallen trees which cause damage to property covered under Coverages A, B, or C if:

   a. the falling of the tree is caused by any of the perils insured against; and

   b. coverage is not provided elsewhere by this policy.

   Regardless of the number of fallen trees, the most **we** will pay is $500 per occurrence.

3. **Trees, Plants, Shrubs, or Lawns** -- **We** pay for loss to trees, plants, shrubs, or lawns on the **insured premises** caused by:

   a. fire or lightning, explosion, riot or civil commotion, aircraft;

   b. vehicles, if not owned or operated by **you** or an occupant of the **insured premises**; or

   c. if covered by this policy, vandalism or theft.

   We do not cover trees, plants, shrubs, or lawns grown for **business**.

   You may apply up to 5 percent of the Coverage A **limit** on the **insured premises** to cover trees, plants, shrubs, or lawns. **We** do not pay more than $500 for each tree, plant, or shrub. This includes the cost to remove the debris of the covered item.

4. **Fire Department Service Charge** -- **We** pay up to $500 for charges assumed by **you** under a contract or agreement when a fire department is called to protect covered property from a peril insured against.

5. **Tenant's Improvements** -- If **you** are a tenant, **we** pay for loss by perils insured against to improvements on the **insured premises** made or acquired at **your** expense. These are permanent fixtures, alterations, decorations, and additions.

   You may apply up to 10 percent of the Coverage C **limit** to cover tenant's improvements.

PERILS INSURED AGAINST -- COVERAGES A, B, C, AND D

We insure against direct physical loss caused by the following perils, unless the loss is excluded under the General Exclusions:

1. **Fire or Lightning**

2. **Explosion**

Optional Perils -- Extended Coverage -- The following perils (Numbers 3 through 9) are subject to an additional premium charge and apply only if coverage for Extended Coverage is shown on the Declarations.

3. **Windstorm or Hail** -- However, **we** do not pay for loss:

   a. to the interior of a building or mobile home, or to property inside a structure caused by dust, rain, sand, sleet, snow or water, all whether driven by wind or not, which enter through an opening not made by the direct force of wind or hail;

   b. to watercraft and their trailers, furnishings, equipment and motors unless inside a fully enclosed building. (**We** do cover canoes and rowboats while on the **insured premises**.); or

   c. to outdoor antennas, including their lead-in wiring, masts and towers.

4. **Riot or Civil Commotion**

5. **Aircraft** -- This means direct loss from actual physical contact of an aircraft with covered property and includes objects falling from aircraft.

6. **Vehicles** -- However, **we** do not pay for loss to fences, driveways and walks caused by a vehicle owned or operated by **you** or an occupant of the **insured premises**.

7. **Sudden and Accidental Damage from Smoke** -- However, **we** do not pay for loss caused by smoke from agricultural smudging or industrial operations.

8. **Sinkhole Collapse** -- This means loss caused by sudden settlement or collapse of earth supporting covered property. The earth settlement or collapse must result from subterranean voids created by the action of water on a limestone or similar rock formation.

   However, **we** do not cover the value of land or the cost of filling sinkholes.

9. **Volcanic Action** -- This means:

   a. airborne volcanic blast or airborne shock waves;

   b. ash, dust, or particulate matter; or

   c. lava flow.

   However, **we** do not cover removal of ash, dust, or particulate matter that does not cause direct physical loss to covered property.

Optional Peril -- Vandalism -- This peril (Number 10) is subject to an additional premium charge and applies only if coverage for Vandalism is shown on the Declarations.

10. **Vandalism** -- However, **we** do not pay for loss on the **insured premises** if the residence is vacant for more than 30 days in a row just before the loss. A residence being built is not vacant.

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GENERAL EXCLUSIONS

We do not pay for loss if one or more of the following exclusions apply to the loss, regardless of other causes or events that contribute to or aggravate the loss, whether such causes or events act to produce the loss before, at the same time as, or after the excluded causes or events.

1. **Business Interruption** -- **We** do not pay for loss which results from interruption of **business.**

2. **Civil Authority** -- **We** do not pay for a loss which results from order of civil authority.

   We pay for loss which results from acts of a civil authority to prevent the spread of fire. **We** do not pay if the fire was caused by an excluded peril.

3. **Earth Movement** -- **We** do not pay for loss which results from earth movement whether the earth movement results from natural or artificial causes.

   Earth movement includes but is not limited to:

   a. earthquake;

   b. landslide, subsidence, erosion;

   c. mudflow;

   d. earth sinking, rising, shifting, expanding, or contracting. This does not include Sinkhole Collapse as described under Perils Insured Against; or

   e. volcanic explosion. Volcanic explosion does not include Volcanic Action as described under Perils Insured Against.

   We do pay for direct loss caused by fire, explosion (other than a volcanic explosion) and, if covered by this policy, theft resulting from earth movement.

4. **Intentional Acts** -- **We** do not pay for loss which results from an act committed with intent to cause a loss:

   a. by **you** or at **your** direction; or

   b. by or at the direction of any other insured.

5. **Neglect** -- **We** do not pay for loss which results from **your** neglect to use all reasonable means to save and preserve covered property at and after the time of a loss.

6. **Nuclear Hazard** -- **We** do not pay for loss which results from nuclear reaction, nuclear radiation, or radioactive contamination (whether controlled or uncontrolled; whether caused by, contributed to or aggravated by a peril insured against and whether caused by natural, accidental, or artificial means). Loss caused by nuclear hazard is not considered loss caused by fire, explosion, or smoke. Direct loss by fire resulting from the nuclear hazard is covered.

7. **Ordinance or Law** -- **We** do not pay for loss or increased cost which results from the enforcement of a code, ordinance, or law which regulates the use, construction, repair, demolition of property, or removal of its debris.

8. **Power Disruption** -- **We** do not pay for loss which results from the disruption of power or other utility service, whether or not it is caused by a peril insured against, if the cause of the disruption is not on the **insured premises.**

   We do pay for direct loss by a peril insured against which occurs on the **insured premises** as a result of the disruption of power.

9. **War** -- **We** do not pay for loss which results from declared or undeclared war, civil war, insurrection, rebellion, revolution, warlike act by a military force or military personnel, or destruction, seizure, or use of property for a military purpose. It includes the consequences of these. Discharge of a nuclear weapon is deemed an act of war even if it is accidental.

10. **Water Damage** -- **We** do not pay for loss which results from the following:

    a. flood, surface water, waves, tidal water, overflow of a body of water, or spray, all whether driven by wind or not;

    b. water which backs up through or overflows from sewers, drains, or sumps; or

    c. water below the surface of the ground. This includes water which exerts pressure on, or seeps or leaks through or into a building, sidewalk, driveway, foundation, swimming pool, or other structure.

    We pay for direct loss caused by fire; explosion (other than a volcanic explosion); and, if covered by this policy, theft resulting from water damage.

11. **Wear and Tear** – **We** do not pay for loss which results from wear and tear, marring, deterioration, inherent vice, latent defect, mechanical breakdown, rust, wet or dry rot, corrosion, mold, contamination, or smog. **We** do pay for an ensuing loss unless the ensuing loss itself is excluded.

12. **Weather Conditions** -- **We** do not pay for loss which results from weather conditions that initiate, set in motion, or in any way contribute to losses excluded under the preceding General Exclusions (Numbers 1 through 11).

    We do pay for an ensuing loss unless the ensuing loss itself is excluded.

13. **Errors, Omissions, and Defects** -- **We** do not pay for loss which results from one or more of the following:

    a. an act, error, or omission (negligent or not) relating to:

       1) land use;
       2) the design, specification, construction, workmanship, or installation of property;
       3) planning, zoning, development, surveying, siting, grading, compaction; or
       4) maintenance of property (including land, structures, or improvements);

       whether on or off the **insured premises**;

    b. a defect, a weakness, the inadequacy, a fault, or unsoundness in materials used in construction or repair whether on or off the **insured premises**.

    We do pay for an ensuing loss unless the ensuing loss itself is excluded.

WHAT YOU MUST DO IN CASE OF LOSS

1. **Notice** – In case of a loss, **you** must:

   a. give **us** or **our** agent prompt notice (**We** may request written notice); and

   b. give notice to the police when the act that causes the loss is a crime.

   The notice to **us** must state:

   a. **your** name, the policy number and the time, place, and the details of the loss; and

   b. the names and addresses of all known potential claimants and witnesses.

2. **Cooperation** -- **You** must cooperate with **us** in investigating and settling the claim.

3. **Volunteer Payments** – **You** must not make payments, pay or offer rewards or assume obligations or other costs, except at **your** own cost. This does not apply to costs that are allowed by this policy.

4. **Other Duties** -- **You** must take all reasonable steps to protect covered property at and after an insured loss to avoid further loss. **We** will pay the reasonable costs incurred by **you** for necessary repairs or emergency measures performed solely to protect covered property from further damage by a peril insured against if a peril insured against has already caused a loss to covered property. **You** must keep an accurate record of such costs. However, **we** will not pay for such repairs or emergency measures performed on property which has not been damaged by a peril insured against. This does not increase **our limit**.

   At **our** request **you** must:

   a. give **us** a signed, sworn proof of loss, within 60 days after **our** request, that shows:

      1) the time, place, and the details of the loss;
      2) **your** interest and the interest of all others in the property. This includes all mortgages and liens;
      3) other policies that may cover the loss;
      4) changes in title or use;
      5) available plans and specifications of buildings;
      6) detailed estimates for repair; and
      7) in detail, the quantity, description, cost, amount of loss, and actual cash value of the personal property involved in the loss. **You** must give **us** copies of all bills, receipts, and related documents to confirm these;

b. submit to examination under oath in matters that relate to the loss or claim as often as **we** reasonably request. If more than one person is examined, **we** have the right to examine and receive statements separately from each person and not in the presence of the others;

c. show the damaged property and allow **us** to take samples of damaged property for inspection, testing, and analysis as often as **we** reasonably request;

d. show records, including tax returns and bank records of all canceled checks that relate to the value, loss, and costs, and permit copies to be made of them as often as **we** reasonably request;

e. assist **us** to enforce any right of recovery which **you** may have against a party causing the loss; and

f. show records that prove loss of rents and show receipts for additional living costs, and permit copies to be made of them as often as **we** reasonably request.

HOW MUCH WE PAY FOR LOSS OR CLAIM

Loss Settlement Terms -- Subject to the deductible or other limitation that applies, we pay the lesser of:

a) the **limit** that applies;
b) **your** interest in the property; or
c) the amount determined under the Actual Cash Value Terms.

1. **Actual Cash Value Terms** -- Actual cash value includes a deduction for depreciation, however caused. The smallest of the following amounts is used in applying the Loss Settlement Terms:

   a. the cost to repair or replace the property with materials of like kind and quality to the extent practical;

   b. the actual cash value of the property at the time of loss; or

   c. (applies only to mobile homes) the difference in the actual cash value just before the loss and the actual cash value just after the loss.

2. **Deductible** -- This applies to Coverages A, B, and C; Debris Removal; Trees, Plants, Shrubs and Lawns; and Tenant's Improvements. It applies to all perils insured against unless otherwise shown. **We** pay that part of the loss over the deductible. Not more than one deductible applies per occurrence. If this policy covers more than one residence, the deductible applies separately to each residence.

3. **Loss to a Pair or Set** -- If there is loss to an item which is part of a pair or set, **we** pay only to replace or repair the item, or **we** pay the difference in the actual cash value of the pair or set just before the loss and the actual cash value just after the loss.

4. **Insurance Under More Than One Coverage** -- If more than one coverage of this policy applies to a loss, **we** pay no more than the actual loss.

5. **Insurance Under More Than One Policy** -- If there is other insurance that applies to the loss, **we** pay **our** share of the loss. **Our** share is that part of the loss that the **limit** of this policy bears to the total amount of insurance that applies to the loss. When a loss is also covered by the master policy of an association or corporation of property owners, this insurance is excess.

6. **Restoration of Limits** -- Each loss **we** pay under this policy does not reduce the **limits** available over the policy term.

PAYMENT OF LOSS

1. **Your Property** -- **We** adjust each loss with **you**. **We** pay an insured loss within 30 days after an acceptable proof of loss is received and the amount of the loss is agreed to in writing. If **you** and **we** do not agree, **we** pay within 30 days after the filing of an appraisal award with **us**. Payment is made to **you** unless a loss payee is named.

2. **Additional Living Costs** – If the **insured premises** is unfit for use for more than one month, covered costs are paid on a monthly basis. **You** must give **us** proof of such costs.

3. **Damage to Personal Property of Others** – At **our** option, an insured loss may be adjusted with and paid:

   a. to **you** on behalf of the owner; or

   b. to the owner. If **we** pay the owner, **we** do not have to pay **you**.

4. **Our Options** – **We** may:

   a. pay the loss in money; or

   b. rebuild, repair or replace the property. **We** must give **you** notice of **our** intent to do so within 30 days after **we** receive an accept-able proof of loss.

We may take all or part of the damaged property at the agreed or appraised value. Property paid for or replaced by **us** becomes **ours**.

POLICY CONDITIONS

1. **Abandonment of Property** – **You** may not abandon the property to **us** unless **we** agree.

2. **Appraisal** – If **you** and **we** do not agree on the amount of the loss, the actual cash value of the property or the cost to repair or replace the property, either party may demand that these amounts be determined by appraisal.

   If either party makes a written demand for appraisal, each will select a competent independent appraiser and notify the other of the appraiser's identity within 20 days after the receipt of the written demand. The two appraisers will select a competent, impartial umpire. If the two appraisers are unable to agree upon an umpire within 15 days, **you** or **we** can ask a judge of a court of record in the state where the property is located to select an umpire.

   For each building item and each item of personal property, the appraisers will determine:

   a. the amount of the loss;

   b. the actual cash value of the property; and

   c. the cost to repair or replace the property.

   Each amount will be stated separately.

   If the appraisers submit a written report of an agreement to **us**, the agreement will establish these amounts. If the appraisers fail to agree within a reasonable time, they will submit only their differences to the umpire. A written agreement by two of these three will establish the amounts stated above.

   Each appraiser will be paid by the party selecting that appraiser. The compensation of the umpire and other costs of the appraisal will be shared equally by **you** and **us**.

   If **we** make the written demand for an appraisal, **we** will pay:

   a. the reasonable and necessary cost for **your** appraiser; and

   b. **your** share of the cost for the umpire.

3. **Assignment** – This policy may not be assigned without **our** written consent.

4. **Cancellation and Nonrenewal** -- You may cancel this policy by returning the policy to **us** or by giving **us** written notice and stating at what future date coverage is to stop.

   We may cancel or not renew this policy by written notice to **you** at the address shown on the Declarations. Proof of delivery or mailing is sufficient proof of notice.

   During the first 60 days this policy is in effect, **we** may cancel for any reason.

   After this policy has been in effect 60 days or more, or if it is a renewal of a policy issued by **us**, **we** may cancel or not renew only at the anniversary date unless:

   a. the premium has not been paid when due;

   b. the policy was obtained through fraud, material misrepresentation or omission of fact, which if known by **us**, would have caused **us** not to issue the policy; or

   c. there has been a material change or increase in hazard of the risk.

   If **we** cancel this policy for nonpayment of premium, **we** will give **you** notice at least 10 days before cancellation is effective. Otherwise, **we** will give **you** notice at least 30 days in advance of cancellation or nonrenewal.

   Your return premium, if any, will be refunded at the time of cancellation or as soon as practical. Payment or tender of the unearned premium is not a condition of cancellation.

5. **Change, Modification, or Waiver of Policy Terms** -- A waiver or change of the **terms** of this policy must be issued by **us** in writing to be valid. If, in the policy period, **we** adopt a revision which broadens coverage without an additional premium, the broadened coverage will apply.

   Our request for an appraisal or examination under oath does not waive policy **terms**.

   If this policy has no expiration date, **we** may substitute or **we** may add, at each anniversary date, forms that are then authorized for use.

6. **Conformity With Statute** -- **Terms** in conflict with the laws of the state where the **insured premises** is located are changed to conform to such laws.

7. **Death** -- On **your** death, protection on **yo** covered property passes to:

   a. **your** legal representative; or

   b. any other persons having proper, tempora custody of covered property.

8. **Inspection** -- **We** may, but are not required t inspect **your** property and operations. **Ou** inspection or resulting advice or report does n warrant that **your** property or operations are saf or healthful or comply with laws, rules, c regulations.

9. **Misrepresentation, Concealment, or Fraud** - **We** do not provide coverage if, before or after a loss:

   a. **you** or any other insured have willfully concealed or misrepresented:

      1) a material fact or circumstance with respect to this insurance; or
      2) their interests herein; or

   b. there has been fraud or false swearing by **you** or any other insured with respect to this insurance or the subject thereof.

10. **Mortgage Clause** -- This applies only to coverage on buildings. The word "mortgagee" includes trustee.

    a. If a mortgagee is named on the Declarations, a loss payable under Coverages A or B will be paid to the mortgagee and **you**, as interests appear. If more than one mortgagee is named, the order of payment will be the same as the order of precedence of the mortgages.

       If **we** deny **your** claim, that denial does not apply to a valid claim of the mortgagee, if the mortgagee has:

       1) notified **us** of change in ownership, occupancy, or substantial change in risk of which the mortgagee became aware;
       2) paid the premium due under this policy on demand if **you** neglected to pay the premium; and
       3) submitted a signed, sworn proof of loss within 60 days after receiving notice from **us** if **you** failed to do so.

       All **terms** of this policy apply to the mortgagee unless changed by this clause.

b. If we cancel or do not renew this policy, we will notify the mortgagee at least 10 days before the date cancellation or nonrenewal takes effect.

c. If we pay the mortgagee for a loss and deny payment to you:

1) we are subrogated, up to the amount we paid for the loss, to all the rights of the mortgagee granted under the mortgage on the property; or
2) at our option, we may pay to the mortgagee the whole principal on the mortgage plus the accrued interest. In this event, we shall receive a full assignment and transfer of the mortgage and all securities held as collateral to the mortgage debt.

Subrogation shall not impair the right of the mortgagee to recover the full amount of the mortgagee's claim.

11. **No Benefit To Bailee** – Coverage under this policy will not directly or indirectly benefit those who are paid to assume custody of the covered property.

12. **Policy Period** – This policy only covers losses that occur during the policy period.

13. **Recoveries** – This applies if we pay for a loss and lost or damaged property is recovered, or payment is made by those responsible for the loss.

a. You must inform us or we must inform you if either recovers property or receives pay-ment.

b. Proper costs incurred by either party are paid first.

c. You may keep the property. The amount of the claim paid or a lesser amount to which we agree, must be returned to us.

d. If the claim paid is less than the agreed loss due to a deductible, or other limiting terms, the recovery is prorated between you and us based on the interest of each in the loss.

14. **Safety Glass** – When breakage of glass is covered, we pay to replace the damaged glass with safety glazing materials if required by code, ordinance or law.

15. **Secured Party Coverage** – This applies only to coverage on mobile homes and personal property. This entire clause is void unless the name of a secured party is shown on the Declarations. This clause applies only to the interest of a secured party and does not affect your rights or duties under the policy.

a. If a secured party is named on the Declarations, a loss payable on property subject to the security interest will be paid to the secured party and you as interests may appear. If there is more than one security interest in the same property, the order of payment will be the same as their order of priority.

If we deny your claim, that denial does not apply to a valid claim of a secured party if the secured party has:

1) notified us of a change in ownership, occupancy, or substantial change in risk of which the secured party became aware;
2) paid the premium due under this policy on demand if you neglected to pay the premium; and
3) submitted a signed, sworn proof of loss within 60 days after receiving notice from us if you failed to do so.

All terms of this policy apply to the secured party unless changed by this clause.

b. If we cancel or do not renew this policy, we will notify the secured party at least 10 days before the date cancellation or nonrenewal takes effect.

c. If we pay the secured party for a loss and deny payment to you:

1) we are subrogated, up to the amount we paid for the loss, to all the rights of the secured party granted under the security agreement; or

2) at **our** option, **we** may pay the secured party the remaining amount due on the security agreement plus the accrued interest. In this event, **we** shall receive full assignment of the security agreement and securities held as collateral for the agreement.

However, the secured party's interest is not covered for **your** conversion, embezzlement, or secretion of encumbered property in **your** possession, unless specifically insured against and premium paid for such.

16. **Subrogation** -- If **we** pay for a loss, **we** may require that **you** assign to **us** the right of recovery up to the amount **we** pay. **We** are not liable for a loss if, after the loss, **you** impair **our** right to recover against others. **You** may waive **your** right to recover, in writing, before a loss occurs, without affecting coverage. If **we** pay a loss to or for **you** and **you** recover from another party for the same loss, **you** must pay **us** as stated in Recoveries.

17. **Suit Against Us** -- No suit may be brought against **us** unless all the **terms** of this policy have been complied with and the suit is brought within two years after the loss.

18. **Volcanic Action** -- All volcanic action that occurs within a 72-hour period constitutes a single occurrence.

Please Read This Entire Policy Carefully
– THIS IS A LEGAL CONTRACT –

COMMERCIAL LIABILITY COVERAGE (PREMISES ONLY)

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Common Policy Conditions - These are shown on a separate form.

Endorsements may also apply. They are identified on the Declarations page.

Refer to the Definitions for words that have special meanings. These words are shown in **"bold type"**.

AGREEMENT

Subject to all the terms that apply, and in return for your payment of the required premium, we provide the Commercial Liability Coverage described in this policy during the policy period.

Policy terms that relate to cancellation, changes made to the policy, examination of books and records, inspections and surveys, and assignment or transfer of rights or duties also apply.

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DEFINITIONS

1. **Bodily Injury** – This means bodily harm, sickness or disease sustained by a person and includes required care and loss of services. **Bodily injury** includes death that results from bodily harm, sickness or disease.

2. **Incidental Contract** – This means a written:

   a. lease of premises;

   b. easement agreement (this does not include an agreement in connection with any construction or demolition operation on or adjacent to a railroad);

   c. promise to indemnify a municipality if required by an ordinance (this does not apply in connection with work done for the municipality);

   d. sidetrack agreement; or

   e. elevator maintenance agreement.

3. **Insured** – If shown on the Declarations as an "individual", **insured** means **you** and **your** spouse, but only with respect to the conduct of a business on the **insured premises** of which **you** are the sole owner.

   If shown on the Declarations as a "partnership" or a "joint venture", **insured** means **you** and all **your** partners or members and their spouses, but only with respect to the conduct of the business on the **insured premises**.

   If shown on the Declarations as an "organization" (other than a partnership or joint venture), **insured** means **you** and all of **your** executive officers and directors, but only while acting within the scope of their duties in connection with the business conducted on the **insured premises** described on the Declarations. It also includes **your** stockholders, but only for their liability as such.

   Insured also includes:

   a. anyone, except **your** employees, while acting as **your** real estate manager;

   b. if **you** die during the policy period, **your** legal representative while acting within the scope of his duties as such with respect to the **insured premises**, or a person who has custody of **your** property with respect to liability arising out of the maintenance or use of that property until **your** legal representative is appointed;

   c. **your** employees, for acts within the scope of t employment by **you** (this does not include y executive officers). None of these employees **insureds** for:

      1) injury to **you** or a fellow employee; or
      2) **property damage** to property owned by, ren to or loaned to employees, or any of y partners or members and their spouses (if y are a joint venture or a partnership).

   d. any organization (other than a joint venture o partnership) newly acquired or formed by **you**, and which **you** have a majority interest.

      Such an organization is not an **insured**:

      1) if there is other similar insurance available to it;
      2) after 90 days immediately following t acquisition or formation; or
      3) for **bodily injury** or **property damage** occurred prior to the acquisition or formation.

   No person or organization is an **insured** with respect the conduct of a current or past partnership or j venture that is not shown on the Declarations as **insured**.

4. **Insured Premises** – this means the location shown the Declarations, the grounds and all adjoining acc ways.

5. **Limit** – This means the limit of liability that applies.

6. **Loading or Unloading** – This means the movemen property:

   a. starting with the time it is removed from the p where it has been accepted for transit by **motorized vehicle**, an aircraft or watercraft;

   b. continuing while it is on such vehicle; and

   c. ending when it has been removed from the vehicl its point of destination.

   Loading or unloading includes movement by mechanical device attached to the vehicle.

7. **Motorized Vehicle** – This means a self-propelled l or amphibious vehicle regardless of method of surf contact. This includes parts and equipment.

   This does not include vehicles that are designed used to assist the handicapped and not required t licensed for road use.

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8. **Occurrence** – This means an accident and includes repeated exposure to similar conditions.

9. **Products/Completed Work Hazard** –

   a. **Products hazard** means **bodily injury** or **property damage** occurring away from the **insured premises** and arising out of **your product** after physical possession of it has been relinquished to others.

   b. **Completed work hazard** means **bodily injury** or **property damage** arising out of **your work**. It does not include work that has not been completed, or that has been abandoned.

      Your work is deemed completed at the earliest of the following times:

      1) when all work specified in **your** contract has been done;
      2) when all work to be done at a job site has been completed if **your** contract includes work at more than one site; or
      3) when **your work** at a job site has been put to its intended use by someone other than another contractor or subcontractor working on the same job site.

      Work which requires further service, maintenance, correction, repair or replacement because of a defect or deficiency, but which is otherwise complete, shall be deemed completed.

   c. Neither of these hazards include **bodily injury** or **property damage** arising out of:

      1) the transportation of property, unless the injury or damage arises out of a condition in or on a vehicle, created by **loading or unloading**;
      2) the presence of tools, uninstalled equipment or abandoned or unused materials; or
      3) **products** or work for which the classification on the Declarations specifies "including Products/Completed Work."

10. **Products** – This means goods or **products** manufactured, sold, handled, distributed or disposed of by **you**, others trading under **your** name, or a person or organization whose business or assets **you** have acquired.

    Products includes:

    a. warranties or representations made at any time with respect to the fitness, quality, durability or performance of **your products**; and

    b. containers (other than vehicles), materials, parts or equipment furnished in connection with such goods or **products**.

    Products does not include:

    a. vending machines;

    b. property that is rented to or placed for the use of others, but not sold; or

    c. real property.

11. **Property Damage** – This means:

    a. physical injury or destruction of tangible property; or

    b. the loss of use of tangible property whether or not it is physically damaged.

12. **Terms** – This means all provisions, limitations, exclusions, conditions and definitions that apply.

13. **We, Us, Our** – These words mean the company providing this coverage.

14. **You, Your** – These words mean the person or organization named on the Declarations.

15. **Your Work** – This means:

    a. work or operations performed by **you** or on **your** behalf;

    b. materials, parts and equipment **you** supply for such work or operations; and

    c. written warranties or representations made at any time regarding quality, fitness, durability or performance of any of the foregoing.

PRINCIPAL COVERAGES

We provide insurance for the following coverages indicated by a specific **limit** or premium charge on the Declarations.

COVERAGE L – BODILY INJURY LIABILITY PROPERTY DAMAGE LIABILITY

We pay all sums which an **insured** become legally obligated to pay as damages due to **bodily injury** or **property damage** to which this insurance applies. The **bodily injury** or **property damage** must be caused by an **occurrence** and arise out of the ownership, maintenance or use of the **insured premises** or operations that are necessary or incidental to the **insured premises**.

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This insurance applies only to **bodily injury** or **property damage** which occurs during the policy period.

COVERAGE M – MEDICAL PAYMENTS

We pay the medical expenses defined below for **bodily injury** caused by an accident on the **insured premises.**

We pay such expenses regardless of fault, but only if:

1. they arise out of an accident that occurred during the policy period; and

2. they are incurred and reported within one year of the accident.

Medical expenses means the reasonable and necessary expenses for:

1. medical, surgical, x-ray and dental services, including prosthetic devices and eye glasses;

2. ambulance, hospital, professional nursing and funeral services; and

3. first aid at the time of an accident.

COVERAGE O – FIRE LEGAL LIABILITY

We pay for **property damage** to the **insured premises** which **you** rent if the **property damage** is caused by fire for which **you** are legally liable. Buildings include fixtures permanently attached thereto.

All of the exclusions otherwise applicable to **property damage** do not apply to this coverage. However, we do not cover:

1. liability arising under any contract to indemnify any person or organization for damages by fire to the premises; or

2. liability arising out of **property damage** expected, directed or intended by an **insured.**

INCIDENTAL COVERAGES

Subject to all the terms of the Principal Coverages, we provide the following incidental coverages. They do not increase the limits stated for the Principal Coverages.

INCIDENTAL VEHICLE COVERAGE

We pay for **bodily injury** or **property damage** arisin of:

1. the parking of a **motorized vehicle** on premises o by, rented to or controlled by **you** or on the immediately adjoining, if the **motorized vehicle** i owned by or rented to or loaned to an **insured;**

2. a **motorized vehicle** while it is used to service **insured premises** and not subject to motor ve registration; or

3. a watercraft that is on shore on premises owned rented to or controlled by **you.**

INCIDENTAL MEDICAL MALPRACTI INJURY

We cover **bodily injury** arising out of the rendering failure to render the following services:

1. medical, surgical, dental, x-ray or nursing services treatment, or the furnishing of food or beverages connection therewith; or

2. the furnishing or dispensing of drugs or medical, de or surgical supplies or appliances.

This coverage does not apply to:

1. expenses incurred by an **insured** for first aid to others the time of an accident;

2. an **insured** or an employee engaged in the business occupation of providing any of the services describ under 1. and 2. above; or

3. injury caused by an indemnitee if such indemnitee engaged in the business or occupation of providing a of the services described in 1. and 2. above.

DEFENSE COVERAGE

Payments under this coverage are in addition to the limi for the Commercial Liability Coverage.

We have the right and duty to defend a suit seekin damages for **bodily injury** or **property damage** which ma be covered under the Commercial Liability Coverage. W may make investigations and settle claims or suits w decide are appropriate.

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Suit includes any alternative dispute resolution proceeding involving **bodily injury** or **property damage** to which:

1. **you** must submit; or

2. **you** submit with **our** consent.

We do not have to provide defense after **we** have paid an amount equal to the **limit** as the result of:

1. a judgment; or

2. a written settlement agreed to by **us**.

If **we** defend a suit, **we** will pay:

1. The costs taxed to the **insured**.

2. The expenses incurred by **us**.

3. The actual loss of earnings by an **insured** for the time spent away from work at **our** request. **We** pay up to $100 per day.

4. The necessary expenses incurred by an **insured** at **our** request.

5. Pre-judgment interest awarded against any **insured** on that part of the judgment **we** pay. If **we** offer to pay the **limit**, **we** will not pay any pre-judgment interest based on that period of time after the offer.

6. The interest which accrues beginning with entry of a judgment and ending when **we** tender, deposit in court, or pay up to **our limit**.

7. The cost of appeal bonds or bonds for the release of attachments up to **our limit**. **We** are not required to apply for or furnish such bonds.

EXCLUSIONS THAT APPLY TO ALL COVERAGES

We do not pay for a loss if one or more of the following excluded events apply to the loss, regardless of other causes or events that contribute to or aggravate the loss.

1. **We** do not pay for **bodily injury** or **property damage** which is expected by, directed by, or intended by an **insured**. This exclusion does not apply to **bodily injury** that arises out of the use of reasonable force to protect people or property.

2. **We** do not pay for **bodily injury** or **property damage** liability which is assumed under a contract or an agreement. This exclusion does not apply to an **incidental contract**.

3. **We** do not pay for **bodily injury** or **property damage** that arises out of the rendering or the failure to render a professional service, except as provided by the coverage under Incidental Medical Malpractice Injury.

4. **We** do not pay for **bodily injury** or **property damage** that arises out of the use of **motorized vehicles** in or in the practice or preparation for racing, speed, pulling or pushing, demolition or stunt activities or contests.

5. **We** do not pay for **bodily injury** or **property damage** arising out of any premises other than the **insured premises**.

6. **We** do not pay for **bodily injury** or **property damage** that arises out of the ownership, operation, maintenance, use, occupancy, renting, loaning, entrusting, supervision, **loading or unloading** of:

   a. an aircraft;
   b. a **motorized vehicle**;
   c. a watercraft.

   except as provided under Incidental Vehicle Coverage.

Exclusion 7. applies if **you** are in the business of manufacturing, distributing, selling or serving alcoholic beverages.

7. **We** do not pay for **bodily injury** or **property damage** for which an **insured** may be held liable by reason of:

   a. causing or contributing to the intoxication of a person;

   b. the furnishing of alcoholic beverages to a person under the influence of alcohol; or

   c. a law or regulation relating to the sale, gift, distribution or use of alcoholic beverages.

8. **We** do not pay for:

   a. **bodily injury** to an employee of an **insured** if it occurs in the course of employment; or
   b. consequential injuries to a spouse, child, parent, sister or brother of such injured employee.

   Exclusion 8 applies where:

   a. the **insured** is liable either as an employer or in any other capacity; or

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b. there is an obligation to fully or partially reimburse a third person for damages arising out of paragraph 8.a or 8.b. above.

Exclusion 8. does not apply to liability assumed by an **insured** under an **incidental contract.**

9. We do not pay for **bodily injury** or **property damage**:

a. arising wholly or partially out of the actual, alleged or threatened discharge, dispersal, release or escape of pollutants:

1) at or from the **insured premises** unless the **bodily injury** or **property damage** arises from the heat, smoke or fumes of a fire which becomes uncontrollable or breaks out from where it was intended to be;
2) occurring in the transporting, handling, treatment, storage, disposal or processing of any material, including waste, by or for **you** or by any person or organization for whom **you** may be legally liable; or
3) at or from any premises where **you** or any contractor or subcontractor, directly or indirectly under **your** control, are working or have completed work:

a) if the pollutant is on the premises in connection with such work, unless the **bodily injury** or **property damage** arises from the heat, smoke, or fumes of a fire which becomes uncontrollable or breaks out from where it was intended to be; or
b) if the work in any way involves testing, monitoring, clean-up, containing, treating or removal of pollutants.

b. due to any loss, cost or expense arising out of governmental action or inaction involving in any way the testing, monitoring, clean-up, containing, treating or removal of pollutants.

Pollutants means:

1) any solid, liquid, gaseous, thermal, electrical emission (visible or invisible) or sound emission pollutant, irritant or contaminant; or

2) waste, including materials to be recycled, reclaimed or reconditioned as well as disposed of.

10. We do not pay for **bodily injury** if benefits are provided or are required to be provided by an **insured** under a workers' compensation, nonoccupational disability, occupational disease or like law.

11. We do not pay for **bodily injury** or **property dama** that arises out of war. War includes undeclared w civil war, insurrection, rebellion or revolution, or an ac a condition of war.

12. We do not pay for **bodily injury** or **property dama** included within the **Products/Completed Wo Hazard.**

ADDITIONAL EXCLUSIONS THAT APPLY TO PROPERTY DAMAGE LIABILITY

1. We do not pay for **property damage** to property own by, occupied by or rented to an **insured**, except covered under Coverage O, Fire Legal Liability.

2. We do not pay for **property damage** to premises y sell, give away or abandon, if the **property dama** arises out of any part of those premises.

3. We do not pay for **property damage** to property us by or loaned to **you**. This exclusion does not apply wi respect to liability assumed under a written sidetra agreement.

4. We do not pay for **property damage** to property in t care, custody or control of an **insured**. This exclusi does not apply with respect to liability assumed under written sidetrack agreement.

5. We do not pay for **property damage** to **your product** if the damage is caused by the **product** or a part of it.

6. We do not pay for **property damage** to work per-forme by **you** if the damage is caused by the work or a part the work and included in the **Products/ Complete Work Hazard.**

7. We do not pay for **property damage** to property tha has not been physically injured or destroyed, or t **impaired property** that results from:

a. a delay or failure to perform a contract by **you** or on acting on **your** behalf; or
b. a defect, deficiency, inadequacy or unsafe conditio in **your product** or **work** performed by **you** or o your behalf.

This exclusion does not apply to the loss of use o property resulting from sudden and accidental injury o or destruction of **your products** or **your work** after th **products** or **work** have been put to their intended use.

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ADDITIONAL EXCLUSIONS THAT APPLY TO MEDICAL PAYMENTS

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1. **We** do not pay for medical expenses for **bodily injury** to an **insured**.

2. **We** do not pay for medical expenses for **bodily injury** to:

   a. a person hired by or on behalf of any **insured** to do work for an **insured**; or
   b. a tenant of an **insured**.

3. **We** do not pay for medical expenses for **bodily injury** to a person injured on that part of the premises that the person normally occupies.

4. **We** do not pay for medical expenses for **bodily injury** to a person while taking part in athletic activities.

5. **We** do not pay for medical expenses for **bodily injury** included in the **Products/Completed Work Hazard**.

6. If the named **insured** is a club, **we** do not pay for medical expenses for **bodily injury** to any member of the named **insured**.

7. If the named **insured** is a hotel, motel or tourist court, **we** do not pay for medical expenses for **bodily injury** to a guest of the named **insured**.

8. **We** do not pay for medical expenses for **bodily injury** to a person if benefits are provided or required to be provided under any workers' compensation, nonoccupational disability, occupational disease or like law.

9. **We** do not pay for medical expenses for **bodily injury** to a student, camper, patient or inmate enrolled in a program of any facility owned or operated by **you** or on **your** behalf.

WHAT MUST BE DONE IN CASE OF LOSS

1. **Notice** --

   a. In the case of an **occurrence**, or if an **insured** becomes aware of anything that indicates that there might be a claim under the Commercial Liability Coverage, the **insured** must promptly give notice to **us** or **our** agent.

      Notice to **our** agent is notice to **us**.

   b. The notice to **us** must state:

      1) the **insured's** name;
      2) the policy number;
      3) the time, the place and the circumstances of th **occurrence**; and
      4) the names and addresses of all known an potential claimants and witnesses.

2. **Cooperation** – The **insured** must cooperate with **us** i performing all acts required by the Commercial Liabili Coverage.

3. **Volunteer Payments** -- An **insured** must not mak payments or assume obligations or other costs except a the **insured's** own cost. This does not apply to first ai to others at the time of **bodily injury**.

4. **Other Duties** --

   a. If a claim is made or suit is brought, the **insured** must:

      1) promptly send to **us** copies of all legal papers, demands and notices; and
      2) at **our** request assist in:

         a) a settlement;
         b) the conduct of suits. (This includes the attendance at trials or hearings);
         c) the enforcing of rights against all parties who may be liable to an **insured** for the injury or damage;
         d) the securing of and giving of evidence; and
         e) obtaining the attendance of all witnesses.

   b. In the case of a medical payments loss:

      1) the injured person (or one acting on such person's behalf) must:

         a) give **us** written proof of claim (under oath if requested) as soon as practicable;
         b) give **us** permission to get copies of the medical records; and

      2) the injured person must submit to medical exams by doctors chosen by **us** when and as often as **we** may reasonably require.

HOW MUCH WE PAY

1. The **limits** shown on the Declarations, and subject to the following conditions, are the most **we** pay regardless of the number of:

   a. **insureds** under the Commercial Liability Coverage;

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b. persons or organizations who sustain injury or damage; or
c. claims made or suits brought.

The payment of a claim under Coverage M does not mean that **we** admit **we** are liable under other coverages.

2. The General Aggregate **Limit** is the most **we** will pay during a policy period for the sum of:

   a. all damages under Coverage L; and
   b. all medical expenses under Coverage M.

3. The Each **Occurrence Limit**, subject to the General Aggregate **Limit**, is the most **we** will pay for the total of:

   a. damages under Coverages L; and
   b. medical expenses under Coverage M,

   due to all **bodily injury** and **property damage** arising out of a single **occurrence**.

4. Subject to the General Aggregate **Limit** and Each **Occurrence Limit**, the Medical Payments **Limit** is the most that **we** will pay under Coverage M for all medical expenses because of **bodily injury** sustained by any one person.

5. Subject to the Each **Occurrence Limit** and the General Aggregate **Limit**, **our limit** for **property damage** covered under Coverage O -- Fire Legal Liability is $50,000 for each **occurrence** unless otherwise shown on the Declarations.

The General Aggregate **Limit** applies separately to each consecutive 12-month period beginning with the inception date of the Commercial Liability Coverage shown on the Declarations. It also applies separately to any remaining policy period of less than 12 months, unless the Commercial Liability Coverage has been extended after it was written. In that case, the additional period will be considered part of the last preceding period for the purpose of determining **limits**.

CONDITIONS

1. **Bankruptcy** -- Bankruptcy or insolvency of an **insured** does not relieve **us** of **our** obligations for Commercial Liability Coverage.

2. **Suit Against Us** -- No suit may be brought against **us** unless:

   a. all the terms of the Commercial Liability Coverage have been complied with; and

   b. the amount of the **insured's** liability has bee determined by:

      1) a final judgment against an **insured** as a result a trial; or
      2) a written agreement by the **insured**, the claimar and **us**.

   No person has a right under the Commercial Liabilit Coverage to join **us** or implead **us** in actions that ar brought to determine an **insured's** liability.

3. **Subrogation** -- If **we** pay under the Commercial Liabilit Coverage, **we** may require from an **insured** a assignment of any right of recovery. **We** are not liabl under the Commercial Liability Coverage if any **insure** has impaired **our** right to recover. An **insured** ma waive the right to recover, in writing, before ar **occurrence** takes place without voiding coverage.

4. **Commercial Liability Coverage Premium** -- If the premium is shown on the Declarations as a deposi premium, **we** will compute the final earned premium a the end of each audit period shown on the Declarations. If it is more than the deposit premium paid by **you**, we will bill **you** for the difference. If the final earned premium is less than the deposit premium paid by **you**, we will return the difference to **you**. **You** must maintain records of the information that is necessary for computing the premium. Copies of the records must be sent to **us** at the end of the audit period or when requested by **us**.

5. **Insurance Under More Than One Policy** -- (This does not apply to Coverage M -- Medical Payments.)

   a. Insurance under this Commercial Liability Coverage is primary except as provided under paragraph 5.c. below, or unless otherwise stated. The amount of **our** liability is not reduced because of other insurance which applies to the loss on other than a primary basis.

   b. If the other insurance is also primary, **we** will share in the loss as follows:

      1) If the other insurance provides for contribution by equal shares, **we** will pay equal amounts with other insurers until:

         a) the lowest applicable **limit** under any one policy is reached. If part of the loss remains unpaid, **we** will pay an equal share with the other insurers until the full amount of the loss is paid, or until **we** have paid **our limit** in full; or

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b) the full amount of the loss is paid.

2) If the other insurance does not provide for contribution by equal shares, **we** will pay up to **our limit** no more than that proportion of the loss to which the applicable **limit** under this policy for such loss bears to the total applicable **limit** for all insurance against the loss.

c. Insurance under this Commercial Liability Coverage is excess over any other insurance:

1) if the other insurance, whether primary, excess, contingent or on any other basis, provides fire insurance for premises rented to **you**; or

2) if the other insurance applies to any loss arising out of the maintenance or use of aircraft, **motorized vehicles** or watercraft which may be covered by this Commercial Liability Coverage.

d. When this insurance is excess over any other insurance:

1) **we** will have no duty under Coverage L to defend any claim or suit that any other insurer has a duty to defend. If no other insurer defends, **we** will do so. However, **we** will be entitled to the **insured's** rights against all those other insurers.

2) **we** will pay **our** share of the amount of loss, if any, that exceeds the sum of:

a) the total amount that all such insurance would pay for the loss in the absence of this insurance; and

b) the total of all deductibles and self-insured amounts required by such other insurance.

We will share the remaining loss with any other insurance that is not described in this excess insurance provision and was not bought specifically to apply in excess of the **limits** of insurance shown on the Declarations page of this Commercial Liability Coverage.

6. **Misrepresentation, Concealment or Fraud** -- This coverage is void if before or after a loss:

a. any **insured** has concealed or misrepresented:

1) a material fact or circumstance that relates to this insurance or the subject thereof; or
2) the **insured's** interest herein;

b. there has been fraud or false swearing by an **insured** with regard to a matter that relates to this insurance or the subject thereof.

7. **Separate Insureds** -- Coverage provided under this Commercial Liability Coverage applies separately to each **insured** against whom claim is made or suit is brought. This does not affect the **limits** stated under How Much We Pay.

NUCLEAR ENERGY LIABILITY EXCLUSION

This insurance does not apply:

1. under any liability coverage, to **bodily injury** or **property damage**:

a. with respect to which an **insured** under the policy is also an **insured** under a Nuclear Energy Liability policy issued by Nuclear Energy Liability Insurance Association, Mutual Insurance Association, Mutual Atomic Energy Liability Underwriters, Nuclear Insurance Association of Canada or any of their successors, or would be an **insured** under any such policy but for its termination upon exhaustion of its **limit** of liability; or

b. resulting from the **hazardous properties** of **nuclear material** and with respect to which:

1) any person or organization is required to maintain financial protection pursuant to the Atomic Energy Act of 1954, or any law amendatory thereto; or
2) the **insured** is, or had this policy not been issued would be, entitled to indemnity from the United States of America or any agency thereof, under any agreement entered into by the United States of America or any agency thereof, with any person or organization.

2. Under any Medical Payments coverage, to expenses incurred with respect to **bodily injury** resulting from the **hazardous properties** of **nuclear material** and arising out of the operation of a **nuclear facility** by any person or organization.

3. Under any liability coverage, to **bodily injury** or **property damage** resulting from the **hazardous properties** of **nuclear material**, if:

a. the **nuclear material**:

1) is at any **nuclear facility** owned by, or operated by or on behalf of, an **insured**; or
2) has been discharged or dispersed therefrom;

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b. the **nuclear material** is contained in **spent fuel** or **waste** at any time possessed, handled, used, stored, processed, transported or disposed of by or on behalf of an **insured**; or

c. the **bodily injury** or **property damage** arises out of the furnishing by an **insured** of services, materials, parts or equipment in connection with the planning, construction, maintenance, operation or use of any **nuclear facility**, but if such facility is located within the United States of America, its territories or possessions or Canada, this exclusion (c.) applies only to **property damage** to such **nuclear facility** and any property threat.

DEFINITIONS

The following definitions apply to the Nuclear Energy Liability Exclusion:

1. **Hazardous Properties** -- These include radioactive, toxic or explosive properties.

2. **Nuclear Material** -- This means **source material**, **special nuclear material** or **by-product material**.

3. **Source Material, Special Nuclear Material, By-product Material** -- These have the meanings given them in the Atomic Energy Act of 1954, or in any law amendatory thereof.

4. **Spent Fuel** -- This means any fuel element or fuel component, solid or liquid, which has been used or exposed to radiation in a **nuclear reactor**.

5. **Waste** -- This means any **waste** material:

   a. containing **by-product material** other than the tailings or **wastes** produced by the extraction or concentration of uranium or thorium from any ore processed primarily for its **source material** content; and

   b. resulting from the operation by any person or organization of any **nuclear facility** included under the first two paragraphs of the definition of **nuclear facility**.

6. **Nuclear Facility** -- This means:

   a. any **nuclear reactor**.
   b. any equipment or device designed or used for:

      1) separating the isotopes of uranium or plutonium;
      2) processing or utilizing **spent fuel**; or
      3) handling, processing or packaging **waste**.

   c. any equipment or device used for the processing, fabricating or alloying of **special nuclear material** if at any time the total amount of such material in the custody of the **insured** at the premises where such equipment or device is located consists of or contains more than 25 grams of plutonium or uranium-223 or any combination thereof, or more than 250 grams of uranium-235; or
   d. any structure, basin, excavation, premises or place prepared or used for the storage or disposal of **waste**;

   and includes the site on which any of the foregoing is located, all operations conducted on such sites, and all premises used for such operations.

7. **Nuclear Reactor** -- This means any apparatus designed or used:

   a. to sustain nuclear fission in a self-supporting chain reaction; or
   b. to contain a critical mass of fissionable material.

8. **Property Damage** -- This includes all forms of radioactive contamination of property.

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National Security Fire & Casualty Company

Dwelling / Mobile Home Fire & E.C. Policy Declarations

P.O. Box 703 • 661 East Davis Street • Elba, Alabama 36323 • 334.897.2273 • 800.798.2207 • Fax 334.897.5694

POLICY NUMBER:	836223 - 205538
NAMED INSURED:	JENRETTE, ROSEMARY

POLICY PERIOD: 3/9/2010 TO 3/9/2011 This insurance is effective at 12:01 AM Standard Time at the address of the property insured herein for the period above, and may be renewed for successive policy periods, at the option of the Company, providing the required renewal premium is received by the Company on or before the expiration date.

PRIMARY CONTACT & MAILING ADDRESS

ROSEMARY JENRETTE
3306 N OCEAN BLVD
MYRTLE BEACH SC 29577-2760

AGENCY & MAILING ADDRESS **AGENT#: S274**

BRADHAM INSURANCE AGENCY
P O BOX 1694
CONWAY SC 29528
(843) 488-2886

PROPERTY INSURED

104 COUNTRY CLUB DR
CONWAY SC 29526-3903

PROTECTION CLASS: 3
TERRITORY: 4
CONSTRUCTION: FRAME
OCCUPANCY: TENANT

MORTGAGEE INFORMATION - SUBJECT TO THE PROVISIONS OF THE MORTGAGE CLAUSE, LOSS IF ANY ON BUILDING ITEMS SHALL BE PAYABLE TO THE NAMED INSURED AND:

NAME & ADDRESS	1st		2nd	
LOAN #	1st		2nd	

COVERAGES

AMOUNT OF INSURANCE	DESCRIPTION	PREMIUM
$100,000.00	A - Dwelling	$571.00
	No Related Private Structures Coverage	
	No Personal Property Coverage	
	No Additional Living Costs Coverage	
$100,000.00	L - Personal Liability	
	No Medical Payments To Others	$45.00
	No Fire Legal Liability Coverage	$0.00
	Optional Perils - Extended Coverage	$0.00
	No Vandalism Coverage	Included
	$1000 Deductible	
	Age of Home Surcharge	($114.00)
		$69.00
	Total Premium This Risk:	$571.00
	Total Policy Premium:	$571.00

FORMS MAKING UP THE POLICY:

FL - 1 Ed 1.0, GL - 800 6-88, FL 0097 06 07, FL - 9921 10 07, ML- 195 Ed 7-88, GL- 425 Ed 1-87

Insurance is provided against only those perils and for only those coverages indicated above by a premium charge and for which an amount of insurance is indicated and against other perils and for other coverages only when endorsed hereon or added hereto. The limit of the company's liability against each such coverage shall be as stated hereon subject to all terms of the policy having reference thereto. These declarations when attached with appropriate policy, complete the policy numbered hereon.

NOTICE: This policy is based on information in the application. If building insured, named insured must have full legal title to the building and the land.

DATE: 1/23/2010

AGENT'S SIGNATURE _____

STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON PLEAS
)	FIFTEENTH JUDICIAL CIRCUIT
COUNTY OF HORRY)	C/A No.:2010-CP26-04456
HORRY COUNTY STATE BANK,)	
)	
Plaintiff,)	
)	MASTER IN EQUITY'S ORDER OF
vs.)	FORECLOSURE AND SALE
)	
CAJUN CAROLINA, LLC, MICHAEL)	
BROOKS QUICKEL, ROSEMARY)	
LONG JENRETTE and CONWAY)	
HOSPITAL, INC., d/b/a CONWAY)	
MEDICAL CENTER,)	
)	
Defendants.)	

JAMIE HUGGINS-WARD
CLERK OF COURT
2011 SEP 25 AM 10:28

Pursuant to Rule 53 SCRCP, the above-entitled matter was referred to the undersigned to make appropriate findings of fact and conclusions of law with authority to enter a final judgment in the cause. Any appeal from this Order is to the South Carolina Court of Appeals.

Pursuant to the Order of Reference, a hearing was held by the Master in Equity on April 18, 2011. Attorney Jarrod E. Ownbey of Mullins Law Firm, P.A. appeared on behalf of the Plaintiff and requested that the Plaintiff be allowed to present its case through the Affidavit of Testimony of Mr. Robert W. Smith, Assistant Vice President of Horry County State Bank. The named Defendants, nor any attorney of record, appeared at the hearing, notwithstanding that all were notified of the date and time of the hearing.

The Affidavit of Testimony was presented, which is reported herewith. From the testimony and evidence, I find, conclude and order as follows:

FINDINGS OF FACT

Upon review of the testimony and evidence, I make the following findings of fact:

1. The Notice of Lis Pendens, was filed May 5, 2010 and the Summons, and Complaint were filed in the office of the Clerk of Court for Horry County on May 19, 2010, bearing the designation of Civil Action Number 2010-CP-26-04456.

2. The Defendants, **CAJUN CAROLINA, LLC and MICHAEL BROOKS QUICKEL,** were served with the Notice of Lis Pendens, Civil Action Coversheet, Summons and Complaint in the above captioned action on the 1st day of June, 2010, as evidenced by the Affidavit of Service executed by Barbara J. Rounbehler of Regional Investigations, Inc. filed with this court on June 8, 2010.

3. The Defendant **ROSEMARY LONG JENRETTE** was served with the Notice of Lis Pendens, Civil Action Coversheet, Summons and Complaint in the above captioned action on the 24th day of May, 2010, as evidenced by the Affidavit of Service executed by Brett J. Potter of Regional Investigations, Inc. filed with this court on June 8, 2010.

4. The Defendant **CONWAY HOSPITAL, INC., d/b/a CONWAY MEDICAL CENTER** was served with the Notice of Lis Pendens, Civil Action Coversheet, Summons and Complaint on the 25th day of May, 2010, as evidenced by the Affidavit of Service executed by Brett J. Potter of Regional Investigations, Inc. filed with this court on June 8, 2010.

5. The Plaintiff received an Answer to the Complaint from the Defendants Cajun Carolina, LLC, Michael Brooks Quickel, and Rosemary Long Jenrette dated June 30, 2010.

6. An answer was filed by the Defendant Conway Hospital, Inc. d/b/a Conway Medical Center on July 16, 2010; however, a copy was not forwarded to the Plaintiff.

7. Plaintiff's counsel notified the Defendants and/or his attorney of record, of the time, date and place of the hearing in this matter as evidenced by Attorney Ownbey's statements to the Court.

8. According to the testimony, the Defendants, Michael Brooks Quickel and Rosemary Long Jenrette, are not, upon information and belief, in the Military Service of the United States of America, as contemplated under the Solders' and Sailors' Civil Relief Act of 1940, and any amendments thereto.

9. For value received the Defendant, Cajun Carolina, LLC, by and through its member, Michael Brooks Quickel, made, executed and delivered a Promissory Note dated May 1, 2009, promising thereby to pay to the order of the Plaintiff, Horry County State Bank, the sum of Three Hundred Fifty Thousand and 00/100ths Dollars ($350,000.00), with initial interest at Seven and 00/100ths (7.00) Percent per annum. Other terms and conditions are stated in the Promissory Note, a copy of which was admitted into evidence in this matter.

10. In order to better secure the payment of the Promissory Note described above, the Defendant, Michael Brooks Quickel made, executed and delivered to the Plaintiff a Mortgage dated May 1, 2009. The said mortgage of real estate was filed in the Office of the Register of Deeds in and for Horry County, South Carolina in Real Estate Mortgage Book 5166 at Page 2461, records of Horry County on May 4, 2009. The Mortgage of Real Estate encumbers the real property situate in Horry County, South Carolina that is more particularly described in the Lis Pendens and Complaint in this action and herein and which is commonly known as Lots 7 and 14 of W.M. Long Subdivision, as shown on a plat recorded in Plat Book 47 at Page 69, records of Horry County.

11. In order to better secure the payment of the Promissory Note described above, the Defendant, Rosemary Long Jenrette by and through her Attorney in Fact, Michael Brooks Quickel made, executed and delivered to the Plaintiff a Mortgage dated May 1, 2009. The said mortgage of real estate was filed in the Office of the Register of Deeds in and for Horry County,

South Carolina in Real Estate Mortgage Book 5166 at Page 2466, records of Horry County on May 4, 2009 and re-recorded on May 5, 2009 in Mortgage Book 5166 at Page 3100 to correct the name of the "note-signer". The Mortgage of Real Estate encumbers the real property situate in Horry County, South Carolina that is more particularly described in the Lis Pendens and Complaint in this action and herein and which is commonly known as Lots 40, 48, 67 and 68 of W.M. Long Subdivision as shown on a plat recorded in Plat Book 47 at Page 69, records of Horry County and One Acre of land on Airport Road in Conway Township, Horry County.

12. That the Defendant Michael Brooks Quickel did execute and deliver a Hypothecation Agreement whereby the Defendant Michael Brooks Quickel pledged Lots 40, 68, 48 and 67, identified above, as security for the loan extended to the Defendant Cajun Carolina, LLC.

13. That the Defendant Michael Brooks Quickel did execute and deliver a Hypothecation Agreement whereby the Defendant Michael Brooks Quickel pledged Lots 7 and 14, identified above, as security for the loan extended to the Defendant Cajun Carolina, LLC.

14. That the Defendant Michael Brooks Quickel did execute and deliver a Personal Guaranty Agreement to the Plaintiff dated May 1, 2009, whereby the Defendant Michael Brooks Quickel did agree to be personally responsible for the entire amount of the indebtedness on behalf of the Defendant Cajun Carolina, LLC.

15. As of April 12, 2011 the Defendant, Cajun Carolina, LLC's account with the Plaintiff is due and owing in the amount of Three Hundred Eighty Three Thousand Two Hundred Fifty Two and 04/100ths Dollars ($383,252.04). In addition, the account incurs a daily rate of interest of Sixty Five and 98/100 Dollars ($65.98).

16. The Plaintiff, Horry County State Bank's mortgage liens are first place priority mortgage liens in and to the real property described in the Lis Pendens and Complaint.

17. That the title holder of record in and to the subject real property is the Defendant, Michael Brooks Quickel and Rosemary Long Jenrette.

18. The Defendant, Cajun Carolina, LLC, has failed to make payments as required by the Promissory Notes. The Plaintiff after first making demands for payment placed the Promissory Notes, dated May 1, 2009 and the Mortgages dated May 1, 2009, with its attorneys, Mullins Law Firm, P.A. for collection.

19. The Plaintiff's note and mortgage are not subject to modification as loans guaranteed by Fannie Mae or Freddie Mac, or a servicer who has signed an agreement to participate in the Home Affordable Modification Program. Accordingly, this case is not subject to the temporary restraining Order issued by the Honorable Jean H. Toal on May 04, 2009.

20. Plaintiff's counsel filed an Affidavit of Attorney Fees and Costs. As evidenced by Mr. Ownbey's Affidavit, attorney fees and costs amount to Seven Thousand Six Hundred Ninety Nine and 93/100ths Dollars ($7,699.93), inclusive of the estimated amount of time which he and his office staff will expend through the conclusion of this case. The costs and attorney fees were not contested, and, therefore, I find them as a fact. Having considered the nature, extent and difficulty of the services rendered, the time involved in reviewing the various documents, performing the title search, preparing the pleadings, attendance at hearings, the professional standing of counsel, the fee customarily charged for similar services and the beneficial results obtained for the Plaintiff, I find that sum to be fair and reasonable. Accordingly, the Plaintiff's costs and attorney fees of Seven Thousand Six Hundred Ninety Nine and 93/100ths Dollars ($7,699.93), as evidenced by Attorney Ownbey's affidavit shall be awarded.

21. Accordingly, the amount due and owing on the Promissory Note, with interest at the rate provided in the Promissory Note, and other costs and expenses of collection, including an award of attorney's fee, secured by the Promissory Note, and Mortgage are as follows:

Principal, accured interest and fees As of April 12, 2011	$383,252.04
Attorney's Fee / Cost of collection	$ 7,699.93
Total Debt secured by note and mortgage (including interest to date shown)	**$ 390,951.97**

22. Interest for the period from April 12, 2011 at the daily rate of Sixty Five and 98/100 ($65.98) Dollars shall be added to the principal balance shown above through the date this judgment is filed. After the date of judgment, interest shall accrue at the legal rate.

23. The Plaintiff has demanded deficiency judgment against the Defendants, Cajun Carolina, LLC and Michael Brooks Quickel, in the event the sale of the real estate herein does not yield a sum sufficient to satisfy all indebtedness due the Plaintiff, including costs and attorney's fees.

CONCLUSIONS OF LAW

I, therefore, conclude as a matter of law, the following:

1. Based on the allegations of the Complaint and the evidence presented, I find that the Plaintiff's mortgage liens are first priority liens in and to the subject real property.

2. The Plaintiff should and shall have judgment of foreclosure of the Mortgages and the mortgaged real property shall be sold at public auction after due advertisement.

IT IS THEREFORE ORDERED, AJUDGED AND DECREED THAT:

1. There is due to the Plaintiff on the obligation and mortgage set forth in the Complaint, the sum of which is Three Hundred Ninety Thousand Nine Hundred Fifty One and 97/100ths Dollars ($390,951.97) representing the "Total Debt" due Plaintiff as set forth in the Findings of Fact supra, together with interest at the prospective rate provided therein.

2. The amount due in the preceding paragraph (the "Total Debt" as set forth in the Findings of Fact supra and later accrued interest) shall constitute the total judgment debt due the Plaintiff and shall bear interest at the legal rate.

3. Based on the allegations in the Complaint and the evidence presented, I hereby order that the Plaintiff's mortgage liens and title liens are first priority liens against the subject real property.

4. The Defendants, Cajun Carolina, LLC and Michael Brooks Quickel, are liable for the aforesaid mortgage debt and shall on or before the date of sale of the property hereinafter described, pay to the Plaintiff, or Plaintiff's attorney, the amount of Plaintiff's debt as aforesaid, together with the costs and disbursements of this action.

5. In default of payment at or before the time herein indicated, the subject real property as described in the Complaint, as hereinafter set forth, shall be sold at public auction by the Master in Equity or by her agent and under her direction, at the Horry County Courthouse, Conway, South Carolina, on some convenient sales day hereafter (and should the regular day of judicial sales fall on a legal holiday, then and in such event, the sales day shall be on the Tuesday next succeeding such holiday), on the following terms, that is to say:

a. FOR CASH: The Master in Equity will require a deposit of five (5%) on the amount of the bid (in cash or equivalent), same to be applied on the purchase price only upon compliance with the bid, but in case of non-compliance within thirty (30) days after the close of bidding the deposit shall be forfeited and applied to the costs and Plaintiff's debt.

b. The sale shall be subject to taxes and assessments, existing easements and easements

and restrictions of record.

c. Purchaser to pay for papers and costs of recording the Deed.

6. If Plaintiff is the successful bidder at the said sale, for a sum not exceeding the amount of costs, disbursements and expenses and the indebtedness of the Defendants, Cajun Carolina, LLC and Michael Brooks Quickel, Plaintiff may pay to the Master in Equity only the amount of the costs, disbursements and expenses and credit the balance of Plaintiff's bid on Plaintiff's indebtedness.

7. The Master in Equity will, by advertisement according to law, give notice of the time, date, place of sale, and the terms thereof, which Notice of Sale is incorporated herein by reference; and will execute to the Purchaser or Purchasers, a deed to the real property sold and such other documentation or evidence of title that will enable the successful bidder to obtain a policy of title insurance. The Plaintiff, or any other party to this action, may become a purchaser at such sale, and that if, upon such sale being made, the Purchaser or Purchasers should fail to comply with the terms thereof within the time specified, then the Master in Equity may advertise the said premises for sale on the next, or some other subsequent sales day, at the risk of the highest bidder, and so from time to time thereafter until a full compliance shall be secured.

8. Should the Plaintiff, Plaintiff's attorney or agent fail to appear on sales day, the property shall not be sold, and in that event any such sale shall be null and void and of no force and effect; the property shall be re-advertised and sold at some convenient sales day thereafter when the Plaintiff, Plaintiff's attorney or agent is present.

9. That the Master in Equity will apply the proceeds of the sale as follows: FIRST: To payment of the amount of the costs and expenses of this action, including any Guardian ad Litem fee or fees of attorneys appointed under Order of Court. NEXT: To the payment of the

13. IT IS FURTHER ORDERED that the Deed of conveyances made pursuant to said sale shall contain the names of only the first named Plaintiff and the first named Defendant and the Defendant who was the titleholder of the mortgaged property at the time of filing of the Notice of Pendency of the within action, and the name of the Grantee, and the Register of Deeds is authorized to omit from the indices pertaining to such conveyance the names of all parties not contained in said Deed.

14. The Master in Equity will retain jurisdiction to do all necessary acts incident to this foreclosure including, but not limited to, the issuance of a Writ of Assistance and hearing any issues involving appraisal proceedings under Section 29-3-680 et seq., South Carolina Code of Laws (1976) as amended.

15. The Master in Equity shall direct the Register of Deeds to release of record the mortgage lien being foreclosed, after the Order Confirming Sale and Disbursements has been executed and filed, which mortgage lien is described as follows: The Mortgages of Real Estate filed in Real Estate Mortgage Book 5166 at Page 2461, Book 5166 at Page 2466 and Book 5166 at Page 3100, respectively, records of Horry County.

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16. The following is a description of the premises herein ordered sold:

(Legal Description)

All and singular, that certain piece, parcel or lot of land lying situate and being in Conway Township, Horry County, and being shown and designated as Lots Seven (7) and Fourteen (14) on plat of subdivision of W.M. Long Subdivision by S. D. Cox Surveyors, Inc., dated June 22, 1967 and revised October 6, 1967. The said map is recorded in Plat Book 47 at Page 69, in the office of the Register of Deed for Horry County, South Carolina, and is by reference made a part of this description.

This being the identical property conveyed unto Michael Brooks Quickel by Deed dated January 31, 2008, and recorded February 8, 2008, in Deed Book 3314 at Page 357, in the office of the Register of Deeds for Horry County, South Carolina.

TMS#: (Lot 7) 123-00-02-168 and (Lot 14) 123-00-02-169

All and singular, that certain piece, parcel of land lying and being in Conway Township, containing one (1) acre more or less, the same being more particularly described as follows:

Beginning at a point at the corner at the intersection of the Airport Road and D. M. Burroughs Road and running northeast a distance of 140 ft. to an iron pin on the D. M. Burroughs Road; thence running 240 feet in a northwestern direction to an iron pen corner thence 220 ft. in a southeastern direction to an iron pen on the Airport Road thence along the said road in a southeastern direction a distance of 238 ft. along the said road to the beginning corner. Being bound on the north by lands of W. M. Long; on the east by lands of W. M. Long; on the south by D. M. Burroughs road and on the west by the Airport.

This being the identical property conveyed unto Rosemary Long Jenrette f/n/a Rosemary Long by Deed dated September 10, 2007, and recorded September 11, 2007, in Deed Book 3275 at Page 2145, in the office of the Register of Deeds for Horry County, South Carolina.

TMS# 123-00-02-069

All and singular, those certain pieces, parcels or lots of land lying situate and being in Conway Township, Horry County, and being shown and designated as Lot Forty (40), Forty-Eight (48), Sixty-Seven (67), and Sixty-Eight (68) on plat of subdivision of W.M. Long Subdivision by S. D. Cox Surveyors, Inc., dated June 22, 1967 and revised October 6, 1967. The said map is recorded in Plat Book 47 at Page 69, in the office of the Register of Deeds for Horry County, South Carolina, and is by reference made a part of this description.

This being a portion of the property conveyed unto Rosemary Long, n/k/a Rosemary Long Jenrette by Deed dated May 10, 2002, and recorded May 13, 2002, in Deed Book 2479 at Page 1474, in the office of the Register of Deeds for Horry County, South Carolina.

TMS# (Lot 40) 123-00-02-170, (Lot 48) 123-00-02-171, (Lot 67) 123-00-03-064 and (Lot 68) 123-00-03-065

AND IT IS SO ORDERED this 29th day of April, 2011.

Conway, South Carolina

Honorable Cynthia Graham Howe
Master in Equity for Horry County

STATE OF SOUTH CAROLINA	)	RELEASE OF LIEN
	)	MORTGAGE SATISFACTION
COUNTY OF HORRY	)	C/A No.: 2010-CP-26-04456

I, CYNTHIA GRAHAM HOWE, as Master-in-Equity for Horry County, South Carolina, pursuant to foreclosure proceedings in the action entitled Horry County State Bank, Plaintiff, vs. Cajun Carolina, LLC, *et al.*, Defendants, as appears of record in the Office of the Clerk of Court for Horry County, do hereby declare the liens of mortgage recorded in Book 5166 at Page 2461 and Book 5166 at Page 3100, in the Register of Deeds Office for Horry County, is released, canceled, and satisfied by sale under foreclosure the 31st day of August, 2011, as to the property described in the mortgage originally given by Michael Brooks Quickel and Rosemary Long Jenrette, unto Horry County State Bank.

Witness my hand and seal this 2nd day of September, 2011.

WITNESSES:

Margaret Howe

LeeAnne Cook-Thigpen

Cynthia Graham Howe
Master-in-Equity for Horry County

STATE OF SOUTH CAROLINA)
)
COUNTY OF HORRY)

PERSONALLY APPEARED before me the undersigned witness and made oath that (s)he saw Cynthia Graham Howe, as Master-in-Equity for Horry County, sign seal and deliver the within Deed; and that deponent, together with the other witness signed their names as witnesses thereto.

Sworn to and subscribed before me

This 2nd day of September, 2011.

Notary Public for South Carolina

My commission expires: May 20, 2021

Coverage C – Personal Property

1. **While on the Insured Premises** – This policy covers personal property, while on the **insured premises**, which is usual to the occupancy of the dwelling as a residence. The personal property must be owned or used by **you** or **your** family members who reside with **you**.

2. **While Away from the Insured Premises** – **You** may apply up to 10 percent of the Coverage C **limit** to cover personal property, while away from the **insured premises**, which is usual to the occupancy of the dwelling as a residence. The personal property must be owned or used by **you**, or **your** family members who reside with **you**.

3. **While in a Newly Acquired Principal Residence** – **We** pay for loss to covered personal property in a newly acquired principal residence. The full Coverage C **limit** applies for 30 days from the date **you** begin to move. After that, coverage for personal property in a newly acquired principal residence is limited to 10 percent of the Coverage C **limit**. This coverage does not extend past the date on which the policy expires or the date on which the policy is terminated.

4. **Property of Others** – At **your** option, personal property owned by a guest or domestic employee is covered while it is in that part of the **insured premises** occupied by **you**.

5. **Limitations on Certain Property** – The special **limits** shown below do not increase the Coverage C **limit**. The **limit** for each class is the total **limit** per occurrence for all items in that class.

   a. $200 on money, bank notes, bullion, gold other than goldware and gold-plated ware, silver other than silverware and silver-plated ware, platinum, coins, and numismatic prop-erty.

   b. Regardless of their storage medium, $1,000 on securities, bills, letters of credit, notes other than bank notes, tickets, accounts, deeds, evidence of debt, passports, manuscripts, stamps, and philatelic property.

   c. $1,000 on watercraft including their trailers, furnishings, equipment, and motors.

   d. **Business** property, up to the amounts shown below:
      1) $2,500 while on the **insured premises**;
      2) $250 while away from the **insured premises**.

   e. $1,000 on trailers not otherwise provided for.

6. **Personal Property Not Covered** – Coverage C does not cover:

   a. land, including the land on which the property is located, underground water or surface water;

   b. trees, plants, shrubs, and lawns;

   c. animals, birds, fish, or insects;

   d. **motorized vehicles**. This includes their parts, equipment, and accessories while in or on a **motorized vehicle**. **We** do cover **motor-ized vehicles** that are not subject to motor vehicle registration if they are designed and used to assist the handicapped or used only to service the **insured premises**;

   e. aircraft, including their parts and equipment;

   f. electronic devices, accessories, or antennas that may be operated from the electrical system of a **motorized vehicle**, farm equipment, or watercraft while in or on the **motorized vehicle**, farm equipment, or watercraft. This includes films, tapes, wires, discs, records, or other media for use with such devices;

   g. loss that results from **credit cards**; or

   h. farm property.

Coverage D – Additional Living Costs and Fair Rental Value

We pay the necessary and reasonable increase in living costs **you** incur to maintain the normal standard of living of **your** household if the part of the **insured premises** containing **your** household is made unfit for use by an insured loss. **We** pay only for the period of time reasonably required to make that part of the **insured premises** containing **your** household fit for use or to settle **your** household in new quarters, whichever is less. This period of time is not limited by the policy period.

We pay for the fair rental value if the part of the **insured premises** rented or held for rental to others is made unfit for use by an insured loss. We only

pay for the period of time reasonably required to make that part of the **insured premises** rented or held for rental to others fit for use. Fair rental value is the amount **you** would have received less the charges and expenses that do not continue while the **insured premises** is unfit for use. This period of time is not limited by the policy period.

We pay **your** additional living costs and fair rental value for up to two weeks if the premises next to the **insured premises** is damaged by a peril insured against and **you** may not, by order of civil authority, use the **insured premises.** This period of time is not limited by the policy period.

We do not pay for additional living costs or fair rental value due to the cancellation of a lease or an agreement.

INCIDENTAL COVERAGES

This policy provides the following Incidental Coverages. They are subject to all of the **terms** of the applicable Coverages A, B, or C. They are not extended to farm property. These coverages provide additional insurance unless otherwise stated.

1. **Emergency Removal** – **We** pay for loss to covered property that is moved to prevent loss by a peril insured against. The property is covered for direct physical loss not excluded, for up to 30 days. This coverage does not extend past the date on which this policy terminates.

   We pay up to a $250 towing charge to move a covered mobile home that is in danger from a peril insured against.

   This coverage does not increase the **limits** shown for the property being removed.

2. **Debris Removal** – **We** pay for the cost to remove the debris of covered property after an insured loss. This includes the cost to remove volcanic ash, dust, or particulate matter that causes direct physical loss to covered property.

   You may apply up to 25% of the **limit** that applies to the damaged property to cover debris removal. **We** will not pay more for direct loss to property and debris removal combined than the **limit** that applies to the damaged property. However, when the covered loss plus the cost of debris removal is more than the applicable **limit**, **we** will pay up to an extra 5% of the applicable **limit** to cover the cost of debris removal.

   This coverage does not include costs to extract **pollutants** from land or water; or remove, restore, or replace polluted land or water.

   We also pay the cost to remove fallen trees which cause damage to property covered under Coverages A, B, or C if:

   a. the falling of the tree is caused by any of the perils insured against; and

   b. coverage is not provided elsewhere by this policy.

   Regardless of the number of fallen trees, the most **we** will pay is $500 per occurrence.

3. **Trees, Plants, Shrubs, or Lawns** – **We** pay for loss to trees, plants, shrubs, or lawns on the **insured premises** caused by:

   a. fire or lightning, explosion, riot or civil commotion, aircraft;

   b. vehicles, if not owned or operated by **you** or an occupant of the **insured premises**; or

   c. if covered by this policy, vandalism or theft.

   We do not cover trees, plants, shrubs, or lawns grown for **business.**

   You may apply up to 5 percent of the Coverage A **limit** on the **insured premises** to cover trees, plants, shrubs, or lawns. **We** do not pay more than $500 for each tree, plant, or shrub. This includes the cost to remove the debris of the covered item.

4. **Fire Department Service Charge** – **We** pay up to $500 for charges assumed by **you** under a contract or agreement when a fire department is called to protect covered property from a peril insured against.

5. **Tenant's Improvements** – If **you** are a tenant, we pay for loss by perils insured against to improvements on the **insured premises** made or acquired at **your** expense. These are permanent fixtures, alterations, decorations, and additions.

   You may apply up to 10 percent of the Coverage C **limit** to cover tenant's improvements.

PERILS INSURED AGAINST -- COVERAGES A, B, C, AND D

PERILS INSURED AGAINST -- COVERAGES A, B, C, AND D

We insure against direct physical loss caused by the following perils, unless the loss is excluded under the General Exclusions:

1. **Fire or Lightning**

2. **Explosion**

Optional Perils -- Extended Coverage -- The following perils (Numbers 3 through 9) are subject to an additional premium charge and apply only if coverage for Extended Coverage is shown on the Declarations.

3. **Windstorm or Hail** -- However, we do not pay for loss:

   a. to the interior of a building or mobile home, or to property inside a structure caused by dust, rain, sand, sleet, snow or water, all whether driven by wind or not, which enter through an opening not made by the direct force of wind or hail;

   b. to watercraft and their trailers, furnishings, equipment and motors unless inside a fully enclosed building. (We do cover canoes and rowboats while on the **insured premises**.); or

   c. to outdoor antennas, including their lead-in wiring, masts and towers.

4. **Riot or Civil Commotion**

5. **Aircraft** -- This means direct loss from actual physical contact of an aircraft with covered property and includes objects falling from aircraft.

6. **Vehicles** -- However, we do not pay for loss to fences, driveways and walks caused by a vehicle owned or operated by you or an occupant of the **insured premises**.

7. **Sudden and Accidental Damage from Smoke** -- However, we do not pay for loss caused by smoke from agricultural smudging or industrial operations.

8. **Sinkhole Collapse** -- This means loss caused by sudden settlement or collapse of earth supporting covered property. The earth settlement or collapse must result from subterranean voids created by the action of water on a limestone or similar rock formation.

   However, we do not cover the value of land or the cost of filling sinkholes.

9. **Volcanic Action** -- This means:

   a. airborne volcanic blast or airborne shock waves;

   b. ash, dust, or particulate matter; or

   c. lava flow.

   However, we do not cover removal of ash, dust, or particulate matter that does not cause direct physical loss to covered property.

Optional Peril -- Vandalism -- This peril (Number 10) is subject to an additional premium charge and applies only if coverage for Vandalism is shown on the Declarations.

10. **Vandalism** -- However, we do not pay for loss on the **insured premises** if the residence is vacant for more than 30 days in a row just before the loss. A residence being built is not vacant.

GENERAL EXCLUSIONS

We do not pay for loss if one or more of the following exclusions apply to the loss, regardless of other causes or events that contribute to or aggravate the loss, whether such causes or events act to produce the loss before, at the same time as, or after the excluded causes or events.

1. **Business Interruption** – **We** do not pay for loss which results from interruption of **business.**

2. **Civil Authority** – **We** do not pay for a loss which results from order of civil authority.

   We pay for loss which results from acts of a civil authority to prevent the spread of fire. **We** do not pay if the fire was caused by an excluded peril.

3. **Earth Movement** – **We** do not pay for loss which results from earth movement whether the earth movement results from natural or artificial causes.

   Earth movement includes but is not limited to:

   a. earthquake;

   b. landslide, subsidence, erosion;

   c. mudflow;

   d. earth sinking, rising, shifting, expanding, or contracting. This does not include Sinkhole Collapse as described under Perils Insured Against; or

   e. volcanic explosion. Volcanic explosion does not include Volcanic Action as described under Perils Insured Against.

   We do pay for direct loss caused by fire, explosion (other than a volcanic explosion) and, if covered by this policy, theft resulting from earth movement.

4. **Intentional Acts** – **We** do not pay for loss which results from an act committed with intent to cause a loss:

   a. by **you** or at **your** direction; or

   b. by or at the direction of any other insured.

5. **Neglect** – **We** do not pay for loss which results from **your** neglect to use all reasonable means to save and preserve covered property at and after the time of a loss.

6. **Nuclear Hazard** – **We** do not pay for loss which results from nuclear reaction, nuclear radiation, or radioactive contamination (whether controlled or uncontrolled; whether caused by, contributed to or aggravated by a peril insured against and whether caused by natural, accidental, or artificial means). Loss caused by nuclear hazard is not considered loss caused by fire, explosion, or smoke. Direct loss by fire resulting from the nuclear hazard is covered.

7. **Ordinance or Law** -- **We** do not pay for loss or increased cost which results from the enforcement of a code, ordinance, or law which regulates the use, construction, repair, demolition of property, or removal of its debris.

8. **Power Disruption** – **We** do not pay for loss which results from the disruption of power or other utility service, whether or not it is caused by a peril insured against, if the cause of the disruption is not on the **insured premises.**

   We do pay for direct loss by a peril insured against which occurs on the **insured premises** as a result of the disruption of power.

9. **War** – **We** do not pay for loss which results from declared or undeclared war, civil war, insurrection, rebellion, revolution, warlike act by a military force or military personnel, or destruction, seizure, or use of property for a military purpose. It includes the consequences of these. Discharge of a nuclear weapon is deemed an act of war even if it is accidental.

10. **Water Damage** – **We** do not pay for loss which results from the following:

    a. flood, surface water, waves, tidal water, overflow of a body of water, or spray, all whether driven by wind or not;

    b. water which backs up through or overflows from sewers, drains, or sumps; or

    c. water below the surface of the ground. This includes water which exerts pressure on, or seeps or leaks through or into a building, sidewalk, driveway, foundation, swimming pool, or other structure.

    We pay for direct loss caused by fire; explosion (other than a volcanic explosion); and, if covered by this policy, theft resulting from water damage.

11. **Wear and Tear** – We do not pay for loss which results from wear and tear, marring, deterioration, inherent vice, latent defect, mechanical breakdown, rust, wet or dry rot, corrosion, mold, contamination, or smog. We do pay for an ensuing loss unless the ensuing loss itself is excluded.

12. **Weather Conditions** – We do not pay for loss which results from weather conditions that initiate, set in motion, or in any way contribute to losses excluded under the preceding General Exclusions (Numbers 1 through 11).

    We do pay for an ensuing loss unless the ensuing loss itself is excluded.

13. **Errors, Omissions, and Defects** – We do not pay for loss which results from one or more of the following:

    a. an act, error, or omission (negligent or not) relating to:

       1) land use;
       2) the design, specification, construction, workmanship, or installation of property;
       3) planning, zoning, development, surveying, siting, grading, compaction; or
       4) maintenance of property (including land, structures, or improvements);

       whether on or off the **insured premises**;

    b. a defect, a weakness, the inadequacy, a fault, or unsoundness in materials used in construction or repair whether on or off the **insured premises**.

    We do pay for an ensuing loss unless the ensuing loss itself is excluded.

WHAT YOU MUST DO IN CASE OF LOSS

1. **Notice** – In case of a loss, **you** must:

   a. give **us** or **our** agent prompt notice (We may request written notice); and

   b. give notice to the police when the act that causes the loss is a crime.

   The notice to **us** must state:

   a. **your** name, the policy number and the time, place, and the details of the loss; and

   b. the names and addresses of all known potential claimants and witnesses.

2. **Cooperation** – **You** must cooperate with us in investigating and settling the claim.

3. **Volunteer Payments** – **You** must not make payments, pay or offer rewards or assume obligations or other costs, except at **your** own cost. This does not apply to costs that are allowed by this policy.

4. **Other Duties** – **You** must take all reasonable steps to protect covered property at and after an insured loss to avoid further loss. We will pay the reasonable costs incurred by **you** for necessary repairs or emergency measures performed solely to protect covered property from further damage by a peril insured against if a peril insured against has already caused a loss to covered property. **You** must keep an accurate record of such costs. However, **we** will not pay for such repairs or emergency measures performed on property which has not been damaged by a peril insured against. This does not increase **our limit**.

   At **our** request **you** must:

   a. give **us** a signed, sworn proof of loss, within 60 days after **our** request, that shows:

      1) the time, place, and the details of the loss;
      2) **your** interest and the interest of all others in the property. This includes all mortgages and liens;
      3) other policies that may cover the loss;
      4) changes in title or use;
      5) available plans and specifications of buildings;
      6) detailed estimates for repair; and
      7) in detail, the quantity, description, cost, amount of loss, and actual cash value of the personal property involved in the loss. **You** must give **us** copies of all bills, receipts, and related documents to confirm these;

b. submit to examination under oath in matters that relate to the loss or claim as often as we reasonably request. If more than one person is examined, we have the right to examine and receive statements separately from each person and not in the presence of the others;

c. show the damaged property and allow us to take samples of damaged property for inspection, testing, and analysis as often as we reasonably request;

d. show records, including tax returns and bank records of all canceled checks that relate to the value, loss, and costs, and permit copies to be made of them as often as we reasonably request;

e. assist **us** to enforce any right of recovery which **you** may have against a party causing the loss; and

f. show records that prove loss of rents and show receipts for additional living costs, and permit copies to be made of them as often as we reasonably request.

HOW MUCH WE PAY FOR LOSS OR CLAIM

Loss Settlement Terms – Subject to the deductible or other limitation that applies, we pay the lesser of:

a) the **limit** that applies;
b) **your** interest in the property; or
c) the amount determined under the Actual Cash Value Terms.

1. **Actual Cash Value Terms** – Actual cash value includes a deduction for depreciation, however caused. The smallest of the following amounts is used in applying the Loss Settlement Terms:

   a. the cost to repair or replace the property with materials of like kind and quality to the extent practical;

   b. the actual cash value of the property at the time of loss; or

   c. (applies only to mobile homes) the difference in the actual cash value just before the loss and the actual cash value just after the loss.

2. **Deductible** – This applies to Coverages A, B, and C; Debris Removal; Trees, Plants, Shrubs and Lawns; and Tenant's Improvements. It applies to all perils insured against unless otherwise shown. We pay that part of the loss over the deductible. Not more than one deductible applies per occurrence. If this policy covers more than one residence, the deductible applies separately to each residence.

3. **Loss to a Pair or Set** – If there is loss to an item which is part of a pair or set, we pay only to replace or repair the item, or we pay the difference in the actual cash value of the pair or set just before the loss and the actual cash value just after the loss.

4. **Insurance Under More Than One Coverage** – If more than one coverage of this policy applies to a loss, we pay no more than the actual loss.

5. **Insurance Under More Than One Policy** – If there is other insurance that applies to the loss, we pay **our** share of the loss. **Our** share is that part of the loss that the **limit** of this policy bears to the total amount of insurance that applies to the loss. When a loss is also covered by the master policy of an association or corporation of property owners, this insurance is excess.

6. **Restoration of Limits** – Each loss we pay under this policy does not reduce the **limits** available over the policy term.

PAYMENT OF LOSS

1. **Your Property** – We adjust each loss with **you**. We pay an insured loss within 30 days after an acceptable proof of loss is received and the amount of the loss is agreed to in writing. If **you** and **we** do not agree, **we** pay within 30 days after the filing of an appraisal award with **us**. Payment is made to **you** unless a loss payee is named.

2. **Additional Living Costs** – If the **insured** premises is unfit for use for more than one month, covered costs are paid on a monthly basis. **You** must give **us** proof of such costs.

3. **Damage to Personal Property of Others** – At **our** option, an insured loss may be adjusted with and paid:

   a. to **you** on behalf of the owner; or

   b. to the owner. If **we** pay the owner, **we** do not have to pay **you**.

4. **Our Options** – We may:

   a. pay the loss in money; or

   b. rebuild, repair or replace the property. We must give **you** notice of **our** intent to do so within 30 days after **we** receive an accept-able proof of loss.

   We may take all or part of the damaged property at the agreed or appraised value. Property paid for or replaced by **us** becomes **ours**.

POLICY CONDITIONS

1. **Abandonment of Property** – **You** may not abandon the property to **us** unless **we** agree.

2. **Appraisal** – If **you** and **we** do not agree on the amount of the loss, the actual cash value of the property or the cost to repair or replace the property, either party may demand that these amounts be determined by appraisal.

   If either party makes a written demand for appraisal, each will select a competent independent appraiser and notify the other of the appraiser's identity within 20 days after the receipt of the written demand. The two appraisers will select a competent, impartial umpire. If the two appraisers are unable to agree upon an umpire within 15 days, **you** or **we** can ask a judge of a court of record in the state where the property is located to select an umpire.

   For each building item and each item of personal property, the appraisers will determine:

   a. the amount of the loss;

   b. the actual cash value of the property; and

   c. the cost to repair or replace the property.

   Each amount will be stated separately.

   If the appraisers submit a written report of an agreement to **us**, the agreement will establish these amounts. If the appraisers fail to agree within a reasonable time, they will submit only their differences to the umpire. A written agreement by two of these three will establish the amounts stated above.

   Each appraiser will be paid by the party selecting that appraiser. The compensation of the umpire and other costs of the appraisal will be shared equally by **you** and **us**.

   If **we** make the written demand for an appraisal, **we** will pay:

   a. the reasonable and necessary cost for **your** appraiser; and

   b. **your** share of the cost for the umpire.

3. **Assignment** – This policy may not be assigned without **our** written consent.

4. **Cancellation and Nonrenewal** – You may cancel this policy by returning the policy to us or by giving us written notice and stating at what future date coverage is to stop.

   We may cancel or not renew this policy by written notice to you at the address shown on the Declarations. Proof of delivery or mailing is sufficient proof of notice.

   During the first 60 days this policy is in effect, we may cancel for any reason.

   After this policy has been in effect 60 days or more, or if it is a renewal of a policy issued by us, we may cancel or not renew only at the anniversary date unless:

   a. the premium has not been paid when due;

   b. the policy was obtained through fraud, material misrepresentation or omission of fact, which if known by us, would have caused us not to issue the policy; or

   c. there has been a material change or increase in hazard of the risk.

   If we cancel this policy for nonpayment of premium, we will give you notice at least 10 days before cancellation is effective. Otherwise, we will give you notice at least 30 days in advance of cancellation or nonrenewal.

   Your return premium, if any, will be refunded at the time of cancellation or as soon as practical. Payment or tender of the unearned premium is not a condition of cancellation.

5. **Change, Modification, or Waiver of Policy Terms** – A waiver or change of the terms of this policy must be issued by us in writing to be valid. If, in the policy period, we adopt a revision which broadens coverage without an additional premium, the broadened coverage will apply.

   Our request for an appraisal or examination under oath does not waive policy terms.

   If this policy has no expiration date, we may substitute or we may add, at each anniversary date, forms that are then authorized for use.

6. **Conformity With Statute** – Terms in conflict with the laws of the state where the insured premises is located are changed to conform to such laws.

7. **Death** – On your death, protection on your covered property passes to:

   a. your legal representative; or

   b. any other persons having proper, temporary custody of covered property.

8. **Inspection** – We may, but are not required to, inspect your property and operations. Our inspection or resulting advice or report does not warrant that your property or operations are safe or healthful or comply with laws, rules, or regulations.

9. **Misrepresentation, Concealment, or Fraud** – We do not provide coverage if, before or after a loss:

   a. you or any other insured have willfully concealed or misrepresented:

      1) a material fact or circumstance with respect to this insurance; or
      2) their interests herein; or

   b. there has been fraud or false swearing by you or any other insured with respect to this insurance or the subject thereof.

10. **Mortgage Clause** – This applies only to coverage on buildings. The word "mortgagee" includes trustee.

    a. If a mortgagee is named on the Declarations, a loss payable under Coverages A or B will be paid to the mortgagee and you, as interests appear. If more than one mortgagee is named, the order of payment will be the same as the order of precedence of the mortgages.

       If we deny your claim, that denial does not apply to a valid claim of the mortgagee, if the mortgagee has:

       1) notified us of change in ownership, occupancy, or substantial change in risk of which the mortgagee became aware;
       2) paid the premium due under this policy on demand if you neglected to pay the premium; and
       3) submitted a signed, sworn proof of loss within 60 days after receiving notice from us if you failed to do so.

       All terms of this policy apply to the mortgagee unless changed by this clause.

b. If we cancel or do not renew this policy, we will notify the mortgagee at least 10 days before the date cancellation or nonrenewal takes effect.

c. If we pay the mortgagee for a loss and deny payment to **you:**

1) we are subrogated, up to the amount we paid for the loss, to all the rights of the mortgagee granted under the mortgage on the property; or
2) at **our** option, we may pay to the mortgagee the whole principal on the mortgage plus the accrued interest. In this event, we shall receive a full assignment and transfer of the mortgage and all securities held as collateral to the mortgage debt.

Subrogation shall not impair the right of the mortgagee to recover the full amount of the mortgagee's claim.

11. **No Benefit To Bailee** – Coverage under this policy will not directly or indirectly benefit those who are paid to assume custody of the covered property.

12. **Policy Period** – This policy only covers losses that occur during the policy period.

13. **Recoveries** – This applies if we pay for a loss and lost or damaged property is recovered, or payment is made by those responsible for the loss.

a. You must inform **us** or we must inform **you** if either recovers property or receives pay-ment.

b. Proper costs incurred by either party are paid first.

c. **You** may keep the property. The amount of the claim paid or a lesser amount to which we agree, must be returned to **us.**

d. If the claim paid is less than the agreed loss due to a deductible, or other limiting terms, the recovery is prorated between **you** and **us** based on the interest of each in the loss.

14. **Safety Glass** – When breakage of glass is covered, we pay to replace the damaged glass with safety glazing materials if required by code, ordinance or law.

15. **Secured Party Coverage** – This applies only to coverage on mobile homes and personal property. This entire clause is void unless the name of a secured party is shown on the Declarations. This clause applies only to the interest of a secured party and does not affect **your** rights or duties under the policy.

a. If a secured party is named on the Declarations, a loss payable on property subject to the security interest will be paid to the secured party and **you** as interests may appear. If there is more than one security interest in the same property, the order of payment will be the same as their order of priority.

If we deny **your** claim, that denial does not apply to a valid claim of a secured party if the secured party has:

1) notified **us** of a change in ownership, occupancy, or substantial change in risk of which the secured party became aware;
2) paid the premium due under this policy on demand if **you** neglected to pay the premium; and
3) submitted a signed, sworn proof of loss within 60 days after receiving notice from **us** if **you** failed to do so.

All terms of this policy apply to the secured party unless changed by this clause.

b. If we cancel or do not renew this policy, we will notify the secured party at least 10 days before the date cancellation or nonrenewal takes effect.

c. If we pay the secured party for a loss and deny payment to **you:**

1) we are subrogated, up to the amount we paid for the loss, to all the rights of the secured party granted under the security agreement; or

2) at **our** option, we may pay the secured party the remaining amount due on the security agreement plus the accrued interest. In this event, we shall receive full assignment of the security agreement and securities held as collateral for the agreement.

However, the secured party's interest is not covered for **your** conversion, embezzlement, or secretion of encumbered property in **your** possession, unless specifically insured against and premium paid for such.

16. **Subrogation** – If **we** pay for a loss, we may require that **you** assign to **us** the right of recovery up to the amount we pay. We are not liable for a loss if, after the loss, **you** impair **our** right to recover against others. **You** may waive **your** right to recover, in writing, before a loss occurs, without affecting coverage. If we pay a loss to or for **you** and **you** recover from another party for the same loss, **you** must pay **us** as stated in Recoveries.

17. **Suit Against Us** – No suit may be brought against **us** unless all the **terms** of this policy have been complied with and the suit is brought within two years after the loss.

18. **Volcanic Action** – All volcanic action that occurs within a 72-hour period constitutes a single occurrence.

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GL-600
(Ed. 6-88)

Please Read This Entire Policy Carefully
-- THIS IS A LEGAL CONTRACT --

COMMERCIAL LIABILITY COVERAGE
(PREMISES ONLY)

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Endorsements may also apply. They are identified on the Declarations page.

Refer to the Definitions for words that have special meanings. These words are shown in **"bold type"**.

AGREEMENT

Subject to all the terms that apply, and in return for your payment of the required premium, we provide the Commercial Liability Coverage described in this policy during the policy period.

Policy terms that relate to cancellation, changes made to the policy, examination of books and records, inspections and surveys, and assignment or transfer of rights or duties also apply.

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DEFINITIONS

1. **Bodily Injury** – This means bodily harm, sickness or disease sustained by a person and includes required care and loss of services. **Bodily Injury** includes death that results from bodily harm, sickness or disease.

2. **Incidental Contract** – This means a written:

   a. lease of premises;

   b. easement agreement (this does not include an agreement in connection with any construction or demolition operation on or adjacent to a railroad);

   c. promise to indemnify a municipality if required by an ordinance (this does not apply in connection with work done for the municipality);

   d. sidetrack agreement; or

   e. elevator maintenance agreement.

3. **Insured** – If shown on the Declarations as an "individual", **Insured** means **you** and **your** spouse, but only with respect to the conduct of a business on the **insured premises** of which **you** are the sole owner.

   If shown on the Declarations as a "partnership" or a "joint venture", **insured** means **you** and all **your** partners or members and their spouses, but only with respect to the conduct of the business on the **insured premises**.

   If shown on the Declarations as an "organization" (other than a partnership or joint venture), **insured** means **you** and all of **your** executive officers and directors, but only while acting within the scope of their duties in connection with the business conducted on the **insured premises** described on the Declarations. It also includes **your** stockholders, but only for their liability as such.

   Insured also includes:

   a. anyone, except **your** employees, while acting as **your** real estate manager;

   b. if **you** die during the policy period, **your** legal representative while acting within the scope of his duties as such with respect to the **insured premises**, or a person who has custody of **your** property with respect to liability arising out of the maintenance or use of that property until **your** legal representative is appointed;

   c. **your** employees, for acts within the scope of their employment by **you** (this does not include **your** executive officers). None of these employees are **insureds** for:

      1) injury to **you** or a fellow employee; or
      2) **property damage** to property owned by, rented to or loaned to employees, or any of **your** partners or members and their spouses (if **you** are a joint venture or a partnership).

   d. any organization (other than a joint venture or a partnership) newly acquired or formed by **you**, and in which **you** have a majority interest.

      Such an organization is not an **insured**:

      1) if there is other similar insurance available to it; or
      2) after 90 days immediately following that acquisition or formation; or
      3) for **bodily injury** or **property damage** that occurred prior to the acquisition or formation.

   No person or organization is an **insured** with respect to the conduct of a current or past partnership or joint venture that is not shown on the Declarations as an **insured**.

4. **Insured Premises** – this means the location shown on the Declarations, the grounds and all adjoining access ways.

5. **Limit** – This means the **limit** of liability that applies.

6. **Loading or Unloading** – This means the movement of property:

   a. starting with the time it is removed from the point where it has been accepted for transit by a **motorized vehicle**, an aircraft or watercraft;

   b. continuing while it is on such vehicle; and

   c. ending when it has been removed from the vehicle at its point of destination.

   Loading or unloading includes movement by any mechanical device attached to the vehicle.

7. **Motorized Vehicle** – This means a self-propelled land or amphibious vehicle regardless of method of surface contact. This includes parts and equipment.

   This does not include vehicles that are designed and used to assist the handicapped and not required to be licensed for road use.

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8. **Occurrence** -- This means an accident and includes repeated exposure to similar conditions.

9. **Products/Completed Work Hazard** --

   a. **Products hazard** means **bodily injury** or **property damage** occurring away from the **insured premises** and arising out of **your product** after physical possession of it has been relinquished to others.

   b. **Completed work hazard** means **bodily injury** or **property damage** arising out of **your work**. It does not include work that has not been completed, or that has been abandoned.

      Your work is deemed completed at the earliest of the following times:

      1) when all work specified in your contract has been done;
      2) when all work to be done at a job site has been completed if **your** contract includes work at more than one site; or
      3) when **your work** at a job site has been put to its intended use by someone other than another contractor or subcontractor working on the same job site.

      Work which requires further service, maintenance, correction, repair or replacement because of a defect or deficiency, but which is otherwise complete, shall be deemed completed.

   c. Neither of these hazards include **bodily injury** or **property damage** arising out of:

      1) the transportation of property, unless the injury or damage arises out of a condition in or on a vehicle, created by **loading or unloading;**
      2) the presence of tools, uninstalled equipment or abandoned or unused materials; or
      3) **products** or work for which the classification on the Declarations specifies "including Products/Completed Work."

10. **Products** -- This means goods or **products** manufactured, sold, handled, distributed or disposed of by **you**, others trading under **your** name, or a person or organization whose business or assets **you** have acquired.

    Products includes:

    a. warranties or representations made at any time with respect to the fitness, quality, durability or performance of **your products**; and

    b. containers (other than vehicles), materials, parts or equipment furnished in connection with such goods or **products.**

    Products does not include:

    a. vending machines;

    b. property that is rented to or placed for the use of others, but not sold; or

    c. real property.

11. **Property Damage** -- This means:

    a. physical injury or destruction of tangible property; or

    b. the loss of use of tangible property whether or not it is physically damaged.

12. **Terms** -- This means all provisions, limitations, exclusions, conditions and definitions that apply.

13. **We, Us, Our** -- These words mean the company providing this coverage.

14. **You, Your** -- These words mean the person or organization named on the Declarations.

15. **Your Work** -- This means:

    a. work or operations performed by **you** or on **your** behalf;

    b. materials, parts and equipment **you** supply for such work or operations; and

    c. written warranties or representations made at any time regarding quality, fitness, durability or performance of any of the foregoing.

PRINCIPAL COVERAGES

We provide insurance for the following coverages indicated by a specific **limit** or premium charge on the Declarations.

COVERAGE L -- BODILY INJURY LIABILITY PROPERTY DAMAGE LIABILITY

We pay all sums which an **insured** become legally obligated to pay as damages due to **bodily injury** or **property damage** to which this insurance applies. The **bodily injury** or **property damage** must be caused by an **occurrence** and arise out of the ownership, maintenance or use of the **insured premises** or operations that are necessary or incidental to the **insured premises.**

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This insurance applies only to **bodily injury** or **property damage** which occurs during the policy period.

COVERAGE M – MEDICAL PAYMENTS

We pay the medical expenses defined below for **bodily injury** caused by an accident on the **insured premises.**

We pay such expenses regardless of fault, but only if:

1. they arise out of an accident that occurred during the policy period; and
2. they are incurred and reported within one year of the accident.

Medical expenses means the reasonable and necessary expenses for:

1. medical, surgical, x-ray and dental services, including prosthetic devices and eye glasses;
2. ambulance, hospital, professional nursing and funeral services; and
3. first aid at the time of an accident.

COVERAGE O – FIRE LEGAL LIABILITY

We pay for **property damage** to the **insured premises** which **you** rent if the **property damage** is caused by fire for which **you** are legally liable. Buildings include fixtures permanently attached thereto.

All of the exclusions otherwise applicable to **property damage** do not apply to this coverage. However, **we** do not cover:

1. liability arising under any contract to indemnify any person or organization for damages by fire to the premises; or
2. liability arising out of **property damage** expected, directed or intended by an **insured.**

INCIDENTAL COVERAGES

Subject to all the **terms** of the Principal Coverages, **we** provide the following incidental coverages. They do not increase the **limits** stated for the Principal Coverages.

INCIDENTAL VEHICLE COVERAGE

We pay for **bodily injury** or **property damage** arising out of:

1. the parking of a **motorized vehicle** on premises owned by, rented to or controlled by **you** or on the ways immediately adjoining, if the **motorized vehicle** is not owned by or rented to or loaned to an **insured;**
2. a **motorized vehicle** while it is used to service the **insured premises** and not subject to motor vehicle registration; or
3. a watercraft that is on shore on premises owned by, rented to or controlled by **you.**

INCIDENTAL MEDICAL MALPRACTICE INJURY

We cover **bodily injury** arising out of the rendering or failure to render the following services:

1. medical, surgical, dental, x-ray or nursing services or treatment, or the furnishing of food or beverages in connection therewith; or
2. the furnishing or dispensing of drugs or medical, dental or surgical supplies or appliances.

This coverage does not apply to:

1. expenses incurred by an **insured** for first aid to others at the time of an accident;
2. an **insured** or an employee engaged in the business or occupation of providing any of the services described under 1. and 2. above; or
3. injury caused by an indemnitee if such indemnitee is engaged in the business or occupation of providing any of the services described in 1. and 2. above.

DEFENSE COVERAGE

Payments under this coverage are in addition to the **limits** for the Commercial Liability Coverage.

We have the right and duty to defend a suit seeking damages for **bodily injury** or **property damage** which may be covered under the Commercial Liability Coverage. **We** may make investigations and settle claims or suits **we** decide are appropriate.

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Suit includes any alternative dispute resolution proceeding involving **bodily injury** or **property damage** to which:

1. **you** must submit; or
2. **you** submit with **our** consent.

We do not have to provide defense after we have paid an amount equal to the **limit** as the result of:

1. a judgment; or
2. a written settlement agreed to by **us**.

If we defend a suit, we will pay:

1. The costs taxed to the **insured**.
2. The expenses incurred by **us**.
3. The actual loss of earnings by an **insured** for the time spent away from work at **our** request. We pay up to $100 per day.
4. The necessary expenses incurred by an **insured** at **our** request.
5. Pre-judgment interest awarded against any **insured** on that part of the judgment we pay. If we offer to pay the **limit**, we will not pay any pre-judgment interest based on that period of time after the offer.
6. The interest which accrues beginning with entry of a judgment and ending when we tender, deposit in court, or pay up to **our limit**.
7. The cost of appeal bonds or bonds for the release of attachments up to **our limit**. We are not required to apply for or furnish such bonds.

EXCLUSIONS THAT APPLY TO ALL COVERAGES

We do not pay for a loss if one or more of the following excluded events apply to the loss, regardless of other causes or events that contribute to or aggravate the loss.

1. We do not pay for **bodily injury** or **property damage** which is expected by, directed by, or intended by an **insured**. This exclusion does not apply to **bodily injury** that arises out of the use of reasonable force to protect people or property.
2. We do not pay for **bodily injury** or **property damage** liability which is assumed under a contract or an agreement. This exclusion does not apply to an **incidental contract**.
3. We do not pay for **bodily injury** or **property damage** that arises out of the rendering or the failure to render a professional service, except as provided by the coverage under Incidental Medical Malpractice Injury.
4. We do not pay for **bodily injury** or **property damage** that arises out of the use of **motorized vehicles** in or in the practice or preparation for racing, speed, pulling or pushing, demolition or stunt activities or contests.
5. We do not pay for **bodily injury** or **property damage** arising out of any premises other than the **insured premises**.
6. We do not pay for **bodily injury** or **property damage** that arises out of the ownership, operation, maintenance, use, occupancy, renting, loaning, entrusting, supervision, **loading or unloading** of:
   a. an aircraft;
   b. a **motorized vehicle**;
   c. a watercraft.

   except as provided under Incidental Vehicle Coverage.

Exclusion 7. applies if **you** are in the business of manufacturing, distributing, selling or serving alcoholic beverages.

7. We do not pay for **bodily injury** or **property damage** for which an **insured** may be held liable by reason of:
   a. causing or contributing to the intoxication of a person;
   b. the furnishing of alcoholic beverages to a person under the influence of alcohol; or
   c. a law or regulation relating to the sale, gift, distribution or use of alcoholic beverages.
8. We do not pay for:
   a. **bodily injury** to an employee of an **insured** if it occurs in the course of employment; or
   b. consequential injuries to a spouse, child, parent, sister or brother of such injured employee.

   Exclusion 8 applies where:
   a. the **insured** is liable either as an employer or in any other capacity; or

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b. there is an obligation to fully or partially reimburse a third person for damages arising out of paragraph 8.a or 8.b. above.

Exclusion 8. does not apply to liability assumed by an **insured** under an **incidental contract.**

9. We do not pay for **bodily injury** or **property damage:**

a. arising wholly or partially out of the actual, alleged or threatened discharge, dispersal, release or escape of pollutants:

1) at or from the **insured premises** unless the **bodily injury** or **property damage** arises from the heat, smoke or fumes of a fire which becomes uncontrollable or breaks out from where it was intended to be;

2) occurring in the transporting, handling, treatment, storage, disposal or processing of any material, including waste, by or for **you** or by any person or organization for whom **you** may be legally liable; or

3) at or from any premises where **you** or any contractor or subcontractor, directly or indirectly under **your** control, are working or have completed work:

a) if the pollutant is on the premises in connection with such work, unless the **bodily injury** or **property damage** arises from the heat, smoke, or fumes of a fire which becomes uncontrollable or breaks out from where it was intended to be; or

b) if the work in any way involves testing, monitoring, clean-up, containing, treating or removal of pollutants.

b. due to any loss, cost or expense arising out of governmental action or inaction involving in any way the testing, monitoring, clean-up, containing, treating or removal of pollutants.

Pollutants means:

1) any solid, liquid, gaseous, thermal, electrical emission (visible or invisible) or sound emission pollutant, irritant or contaminant; or

2) waste, including materials to be recycled, reclaimed or reconditioned as well as disposed of.

10. We do not pay for **bodily injury** if benefits are provided or are required to be provided by an **insured** under a workers' compensation, nonoccupational disability, occupational disease or like law.

11. We do not pay for **bodily injury** or **property damage** that arises out of war. War includes undeclared war, civil war, insurrection, rebellion or revolution, or an act or a condition of war.

12. We do not pay for **bodily injury** or **property damage** included within the **Products/Completed Work Hazard.**

ADDITIONAL EXCLUSIONS THAT APPLY TO PROPERTY DAMAGE LIABILITY

1. We do not pay for **property damage** to property owned by, occupied by or rented to an **insured**, except as covered under Coverage O, Fire Legal Liability.

2. We do not pay for **property damage** to premises **you** sell, give away or abandon, if the **property damage** arises out of any part of those premises.

3. We do not pay for **property damage** to property used by or loaned to **you.** This exclusion does not apply with respect to liability assumed under a written sidetrack agreement.

4. We do not pay for **property damage** to property in the care, custody or control of an **insured.** This exclusion does not apply with respect to liability assumed under a written sidetrack agreement.

5. We do not pay for **property damage** to **your products** if the damage is caused by the **product** or a part of it.

6. We do not pay for **property damage** to work per-formed by **you** if the damage is caused by the work or a part of the work and included in the **Products/ Completed Work Hazard.**

7. We do not pay for **property damage** to property that has not been physically injured or destroyed, or to **impaired property** that results from:

a. a delay or failure to perform a contract by **you** or one acting on **your** behalf; or

b. a defect, deficiency, inadequacy or unsafe condition in **your product** or **work** performed by **you** or on **your** behalf.

This exclusion does not apply to the loss of use of property resulting from sudden and accidental injury to or destruction of **your products** or **your work** after the **products** or **work** have been put to their intended use.

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ADDITIONAL EXCLUSIONS THAT APPLY TO MEDICAL PAYMENTS

1. **We** do not pay for medical expenses for **bodily injury** to an **insured.**

2. **We** do not pay for medical expenses for **bodily injury** to:

   a. a person hired by or on behalf of any **insured** to do work for an **insured;** or
   b. a tenant of an **insured.**

3. **We** do not pay for medical expenses for **bodily injury** to a person injured on that part of the premises that the person normally occupies.

4. **We** do not pay for medical expenses for **bodily injury** to a person while taking part in athletic activities.

5. **We** do not pay for medical expenses for **bodily injury** included in the **Products/Completed Work Hazard.**

6. If the named **insured** is a club, **we** do not pay for medical expenses for **bodily injury** to any member of the named **insured.**

7. If the named **insured** is a hotel, motel or tourist court, **we** do not pay for medical expenses for **bodily injury** to a guest of the named **insured.**

8. **We** do not pay for medical expenses for **bodily injury** to a person if benefits are provided or required to be provided under any workers' compensation, nonoccupational disability, occupational disease or like law.

9. **We** do not pay for medical expenses for **bodily injury** to a student, camper, patient or inmate enrolled in a program of any facility owned or operated by **you** or on **your** behalf.

WHAT MUST BE DONE IN CASE OF LOSS

1. **Notice --**

   a. In the case of an **occurrence**, or if an **insured** becomes aware of anything that indicates that there might be a claim under the Commercial Liability Coverage, the **insured** must promptly give notice to **us** or our agent.

      Notice to our agent is notice to us.

   b. The notice to **us** must state:

      1) the **insured's** name;
      2) the policy number;
      3) the time, the place and the circumstances of the **occurrence;** and
      4) the names and addresses of all known and potential claimants and witnesses.

2. **Cooperation** -- The **insured** must cooperate with **us** in performing all acts required by the Commercial Liability Coverage.

3. **Volunteer Payments** -- An **insured** must not make payments or assume obligations or other costs except at the **insured's** own cost. This does not apply to first aid to others at the time of **bodily injury.**

4. **Other Duties --**

   a. If a claim is made or suit is brought, the **insured** must:

      1) promptly send to **us** copies of all legal papers, demands and notices; and
      2) at **our** request assist in:

         a) a settlement;
         b) the conduct of suits. (This includes the attendance at trials or hearings);
         c) the enforcing of rights against all parties who may be liable to an **insured** for the injury or damage;
         d) the securing of and giving of evidence; and
         e) obtaining the attendance of all witnesses.

   b. In the case of a medical payments loss:

      1) the injured person (or one acting on such person's behalf) must:

         a) give **us** written proof of claim (under oath if requested) as soon as practicable;
         b) give **us** permission to get copies of the medical records; and

      2) the injured person must submit to medical exams by doctors chosen by **us** when and as often as **we** may reasonably require.

HOW MUCH WE PAY

1. The **limits** shown on the Declarations, and subject to the following conditions, are the most **we** pay regardless of the number of:

   a. **Insureds** under the Commercial Liability Coverage;

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b. persons or organizations who sustain injury or damage; or
c. claims made or suits brought.

The payment of a claim under Coverage M does not mean that **we** admit **we** are liable under other coverages.

2. The General Aggregate **Limit** is the most we will pay during a policy period for the sum of:

   a. all damages under Coverage L; and
   b. all medical expenses under Coverage M.

3. The Each **Occurrence Limit**, subject to the General Aggregate **Limit**, is the most **we** will pay for the total of:

   a. damages under Coverages L; and
   b. medical expenses under Coverage M,

   due to all **bodily injury** and **property damage** arising out of a single **occurrence**.

4. Subject to the General Aggregate **Limit** and Each **Occurrence Limit**, the Medical Payments **Limit** is the most that **we** will pay under Coverage M for all medical expenses because of **bodily injury** sustained by any one person.

5. Subject to the Each **Occurrence Limit** and the General Aggregate **Limit**, **our limit** for **property damage** covered under Coverage O – Fire Legal Liability is $50,000 for each **occurrence** unless otherwise shown on the Declarations.

The General Aggregate **Limit** applies separately to each consecutive 12-month period beginning with the inception date of the Commercial Liability Coverage shown on the Declarations. It also applies separately to any remaining policy period of less than 12 months, unless the Commercial Liability Coverage has been extended after it was written. In that case, the additional period will be considered part of the last preceding period for the purpose of determining **limits**.

CONDITIONS

1. **Bankruptcy** – Bankruptcy or insolvency of an **insured** does not relieve **us** of **our** obligations for Commercial Liability Coverage.

2. **Suit Against Us** – No suit may be brought against **us** unless:

   a. all the **terms** of the Commercial Liability Coverage have been complied with; and

   b. the amount of the **insured's** liability has been determined by:

      1) a final judgment against an **insured** as a result of a trial; or
      2) a written agreement by the **insured**, the claimant and **us**.

   No person has a right under the Commercial Liability Coverage to join **us** or implead **us** in actions that are brought to determine an **insured's** liability.

3. **Subrogation** – If **we** pay under the Commercial Liability Coverage, **we** may require from an **insured** an assignment of any right of recovery. **We** are not liable under the Commercial Liability Coverage if any **insured** has impaired **our** right to recover. An **insured** may waive the right to recover, in writing, before an **occurrence** takes place without voiding coverage.

4. **Commercial Liability Coverage Premium** – If the premium is shown on the Declarations as a deposit premium, **we** will compute the final earned premium at the end of each audit period shown on the Declarations. If it is more than the deposit premium paid by **you**, **we** will bill **you** for the difference. If the final earned premium is less than the deposit premium paid by **you**, **we** will return the difference to **you**. **You** must maintain records of the information that is necessary for computing the premium. Copies of the records must be sent to **us** at the end of the audit period or when requested by **us**.

5. **Insurance Under More Than One Policy** – (This does not apply to Coverage M – Medical Payments.)

   a. Insurance under this Commercial Liability Coverage is primary except as provided under paragraph 5.c. below, or unless otherwise stated. The amount of **our** liability is not reduced because of other insurance which applies to the loss on other than a primary basis.

   b. If the other insurance is also primary, **we** will share in the loss as follows:

      1) If the other insurance provides for contribution by equal shares, **we** will pay equal amounts with other insurers until:

         a) the lowest applicable **limit** under any one policy is reached. If part of the loss remains unpaid, **we** will pay an equal share with the other insurers until the full amount of the loss is paid, or until **we** have paid **our limit** in full; or

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b) the full amount of the loss is paid.

2) If the other insurance does not provide for contribution by equal shares, we will pay up to **our limit** no more than that proportion of the loss to which the applicable **limit** under this policy for such loss bears to the total applicable **limit** for all insurance against the loss.

c. Insurance under this Commercial Liability Coverage is excess over any other insurance:

1) if the other insurance, whether primary, excess, contingent or on any other basis, provides fire insurance for premises rented to **you**; or

2) if the other insurance applies to any loss arising out of the maintenance or use of aircraft, **motorized vehicles** or watercraft which may be covered by this Commercial Liability Coverage.

d. When this insurance is excess over any other insurance:

1) we will have no duty under Coverage L to defend any claim or suit that any other insurer has a duty to defend. If no other insurer defends, we will do so. However, we will be entitled to the **insured's** rights against all those other insurers.

2) we will pay **our** share of the amount of loss, if any, that exceeds the sum of:

a) the total amount that all such insurance would pay for the loss in the absence of this insurance; and
b) the total of all deductibles and self-insured amounts required by such other insurance.

We will share the remaining loss with any other insurance that is not described in this excess insurance provision and was not bought specifically to apply in excess of the **limits** of insurance shown on the Declarations page of this Commercial Liability Coverage.

6. **Misrepresentation, Concealment or Fraud** – This coverage is void if before or after a loss:

a. any **insured** has concealed or misrepresented:

1) a material fact or circumstance that relates to this insurance or the subject thereof; or
2) the **insured's** interest herein;

b. there has been fraud or false swearing by any **insured** with regard to a matter that relates to this insurance or the subject thereof.

7. **Separate Insureds** – Coverage provided under the Commercial Liability Coverage applies separately to each **insured** against whom claim is made or suit is brought. This does not affect the **limits** stated under How Much We Pay.

NUCLEAR ENERGY LIABILITY EXCLUSION

This insurance does not apply:

1. under any liability coverage, to **bodily injury** or **property damage:**

a. with respect to which an **insured** under the policy is also an **insured** under a Nuclear Energy Liability policy issued by Nuclear Energy Liability Insurance Association, Mutual Insurance Association, Mutual Atomic Energy Liability Underwriters, Nuclear Insurance Association of Canada or any of their successors, or would be an **insured** under any such policy but for its termination upon exhaustion of its **limit** of liability; or

b. resulting from the **hazardous properties** of **nuclear material** and with respect to which:

1) any person or organization is required to maintain financial protection pursuant to the Atomic Energy Act of 1954, or any law amendatory thereto; or
2) the **insured** is, or had this policy not been issued would be, entitled to indemnity from the United States of America or any agency thereof, under any agreement entered into by the United States of America or any agency thereof, with any person or organization.

2. Under any Medical Payments coverage, to expenses incurred with respect to **bodily injury** resulting from the **hazardous properties** of **nuclear material** and arising out of the operation of a **nuclear facility** by any person or organization.

3. Under any liability coverage, to **bodily injury** or **property damage** resulting from the **hazardous properties** of **nuclear material**, if:

a. the **nuclear material**:

1) is at any **nuclear facility** owned by, or operated by or on behalf of, an **insured**; or
2) has been discharged or dispersed therefrom;

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b. the **nuclear material** is contained in **spent fuel** or **waste** at any time possessed, handled, used, stored, processed, transported or disposed of by or on behalf of an **insured**; or

c. the **bodily injury** or **property damage** arises out of the furnishing by an **insured** of services, materials, parts or equipment in connection with the planning, construction, maintenance, operation or use of any **nuclear facility**, but if such facility is located within the United States of America, its territories or possessions or Canada, this exclusion (c.) applies only to **property damage** to such **nuclear facility** and any property threat.

DEFINITIONS

The following definitions apply to the Nuclear Energy Liability Exclusion:

1. **Hazardous Properties** – These include radioactive, toxic or explosive properties.

2. **Nuclear Material** – This means **source material**, **special nuclear material** or **by-product material**.

3. **Source Material, Special Nuclear Material, By-product Material** – These have the meanings given them in the Atomic Energy Act of 1954, or in any law amendatory thereof.

4. **Spent Fuel** – This means any fuel element or fuel component, solid or liquid, which has been used or exposed to radiation in a **nuclear reactor**.

5. **Waste** – This means any **waste** material:

   a. containing **by-product material** other than the tailings or **wastes** produced by the extraction or concentration of uranium or thorium from any ore processed primarily for its **source material** content; and

   b. resulting from the operation by any person or organization of any **nuclear facility** included under the first two paragraphs of the definition of **nuclear facility**.

6. **Nuclear Facility** – This means:

   a. any **nuclear reactor**.
   b. any equipment or device designed or used for:

      1) separating the isotopes of uranium or plutonium;
      2) processing or utilizing **spent fuel**; or
      3) handling, processing or packaging **waste**.

   c. any equipment or device used for the processing, fabricating or alloying of **special nuclear material** if at any time the total amount of such material in the custody of the **insured** at the premises where such equipment or device is located consists of or contains more than 25 grams of plutonium or uranium-223 or any combination thereof, or more than 250 grams of uranium-235; or
   d. any structure, basin, excavation, premises or place prepared or used for the storage or disposal of **waste**;

   and includes the site on which any of the foregoing is located, all operations conducted on such sites, and all premises used for such operations.

7. **Nuclear Reactor** – This means any apparatus designed or used:

   a. to sustain nuclear fission in a self-supporting chain reaction; or
   b. to contain a critical mass of fissionable material.

8. **Property Damage** – This includes all forms of radioactive contamination of property.

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Dwelling / Mobile Home Fire & E.C. Application SC

National Security Fire & Casualty Company
P.O. Box 703
661 East Davis Street
Elba, Alabama 36323
334.897.2273 • 800.239.2358 • Fax: 334.897.5694

Agency# / Agent#	Policy # / Risk #
S274 / 1814	836223 / 205638

APPLICANT: JENRETTE, ROSEMARY

NAME	ROLE	SSN	MARITAL STATUS	TELEPHONE
ROSEMARY JENRETTE	Individual / Billing	250-02-8367	M	

BILLING ADDRESS

ROSEMARY JENRETTE
3806 N OCEAN BLVD
MYRTLE BEACH SC 29577-2760

LOCATION OF PROPERTY

104 COUNTRY CLUB DR
CONWAY SC 29526-3903

COUNTY: HORRY
TERRITORY: 2

COVERAGES FROM 3/9/2009 TO 3/9/2010 COUNTY HORRY

AMOUNT OF COVERAGE	DESCRIPTION	PREMIUM
$100,000.00	A - Dwelling	$419.00
	No Related Private Structures Coverage	
	No Personal Property Coverage	
	No Additional Living Costs Coverage	
$100,000.00	L - Personal Liability	$45.00
	No Medical Payments To Others	$0.00
	No Fire Legal Liability Coverage	$0.00
	Optional Perils - Extended Coverage	Included
	No Vandalism Coverage	
	$1000 Deductible	($84.00)
	Age of Home Surcharge	$17.00
	Annual Premium:	$397.00
	Mode Premium:	$397.00
	Billing Fee:	$0.00
	Total Mode Premium:	$397.00

Initial Payment Method	Payment Mode	Deductible	Total Contract Premium
☐ Agent to mail check	☐ Monthly **	☐ $500	Monthly
☐ Bill Mortgagee	☐ Quarterly	☐ $250	½ or ¼ annual
☐ Charge to agent's account	☐ Semi-annual	☒ $1,000	Billing Fee
☒ Sweep agent's account	☒ Annual		Total Mode Premium $397.00

**Requires two (2) months down payment AND must complete ACH Form 1011.

MORTGAGE INFORMATION

Mortgagee Name & Address	1st		2nd	
Loan #	1st		2nd	

MOBILE HOME DESCRIPTION

Year		Make		Model		Annex 1	Size x
Size	x	Serial #				Annex 2	Size x
Central Air	2-3 ton 3 ½ ton	Tied Down	Yes No	Skirting	Yes No Type:		

RATING INFORMATION

Date Purchased	Price Paid (include lot price)	Year Built	Square Footage by Floor (heated)
1/1/2007	$0.00	1950	1st 0 2nd 0

Construction	Occupancy	# of Families	Protection Class	Servicing Fire Department	# of Stories	City Limits
FRAME	TENANT	1	3	CONWAY	0	☐ In ☒ Out

Attached Garage (Enclosed)	Size 0 x 0	Attached Carport (open)	Size 0 x 0	Porches / Decks	Covered: Size 0 x 0 Size 0 x 0
					Uncovered: Size 0 x 0 Size 0 x 0

Home Office Use Only	☐ Agent ☐ Insured ☐ Mrtg. ☐ MO	Check No.	Amount $

Dwelling / Mobile Home Fire & E.C. Policy Declarations

National Security
Fire & Casualty Company
P.O. Box 703 • 661 East Davis Street • Elba, Alabama 36323 • 334.897.2273 • 800.798.2207 • Fax: 334.897.5694

POLICY NUMBER:	836223 - 205638
NAMED INSURED:	JENRETTE, ROSEMARY

POLICY PERIOD: 3/9/2009 TO 3/9/2010 This insurance is effective at 12:01 AM Standard Time at the address of the property insured herein for the period above, and may be renewed for successive policy periods, at the option of the Company, providing the required renewal premium is received by the Company on or before the expiration date.

PRIMARY CONTACT & MAILING ADDRESS

ROSEMARY JENRETTE
3806 N OCEAN BLVD
MYRTLE BEACH SC 29577-2760

AGENCY & MAILING ADDRESS AGENT#: S274

BRADHAM INSURANCE AGENCY
P O BOX 1694
CONWAY SC 29528

PROPERTY INSURED

104 COUNTRY CLUB DR
CONWAY SC 29526-3903

PROTECTION CLASS: 3
TERRITORY: 2
CONSTRUCTION: FRAME
OCCUPANCY: TENANT

MORTGAGEE INFORMATION - SUBJECT TO THE PROVISIONS OF THE MORTGAGE CLAUSE, LOSS IF ANY ON BUILDING ITEMS SHALL BE PAYABLE TO THE NAMED INSURED AND:

NAME & ADDRESS	1st		2nd	
LOAN #	1st		2nd	

COVERAGES

AMOUNT OF INSURANCE	DESCRIPTION	PREMIUM
$100,000.00	A - Dwelling	$419.00
	No Related Private Structures Coverage	
	No Personal Property Coverage	
	No Additional Living Costs Coverage	
$100,000.00	L - Personal Liability	$45.00
	No Medical Payments To Others	$0.00
	No Fire Legal Liability Coverage	$0.00
	Optional Perils - Extended Coverage	Included
	No Vandalism Coverage	
	$1000 Deductible	($84.00)
	Age of Home Surcharge	$17.00
	Annual Premium:	$397.00
	Mode Premium:	$397.00
	Billing Fee:	$0.00
	Total Mode Premium:	$397.00

FORMS MAKING UP THE POLICY:

FL - 1 Ed 1.0, GL - 600 6-88, FL 0097 06 07, FL - 9921 10 07, ML- 195 Ed 7-88, GL- 425 Ed 1-87

Insurance is provided against only those perils and for only those coverages indicated above by a premium charge and for which an amount of insurance is indicated and against other perils and for other coverages only when endorsed hereon or added hereto. The limit of the company's liability against each such coverage shall be as stated hereon subject to all terms of the policy having reference thereto. These declarations when attached with appropriate policy, complete the policy numbered hereon.

NOTICE: This policy is based on information in the application. If building insured, named insured must have full legal title to the building and the land.

DATE: 3/9/2009 AGENT'S SIGNATURE _____

*** STATEMENT OF ACCOUNT ***
3/9/2009

National Security
Fire & Casualty Company

P.O. Box 703 • 661 East Davis Street
Elba, Alabama 36323
334.897.2273 • 800.798.2207 • Fax: 334.897.5694

POLICY NUMBER:	836223 -
NAMED INSURED:	JENRETTE, ROSEMARY

POLICY PERIOD: 3/9/2009 To 3/9/2010
Due Date: 3/23/2009

PRIMARY CONTACT & MAILING ADDRESS

ROSEMARY JENRETTE
3806 N OCEAN BLVD
MYRTLE BEACH SC 29577-2760

AGENCY & MAILING ADDRESS AGENT#: S274

BRADHAM INSURANCE AGENCY
P O BOX 1694
CONWAY SC 29528

|8362231128.00

AMOUNT DUE:	$128.00
AMOUNT PAID:	

PLEASE RETURN THIS PORTION WITH YOUR PAYMENT PLEASE WRITE POLICY NUMBER ON CHECK

*** STATEMENT OF ACCOUNT ***

National Security
Fire & Casualty Company

P.O. Box 703 • 661 East Davis Street
Elba, Alabama 36323
334.897.2273 • 800.798.2207 • Fax: 334.897.5694

POLICY NUMBER:	836223 -
NAMED INSURED:	JENRETTE, ROSEMARY

POLICY PERIOD: 3/9/2009 To 3/9/2010
104 COUNTRY CLUB DR
CONWAY SC 29526-3903

STATEMENT OF ACCOUNT

DATE	DESCRIPTION	AMOUNT
	Beginning Balance	$397.00
3/9/2009	PAYMENT ON POLICY BY AGENCY SWEEP	($397.00)
3/9/2009	ENDORSEMENT ADJUSTMENT FOR 836223	$128.00

INFORMATIONAL MESSAGES

Please send your payment by 3/23/2009.

BALANCE:	$128.00

CHANGE OF ADDRESS: _____

Name **Rosemary Jenrette
Attn
Street 3806 N Ocean Blvd
City Myrtle Beach **St** SC
Zip 29577
Hdg
Csr HH

Client # JENRRO1 **Ph-R** 843-448-9203
Conglom# **Ph-B** 843-467-1928
Agency 1 **Ph-F**
Branch 1 **Note**
Broker
Code **Pr** **Ocp**

Wed 04/08/2009 CLOSED JC **Date** 04/08/2009 **Time** 12:05PM **Type** FIRE **Op** JC **Pr** JC **CSR** JC **Entered** 03/09/2009 12:05PM
Amount 397 **Co** NSE **Success** Y **Action** CL **on** 04/08/2009
Plan **Closed** 03/09/2009
Desc Check received by agency

Notes JC 03/09/2009 12:05 PM
paid 397.00 with ck # 2492 uploaded to nat sec

Dwelling / Mobile Home Fire & E.C. Application 60

National Security Fire & Casualty Company

P.O. Box 703
851 East Davis Street
Elba, Alabama 36323
334.897.2273 • 800.239.2358 • Fax: 334.897.3694

Agency# / Agent#
3274 / 1614
Policy# / Risk #
836223 / 206838

APPLICANT: JENRETTE, ROSEMARY

NAME	ROLE	SSN	MARITAL STATUS	TELEPHONE
ROSEMARY JENRETTE	Individual / Billing	250-02-9367	M	

BILLING ADDRESS
ROSEMARY JENRETTE
3808 N OCEAN BLVD
MYRTLE BEACH SC 29577-2760

LOCATION OF PROPERTY
104 COUNTRY CLUB DR
CONWAY SC 29526-3903
County: HORRY
Territory: 2

COVERAGES — FROM 3/9/2009 TO 3/9/2010 — COUNTY HORRY

AMOUNT OF COVERAGE	DESCRIPTION	PREMIUM
$100,000.00	A - Dwelling	$419.00
	No Related Private Structures Coverage	
	No Personal Property Coverage	
	No Additional Living Costs Coverage	
$100,000.00	L - Personal Liability	$45.00
	No Medical Payments To Others	$0.00
	No Fire Legal Liability Coverage	$0.00
	Optional Perils - Extended Coverage	Included
	No Vandalism Coverage	($84.00)
	$1000 Deductible	$17.00
	Age of Home Coverage	
	Annual Premium:	$397.00
	Mode Premium:	$397.00
	Billing Fee:	$0.00
	Total Mode Premium:	$397.00

Initial Payment Method: ☐ Agent to mail check ☐ c/o Mortgagee ☐ Charge to agent's account ☒ Charge agent's account
Payment Mode: ☐ Monthly ☐ Quarterly ☐ Semi-Annual ☒ Annual
Deductible: ☐ $500 ☐ $250 ☒ $1,000
Total Contract Premium: Monthly ___ % or ¼ annual ___ Billing Fee ___ Total Mode Premium $397.00

**Requires fax (2) months after payment AND must comply to ADS Form 1811.

MORTGAGE INFORMATION

Mortgagee Name & Address	1st	2nd	
Loan #	1st	2nd	

MOBILE HOME DESCRIPTION

Year		Make		Model		Annex 1	Size x
Size	x	Serial #				Annex 2	Size x
Central Air		2-3 ton 3 ¼ kw	Tied Down	Yes No	Skirting	Yes No Type:	

RATING INFORMATION

Date Purchased 1/1/2007		Price Paid (Value if new) $0.00		Year Built 1950		Square Footage By Floor (heated) 1st 0 2nd 0	
Construction FRAME	Occupancy TENANT	# of Families 1	Protection Class 3	Servicing Fire Department CONWAY		# of Stories 0	City Limits ☐ In ☒ Out
Attached Garage (Enclosed)	Size 0 x 0	Attached Carport (Open)	Size 0 x 0	Porches / Decks	Covered: Size 0 x 0 Uncovered: Size 0 x 0	Size 0 x 0 Size 0 x 0	

Home Office Use Only ☐ Agent ☐ Insured ☐ Mtg. ☐ MO Check No. Amount $

FC-953 A

(Applicant must receive copy of application.)
HOME OFFICE COPY

UNDERWRITING QUESTIONS	YES	NO	REMARKS
1. Does risk contain a trailer? (Mobile Home–1976 or later & UL approved)	Yes		
2. Does applicant have full unconditional ownership of the building and land upon which it is located? (Dwelling or mobile home with annexes – if not, list restrictions)	Yes		

LOSS HISTORY

Any losses, whether or not paid by insurance, during the last 5 years, at this or any other location? Yes ☐ No ☒ (If yes, explain below)

Date	Type	Description of Loss	Amount

PRIOR COVERAGE – IS RISK A NEW PURCHASE? Yes ☐ No ☒ If no, provide prior carrier information.

Prior Carrier	Prior Policy Number	Expiration Date
AMERICAN MODERN	111111	7/5/2009

IMPORTANT NOTICE

In compliance with the requirements of the Fair Credit Reporting Act (Public Law 91-508), we advise that as part of our routine procedure in reviewing applications for insurance or renewals of insurance policies, this Insurance Company may procure an Investigative Consumer Report including information as to the consumer's character, general reputation, personal characteristics, or mode of living, if such insurance is for an individual and is primarily for personal, family, or household purposes. Such information will be obtained through personal interviews with neighbors, friends, or others with whom the consumer is acquainted. Upon written request to this Insurance Company, made within a reasonable period of time after receipt of this notice, this Company will provide in writing a complete and accurate disclosure of the nature and scope of the investigative request, if one was requested, or advise that none was requested.

I hereby apply to National Security Fire and Casualty Company for a policy of insurance for the coverage set forth above. I certify that I have read the statements above and the notice pertaining to the Fair Credit Reporting Act. I further certify that there is no other insurance and that I own title in fee simple to any land upon which an insured building is located. I understand that other insurance is prohibited. It is understood and agreed that any policy issued is based upon the above statements which I warrant to be true. If I have given incorrect information herein and this information is material to the Company's acceptance or rating of the risk, it may result in coverage under the policy being null and void under State law relative to Material Misrepresentation.

Barbara Bradham
Signature of Agent or Broker (Application will be returned without signature or seal)

BARBARA A BRADHAM
BRADHAM INSURANCE AGENCY
P O BOX 1634
CONWAY SC 29528

X Rosemary L. Jones
Signature of Applicant (Must be signed by applicant only, no proxies permitted.)

X 9:53 AM PM 3-15-09
Time Signed (Required) Date Signed (Required)

Date Printed 3/8/2009

FC-959 A

(Applicant must receive copy of application.)
HOME OFFICE COPY

Customer Activities Listing - JENRRO1 - on 11/20/2013 by MARIE - Page 1

350

Name	**Rosemary Jenrette		**Client #**	JENRRO1	**Ph-R** 843-448-9203
Attn			**Conglom#**		**Ph-B** 843-467-1928
Street	3806 N Ocean Blvd		**Agency**	1	**Ph-F**
City	Myrtle Beach	**St** SC	**Branch**	1	**Note**
Zip	29577		**Broker**		
Hdg		**Csr** HH	**Code**	**Pr**	**Ocp**

Wednesday **Catg** CALL **Type** FIRE **Op** JC **Pr** JC **CSR** JC **Entered** 04/22/2009 09:04AM
04/29/09 **Amount** 0 **Co** NSE **Success** Y **Action** MPC **on** 04/29/2009
CLOSED **Plan** **Closed** 04/22/2009
JC **Desc** Call the insured

Notes JC 04/22/2009 09:04 AM
I have called Rosemary several times but I have been unable to reach her to get the doucmentation showing updates to home for national security

Customer Activities Listing - JENRRO1 on 11/20/2013 by MARTE page 1

Name **Rosemary Jenrette
Attn
Street 3806 N Ocean Blvd
City Myrtle Beach **St** SC
Zip 29577
Hdg **Csr** HH

Client # JENRRO1 **Ph-R** 843-448-9203
Conglom# **Ph-B** 843-467-1928
Agency 1 **Ph-F**
Branch 1 **Note**
Broker
Code **Pr** **Ocp**

Monday 01/25/10 **Catg** RENA **Type** FIRE **Op** JC **Pr** JC **CSR** JC **Entered** 01/25/2010 02:54PM
Amount 0 **Co** NSE **Success** Y **Action** NO **on** 01/25/2010
CLOSED JC **Plan** **Closed** 02/22/2010
Desc Renewal Info sent to insured

Notes JC 01/25/2010 02:54 PM
RENEWAL INFO SENT FOR 3-9-10

PAYMENT DUE NOTICE
1/23/2010

National Security
Fire & Casualty Company

P.O. Box 703 • 661 East Davis Street
Elba, Alabama 36323
334.897.2273 • 800.798.2207 • Fax: 334.897.5694

POLICY NUMBER:	836223 -	POLICY PERIOD:	3/9/2010 To 3/9/2011
NAMED INSURED:	JENRETTE, ROSEMARY	Due Date: 3/8/2010	

PRIMARY CONTACT & MAILING ADDRESS

ROSEMARY JENRETTE
3806 N OCEAN BLVD
MYRTLE BEACH SC 29577-2760

AGENCY & MAILING ADDRESS AGENT#: S274

BRADHAM INSURANCE AGENCY
P O BOX 1694
CONWAY SC 29528

|83622315710

AMOUNT DUE:	$571.00
AMOUNT PAID:	

PLEASE RETURN THIS PORTION WITH YOUR PAYMENT PLEASE WRITE POLICY NUMBER ON CHECK

*** PAYMENT DUE NOTICE ***

National Security
Fire & Casualty Company

P.O. Box 703 • 661 East Davis Street
Elba, Alabama 36323
334.897.2273 • 800.798.2207 • Fax: 334.897.5694

POLICY NUMBER:	836223 -	POLICY PERIOD:	3/9/2010 To 3/9/2011
NAMED INSURED:	JENRETTE, ROSEMARY	104 COUNTRY CLUB DR CONWAY SC 29526-3903	

STATEMENT OF ACCOUNT

DATE	DESCRIPTION	AMOUNT
	Beginning Balance	$0.00
1/23/2010	RENEWAL BILL FOR POLICY 836223 0 FROM 3/9/2010 TO 3/9/2011	$571.00

AMOUNT DUE $571.00
DUE DATE 3/8/2010

INFORMATIONAL MESSAGES

Please send your payment by 3/8/2010.

CHANGE OF ADDRESS: _____

POLICY ANNIVERSARY BILLING MODE OPTIONS

BILLING MODE OPTION	POLICY PREMIUM
ANNUAL	$571.00
SEMI-ANNUAL **	$290.50
QUARTERLY **	$147.75
MONTHLY *	$47.58

* AVAILABLE ONLY WHEN PAYING BY ACH. CONTACT YOUR AGENT FOR THIS OPTION
** BILLING FEE INCLUDED.

National Security
Fire & Casualty Company

P.O. Box 703 • 661 East Davis Street
Elba, Alabama 36323
334.897.2273 • 800.798.2207 • Fax: 334.897.5694

4/9/2009

POLICY NUMBER:	836223 -
NAMED INSURED:	JENRETTE, ROSEMARY

POLICY PERIOD: 3/9/2009 To 3/9/2010
Due Date: 4/23/2009

PRIMARY CONTACT & MAILING ADDRESS

ROSEMARY JENRETTE
3806 N OCEAN BLVD
MYRTLE BEACH SC 29577-2760

AGENCY & MAILING ADDRESS AGENT#: S274

BRADHAM INSURANCE AGENCY
P O BOX 1694
CONWAY SC 29528

I836223146.00

AMOUNT DUE:	$46.00
AMOUNT PAID:	

PLEASE RETURN THIS PORTION WITH YOUR PAYMENT PLEASE WRITE POLICY NUMBER ON CHECK

*** STATEMENT OF ACCOUNT ***

National Security
Fire & Casualty Company

P.O. Box 703 • 661 East Davis Street
Elba, Alabama 36323
334.897.2273 • 800.798.2207 • Fax: 334.897.5694

POLICY NUMBER:	836223 -
NAMED INSURED:	JENRETTE, ROSEMARY

POLICY PERIOD: 3/9/2009 To 3/9/2010
104 COUNTRY CLUB DR
CONWAY SC 29526-3903

STATEMENT OF ACCOUNT

DATE	DESCRIPTION	AMOUNT
	Beginning Balance	$128.00
3/28/2009	PAYMENT ON POLICY BY INSURED CHECK	($128.00)
4/9/2009	ENDORSEMENT ADJUSTMENT FOR 836223	$46.00

INFORMATIONAL MESSAGES

Please send your payment by 4/23/2009.

BALANCE:	$46.00

CHANGE OF ADDRESS: _____
_____
_____

Dwelling / Mobile Home Fire & E.C. Policy Declarations

National Security
Fire & Casualty Company

P.O. Box 703 • 661 East Davis Street • Elba, Alabama 36323 • 334.897.2273 • 800.798.2207 • Fax: 334.897.5694

POLICY NUMBER:	836223 - 205638
NAMED INSURED:	JENRETTE, ROSEMARY

POLICY PERIOD: 3/9/2010 To 3/9/2011 This insurance is effective at 12:01 AM Standard Time at the address of the property insured herein for the period above, and may be renewed for successive policy periods, at the option of the Company, providing the required renewal premium is received by the Company on or before the expiration date.

PRIMARY CONTACT & MAILING ADDRESS

ROSEMARY JENRETTE
3806 N OCEAN BLVD
MYRTLE BEACH SC 29577-2760

AGENCY & MAILING ADDRESS **AGENT#: S274**

BRADHAM INSURANCE AGENCY
P O BOX 1694
CONWAY SC 29528
(843) 488-2886

PROPERTY INSURED

104 COUNTRY CLUB DR
CONWAY SC 29526-3903

PROTECTION CLASS: 3
TERRITORY: 4
CONSTRUCTION: FRAME
OCCUPANCY: TENANT

MORTGAGEE INFORMATION - SUBJECT TO THE PROVISIONS OF THE MORTGAGE CLAUSE, LOSS IF ANY ON BUILDING ITEMS SHALL BE PAYABLE TO THE NAMED INSURED AND:

NAME & ADDRESS	1st		2nd	
LOAN #	1st		2nd	

COVERAGES

AMOUNT OF INSURANCE	DESCRIPTION	PREMIUM
$100,000.00	A - Dwelling	$571.00
	No Related Private Structures Coverage	
	No Personal Property Coverage	
	No Additional Living Costs Coverage	
$100,000.00	L - Personal Liability	$45.00
	No Medical Payments To Others	$0.00
	No Fire Legal Liability Coverage	$0.00
	Optional Perils - Extended Coverage	Included
	No Vandalism Coverage	
	$1000 Deductible	($114.00)
	Age of Home Surcharge	$69.00
	Total Premium This Risk:	$571.00
	Total Policy Premium:	$571.00

FORMS MAKING UP THE POLICY:

FL - 1 Ed 1.0, GL - 600 6-88, FL 0097 06 07, FL - 9921 10 07, ML- 195 Ed 7-88, GL- 425 Ed 1-87

Insurance is provided against only those perils and for only those coverages indicated above by a premium charge and for which an amount of insurance is indicated and against other perils and for other coverages only when endorsed hereon or added hereto. The limit of the company's liability against each such coverage shall be as stated hereon subject to all terms of the policy having reference thereto. These declarations when attached with appropriate policy, complete the policy numbered hereon.

NOTICE: This policy is based on information in the application. If building insured, named insured must have full legal title to the building and the land.

DATE: 1/23/2010 AGENT'S SIGNATURE _____

Message Details:

Subject:	Loss Notice Received (ROSEMARY JENRETTE) (Agent - BARBARA A BRADHAM)
Contract ID:	
Claim ID:	
Sent Time:	1/17/2011 8:40 AM
Priority:	None
Message:	National Security Fire and Casualty Company 661 East Davis Street Post Office Box 703 Elba, AL 36323 Phone: (334)897-2273 Fax: (866)383-7272 Dear Agent: The National Security Group has received notice of loss for ROSEMARY JENRETTE. You will be sent a separate message with the adjuster's information after the loss notice has been reviewed by an Examiner. You may check the status by logging on to the Agent Website. Policy Number: 836223 Type of Loss: Fire Insured's Name: ROSEMARY JENRETTE Date of Loss: 1/15/2011 Claim Number: 5199901 Note: When calling for the status of a claim during our business hours, please dial 5122 at our opening greeting for immediate call routing to the claims department or you can reply to this message.
Attachments:	

Message Form

Message Details:

Subject:	Claim Adjuster Assigned (5199901 - ROSEMARY JENRETTE) (Agent - BARBARA A BRADHAM)
Contract ID:	
Claim ID:	
Sent Time:	1/17/2011 9:52 AM
Priority:	None
Message:	National Security Fire and Casualty Company 661 East Davis Street Post Office Box 703 Elba, AL 36323 Phone: (334)897-2273 Fax: (866)383-7272 Dear Agent: An adjuster has been assigned to the claim for ROSEMARY JENRETTE. You may check the claim status by logging on to the Agent Website. Policy Number: 836223 Type of Loss: Fire Insured's Name: ROSEMARY JENRETTE Date of Loss: 1/15/2011 Claim Number: 5199901 Adjuster Assigned: DINKINS, JENNIFER Adjuster Phone Number: (800)239-2358 337 Date Assigned: 1/17/2011 Note: When calling for the status of a claim during our business hours, please dial 5122 at our opening greeting for immediate call routing to the claims department or you can reply to this message.
Attachments:	

Message Details:

Subject:	Claim Adjuster Assigned (5199901 - ROSEMARY JENRETTE) (Agent - BARBARA A BRADHAM)
Contract ID:	
Claim ID:	
Sent Time:	1/17/2011 9:52 AM
Priority:	None
Message:	National Security Fire and Casualty Company 661 East Davis Street Post Office Box 703 Elba, AL 36323 Phone: (334)897-2273 Fax: (866)383-7272 Dear Agent: An adjuster has been assigned to the claim for ROSEMARY JENRETTE. You may check the claim status by logging on to the Agent Website. Policy Number: 836223 Type of Loss: Fire Insured's Name: ROSEMARY JENRETTE Date of Loss: 1/15/2011 Claim Number: 5199901 Adjuster Assigned: DINKINS, JENNIFER Adjuster Phone Number: (800)239-2358 337 Date Assigned: 1/17/2011 Note: When calling for the status of a claim during our business hours, please dial 5122 at our opening greeting for immediate call routing to the claims department or you can reply to this message.
Attachments:	

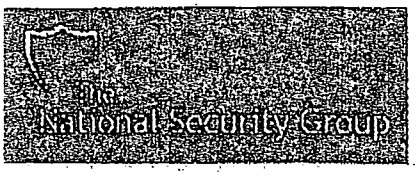
Customer Activities Listing - JENRRO1 on 11/20/2013 by MARTE page 1

Name	**Rosemary Jenrette		**Client #** JENRRO1	**Ph-R**	843-448-9203
Attn			**Conglom#**	**Ph-B**	843-467-1928
Street	3806 N Ocean Blvd		**Agency** 1	**Ph-F**	
City	Myrtle Beach	**St** SC	**Branch** 1	**Note**	
Zip	29577		**Broker**		
Hdg		**Csr** HH	**Code**	**Pr**	**Ocp**

Wednesday **Catg** CLS **Type** FIRE **Op** BB **Pr** JC **CSR** JC **Entered** 01/18/2011 10:09AM
02/02/11 **Amount** 0 **Co** NSE **Success** Y **Action** CCO **on** 02/02/2011
CLOSED **Plan** **Closed** 02/03/2011
JC **Desc** CLAIM INFORMATION SUBMITTED

Notes BB 01/18/2011 10:09 AM
Submitted fire claim to National Security on 1/17/11.Total Fire loss insured left message on agency voice mail Faye returned call ans left insured a message. Horry County State Bank (Gloria) called on 1/18/11 stating they should have been listed as lein on

the property advised National Security .BB



661 East Davis Street
Elba, AL 36323
1-800-239-2358

Insuring your world.

THANK YOU

The National Security Group has recieved notice of your loss and you will be contacted soon. If you provided a valid email address, you will be sent an email with your claim number after your loss notice has been reviewed by a Claims Clerk or Examiner. If you have not been contacted within 48 hours, please call 800-239-2358.

© 2008 The National Security Group, Inc.

Claim #5199901
Adjuster - Jennifer Dinkins
ext. 337

Customer Activities Listing (C JENRRO1 on 11/20/2013 by MARIO page 1

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Name **Rosemary Jenrette
Attn
Street 3806 N Ocean Blvd
City Myrtle Beach **St** SC
Zip 29577
Hdg **Csr** HH

Client # JENRRO1 **Ph-R** 843-448-9203
Conglom# **Ph-B** 843-467-1928
Agency 1 **Ph-F**
Branch 1 **Note**
Broker
Code **Pr** **Ocp**

Wednesday **Catg** CLS **Type** FIRE **Op** BB **Pr** JC **CSR** JC **Entered** 01/18/2011 10:20AM
02/02/11 **Amount** 0 **Co** NSE **Success** Y **Action** CCO **on** 02/02/2011
CLOSED **Plan** **Closed** 02/03/2011
JC **Desc** CLAIM INFORMATION SUBMITTED

Notes BB 01/18/2011 10:20 AM
Claim# 5199901 Jennifer Dinkins is the adjuster ext 337 with National Security 1-800-239-2358 left message with her that Horry county Stae BAnk should have been listed as mortgage.

HORRY COUNTY STATE BANK

DATE: 1-18-11

TO: JAYE BRADHAM FROM: ROBERT SMITH

OFFICE: 488-2886 OFFICE:

FAX No: 488 0736 FAX No:

PHONE: 916 6100

No. of Pages 5 (this page included)

Please call if you have problems receiving or if any pages are missing.

Message: HERE IS A COPY of the recorded Mortgage on the property on Country Club Dr. TMS # 123-00-02-069. IS THE HOME ADDRESS

CONFIDENTIALITY NOTICE

This facsimile transmission contains confidential and/or legally privileged information from Horry County State Bank, intended only for the use of the individual(s) named on the transmission sheet. If you are not the intended recipient, you are hereby notified that any disclosure, copying or distribution of the information is strictly prohibited. If you have received this transmission in error, notify us by telephone immediately, by collect call if necessary, so that we can arrange for the return of the documents to us at no cost to you.

1-89395 corrected chg

Re-recorded to correct name of "note signer"

Instrument#: 2009000047322, MTG BK: 5166 PG: 3100 DOCTYPE: 002 05/05/2009 at 11:16:55 AM, 1 OF 5
BALLERY V. SKIPPER, HORRY COUNTY, SC REGISTRAR OF DEEDS

State of South Carolina }

County of HORRY

Mortgage of Real Estate

THIS MORTGAGE is dated MAY 1, 2009

THE MORTGAGOR ROSEMARY LONG JENRETTE
will be referred to herein as "Borrower".

THE MORTGAGEE, HORRY COUNTY STATE BANK, will be referred to herein as "Lender".
Lender's address is P.O. Box 218, Loris, SC 29569-0218.

The note, note agreement, loan agreement or revolving loan agreement signed by

CAJUN CAROLINA LLC, M BROOKS/PTS MEMBER Quicken

and dated MAY 1, 2009, will be referred to herein as the "Note" or "Obligation" and includes all documents renewing, extending, or modifying it and/or evidencing future advances. The Note amount is

$ 350,000.00

The amount of debt secured by this Mortgage, including the outstanding amount of the Note and all Future Advances under paragraph 13 shall at no time exceed $ 350,000.00, plus interest, reasonable attorney's fees and court costs incurred in collection of amounts due hereunder and expenditures by Lender under paragraph 5 below. Interest under the Note will be deferred, accrued, or capitalized, but Lender shall not be required to defer, accrue or capitalize any interest except as provided in the Note.

This Mortgage is given to secure the Lender the repayment of the following amounts, with interest: (A) the indebtedness evidenced by the Note; (B) any future Advances made under paragraph 13 below; (C) expenditures by Lender under paragraph 5 below; and (D) attorney's fees, court cost and other amounts which may be due under the Note and the Mortgage. In consideration of the above indebtedness and for other valuable consideration which Borrower acknowledges receiving, grant and convey to Lender, its successors and assigns, the following described property.

DESCRIPTION SET FORTH HEREINBELOW AND ON SCHEDULE "A", IF ANY, ATTACHED HERETO AND MADE A PART HEREOF

"SEE EXHIBIT A"

TOGETHER with all singular rights, members, hereditaments and appurtenances belonging or in any way incident or appertaining thereto; all improvements now or hereafter erected 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); save

Instrument#: 2009000047052, MTG BK: 5166 PG: 2466 DOCTYPE: 002 05/04/2009 at 03:40:58 PM, 1 OF 5
BALLERY V. SKIPPER, HORRY COUNTY, SC REGISTRAR OF DEEDS

RLS

TO HAVE AND TO HOLD a... [illegible] the Property and the Lender and the successors and assigns o... [illegible] forever.

BORROWER covenants that Borrower is lawfully seised of the Property in fee simple absolute, that Borrower 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 especially provided in paragraph 15 and otherwise herein. Borrower covenants to warrant and forever defend all and singular the Property unto Lender and the successors or assigns of Lender from and against Borrower and all persons whomsoever lawfully claiming the same or any part thereof.

PROVIDED ALWAYS, nevertheless, and it is by the true intent and meaning of Borrower and Lender, that if Borrower pays or causes to be paid to Lender 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.

IT IS AGREED that Borrower shall be entitled to hold and enjoy the Property until a default as herein defined has occurred.

BORROWER further covenants and agrees with Lender as follows:

1. Assignments of Rents and Profits. As further security for all sums secured by this Mortgage, Borrower assigns to Lender all rents and profits arising from the Property; provided, however, that so long as no Default as hereinafter defined has occurred, Borrower shall be entitled to collect and retain all such rents and profits as the sole property of Borrower without accounting to Lender thereof.

2. Care of Property. Borrower will maintain the Property in good condition and repair and will neither permit nor allow waste thereof. Borrower 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 will not remove or demolish any improvement or fixture which is now or hereafter part of the Property and will not do or allow to the Property without the express written consent of Lender. Lender shall be entitled to operate performance of the provisions of this paragraph.

3. Insurance. (A) Borrower shall at its sole expense obtain for, deliver to, and maintain for the benefit of Lender, during the life of the Mortgage, insurance policies in such amounts as Lender may require, in no event less than the full insurable value, insuring the Property against fire, extended coverage and such other insurable hazards, casualties and contingencies as Lender may require including flood damage, and shall pay promptly, when due, any premiums on such insurance policies and on any renewals thereof. The form of each policies, the companies issuing them, and the coverages provided shall be acceptable to Lender and shall contain a noncontributory mortgage endorsement making losses payable to Lender. At least thirty (30) days prior to the expiration date of all such policies, renewals thereof satisfactory to Lender shall be delivered to Lender. Borrower shall deliver to Lender receipts evidencing the payment of all premiums on such insurance policies and renewals. In the event of loss, Borrower will give written notice to Lender, and Lender may make proof of loss if not made promptly by Borrower. In the event of the foreclosure of this Mortgage or any other transfer of title to the Property in extinguishment of the indebtedness and other sums secured hereby, all right, title and interest of Borrower in and to all insurance policies and proceeds thereof then in force shall pass to the parties. Upon the failure of Borrower to obtain and maintain insurance satisfactory to Lender, Lender may at its own discretion procure and maintain any and all of the insurance as lost as aforesaid, such other policy or policies of insurance, in such amount as Lender, acting in its sole discretion, may determine; all without prejudice to the right to foreclosure Borrower under which Borrower fail or refuse to keep said premises so insured.

(B) Borrower hereby assigns to Lender all proceeds from any insurance policies, and Lender is hereby authorized and empowered to an reasonable discretion, to adjust or compromise any loss under any insurance policies on the Property, and to collect and receive the proceeds from any such policy or policies. Each insurance company is hereby authorized and directed to make payment for all such losses directly to Lender alone, and not to Borrower and Lender jointly. After deducting such insurance proceeds any expenses incurred by Lender in the collection or handling of such funds, Lender, acting in its sole discretion, may: apply the net proceeds (i) to the payment of any sum secured by this Mortgage in such order as Lender may determine or (ii) to the replacement, repair or restoration of the portion of the Property damaged or destroyed in a manner determined by Lender; or may release said net proceeds to the Borrower upon such conditions as Lender shall determine; or may apply said net proceeds for any combination of the foregoing; all without affecting the lien of this Mortgage for the full amount secured hereby before such payment took place. If Lender elects to restore the improvements, any balance of such monies after restoration shall either be applied toward the reduction of indebtedness and any other sums secured hereby or shall be paid to Borrower. Lender shall not be responsible for any failure to collect any insurance proceeds due under the terms of any policy regardless of the cause of such failure.

(C) Borrower shall at its sole expense obtain for, deliver to and maintain for the benefit of Lender, during the life of this Mortgage, liability insurance policies naming the Property, in such amounts, with such companies and in such form as may be reasonably required by Lender. Lender may require such policies to contain an endorsement, in form satisfactory to Lender, naming Lender as an additional insured thereof. Borrower shall pay promptly, when due, any premiums on such insurance policies and renewals thereof.

4. Taxes and Assessments. Borrower will pay all taxes, assessments and other charges which constitute or are secured by a lien upon the Property which is superior to the lien of this Mortgage and will deliver to Lender proof of payment of the same not less than ten (10) days prior to the date the same become delinquent; provided, however, that Borrower shall be entitled by 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 deposits with the authority to which such tax, assessment or charge is payable or with Lender 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 Lender. If Borrower fails to make payments for restoration or repair of the Property, for insurance premiums or tax liens, assessments or other charges as required in this Mortgage, Lender may, but shall not be obligated to, pay for the same, and any such payment by Lender 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 Lender 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 will pay to the Lender in each on demand an amount equal to any payments made by Lender pursuant to this paragraph plus interest thereon as herein provided.

6. Condemnation. Lender shall be entitled to be made a party to and to participate in any proceedings, whether formal or informal, for condemnation or acquisition pursuant to power of eminent domain of any portion of the Property. Borrower hereby assigns to Lender the right to collect and receive any payments or award to which Borrower would otherwise be entitled by reason of condemnation or acquisition pursuant to the power of eminent domain of any portion of the Property. Any such payment or award received by Lender may, at the option of Lender, (i) be applied by Lender to payment of any sums secured by this Mortgage in such order as Lender may determine (ii) be applied in a manner determined by Lender to the replacement of the portion of the Property taken and to the repair or restoration of the remaining portion of the Property (iii) be released to Borrower upon such conditions as Lender may determine or (iv) 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 shall be deemed a payment applied any sums secured by this Mortgage.

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

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

8. Default. The occurrence of any of the following events shall be deemed a Default under this Mortgage:

(A) any default by Borrower as described in the Note;

(B) failure of Borrower to pay any other sum secured by this Mortgage when due;

(C) failure of Borrower to observe or perform any covenant or agreement not set forth in this Mortgage or in any loan agreement entered into between the Borrower and Lender with respect to the indebtedness hereby secured which ten (10) days following the giving of notice by Lender to Borrower to observe or perform the same.

9. Acceleration; Remedies. Lender shall give notice to Borrower prior to acceleration following Borrower's breach of any covenant or agreement in this Security Instrument (but not prior to acceleration under paragraph 7 unless applicable law provides otherwise). The notice shall specify: (a) the default; (b) the action required to cure the default; (c) a date not less than 20 days from the date the notice is given to Borrower, by which the default must be cured; and (d) that failure to cure the default on or before the date specified in the notice may result in acceleration of the sums secured by this Security Instrument, foreclosure by judicial proceeding and sale of the Property. The notice shall further inform Borrower of the right to reinstate after acceleration and the right to assert in the foreclosure proceeding the nonexistence of a default or any other defense of Borrower to acceleration and foreclosure. If the default is not cured on or before the date specified in the notice, Lender, at its option, may require immediate payment in full of all sums secured by this Security Instrument without further demand and may foreclose

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ing, but not limited to, reasonable attorneys' fees and costs of title evidence, all of which shall be additional sums secured by this Security Instrument.

10. Appointment of Receiver. Upon the occurrence of a Default or foreclosure thereof, Lender 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 or modification of leases, the making of repairs to the Property and the execution or termination of contracts providing for the management or maintenance of the Property, all on such terms as 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 costs collected pursuant to this paragraph shall be applied first to the costs of taking control of and managing the Property and collecting the rents, including, but not limited to, attorney's fees, receiver's fees, premiums on receiver bonds, costs of repairs to the Property, premiums on insurance policies, taxes, assessments and other charges on the Property, and the costs of discharging any obligation or liability of Borrower or Lender which are or may become superior to the lien hereof or the interest of Lender in the Property, and then to the sums secured by this Mortgage. Lender 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. Lender shall not be liable to Borrower, anyone claiming under or through Borrower, or anyone having an interest in the Property by reason of anything done or left undone by Borrower under this paragraph. If the rents of the Property are not sufficient to meet the cost of taking control and managing the Property and collecting the rents, Lender, at its sole option, may advance funds to make the same. Any funds expended by Lender for such purposes shall become indebtedness of Borrower to Lender secured by this Mortgage. Unless Lender and Borrower agree in writing to other terms of payment, such amounts shall be payable upon notice from Lender to Borrower 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 Lender 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 Lender hereunder.

11. Waiver by Lender. Lender may, in its sole discretion, from time to time waive or forbear from enforcing any provision of this Mortgage, and as such waiver or forbearance shall be deemed a waiver by Lender of any right or remedy provided herein or by law or be deemed a waiver of the right at any later time to enforce strictly all provisions of this Mortgage and to exercise any and all remedies provided herein and by law.

12. Waiver by Borrower. Borrower understands that upon default hereunder, among other remedies set out herein and in the above referenced Note, the Lender may foreclose upon the mortgaged premises and sue for a deficiency judgment pursuant to Section 29-3-680, South Carolina Code of Laws (1976). Borrower hereby expressly waives and relinquishes any appraisal rights which Borrower may have under Section 29-3-680 through Section 29-3-760, South Carolina Code of Laws (1976) as amended and understands and agrees that a deficiency judgment, if pursued by Lender shall be determined by the highest bid at the judicial sale of the Property. Borrower does expressly waive, release and discharge any and all homestead exemptions and rights of redemption as allowed by South Carolina law.

13. Future Advances. Lender, pursuant to Sections 29-3-49 and 50, South Carolina Code of Laws (1976) and at its option, may make Future Advances to Borrower. 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. Lender may make but is not obligated to make such Future Advances (A) at the request of the Borrower, whether or not there is an 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, any amounts which may be due under any other mortgage or lien affecting the Property.

14. Notices. Any notice given by either party hereto to the other party shall be in writing and shall be signed by the party giving notice. Any notice or other document to be delivered to either party hereto by the other party shall be deemed delivered if mailed postage prepaid to the party to whom directed at the last address of such party known to the party sending the same. This paragraph shall not be deemed to prohibit any other manner of delivering a notice or other document.

15. Covenants. Mortgagor covenants that he will not perform any act which might impair or tend to impair the considerations on the real property herein described or of crop interests and acreage allotments now established or hereafter established on any of the property herein described, and Mortgagor hereby grants to the Mortgagee a lien on and a security interest in all such crop allotments and acreage allotments.

16. Hazardous Substances. Mortgagor, for itself, its successors, and assigns hereunto, warrants and agrees that (a) neither Mortgagor nor any other person has used or handled any Hazardous Material (as hereinafter defined) on the Property or received any notice from any government agency, entity or other person with regard to Hazardous Materials on, from or affecting the Property; (b) neither Mortgagor or any other person has violated any applicable Environmental Laws (as hereinafter defined) relating to or affecting the Property; (c) the Property is presently in compliance with all Environmental Laws; there are no circumstances presently existing upon or under the Property, or relating to the Property which may violate any applicable Environmental Laws, and there is not now pending, or threatened, any action, suit, investigation or proceeding against Mortgagor relating to the Property (or against any other party relating to the Property) seeking to enforce any right or remedy under any of the Environmental Laws; (d) the Property shall be kept free of Hazardous Materials, and shall not be used to generate, manufacture, transport, treat, store, handle, dispose, or process Hazardous Materials; (e) Mortgagor shall not cause or permit the installation of Hazardous Materials in the Property or a release of Hazardous Material onto or from the Property or suffer the presence of Hazardous Materials on the Property; (f) Mortgagor shall at all times comply with and ensure compliance by all other parties with all applicable Environmental Laws relating to or affecting the Property and shall keep the Property free and clear of any liens imposed pursuant to any applicable Environmental Laws; (g) the Mortgagor has obtained and will at all times continue to obtain and/or maintain all licenses, permits and/or other governmental or regulatory actions necessary to comply with Environmental Laws (the "Permits") and the Mortgagor is in full compliance with the terms and conditions of the Permits and will continue to comply with the terms and provisions of the Permits; (h) Mortgagor shall immediately give the Beneficiary oral and written notice in the event that Mortgagor receives any notice from governmental agency, entity, or any other party with regard to Hazardous Materials on, from or affecting the Property and shall conduct and complete all investigations, remedial, and testing, and all remedial, removal, and other actions necessary to clean up and remove all Hazardous Materials on, from or affecting the Property in accordance with all applicable Environmental Laws. The Mortgagor hereby agrees to indemnify the Mortgagee and hold the Mortgagee harmless from and against any and all losses, liabilities, damages, injuries (including, without limitation, attorneys' fees) and claims of any and every kind whatsoever paid, incurred or suffered by, or asserted against Mortgagee for, with respect to, or as a direct or indirect result of (a) the presence on, or under, of in certain, spilling, emission or release from the Property of any Hazardous Material regardless of whether or not caused by or within the control of Mortgagor; (b) the violation of any Environmental Laws relating to or affecting the Property, whether or not caused by or within the control of Mortgagor; (c) the failure by Mortgagor to comply fully with the terms and provisions of this paragraph; or (d) any warranty or representation made by Mortgagor in this paragraph being false or untrue in any material respect. For purposes of this Mortgage, "Hazardous Material" means and includes petroleum products, any flammable explosives, radioactive materials, asbestos or any material containing asbestos, and/or any hazardous, toxic or dangerous waste, substance or material defined as such in (or for the purposes of) the Environmental Laws. For the purpose of this Mortgage, "Environmental Laws" means the Comprehensive Environmental Response, Compensation and Liability Act, the Hazardous Materials Transportation Act, the Resource Conservation and Recovery Act, and "Super Fund" or "Super Lien" law, or any other federal, state, or local law, regulation, or decree regulating, relating to, or imposing liability or standards of conduct concerning petroleum products, any flammable explosives, radioactive materials, asbestos or any material containing asbestos, and/or any hazardous, toxic or dangerous waste, substance or material, as may now of at any time hereafter be in effect. The obligations and liabilities of Mortgagor under this paragraph shall survive the foreclosure of the Mortgage, the delivery of a deed in lieu of foreclosure, the cancellation or release of record of this Mortgage or the payment and cancellation of the Note or if otherwise expressly permitted in writing by the Mortgagee, the sale or alienation of any part of the Property.

17. Miscellaneous.

(A) The agreements herein shall bind and inure to the benefit of the borrower, Lender and their respective heirs, successors and assigns.

(B) Whenever in this Mortgage one of the parties hereto is named or referred to, the heirs, legal representatives, successors and assigns of such parties shall be included and all covenants and agreements contained in this Mortgage by or on behalf of the Borrower or by or on behalf of the Lender shall bind and inure to the benefit of their representatives, heirs, successors and assigns, whether so expressed or not.

(C) The headings of the 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.

(D) If any provision of this Mortgage conflicts with applicable law, 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.

(E) Lender may make or cause to be made reasonable entries upon and inspections of the Property upon giving Borrower notice.

(F) All covenants of Mortgagor shall be joint and several.

(G) This Mortgage shall be governed by, construed and enforced in accordance with the laws of South Carolina.

RLS

(Corporate Name)

By: _____

_____ President

ATTEST:

_____ Secretary (Corporate Seal)

Signed, Sealed and Delivered in the Presence of:

Rosemary Long Jenrette (SEAL)

ROSEMARY LONG JENRETTE, f/n/a Rosemary Long

By Michael Brooks Quickel, Attorney-in-Fact

F/K/A Rosemary Long By (SEAL)

Michael Brooks Quickel

Attorney in Fact

Patricia Ward

(Witness)

(Witness)

USE BLACK INK ONLY

STATE OF SOUTH CAROLINA,

COUNTY OF Horry

PROBATE

PERSONALLY appeared before me the undersigned witness and made oath that he saw the within named Rosemary Loan Jenrette, by Michael Brooks Quickel, AttorneyInFact sign, seal, and as their act and deed deliver the within written Mortgage, and that he with the other witness above witnessed the execution thereof.

Sworn to before me this 1st day of May A.D. 2009

Patricia Ward

Notary Public for South Carolina (L.S.)

My Commission expires 1-14-2018

BC5

EXHIBIT "A"

PARCEL I: ALL AND SINGULAR, that certain piece, parcel of land lying and being in Conway Township, containing one (1) acre more or less, the same being more particularly described as follows:

Beginning at a point at the corner at the intersection of the Airport Road and D. M. Burroughs Road and running northeast a distance of 140 ft. to an iron pin on the D. M. Burroughs Road; thence running 240 feet in a northwestern direction to an iron pen corner thence 220 ft. in a southeastern direction to an iron pen on the Airport Road thence along the said road in a southeastern direction a distance of 238 ft. along the said road to the beginning corner. Being bound on the north by lands of W. M. Long; on the east by lands of W. M. Long; on the south by D. M. Burroughs road and on the west by the Airport.

This being the identical property conveyed unto Rosemary Long Jenrette f/n/a Rosemary Long by Deed dated September 10, 2007, and recorded September 11, 2007, in Deed Book 3275 at Page 2145, in the office of the Register of Deeds for Horry County, South Carolina.

TMS#123-00-02-069

PARCEL II: ALL AND SINGULAR, those certain pieces, parcels or lots of land lying situate and being in Conway Township, Horry County, and being shown and designated as Lot Forty (40), Forty-Eight (48), Sixty-Seven (67), and Sixty-Eight (68) on plat of subdivision of W.M. Long Subdivision by S. D. Cox Surveyors, Inc., dated June 22, 1967 and revised October 6, 1967. The said map is recorded in Plat Book 47 at Page 69, in the office of the Register of Deeds for Horry County, South Carolina, and is by reference made a part of this description.

This being a portion of the property conveyed unto Rosemary Long, n/k/a Rosemary Long Jenrette by Deed dated May 10, 2002, and recorded May 13, 2002, in Deed Book 2479 at Page 1474, in the office of the Register of Deeds for Horry County, South Carolina.

TMS# (Lot 40) 123-00-02-170, (Lot 48) 123-00-02-171, (Lot 67) 123-00-03-064 and (Lot 68) 123-00-03-085

RLS

Customer Activities Listing - JENRRO1 on 04/25/2013 by JCHESTNPage 1

Name	**Rosemary Jenrette	**Client #** JENRRO1	**Ph-R** 843-448-9203
Attn		**Conglom#**	**Ph-B** 843-467-1928
Street	3806 N Ocean Blvd	**Agency** 1	**Ph-F**
City	Myrtle Beach **St** SC	**Branch** 1	**Note**
Zip	29577	**Broker**	
Hdg	**Csr** HH	**Code** **Pr**	**Ocp**

Wednesday **Catg** CLS **Type** FIRE **Op** BB **Pr** JC **CSR** JC **Entered** 01/18/2011 10:09AM
02/02/11 **Amount** 0 **Co** NSE **Success** Y **Action** CCO **on** 02/02/2011
CLOSED **Plan** **Closed** 02/03/2011
JC **Desc** CLAIM INFORMATION SUBMITTED

Notes BB 01/18/2011 10:09 AM
Submitted fire claim to National Security on 1/17/11.Total Fire loss insured left message on agency voice mail Faye returned call ans left insured a message. Horry County State Bank (Gloria) called on 1/18/11 stating they should have been listed as lein on

the property advised National Security .BB

Customer Activity Inquiry JENRRO1 on 11/20/2013 by MARIE page 1

Name	**Rosemary Jenrette		**Client #** JENRRO1	**Ph-R**	843-448-9203
Attn			**Conglom#**	**Ph-B**	843-467-1928
Street	3806 N Ocean Blvd		**Agency** 1	**Ph-F**	
City	Myrtle Beach	**St** SC	**Branch** 1	**Note**	
Zip	29577		**Broker**		
Hdg		**Csr** HH	**Code**	**Pr**	**Ocp**

Thursday **Catg** CLSC **Type** FIRE **Op** JC **Pr** JC **CSR** JC **Entered** 01/19/2011 01:36PM
02/03/11 **Amount** 0 **Co** NSE **Success** Y **Action** CCO **on** 02/03/2011
CLOSED **Plan** **Closed** 02/03/2011
Desc CLAIM INFORMATION SUBMITTED

Notes JC 01/19/2011 01:36 PM
Mr Spain with HCFD called. he is in charge of the investgaition on the fire. he wanted to noitfy us that they are moving things out of the house and that it could mess up the investagtion with the company by moving the things out of the house if Nat sec

hasnt already went and looked at it. I called and spoke with someone in the claims who had jennifer contact me. He also wanted her to give him a call @ 251-5202 I relayed the mess to her. He is goin to call him bc they are waiting onhis report.

Barbie Bradham

From: "Jennifer Dinkins" <Jennifer.Dinkins@nsgcorp.com>
To: "Barbie Bradham" <barbieb@sccoast.net>
Cc: "Sarah Holley" <Sarah.Holley@nsgcorp.com>
Sent: Friday, February 25, 2011 4:57 AM
Subject: Jenrette 5199901

Hey Barbie,

We are waiting on the final report from our fire investigator in order to wrap up this claim. He advised that we should have it by the first of the month. After I receive his report I will be contacting the insured to obtain her recorded statement and that will conclude the investigation. Hopefully this will be completed within the next 10 – 15 days.

Please call me if you should have any additional questions (cell-334-494-0559). I will be on the road all day today so please call my cell if you need me.

Thanks!
Jennifer

Customer Activities Listing - JENRRO1 on 11/20/2013 by MARIE page 15

Name **Rosemary Jenrette
Attn
Street 3806 N Ocean Blvd
City Myrtle Beach **St** SC
Zip 29577
Hdg **Csr** HH

Client # JENRRO1 **Ph-R** 843-448-9203
Conglom# **Ph-B** 843-467-1928
Agency 1 **Ph-F**
Branch 1 **Note**
Broker
Code **Pr** **Ocp**

Tuesday **Cat** MISC **Type** FIRE **Op** HG **Pr** JC **CSR** JC **Entered** 03/08/2011 10:14AM
03/15/11 **Amount** 0 **Co** NSE **Success** Y **Action** MSC **on** 03/15/2011
01:00 PM **Plan** **Closed** 03/08/2011
HG **Desc** Misc./Describe

Notes HG 03/08/2011 10:14 AM
Faye had Helen go online and non-renew this policy effective 03/09/2011 so there would be a record.

National Security
Fire & Casualty Company

P.O. Box 703 • 661 East Davis Street
Elba, Alabama 36323
334.897.2273 • 800.798.2207 • Fax: 334.897.5694

1/23/2011

POLICY NUMBER:	836223 -
NAMED INSURED:	JENRETTE, ROSEMARY

POLICY PERIOD: 3/9/2011 To 3/9/2012

Due Date: 3/8/2011

PRIMARY CONTACT & MAILING ADDRESS

ROSEMARY JENRETTE
3806 N OCEAN BLVD
MYRTLE BEACH SC 29577-2760

AGENCY & MAILING ADDRESS AGENT#: S274

BRADHAM INSURANCE AGENCY
P O BOX 1694
CONWAY SC 29528

I83522315 71.00

AMOUNT DUE:	$571.00
AMOUNT PAID:	

PLEASE RETURN THIS PORTION WITH YOUR PAYMENT PLEASE WRITE POLICY NUMBER ON CHECK

*** PAYMENT DUE NOTICE ***

National Security
Fire & Casualty Company

P.O. Box 703 • 661 East Davis Street
Elba, Alabama 36323
334.897.2273 • 800.798.2207 • Fax: 334.897.5694

POLICY NUMBER:	836223 -	POLICY PERIOD: 3/9/2011 To 3/9/2012	
NAMED INSURED:	JENRETTE, ROSEMARY	104 COUNTRY CLUB DR CONWAY SC 29526-3903	

STATEMENT OF ACCOUNT

DATE	DESCRIPTION	AMOUNT
	Beginning Balance	$0.00
1/23/2011	RENEWAL BILL FOR POLICY 836223 0 FROM 3/9/2011 TO 3/9/2012	$571.00

AMOUNT DUE $571.00
DUE DATE 3/8/2011

INFORMATIONAL MESSAGES

Please send your payment by 3/8/2011.

CHANGE OF ADDRESS: _____

POLICY ANNIVERSARY BILLING MODE OPTIONS

BILLING MODE OPTION	POLICY PREMIUM
ANNUAL	$571.00
SEMI-ANNUAL **	$290.50
QUARTERLY **	$147.75
MONTHLY *	$47.58

* AVAILABLE BY BANK DRAFT ONLY. CONTACT YOUR AGENT FOR THIS OPTION.
** BILLING FEE INCLUDED.

Dwelling / Mobile Home Fire & E.C. Policy Declarations

National Security
Fire & Casualty Company

P.O. Box 703 • 661 East Davis Street • Elba, Alabama 36323 • 334.897.2273 • 800.798.2207 • Fax: 334.897.5694

POLICY NUMBER:	836223 - 205638
NAMED INSURED:	JENRETTE, ROSEMARY

POLICY PERIOD: 3/9/2011 TO 3/9/2012 This insurance is effective at 12:01 AM Standard Time at the address of the property insured herein for the period above, and may be renewed for successive policy periods, at the option of the Company, providing the required renewal premium is received by the Company on or before the expiration date.

PRIMARY CONTACT & MAILING ADDRESS

ROSEMARY JENRETTE
3806 N OCEAN BLVD
MYRTLE BEACH SC 29577-2760

AGENCY & MAILING ADDRESS AGENT#: S274

BRADHAM INSURANCE AGENCY
P O BOX 1694
CONWAY SC 29528
(843) 488-2886

PROPERTY INSURED

104 COUNTRY CLUB DR
CONWAY SC 29526-3903

PROTECTION CLASS: 3
TERRITORY: 4
CONSTRUCTION: FRAME
OCCUPANCY: TENANT

MORTGAGEE INFORMATION - SUBJECT TO THE PROVISIONS OF THE MORTGAGE CLAUSE, LOSS IF ANY ON BUILDING ITEMS SHALL BE PAYABLE TO THE NAMED INSURED AND:

NAME & ADDRESS	1st		2nd	
LOAN #	1st		2nd	

COVERAGES

AMOUNT OF INSURANCE	DESCRIPTION	PREMIUM
$100,000.00	A - Dwelling	$571.00
	No Related Private Structures Coverage	
	No Personal Property Coverage	
	No Additional Living Costs Coverage	
$100,000.00	L - Personal Liability	$45.00
	No Medical Payments To Others	$0.00
	No Fire Legal Liability Coverage	$0.00
	Optional Perils - Extended Coverage	Included
	No Vandalism Coverage	
	$1000 Deductible	($114.00)
	Age of Home Surcharge	$69.00
	Total Premium This Risk:	$571.00
	Total Policy Premium:	$571.00

FORMS MAKING UP THE POLICY:

, FL - 1 Ed 1.0, GL-890 Ed 1.0, GL - 600 6-88, FL - 0097 06 07, FL - 8921 10 07, FC-1044 02 05, ML-195 Ed 7-88, GL- 425 Ed 1-87

Insurance is provided against only those perils and for only those coverages indicated above by a premium charge and for which an amount of insurance is indicated and against other perils and for other coverages only when endorsed hereon or added hereto. The limit of the company's liability against each such coverage shall be as stated hereon subject to all terms of the policy having reference thereto. These declarations when attached with appropriate policy, complete the policy numbered hereon.

NOTICE: This policy is based on information in the application. If building insured, named insured must have full legal title to the building and the land.

You may pay your premium in full or in installments. If you pay your full annual premium at policy inception, no installment billing fee will be included. Similarly, if you wish to make a monthly payment by electronic funds transfer from your bank, no installment billing fee will be charged. However, if you wish to pay in installments without using electronic funds transfer, a $5.00 installment fee will apply to each installment.

DATE: 1/23/2011

National Security
Fire & Casualty Company

P.O. Box 703 • 661 East Davis Street • Elba, Alabama 36323 • 334.897.2273 • 800.798.2207 • Fax: 334.897.5694

*** CANCELLATION NOTICE ***

Date: 3/9/2011

HOME OFFICE COPY

To: **ROSEMARY JENRETTE**
3806 N OCEAN BLVD
MYRTLE BEACH SC 29577-2760

BRADHAM INSURANCE AGENCY
P O BOX 1694
CONWAY SC 29528

In Re:
Policy No.: **836223**
Name of Insured: **JENRETTE, ROSEMARY**
Cancellation Date: 3/20/2011
Amount Due: $571.00
Reason for Cancellation: C-BILLINGNONPAYMENT

Dear Policyholder:

This is to notify you that National Security Fire and Casualty Company of Elba, Alabama elects to cancel and terminate its liability under the above policy. This cancellation takes effect at 12:01 am standard time on the Cancellation Date shown above. Under the provisions and conditions of the policy and this notice, liability will cease and terminate on that date.

If you wish to continue coverage under your policy, please send payment for the amount due. Payment must be post-marked before the above cancellation date.

Important notice: Within fifteen days of receiving this notice, you or your attorney may request in writing that the director review this action to determine whether the insurer has complied with South Carolina laws in canceling or non-renewing your policy. If this insurer has failed to comply with the cancellation or non-renewal laws, the director may require that your policy be reinstated. However, the director is prohibited from making underwriting judgments. If this insurer has complied with the cancellation or non-renewal laws, the director does not have the authority to overturn this action.

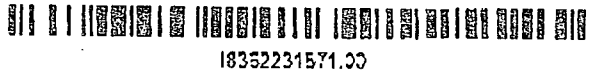
Other insurance may be available, and a buyer's guide regarding property insurance is available from the Department of Insurance. You may contact the Department of Insurance at:

South Carolina Department of Insurance
P O Box 100105
Columbia, SC 29202-3105 Telephone (800) 768-3467

Sincerely,
National Security Fire & Casualty Company

By: Authorized Representative

CC: BRADHAM INSURANCE AGENCY



I83522315T1.00

National Security
Fire & Casualty Company

P.O. Box 703 • 661 East Davis Street • Elba, Alabama 36323 • 334.897.2273 • 800.798.2207 • Fax: 334.897.5694

Date: 8/10/2011

To: ROSEMARY JENRETTE
3806 N OCEAN BLVD
MYRTLE BEACH SC 29577-2760

In Re: Policy No.: 836223
Name of Insured: JENRETTE, ROSEMARY

Please consider this letter as notice of reinstatement for your insurance policy with this Company.

The cancellation/non-renewal notice effective 3/20/2011 is hereby rescinded.

Sincerely,

National Security Fire and Casualty Company

By: Authorized Representative

National Security
Fire & Casualty Company

P.O. Box 703 • 661 East Davis Street • Elba, Alabama 36323
334.897.2273 • 800.798.2207 • Fax: 334.897.5694

*** CANCELLATION NOTICE ***

Date: **8/10/2011**

To: **ROSEMARY JENRETTE**
3806 N OCEAN BLVD
MYRTLE BEACH SC 29577-2760

BRADHAM INSURANCE AGENCY
P O BOX 1694
CONWAY SC 29528

In Re: Policy No.: **836223**
Name of Insured: **JENRETTE, ROSEMARY**
Date of Loss: 1/16/2011

Dear Policyholder:

Our Claims Department has notified us that total policy benefits have been paid under the above policy.

Since we have no further liability under the policy, a check for the unearned premium in the amount of 81.35 has been sent in care of your agent.

If you replace this property, your local agent will be happy to assist you in replacing your insurance.

Sincerely,
National Security Fire & Casualty Company

Policy Services Supervisor

CC: BRADHAM INSURANCE AGENCY

Customer Activities Listing - JENRRO1 on 11/20/2013 by MARTI page 1

Name	**Rosemary Jenrette		**Client #** JENRRO1	**Ph-R**	843-448-9203
Attn			**Conglom#**	**Ph-B**	843-467-1928
Street	3806 N Ocean Blvd		**Agency** 1	**Ph-F**	
City	Myrtle Beach	**St** SC	**Branch** 1	**Note**	
Zip	29577		**Broker**		
Hdg		**Csr** HH	**Code**	**Pr**	**Ocp**

Tuesday **Catg** CALL **Type** FIRE **Op** KN **Pr** JC **CSR** KN **Entered** 05/17/2011 10:45AM
05/24/11 **Amount** 0 **Co** NSE **Success** Y **Action** MPC **on** 05/24/2011
CLOSED **Plan** **Closed** 05/17/2011
KN **Desc** Call the insured

Notes GG 05/17/2011 02:05 PM
insured called back said that she would come Wednesday to sign no loss statement. Gail 05/7/11/

KN 05/17/2011 10:45 AM
Left VM for Rosemary's return call - Received a Sworn Stmt in Proof Of Loss - needs to be signed & notarized by insured and sent back to National Security Insurance Co. Attn: Fire Claims - # 5194901 - PO BOX 703- Elba, AL 36323-9987

Customer Activity Listing - JENRRO1 - on 11/20/2013 by MARY - page 14

Name **Rosemary Jenrette
Attn
Street 3806 N Ocean Blvd
City Myrtle Beach **St** SC
Zip 29577
Hdg **Csr** HH

Client # JENRRO1 **Ph-R** 843-448-9203
Conglom# **Ph-B** 843-467-1928
Agency 1 **Ph-F**
Branch 1 **Note**
Broker
Code **Pr** **Ocp**

Tuesday **Catg** MEMO **Type** FIRE **Op** GG **Pr** JC **CSR** KN **Entered** 06/07/2011 09:05AM
06/14/11 **Amount** 0 **Co** NSE **Success** Y **Action** MEM **on** 06/14/2011
CLOSED **Plan** **Closed** 06/07/2011
KN **Desc** mailed check back to co

Notes GG 06/07/2011 09:05 AM
mailed claims check back to Nationa Sec called insured spoke to Mr Jenrette and he said that Horry County State bank should not be on the check and I told him that his wife could contact the company concerning this. If she wanted the check come and get it

or I was mailing check back to the company today. gail

Client Activities: Listing JENRRO1 on 11/20/2013 by MARDE page 1

Name **Rosemary Jenrette
Attn
Street 3806 N Ocean Blvd
City Myrtle Beach **St** SC
Zip 29577
Hdg **Csr** HH

Client # JENRRO1 **Ph-R** 843-448-9203
Conglom# **Ph-B** 843-467-1928
Agency 1 **Ph-F**
Branch 1 **Note**
Broker
Code **Pr** **Ocp**

Wednesday **Catg** ATCH **Type** FIRE **Op** JT **Pr** JC **CSR** KN **Entered** 08/31/2011 09:11AM
08/31/11 **Amount** 0 **Co** NSE **Success** Y **Action** CL **on** 08/31/2011
CLOSED **Plan** **Closed** 08/31/2011
JT's **Desc** File Attached

Notes JT 08/31/2011 09:11 AM
refund check mailed to insured in the amount of 81.35

Invoice Number	Date	Description	Amount	Discount	Paid Amount
52833	August 11, 2011	CANCELLATION REFUND FOR CONTRA	$81.35	$0.00	$81.35
TOTALS:			$81.35	$0.00	$81.35

JENRETTE, ROSEMARY

C/O BRADHAM INSURANCE AGENCY
P O BOX 1694
CONWAY, SC 29528

National Security Fire & Casualty Company
661 East Davis
P.O. BOX 703
ELBA, AL 36323

0056296

61-8/620

PAY EXACTLY

Eighty One Dollars and 35 Cents

DATE 08/11/2011

AMOUNT $81.35

Pay to the Order of: *JENRETTE, ROSEMARY*
C/O BRADHAM INSURANCE AGENCY
P O BOX 1694
CONWAY, SC 29528

83622352833
JENRETTE, ROSEMARY

Wachovia Bank, a division of Wells Fargo Bank, N.A.

VOID 90 DAYS FROM DATE SHOWN ABOVE

⑈0056296⑈ ⑆061200080⑆ 2000688448257⑈

Claim Details:

Claim Number: 5199901
Insured: ROSEMARY JENRETTE
Product Type: DWELLING
Date Claim Opened: 1/17/2011
Date Claim Closed: 12/10/2012
Location: 104 COUNTRY CLUB DR

Examiner Name: Billi Jo Phillips
Examiner Phone: (334) 897-2273 x 218
Send Secure Message

Adjuster Name: DINKINS, JENNIFER
Adjuster Phone: (800)239-2358 337
Send Secure Message

Payment History:

Entered Date	Printed Date	Amount	Payee Name	Mailing Address	Cleared Information
5/4/2011	5/5/2011	$105,000.00	ROSEMARY JENRETTE AND HORRY COUNTY STATE BANK	P O BOX 1694 CONWAY SC 29528	
5/11/2011	5/11/2011	$5,000.00	DONAN ENGINEERING CO., INC.	4342 N US HIGHWAY 231 JASPER IN 47546-	
5/12/2011	5/16/2011	$720.00	DINKINS, JENNIFER	PO BOX 291504 COLUMBIA SC 29229	
9/28/2011		($105,000.00)	ROSEMARY JENRETTE AND HORRY COUNTY STATE BANK	P O BOX 1694 CONWAY SC 29528	
10/27/2011	10/28/2011	$1,043.00	GRIMBALL & CABANISS, LLC : NETTLES, F. TRUETT	PO BOX 816 CHARLESTON SC 29402-0816	
11/22/2011	11/23/2011	$675.00	GRIMBALL & CABANISS, LLC : NETTLES, F. TRUETT	PO BOX 816 CHARLESTON SC 29402-0816,	
12/1/2011	12/2/2011	$105,000.00	HORRY COUNTY CLERK OF COURT	PO BOX 816 CHARLESTON SC 29402-0816	

View Contract Details

12/15/2011	12/19/2011	$368.00	GRIMBALL & CABANISS, LLC : NETTLES, F. TRUETT	PO BOX 816 CHARLESTON SC 29402-0816	
1/19/2012	1/20/2012	$73.50	GRIMBALL & CABANISS, LLC : NETTLES, F. TRUETT	PO BOX 816 CHARLESTON SC 29402-0816	
2/20/2012	2/21/2012	$175.00	GRIMBALL & CABANISS, LLC	PO BOX 816 CHARLESTON SC 29402-0816	
3/8/2012	3/9/2012	$105.00	GRIMBALL & CABANISS, LLC	PO BOX 816 CHARLESTON SC 29402-0816	
12/7/2012		$210.00	GRIMBALL & CABANISS, LLC	PO BOX 816 CHARLESTON SC 29402-0816	

Back

Att: Heather

4-4-13

Anyone at Bradham Ins.
has my consent to
speak to my attorney,
William (Bill) Deschamps.

Thank you.

Rosemary Longfellow

HORRY COUNTY STATE BANK

April 24, 2009

Cajun Carolina LLC
M Brooks Quickel
104 Country Club Drive
Conway SC 29526

COMMITMENT LETTER

Dear Brooks:

Horry County State Bank ("Bank") is pleased to offer you the following loan commitment ("Commitment") subject to the terms and conditions listed below

1. Borrowers: Cajun Carolina LLC
2. Guantor: M Brooks Quickel
3. Amount: Up to $350,000.00
4. Purpose: Refinance existing business debt and working capital.
5. Interest Rate: 7.00% (fixed)
6. Repayment: Interest monthly for 1 year 10% reduction in 1 year

Collateral: 6 lots and 1st REM 104 Country Club Dr. Conway
1230003064,1230003065,12302168,123002169,123002170
123002171

8. Loan Fee Loan origination fee of $3,500.00due at closing.

9. Documentation: At the loan closing, the Borrowers will execute a Promissory Note, and any other related documents and instruments satisfactory to the Bank to evidence and secure the Loan.

10. Physcial Damage Insurance: At the Loan closing, the Borrower will furnish the Bank with an appropriate insurance policy for the replacement cost of the Collateral naming the Bank as mortgagee/loss payee.

11. Credit Qualifications: This Commitment is issued in reliance upon the accuracy and completeness of all information furnished by or for the Borrower and any co-signers or guarantors and is subject to the continued accuracy and completeness of all such information. The extension of credit by the Bank pursuant to this Commitment is subject to the condition precedent that the Borrower and any co-signers or guarantors will after the date hereof; maintain a financial condition acceptable to the Bank in its sole discretion. In addition, the Loan is conditioned upon there being no material adverse change, which threatens the Borrower's ability to repay the Loan or pledge the Collateral to secure payment.

12. Financial Information: While the Loan is outstanding, the Borrowers will provide the Bank with annual financial statements and tax returns within 120 days of the Borrower's fiscal year. Also, all co-signers and guarantors will furnish annual financial statements. In addition, Borrower shall supply Bank with such other monthly or quarterly financial information as the Bank may reasonably request from time to time.

13. Conflicting Provisions: If any of the provisions of this commitment letter shall be construed to conflict with any terms or provisions contained in the Loan Documents, then the Loan Documents shall take priority.

This Commitment is open for your acceptance until the close of business on April 30, 2009 (the "Expiration Date"), at which time this Commitment expires if not accepted and returned to the Bank. In addition, this Commitment will expire and the Bank will not be required to make the Loan if the Loan does not close by May 15, 2009.

Sincerely,

Ann Marion
Assistant Vice President

ACKNOWLEDGMENT:

The foregoing terms and conditions are hereby accepted and agreed to on this 24 Day of April, 2009.

BORROWER: Cajun Carolina LLC

By: _____
M Brooks Quickel Member

Instrument#: 2009000047050, DEED BK: 3399 PG: 613 DOCTYPE: 063 05/04/2009 at 03:40:56 PM, 1 OF 2 BALLERY V. SKIPPER, HORRY COUNTY, SC REGISTRAR OF DEEDS

Prepared by and Return to:
EVANS & EVANS LAW FIRM
204 Elm St., Suite 100
Conway, SC 29526

(Leave space above blank for recording data)

STATE OF SOUTH CAROLINA)
)
COUNTY OF HORRY)

SPECIFIC POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS, that I, **Rosemary Long Jenrette, a/k/a, Rosemary Long,** have made, constituted and appointed, and do by these presents make, constitute and appoint **Michael Brooks Quickel** my true and lawful attorney pertaining to the following described property:

Lot 67/Country Club @ Long Ave/ TMS 123-00-03-064
Lot 68/Country Club @ Long Ave/ TMS 123-00-03-065
1600 Country Club Drive/ TMS 123-00-02-069
Lot 40/Country Club @ Long Ave/ TMS 123-00-02-170
Lot 48/Country Club @ Long Ave/ TMS 123-00-02-171

To procure a loan with Horry County State Bank in the amount of $350,000.00; to execute a note evidencing said indebtedness and a mortgage on forms acceptable to the said Lender; to approve a closing statement, disclosure and loan disbursement statement; to execute any and all loan company forms required or necessary to effect the foregoing; to endorse checks, drafts or money orders evidencing said loan; and generally to execute and deliver all forms or documents executed and delivered in connection with the financing thereof by Horry County State Bank.

Giving and granting unto my said attorney full power and authority to do and to perform all and every deed, act, matter and thing, whatsoever in and about the foregoing as fully and effectually to all intents and purposes as I might or could do in my own proper person if personally present, the above specifically enumerated powers being in aid and exemplification of the full, complete and general powers herinabove granted, and not in limitation of definition thereof; and hereby ratify all that my said attorney shall lawfully do or cause to be done by virtue of these presents.

This power of attorney shall not be affected by our disability or incompetence. This power of attorney shall expire at midnight on May 31, 2009, unless earlier revoked. This power of attorney may be revoked by written instrument executed by me which is recorded in the office of the Register of Deeds for HORRY County, the County in South Carolina in which the property is located.

I hereby declare that any act or thing lawfully done hereunder by said attorney shall be binding on me, my heirs, legal and personal representatives and assigns, whether the same shall have been done before or after my death, or other revocation of this instrument, unless and until reliable intelligence or notice thereof shall be received by said attorney and those persons relying upon her representations.

HCSB subpoenaed documents delivered on 3/21/13 to R. Jenrette counsel W. DesChamps, Jr. 2011-CP-26-9199 Page 228

IN WITNESS WHEREOF, I have hereunto set my hand and seal this 27th day of April, 2009.

WITNESSES:

Courtney R. Huckle
Non-Notary Witness Signature

Notary Witness Signature

Rosemary Long Jenrette (L.S.)
Rosemary Long Jenrette a/k/a

Rosemary Long (L.S.)
Rosemary Long

STATE OF SOUTH CAROLINA)
)
COUNTY OF HORRY)

PROBATE

PERSONALLY appeared before me the first witness, who, being duly sworn, made oath that (s) he saw the within named Rosemary Long Jenrette, a/k/a, Rosemary Long sign, seal and as her act and deed, deliver the within Specific Power of Attorney, and that (s) he with the other witness witnessed the execution thereof.

Courtney R. Huckle
Non-Notary Witness Signature

SWORN to before me this 27 day of April, 2009.

Notary Public for South Carolina (SEAL)

My Commission Expires: April 3, 2018

Katherine Smith Quickel
NOTARY PUBLIC
State of South Carolina
My Commission Expires
April 3, 2018

HCSB subpoenaed documents delivered on 3/21/13 to R. Jenrette counsel W. DesChamps, Jr. 2011-CP-26-9199 Page 229

Exhibit A

CAJUN CAROLINA, LLC 104 COUNTRY CLUB DRIVE CONWAY, SC 29526 BORROWER'S NAME AND ADDRESS "I" includes each borrower above, jointly and severally.	HORRY COUNTY STATE BANK 4600 HWY 17 S MYRTLE BEACH, SC 29588 LENDER'S NAME AND ADDRESS "You" means the lender, its successors and assigns.	Loan Number 1000899395 Date 05-01-2009 Maturity Date 05-01-2010 Loan Amount $ 350,000.00 Renewal Of

For value received, I promise to pay to you, or your order, at your address listed above the PRINCIPAL sum of THREE HUNDRED FIFTY THOUSAND AND NO/100 Dollars $ 350,000.00

☐ **Single Advance:** I will receive all of this principal sum on _____. No additional advances are contemplated under this note.

☒ **Multiple Advance:** The principal sum shown above is the maximum amount of principal I can borrow under this note. On 05-01-2009 I will receive the amount of $ 282,781.96 and future principal advances are contemplated.

Conditions: The conditions for future advances are ADVANCEMENTS OF $1,000.00 OR MORE INTO A HCSB DEPOSITORY ACCOUNT OR VIA CASHIERS CHECK

☒ **Open End Credit:** You and I agree that I may borrow up to the maximum amount of principal more than one time. This feature is subject to all other conditions and expires on 05-01-2010.

☐ **Closed End Credit:** You and I agree that I may borrow up to the maximum only one time (and subject to all other conditions).

INTEREST: I agree to pay interest on the outstanding principal balance from 05-01-2009 at the rate of 7.000% per year until 05-01-2010.

☐ **Variable Rate:** This rate may then change as stated below.

☐ **Index Rate:** The future rate will be _____ the following index rate: _____

☐ **No Index:** The future rate will not be subject to any internal or external index. It will be entirely in your control.

☐ **Frequency and Timing:** The rate on this note may change as often as _____. A change in the interest rate will take effect _____.

☐ **Limitations:** During the term of this loan, the applicable annual interest rate will not be more than _____ % or less than _____ %. The rate may not change more than _____ % each _____.

Effect of Variable Rate: A change in the interest rate will have the following effect on the payments:

☐ The amount of each scheduled payment will change. ☐ The amount of the final payment will change.

☐ _____.

ACCRUAL METHOD: Interest will be calculated on a ACTUAL/360 basis.

POST MATURITY RATE: I agree to pay interest on the unpaid balance of this note owing after maturity, and until paid in full, as stated below:

☒ on the same fixed or variable rate basis in effect before maturity (as indicated above).

☐ at a rate equal to _____.

LATE CHARGE: If a payment is not made within 10 days after it is due, I agree to pay a late charge of 5.000% OF THE PAYMENT AMOUNT.

☒ **ADDITIONAL CHARGES:** In addition to interest, I agree to pay the following charges which ☐ are ☒ are not included in the principal amount above: $500.00 ORGINATION FEE $250.00 LOAN DOCUMENTATION FEE $16.50 FLOOD CERTIFICATE.

PAYMENTS: I agree to pay this note as follows:

MONTHLY PAYMENTS OF ACCRUED INTEREST CALCULATED ON THE AMOUNT OF CREDIT OUTSTANDING BEGINNING ON 06-05-2009 AND PRINCIPAL DUE ON 05-01-2010.

ADDITIONAL TERMS: CURRENT FINANCIAL STATEMENT INCLUDING BALANCE SHEET AND INCOME STATEMENT AND FEDERAL INCOME TAX RETURNS ARE DUE UPON REQUEST BY THE BANK, BUT NOT LESS OFTEN THAN ANNUALLY WITHIN THREE MONTHS OF FISCAL YEAR END.

☒ **SECURITY:** This note is separately secured by (describe separate document by type and date): MORTGAGES DATED MAY 1, 2009

(This section is for your internal use. Failure to list a separate security document does not mean the agreement will not secure this note.)

PURPOSE: The purpose of this loan is PAY OFF EXISTING DEBT AND WORKING CAPITAL FOR BUSINESS.

SIGNATURES: I AGREE TO THE TERMS OF THIS NOTE (INCLUDING THOSE ON PAGE 2). I have received a copy on today's date.

CAJUN CAROLINA, LLC

M BROOKS QUICKEL, MEMBER

Signature for Lender

ANN MARION, ASSISTANT VICE PRESIDENT

SOUTH CAROLINA - UNIVERSAL NOTE

ExpertAg © 1994, 1999 Bankers Systems, Inc., St. Cloud, MN Form UN-SC 3/7/2002

DEFINITIONS: As used on page 1, "☒" means the terms that apply to this loan. "I," "me" or "my" means each Borrower who signs this note and each other person or legal entity (including guarantors, endorsers, and sureties) who agrees to pay this note (together referred to as "us"). "You" or "your" means the Lender and its successors and assigns.

APPLICABLE LAW: The law of the state of South Carolina will govern this ...s. Any term of this note which is contrary to applicable law will not be ...fective, unless the law permits you and me to agree to such a variation. If any provision of this agreement cannot be enforced according to its terms, this fact will not affect the enforceability of the remainder of this agreement. No modification of this agreement may be made without your express written consent. Time is of the essence in this agreement.

COMMISSIONS OR OTHER REMUNERATION: I understand and agree that any insurance premiums paid to insurance companies as part of this note will involve money retained by you or paid back to you as commissions or other remuneration.

In addition, I understand and agree that some other payments to third parties as part of this note may also involve money retained by you or paid back to you as commissions or other remuneration.

PAYMENTS: Each payment I make on this note will first reduce the amount I owe you for charges which are neither interest nor principal. The remainder of each payment will then reduce accrued unpaid interest, and then unpaid principal. If you and I agree to a different application of payments, we will describe our agreement on this note. I may prepay a part of, or the entire balance of this loan without penalty, unless we specify to the contrary on this note. Any partial prepayment will not excuse or reduce any later scheduled payment until this note is paid in full (unless, when I make the prepayment, you and I agree in writing to the contrary).

INTEREST: Interest accrues on the principal remaining unpaid from time to time, until paid in full. If I receive the principal in more than one advance, each advance will start to earn interest only when I receive the advance. The interest rate in effect on this note at any given time will apply to the entire principal advanced at that time. Notwithstanding anything to the contrary, I do not agree to pay and you do not intend to charge any rate of interest that is higher than the maximum rate of interest you could charge under applicable law for the extension of credit that is agreed to here (either before or after maturity). If any notice of interest accrual is sent and is in error, we mutually agree to correct it, and if you actually collect more interest than allowed by law and this agreement, you agree to refund it to me.

INDEX RATE: The index will serve only as a device for setting the rate on this note. You do not guarantee by selecting this index, or the margin, that the rate on this note will be the same rate you charge on any other loans or class of loans to me or other borrowers.

ACCRUAL METHOD: The amount of interest that I will pay on this loan will be calculated using the interest rate and accrual method stated on page 1 of this note. For the purpose of interest calculation, the accrual method will determine the number of days in a "year." If no accrual method is stated, then you may use any reasonable accrual method for calculating interest.

POST MATURITY RATE: For purposes of deciding when the "Post Maturity Rate" (shown on page 1) applies, the term "maturity" means the date of the last scheduled payment indicated on page 1 of this note or the date you accelerate payment on the note, whichever is earlier.

SINGLE ADVANCE LOANS: If this is a single advance loan, you and I expect that you will make only one advance of principal. However, you may add other amounts to the principal if you make any payments described in the "PAYMENTS BY LENDER" paragraph below.

MULTIPLE ADVANCE LOANS: If this is a multiple advance loan, you and I expect that you will make more than one advance of principal. If this is closed end credit, repaying a part of the principal will not entitle me to additional credit.

PAYMENTS BY LENDER: If you are authorized to pay, on my behalf, charges I am obligated to pay (such as property insurance premiums), then you may treat those payments made by you as advances and add them to the unpaid principal under this note, or you may demand immediate payment of the charges.

SET-OFF: I agree that you may set off any amount due and payable under this note against any right I have to receive money from you.

"Right to receive money from you" means:

(1) any deposit account balance I have with you;

(2) any money owed to me on an item presented to you or in your possession for collection or exchange; and

(3) any repurchase agreement or other nondeposit obligation.

"Any amount due and payable under this note" means the total amount of which you are entitled to demand payment under the terms of this note at the time you set off. This total includes any balance the due date for which you properly accelerate under this note.

If my right to receive money from you is also owned by someone who has not agreed to pay this note, your right of set-off will apply to my interest in the obligation and to any other amounts I could withdraw on my sole request or endorsement. Your right of set-off does not apply to an account or other obligation where my rights are only as a representative. It also does not apply to any Individual Retirement Account or other tax-deferred retirement account.

You will not be liable for the dishonor of any check when the dishonor occurs because you set off this debt against any of my accounts. I agree to hold you harmless from any such claims arising as a result of your exercise of your right of set-off.

REAL ESTATE OR RESIDENCE SECURITY: If this note is secured by real estate or a residence that is personal property, the existence of a default and your remedies for such a default will be determined by applicable law, by the terms of any separate instrument creating the security interest and, to the extent not prohibited by law and not contrary to the terms of the separate security instrument, by the "Default" and "Remedies" paragraphs herein.

DEFAULT: I will be in default if any one or more of the following occur: (1) I fail to make a payment on time or in the amount due; (2) I fail to keep the property insured, if required; (3) I fail to pay, or keep any promise, on any debt or agreement I have with you; (4) any other creditor of mine attempts to collect any debt I owe him through court proceedings; (5) I die, am declared incompetent, make an assignment for the benefit of creditors, or become insolvent (either because my liabilities exceed my assets or I am unable to pay my debts as they become due); (6) I make any written statement or provide any financial information that is untrue or inaccurate at the time it was provided; (7) I do or fail to do something which causes you to believe that you will have difficulty collecting the amount I owe you; (8) any collateral securing this note is used in a manner or for a purpose which threatens confiscation by a legal authority; (9) I change my name or assume an additional name without first notifying you before making such a change; (10) I fail to plant, cultivate and harvest crops in due season if I am a producer of crops; (11) any loan proceeds are used for a purpose that will contribute to excessive erosion of highly erodible land or to the conversion of wetlands to produce an agricultural commodity, as further explained in 7 C.F.R. Part 1940, Subpart G, Exhibit M.

REMEDIES: If I am in default on this note you have, but are not limited to, the following remedies:

(1) You may demand immediate payment of all I owe you under this note (principal, accrued unpaid interest and other accrued charges).

(2) You may set off this debt against any right I have to the payment of money from you, subject to the terms of the "SET-OFF" paragraph herein.

(3) You may demand security, additional security, or additional parties to be obligated to pay this note as a condition for not using any other remedy.

(4) You may refuse to make advances to me or allow purchases on credit by me.

(5) You may use any remedy you have under state or federal law.

By selecting any one or more of these remedies you do not give up your right to later use any other remedy. By waiving your right to declare an event to be a default, you do not waive your right to later consider the event as a default if it continues or happens again.

COLLECTION COSTS AND ATTORNEY'S FEES: I agree to pay all costs of collection, replevin or any other or similar type of cost if I am in default. In addition, if you hire an attorney to collect this note, I also agree to pay any fee you incur with such attorney plus court costs (except where prohibited by law). To the extent permitted by the United States Bankruptcy Code, I also agree to pay the reasonable attorney's fees and costs you incur to collect this debt as awarded by any court exercising jurisdiction under the Bankruptcy Code.

WAIVER: I give up my rights to require you to do certain things. I will not require you to:

(1) demand payment of amounts due (presentment);

(2) obtain official certification of nonpayment (protest); or

(3) give notice that amounts due have not been paid (notice of dishonor).

I waive any defenses I have based on suretyship or impairment of collateral.

OBLIGATIONS INDEPENDENT: I understand that I must pay this note even if someone else has also agreed to pay it (by, for example, signing this form or a separate guarantee or endorsement). You may sue me alone, or anyone else who is obligated on this note, or any number of us together, to collect this note. You may without notice release any party to this agreement without releasing any other party. If you give up any of your rights, with or without notice, it will not affect my duty to pay this note. Any extension of new credit to any of us, or renewal of this note by all or less than all of us will not release me from my duty to pay it. (Of course, you are entitled to only one payment in full.) I agree that you may at your option extend this note or the debt represented by this note, or any portion of the note or debt, from time to time without limit or notice and for any term without affecting my liability for payment of the note. I will not assign my obligation under this agreement without your prior written approval. You may, without notice, fail to perfect your security interest in, impair, or release any security and I will still be obligated to pay this loan.

FINANCIAL INFORMATION: I agree to provide you, upon request, any financial statement or information you may deem necessary. I warrant that the financial statements and information I provide to you are or will be accurate, correct and complete.

NOTICE: Unless otherwise required by law, any notice to me shall be given by delivering it or by mailing it by first class mail addressed to me at my last known address. My current address is on page 1. I agree to inform you in writing of any change in my address. I will give any notice to you by mailing it first class to your address stated on page 1 of this agreement, or to any other address that you have designated.

WAIVER OF HEARING PRIOR TO IMMEDIATE POSSESSION: If this loan is for a business purpose I agree to waive the right to five days' notice and a prejudgment hearing prior to seizure of any personal property which may secure this loan.

DATE OF TRANSACTION	PRINCIPAL ADVANCE	BORROWER'S INITIALS (not required)	PRINCIPAL PAYMENTS	PRINCIPAL BALANCE	INTEREST RATE	INTEREST PAYMENTS	INTEREST PAID THROUGH
	$		$	$	%	$	
	$		$	$	%	$	
	$		$	$	%	$	
	$		$	$	%	$	
	$		$	$	%	$	
	$		$	$	%	$	
	$		$	$	%	$	
	$		$	$	%	$	
	$		$	$	%	$	
	$		$	$	%	$	
	$		$	$	%	$	

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Instrument#: 2009000047322, MTG BK: 5166 PG: 3100 DOCTYPE: 002 05/05/2009 at 11:16:55 AM, 1 OF 5 BALLERY V. SKIPPER, HORRY COUNTY, SC REGISTRAR OF DEEDS

Re-recorded to correct name of "note signer"

State of South Carolina

County of HORRY

Mortgage of Real Estate

THIS MORTGAGE is dated MAY 1, 2009

THE MORTGAGOR ROSEMARY LONG JENRETTE
will be referred to herein as "Borrower".

THE MORTGAGEE, HORRY COUNTY STATE BANK, will be referred to herein as "Lender".
Lender's address is P.O. Box 218, Loris, SC 29569-0218.

The note, note agreement, loan agreement or revolving loan agreement signed by _____
CAJUN CAROLINA LLC, M BROOKS/MTS MEMBER Quicken
and dated MAY 1, 2009, _____, will be referred to herein as the "Note" or "Obligation" and includes all documents renewing, extending, or modifying it and/or evidencing future advances. The Note amount is $ 350,000.00.

The amount of debt secured by this Mortgage, including the outstanding amount of the Note and all Future Advances under paragraph 13 shall at no time exceed $ 350,000.00 plus interest, reasonable attorney's fees and court costs incurred in collection of amounts due hereunder and expenditures by Lender under paragraph 5 below. Interest under the Note will be deferred, accrued, or capitalized, but Lender shall not be required to defer, accrue or capitalize any interest except as provided in the Note.

This Mortgage is given to secure the Lender the repayment of the following amounts, with interest: (A) the indebtedness evidenced by the Note; (B) any future Advances made under paragraph 13 below; (C) expenditures by Lender under paragraph 5 below; and (D) attorney's fees, court cost and other amounts which may be due under the Note and the Mortgage. In consideration of the above indebtedness and for other valuable consideration which Borrower acknowledges receiving, grant and convey to Lender, its successors and assigns, the following described property.

DESCRIPTION SET FORTH HEREINBELOW AND ON SCHEDULE "A", IF ANY, ATTACHED HERETO AND MADE A PART HEREOF

"SEE EXHIBIT A"

TOGETHER with all singular rights, members, hereditaments and appurtenances belonging or in any way incident or appertaining thereto; 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);
LD#12

Instrument#: 2009000047052, MTG BK: 5166 PG: 2466 DOCTYPE: 002 05/04/2009 at 03:40:58 PM, 1 OF 5 BALLERY V. SKIPPER, HORRY COUNTY, SC REGISTRAR OF DEEDS

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TO HAVE AND TO HOLD all and singular the Property unto the Lender and the successors and assigns of Lender forever.

BORROWER covenants that Borrower is lawfully seized of the Property in fee simple absolute, that Borrower 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 in paragraph 15 and otherwise herein. Borrower covenants to warrant and forever defend all and singular the Property unto Lender and the successors or assigns of Lender from and against Borrower and all persons whomsoever lawfully claiming the same or any part thereof.

PROVIDED ALWAYS, nevertheless, and it is the true intent and meaning of Borrower and Lender, that if Borrower pays or causes to be paid to Lender 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.

IT IS AGREED that Borrower shall be entitled to hold and enjoy the Property until a default as herein defined has occurred.

BORROWER further covenants and agrees with Lender as follows:

1. Assignment of Rents and Profits. As further security for all sums secured by this Mortgage, Borrower assigns to Lender all rents and profits arising from the Property; provided, however, that so long as no Default as hereinafter defined has occurred, Borrower shall be entitled to collect and retain all such rents and profits as the sole property of Borrower without accounting to Lender thereof.

2. Care of Property. Borrower will maintain the Property in good condition and repair and will neither permit nor allow waste thereof. Borrower 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 will not remove or demolish any improvement or fixture which is now or hereafter part of the Property and will cut no timber on the Property without the express written consent of Lender. Lender shall be entitled to specific performance of the provisions of this paragraph.

3. Insurance. (A) Borrower shall at its sole expense obtain for, deliver to, and maintain for the benefit of Lender, during the life of the Mortgage, insurance policies in such amounts as Lender may require, in no event less than the full insurable value, insuring the Property against fire, extended coverage and such other insurable hazards, casualties and contingencies as Lender may require including flood damage, and shall pay promptly, when due, any premiums on such insurance policies and on any renewals thereof. The form of such policies, the companies issuing them, and the coverages provided shall be acceptable to Lender and shall contain a non-contributory mortgage endorsement making losses payable to Lender. At least thirty (30) days prior to the expiration date of all such policies, renewals thereof satisfactory to Lender shall be delivered to Lender. Borrower shall deliver to Lender receipts evidencing the payment of all premiums on such insurance policies and renewals. In the event of loss, Borrower will give written notice to Lender, and Lender may make proof of loss if not made promptly by Borrower. In the event of the foreclosure of this Mortgage or any other transfer of title to the Property in extinguishment of the indebtedness and other sums secured hereby, all right, title, and interest of Borrower in and to all insurance policies and renewals thereof then in force shall pass to the grantee. Upon the failure of Borrower to obtain and maintain insurance satisfactory to Lender, Lender may at its own discretion procure and substitute for any and all of the insurance so held as aforesaid, such other policy or policies of insurance, in such amount as Lender, acting in its sole discretion, may determine; all without prejudice to its right to foreclosure hereunder should Borrower fail or refuse to keep said premises so insured.

(B) Borrower hereby assigns to Lender all proceeds from any insurance policies, and Lender is hereby authorized and empowered in its reasonable discretion, to adjust or compromise any loss under any insurance policies on the Property, and to collect and receive the proceeds from any such policy or policies. Each insurance company is hereby authorized and directed to make payment for all such losses directly to Lender alone, and not to Borrower and Lender jointly. After deducting such insurance proceeds any expenses incurred by Lender in the collection or handling of such funds, Lender, acting in its sole discretion, may; apply the net proceeds (I) to the payment of any sum secured by this Mortgage in such order as Lender may determine or (II) to the replacement, repair or restoration of the portion of the Property damaged or destroyed in a manner determined by Lender; or may release said net proceeds to the Borrower upon such conditions as Lender shall determine; or may apply said net proceeds for any combination of the foregoing; all without affecting the lien of this Mortgage for the full amount secured hereby before such payment took place. If Lender elects to restore the improvements, any balance of such monies after restoration shall either be applied toward the reduction of indebtedness and any other sums secured hereby or shall be paid to Borrower. Lender shall not be responsible for any failure to collect any insurance proceeds due under the terms or any policy regardless of the cause of such failure.

(C) Borrower shall at its sole expense obtain for, deliver to and maintain for the benefit of Lender, during the life of this Mortgage, liability insurance policies relating to the Property, in such amounts, with such companies and in such form as may be reasonably required by Lender. Lender may require such policies to contain an endorsement, in form satisfactory to Lender, naming Lender as an additional insured thereof. Borrower shall pay promptly, when due, any premiums on such insurance policies and renewals thereof.

4. Taxes and Assessments. Borrower will pay all taxes, assessments and other charges which constitute or are secured by a lien upon the Property which is superior to the lien of this Mortgage and will deliver to Lender proof of payment of the same not less than ten (10) days prior to the date the same becomes delinquent; provided, however, that Borrower shall be entitled by 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 deposits with the authority to which such tax, assessment or charge is payable or with Lender 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 Lender. If Borrower 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, Lender may, but shall not be obligated to, pay for the same, and any such payment by lender 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 Lender 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 will pay to the Lender in cash on demand an amount equal to any payment made by Lender pursuant to this paragraph plus interest thereon as herein provided.

6. Condemnation. Lender shall be entitled to be made a party to and to participate in any proceedings, whether formal or informal, for condemnation or acquisition pursuant to power of eminent domain of any portion of the Property. Borrower hereby assigns to Lender the right to collect and receive any payment or award to which Borrower would otherwise be entitled by reason of condemnation or acquisition pursuant tot he power of eminent domain of any portion of the Property. Any such payment or award received by Lender may, at the option of Lender, (I) be applied by Lender to payment of any sums secured by this Mortgage in such order as Lender may determine (II) be applied in a manner determined by Lender to the replacement of the portion of the Property taken and to the repair or restoration of the remaining portion of the Property (III) be released to Borrower upon such conditions as Lender may determine or (IV) 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 shall be deemed a payment against any sums secured by this Mortgage.

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

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

8. Default. The occurrences of any of the following events shall be deemed a Default under this Mortgage:

(A) any default by Borrower as described in the Note;

(B) failure of Borrower to pay any other sum secured by this Mortgage when due;

(C) failure of Borrower to observe or perform any covenant or agreement set forth in this Mortgage or in any loan agreement entered into between the Borrower and Lender with respect to the indebtedness hereby secured within ten (10) days following the giving of notice by Lender to Borrower to observe or perform the same.

9. Acceleration; Remedies. Lender shall give notice to Borrower prior to acceleration following Borrower's breach of any covenant or agreement in this Security Instrument (but not prior to acceleration under paragraph 7 unless applicable law provides otherwise). The notice shall specify: (a) the default; (b) the action required to cure the default; (c) a date not less than 20 days from the date the notice is given to Borrower, by which the default must be cured; and (d) that failure to cure the default on or before the date specified in the notice may result in acceleration of the sums secured by this Security Instrument, foreclosure by judicial proceeding and sale of the Property. The notice shall further inform Borrower of the right to reinstate after acceleration and the right to assert in the foreclosure proceeding the non-existence of a default or any other defense of Borrower to acceleration and foreclosure. If the default is not cured on or before the date specified in the notice, Lender, at its option, may require immediate payment in full of all sums secured by this Security Instrument without further demand and may foreclose

RLS

this Security Instrument by judicial proceeding. Lender shall be entitled to collect all expenses incurred in pursuing the remedies provided in this paragraph 9, including, but not limited to, reasonable attorneys' fees and costs of title evidence, all of which shall be additional sums secured by this Security Instrument.

10. Appointment of Receiver. Upon the occurrence of a Default as hereinabove defined, Lender 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 or modification of leases, the making of repairs to the Property and the execution or termination of contracts providing for the management or maintenance of the Property, all on such terms as 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 of and managing the Property and collecting the rents, including, but not limited to, attorney's fees, receiver's fee, premiums on receiver bonds, costs of repairs to the Property, premiums on insurance policies, taxes, assessments and other charges on the Property, and the costs of discharging any obligation or liability of Borrower as lessor or landlord of the Property and then to the sums secured by this Mortgage. Lender 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. Lender shall not be liable to Borrower, anyone claiming under or through Borrower, or anyone having an interest in the Property by reason of anything done or left undone by Borrower under this paragraph. If the rents of the Property are not sufficient to meet the cost of taking control and managing the Property and collecting the rents, Lender, at its sole option, may advance funds to meet the costs. Any funds expended by Lender for such purposes shall become indebtedness of Borrower to Lender secured by this Mortgage. Unless Lender and Borrower agree in writing to other terms of payment, such amounts shall be payable upon notice from Lender to Borrower 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 Lender 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 Lender hereunder.

11. Waiver by Lender. Lender may, in its sole discretion, from time to time waive or forebear from enforcing any provision of this Mortgage, and no such waiver or forbearance shall be deemed a waiver by Lender of any right or remedy provided herein or by law or be deemed a waiver of the right at any later time to enforce strictly all provisions of this Mortgage and to exercise any and all remedies provided herein and by law.

12. Waiver by Borrower. Borrower understands that upon default hereunder, among other remedies set out herein and in the above referenced Note, the Lender may foreclose upon the mortgaged premises and ask for a deficiency judgement pursuant to Section 29-3-680, South Carolina Code of Laws (1976). Borrower hereby expressly waives and relinquishes any appraisal rights which Borrower may have under Section 29-3-680 through Section 29-3-760, South Carolina Code of Laws (1976) as amended and understands and agrees that a deficiency judgement, if pursued by Lender shall be determined by the highest price bid at the judicial sale of the Property. Borrower does expresly waive, release and discharge any and all homestead exemptions and rights of redemption as allowed by South Carolina law.

13. Future Advances. Lender, pursuant to Sections 29-3-40 and 50, South Carolina Code of Laws (1976) and at its option, may make Future Advances to Borrower. 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. Lender may make but is not obligated to make such Future Advances (A) at the request of the Borrower, whether or not there is an 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, any amounts which may be due under any other mortgage or lien affecting the Property.

14. Notices. Any notice given by either party hereto to the other party shall be in writing and shall be signed by the party giving notice. Any notice or other document to be delivered to either party hereto by the other party shall be deemed delivered if mailed postage prepaid to the party to whom directed at the latest address of such party is known to the party sending the same. This paragraph shall not be deemed to prohibit any other manner of delivering a notice or other document.

15. Covenants. Mortgagor covenants that he will not perform any act which might impair or tend to impair the continuation on the real property herein described of all crop allotments and acreage allotments now established or hereafter established on any of the property herein described, and Mortgagor hereby grants to the Mortgagee a lien on and a security interest in all such crop allotments and acreage allotments.

16. Hazardous Substances. Mortgagor for itself, its successors, and assigns represents, warrants and agrees that (a) neither Mortgagor nor any other person has used or installed any Hazardous Material (as hereinafter defined) on the Property or received any notice from any government agency, entity or other person with regard to Hazardous Materials on, from or affecting the Property; (b) neither Mortgagor or any other person has violated any applicable Environmental Laws (as hereinafter defined) relating to or affecting the Property; (c) the Property is presently in compliance with all Environmental Laws; there are no circumstances presently existing upon or under the Property, or relating to the Property which may violate any applicable Environmental Laws, and there is not now pending, or threatened, any action, suit, investigation or proceeding against Mortgagor relating to the Property (or against any other party relating to the Property) seeking to enforce any right or remedy under any of the Environmental Laws; (d) the Property shall be kept free of Hazardous Materials, and shall not be used to generate, manufacture, transport, treat, store, handle, dispose, or process Hazardous Materials; (e) Mortgagor shall not cause nor permit the installation of Hazardous Materials in the Property nor a release of Hazardous Material onto or from the Property or suffer the presence of Hazardous Materials on the Property; (f) Mortgagor shall at all times comply with and ensure compliance by all other parties with all applicable Environmental Laws relating to or affecting the Property and shall keep the Property free and clear of any liens imposed pursuant to any applicable Environmental Laws; (g) the Mortgagor has obtained and will at all times continue to obtain and/or maintain all licenses, permits and/or other governmental or regulatory actions necessary to comply with Environmental Laws (the "Permits") and the Mortgagor is in full compliance with the terms and provisions of the Permits and will continue to comply with the terms and provisions of the Permits; (h) Mortgagor shall immediately give the Beneficiary oral and written notice in the event that Mortgagor receives any notice from governmental agency, entity, or any other party with regard to Hazardous Materials on, from or affecting the Property and shall conduct and complete all investigations, sampling, and testing, and all remedial, removal, and other actions necessary to clean up and remove all Hazardous Materials on, from or affecting the Property in accordance with all applicable Environmental Laws. The Mortgagor hereby agrees to indemnify the Mortgagee and hold the Mortgagee harmless from and against any and all losses, liabilities, damages, injuries (including, without limitation, attorneys' fees) and claims of any and every kind whatsoever paid, incurred or suffered by, or asserted against Mortgagee for, with respect to, or as a direct or indirect result of (a) the presence on, or under, or the escape, spillage, emission or release from the Property of any Hazardous Material regardless of whether or not caused by or within the control of Mortgagor; (b) the violation of any environmental Laws relating to or affecting the Property, whether or not caused by or within the control of Mortgagor; (c) the failure by Mortgagor to comply fully with the terms and provisions of this paragraph; or (d) any warranty or representation made by Mortgagor in this paragraph being false or untrue in any material respect. For purposes of this Mortgage, "Hazardous Material" means and includes petroleum products, any flammable explosives, radioactive materials, asbestos or any material containing asbestos, and/or any hazardous, toxic or dangerous waste, substance or material defined as such in (or for the purposes of) the Environmental Laws. For the purpose of this Mortgage, "Environmental Laws" means the Comprehensive Environmental Response, Compensation and Liability Act, the Hazardous Materials Transportation Act, the Resource Conservation and Recovery Act, and "Super Fund" or "Super Lien" law, or any other federal, state, or local law, regulation, or decree regulating, relating to, or imposing liability or standards of conduct concerning petroleum products, any flammable explosives, radioactive materials, asbestos or any material containing asbestos, and/or any hazardous, toxic or dangerous waste, substance or material, as may now or at any time hereafter be in effect. The obligations and liabilities of Mortgagor under this paragraph shall survive the foreclosure of the Mortgage, the delivery of a deed in lieu of foreclosure, the cancellation or release of record of this Mortgage or the payment and cancellation of the Note; or if otherwise expressly permitted in writing by the Mortgagee, the sale or alienation of any part of the Property.

17. Miscellaneous.

(A) The agreements herein shall bind and inure to the benefit of the Borrower, Lender and their respective heirs, successors and assigns.

(B) Whenever in this Mortgage one of the parties hereto is named or referred to, the heirs, legal representatives, successors and assigns of such parties shall be included and all covenants and agreements contained in this Mortgage by or on behalf of the Borrower or by or on behalf of the Lender shall bind and inure to the benefit of their representatives, heirs, successors and assigns, whether so expressed or not.

(C) The headings of the 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.

(D) If any provision of this Mortgage conflicts with applicable law, 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.

(E) Lender may make or cause to be made reasonable entries upon and inspections of the Property upon giving Borrower notice.

(F) All covenants of Mortgage shall be joint and several.

(G) This Mortgage shall be governed by, construed and enforced in accordance with the laws of South Carolina.

RLS

(H) If this is not a first Mortgage, Borrower has provided Lender with an attorney's opinion letter (or title insurance) setting out in detail any and all prior Mortgages or liens including the date of the existing mortgage liens and the original amounts.
(I) If the Borrower is not obligated on the debt which this Mortgage secures, then the Borrower acknowledges that Note was made in consideration for this transaction and the owner of the Property agrees to be bound by all the terms and conditions of the Note and the Mortgage.

IN WITNESS WHEREOF, Borrower has executed this Mortgage the day and year first above written.

IN WITNESS WHEREOF, the Borrower has hereunto set his hand and seal, or if corporate, has caused this instrument to be signed in its corporate name by its duly authorized officers and its seal to be hereunto affixed by authority of its Board of Directors, the day and year first above written.

(Corporate Name)

By: _____

_____ President

ATTEST:

_____ Secretary (Corporate Seal)

Signed, Sealed and Delivered in the Presence of:

Rosemary Long Jenrette (SEAL)
(Borrower)

USE BLACK INK ONLY

ROSEMARY LONG JENRETTE, f/n/a Rosemary Long
By Michael Brooks Quickel, Attorney-in-Fact
(Borrower)

FKA Rosemary Long By (SEAL)
(Borrower)

Michael Brooks Quickel (SEAL)
(Borrower)
Attorney in Fact

Patricia Ward
(Witness)

(Witness)

STATE OF SOUTH CAROLINA,

COUNTY OF Horry

PROBATE

PERSONALLY appeared before me the undersigned witness and made oath that he saw the within named Rosemary Loan Jenrette, by Michael Brooks Quickel, AttorneyInFact sign, seal, and as their act and deed deliver the within written Mortgage, and that S he with the other witness above witnessed the execution thereof.

Sworn to before me this 1st day of May A.D., 2009

Patricia Ward

_____ (L.S.)
Notary Public for South Carolina.

My Commission expires 1-14-2018

DLS

EXHIBIT "A"

PARCEL I: ALL AND SINGULAR, that certain piece, parcel of land lying and being in Conway Township, containing one (1) acre more or less, the same being more particularly described as follows:

Beginning at a point at the corner at the intersection of the Airport Road and D. M. Burroughs Road and running northeast a distance of 140 ft. to an iron pin on the D. M. Burroughs Road; thence running 240 feet in a northwestern direction to an iron pen corner thence 220 ft. in a southeastern direction to an iron pen on the Airport Road thence along the said road in a southeastern direction a distance of 238 ft. along the said road to the beginning corner. Being bound on the north by lands of W. M. Long; on the east by lands of W. M. Long; on the south by D. M. Burroughs road and on the west by the Airport.

This being the identical property conveyed unto Rosemary Long Jenrette f/n/a Rosemary Long by Deed dated September 10, 2007, and recorded September 11, 2007, in Deed Book 3275 at Page 2145, in the office of the Register of Deeds for Horry County, South Carolina.

TMS#123-00-02-069

PARCEL II: ALL AND SINGULAR, those certain pieces, parcels or lots of land lying situate and being in Conway Township, Horry County, and being shown and designated as Lot Forty (40), Forty-Eight (48), Sixty-Seven (67), and Sixty-Eight (68) on plat of subdivision of W.M. Long Subdivision by S. D. Cox Surveyors, Inc., dated June 22, 1967 and revised October 6, 1967. The said map is recorded in Plat Book 47 at Page 69, in the office of the Register of Deeds for Horry County, South Carolina, and is by reference made a part of this description.

This being a portion of the property conveyed unto Rosemary Long, n/k/a Rosemary Long Jenrette by Deed dated May 10, 2002, and recorded May 13, 2002, in Deed Book 2479 at Page 1474, in the office of the Register of Deeds for Horry County, South Carolina.

TMS# (Lot 40) 123-00-02-170, (Lot 48) 123-00-02-171, (Lot 67) 123-00-03-064 and (Lot 68) 123-00-03-065

RWS

TO HAVE AND TO HOLD all and singular the Property unto the Lender and the successors and assigns of Lender forever.

BORROWER covenants that Borrower is lawfully seized of the Property in fee simple absolute, that Borrower 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 in paragraph 15 and otherwise hereIn, Borrower covenants to warrant and forever defend all and singular the Property unto Lender and the successors or assigns of Lender from and against Borrower and all persons whomsoever lawfully claiming the same or any part thereof.

PROVIDED ALWAYS, nevertheless, and it is the true intent and meaning of Borrower and Lender, that if Borrower pays or causes to be paid to Lender 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.

IT IS AGREED that Borrower shall be entitled to hold and enjoy the Property until a default as herein defined has occurred.

BORROWER further covenants and agrees with Lender as follows:

1. Assignment of Rents and Profits. As further security for all sums secured by this Mortgage, Borrower assigns to Lender all rents and profits arising from the Property; provided, however, that so long as no Default as hereinafter defined has occurred, Borrower shall be entitled to collect and retain all such rents and profits as the sole property of Borrower without accounting to Lender thereof.

2. Care of Property. Borrower will maintain the Property in good condition and repair and will neither permit nor allow waste thereof. Borrower 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 will not remove or demolish any improvement or fixture which is now or hereafter part of the Property and will cut no timber on the Property without the express written consent of Lender. Lender shall be entitled to specific performance of the provisions of this paragraph.

3. Insurance. (A) Borrower shall at its sole expense obtain for, deliver to, and maintain for the benefit of Lender, during the life of the Mortgage, insurance policies in such amounts as Lender may require, in no event less than the full insurable value, insuring the Property against fire, extended coverage and such other insurable hazards, casualties and contingencies as Lender may require including flood damage, and shall pay promptly, when due, any premiums on such insurance policies and on any renewals thereof. The form of such policies, the companies issuing them, and the coverages provided shall be acceptable to Lender and shall contain a non-contributory mortgage endorsement making losses payable to Lender. At least thirty (30) days prior to the expiration date of all such policies, renewals thereof satisfactory to Lender shall be delivered to Lender. Borrower shall deliver to Lender receipts evidencing the payment of all premiums on such insurance policies and renewals. In the event of loss, Borrower will give written notice to Lender, and Lender may make proof of loss if not made promptly by Borrower. In the event of the foreclosure of this Mortgage or any other transfer of title to the Property in extinguishment of the indebtedness and other sums secured hereby, all right, title, and interest of Borrower in and to all insurance policies and renewals thereof then in force shall pass to the grantee. Upon the failure of Borrower to obtain and maintain insurance satisfactory to Lender, Lender may at its own discretion procure and substitute for any and all of the insurance so held as aforesaid, such other policy or policies of insurance, in such amount as Lender, acting in its sole discretion, may determine; all without prejudice to its right to foreclosure hereunder should Borrower fail or refuse to keep said premises so insured.

(B) Borrower hereby assigns to Lender all proceeds from any insurance policies, and Lender is hereby authorized and empowered in its reasonable discretion, to adjust or compromise any loss under any insurance policies on the Property, and to collect and receive the proceeds from any such policy or policies. Each insurance company is hereby authorized and directed to make payment for all such losses directly to Lender alone, and not to Borrower and Lender jointly. After deducting such insurance proceeds any expenses incurred by Lender in the collection or handling of such funds, Lender, acting in its sole discretion, may: apply the net proceeds (I) to the payment of any sum secured by this Mortgage in such order as Lender may determine or (II) to the replacement, repair or restoration of the portion of the Property damaged or destroyed in a manner determined by Lender; or may release said net proceeds to the Borrower upon such conditions as Lender shall determine; or may apply said net proceeds for any combination of the foregoing; all without affecting the lien of this Mortgage for the full amount secured hereby before such payment took place. If Lender elects to restore the improvements, any balance of such monies after restoration shall either be applied toward the reduction of indebtedness and any other sums secured hereby or shall be paid to Borrower. Lender shall not be responsible for any failure to collect any insurance proceeds due under the terms or any policy regardless of the cause of such failure.

(C) Borrower shall at its sole expense obtain for, deliver to and maintain for the benefit of Lender, during the life of this Mortgage, liability insurance policies relating to the Property, in such amounts, with such companies and in such form as may be reasonably required by Lender. Lender may require such policies to contain an endorsement, in form satisfactory to Lender, naming Lender as an additional insured thereof. Borrower shall pay promptly, when due, any premiums on such insurance policies and renewals thereof.

4. Taxes and Assessments. Borrower will pay all taxes, assessments and other charges which constitute or are secured by a lien upon the Property which is superior to the lien of this Mortgage and will deliver to Lender proof of payment of the same not less than ten (10) days prior to the date the same becomes delinquent; provided, however, that Borrower shall be entitled by 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 deposits with the authority to which such tax, assessment or charge is payable or with Lender 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 Lender. If Borrower 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, Lender may, but shall not be obligated to, pay for the sums, and any such payment by lender 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 Lender shall be a first lien on the Property to the extent of the taxes so paid with inter-

A. Settlement Statement

U.S. Department of Housing and Urban Development

OMB Approval No. 2502-0265 (expires 11/30/2009)

B. Type of Loan			
1 ☐ FHA 2 ☐ RHS 3. ☒ Conv. Unins 4 ☐ VA 5 ☐ Conv. Ins.	6. File Number 11023	7. Loan Number	8. Mortgage Insurance Case Number

C. Note: This form is furnished to give you a statement of actual settlement costs. Amounts paid to and by the settlement agent are shown. Items marked "(p.o.c.)" were paid outside the closing; they are shown here for information purposes and are not included in the totals.

D. Name and Address of Borrower	E. Name and Address of Seller	F. Name and Address of Lender
Michael Brooks Quickel Rosemary Long Jenrette 3806 North Ocean Blvd. Myrtle Beach, SC 29577		Horry County State Bank 4600 Highway 17 Bypass South Myrtle Beach, SC 29588

G. Property Location	H. Settlement Agent	I. Settlement Date
Conway, SC 29526 Lots 7 & 14 of W.M. Long S/D; 1 acre Conway Township; and Lots 40, 49, 57 & 58	Evans and Evans Law Firm, LLC Place of Settlement 204 Elm Street, Suite 100 Conway, South Carolina 29526	05/01/09 DD: 05/01/09

J. SUMMARY OF BORROWER'S TRANSACTION:		K. SUMMARY OF SELLER'S TRANSACTION:	
100. GROSS AMOUNT DUE FROM BORROWER		400. GROSS AMOUNT DUE TO SELLER	
101. Contract sales price		401. Contract sales price	
102. Personal property		402. Personal property	
103. Settlement charges to borrower (line 1400)	6,920.50	403.	
104.		404.	
105. Pay-Off Horry County State Bank	224,791.06	405.	
Adjustments for items paid by seller in advance		Adjustments for items paid by seller in advance	
106. City/town taxes to		406. City/town taxes to	
107. County taxes to		407. County taxes to	
108. Assessments to		408. Assessments to	
109.		409.	
110.		410.	
111.		411.	
112.		412.	
120. GROSS AMOUNT DUE FROM BORROWER	231,711.56	420. GROSS AMOUNT DUE TO SELLER	
200. AMOUNTS PAID BY OR IN BEHALF OF BORROWER		500. REDUCTIONS IN AMOUNT TO SELLER	
201. Deposit or earnest money		501. Excess Deposit (see instructions)	
202. Principal amount of new loan(s)	350,000.00	502. Settlement charges to seller (line 1400)	
203. Existing loan(s) taken subject to		503. Existing loan(s) taken subject to	
204.		504. Payoff of first mortgage loan	
205		505. Payoff of second mortgage loan	
206		506.	
207		507.	
208		508	
209		509	
Adjustments for items unpaid by seller		Adjustments for items unpaid by seller	
210. City/town taxes to		510. City/town taxes to	
211. County taxes to		511. County taxes to	
212. Assessments to		512. Assessments to	
213.		513.	
214.		514.	
215.		515.	
216.		516.	
217.		517.	
218.		518.	
219.		519.	
220. TOTAL PAID BY / FOR BORROWER	350,000.00	520. TOTAL REDUCTION AMOUNT DUE SELLER	
300. CASH AT SETTLEMENT FROM OR TO BORROWER		600. CASH AT SETTLEMENT TO OR FROM SELLER	
301. Gross amount due from borrower (line 120)	231,711.56	601 Gross amount due to seller (line 420)	
302. Less amounts paid by/for borrower (line 220)	350,000.00	602. Less reduction amount due to seller (line 520)	
303. CASH TO BORROWER	118,288.44	603 CASH TO SELLER	

HCSB subpoenaed documents delivered on 3/21/13 to R. Jenrette counsel W. DesChamps, Jr. 2011-CP-26-9199 Page 313

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT — SETTLEMENT STATEMENT — PAGE 2

J.	TOTAL SALES/BROKER'S COMMISSION based on price $				
	Division of commission (line 700) as follows:				
701	$	to			
702	$	to			
703	Commission paid at Settlement				
704					
800	ITEMS PAYABLE IN CONNECTION WITH LOAN			P.O.C.	
801	Loan Origination Fee	%	Horry County State Bank	500.00	
802	Loan Discount	%			
803	Appraisal Fee	to	Hyman, Tyler & Associates	1,500.00	
804	Credit Report	to			
805	Lender's Inspection Fee	to			
806	Mtg. Ins. Application Fee	to			
807	Assumption Fee	to			
808	Flood Cert		Wolters Kluwer	16.50	
809					
810					
811					
812					
813					
814					
815					
900	ITEMS REQUIRED BY LENDER TO BE PAID IN ADVANCE				
901	Interest from	to	@$	/day	
902	Mortgage Insurance Premium		to		
903	Hazard Insurance Premium		yrs to		
904					
905					
1000	RESERVES DEPOSITED WITH LENDER FOR				
1001	Hazard Insurance	mo @$		/mo.	
1002	Mortgage Insurance	mo. @$		/mo.	
1003	City property taxes	mo. @$		/mo	
1004	County property taxes	mo. @$		/mo.	
1005	Annual Assessments	mo. @$		/mo.	
1006		mo. @$		/mo	
1007		mo. @$		/mo.	
1008	Aggregate Reserve for Hazard/Flood Ins, City/County Prop Taxes, Mortgage Ins & Annual Assessments				
1100	TITLE CHARGES				
1101	Settlement or closing fee	to			
1102	Abstract or title search	to	Coastal Paralegal Services, LLC	1,184.50	
1103	Title examination	to			
1104	Title insurance binder	to	Equity Title Company, LLC	100.00	
1105	Document preparation	to	Equity Title Company, LLC	100.00	
1106	Notary fees	to			
1107	Attorney's fees	to	Evans and Evans Law Firm, LLC	500.00	
	(includes above item No:		)		
1108	Title Insurance	to	Equity Title Company, LLC	712.50	
	(includes above item No		)		
1109	Lender's coverage	350,000.00 — 712.50			
1110	Owner's coverage				
1111					
1112	Admin/Copy/E-Mail		Equity Title Company, LLC	45.00	
1113					
1200	GOVERNMENT RECORDING AND TRANSFER CHARGES				
1201	Recording fees	Deed $	; Mortgage $ 22.00	, Releases $	22.00
1202	City/county/stamps	Deed $	; Mortgage $		
1203	State tax/stamps	Deed $	; Mortgage $		
1204	Recording Fee	Deed $	; Mortgage $		
1205	Record Power of Attorney				15.00
1300	ADDITIONAL SETTLEMENT CHARGES				
1301	Survey	to	Huntley & Associates, Inc.	2,150.00	
1302	Pest inspection	to			
1303	Courier Fee		Evans and Evans Law Firm, LLC	50.00	
1304	Overnight Courier		Evans and Evans Law Firm, LLC	25.00	
1305					
1306					
1307					
1308					
1400	TOTAL SETTLEMENT CHARGES	(enter on lines 103 and 502, Sections J and K)		6,920.50	

HCSB subpoenaed documents delivered on 3/21/13 to R. Jenrette counsel W. DesChamps, Jr. 2011-CP-26-9199 Page 314

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SETTLEMENT STATEMENT PAGE 3
CERTIFICATION

I have carefully reviewed the HUD-1 Settlement Statement and to the best of my knowledge and belief, it is a true and accurate statement of all receipts and disbursements made on my account or by me in this transaction. I further certify that I have received a copy of the HUD-1 Settlement Statement.

Michael Brooks Quickel

Borrower: Michael Brooks Quickel, SS #

Seller:

Rosemary Long Jenrette FKA Rosemary Long By Michael Brooks Quickel Attorney in fact

Borrower: Rosemary Long Jenrette, f/k/a Rosemary Long by Michael Brooks Quickel, Attorney-in-Fact

Seller:

SUBSTITUTE 1099

The information contained in Blocks E, G, H, I and on Line 401 of the attached Settlement Statement is being furnished to the Internal Revenue Service. If you are required to file a return, a negligence penalty or other sanction will be imposed on you if this item is required and the IRS determines that it has not been reported.

SOLICITATION

You are required by law to provide Evans and Evans Law Firm, LLC with your correct tax payer identification number. If you do not provide Evans and Evans Law Firm, LLC with your correct taxpayer identification number, you may be subject to civil or criminal penalties imposed by law.
Under penalties of perjury, I certify that the number shown on this statement is my correct taxpayer identification number.

Seller: , SS #

Seller: , SS #

Seller: , SS #

Seller: , SS #

The HUD-1 Settlement Statement which I have prepared is a true and accurate account of this transaction. I have caused the funds to be disbursed in accordance with this Statement.

Evans and Evans Law Firm, LLC

By: Gregg S. Evans
File Number: 11023

MAY 01 2009
Date:

APPRAISAL CHECKLIST
ADDENDUM 7

APPLICANT / LOAN NAME: CAJUN CAROLINA

APPRAISER: Hyman Tyler & Assoc

DATE OF APPRAISAL: 03-10-2009

FINAL ESTIMATION OF VALUE: $ 80,000.00

LOAN AMOUNT: $ 350,000.00 LOAN TO VALUE: 56 %

PROPERTY ADDRESS: Lot 67 Country Club Drive
Conway
SC
29526

PROPERTY DESCRIPTION: Land Only

AGE OF IMPROVEMENTS: 60

PROXIMITY OF COMPARABLE SALES:

1. .94
2. 2.19
3. 2.63

DO COMPARABLE SALES APPEAR REASONABLE? YES X NO ☐

NEED FOR SIGNIFICANT REPAIRS NOTED? YES NO X

IS APPRAISAL ADDRESSED TO HCSB? YES

DOES APPRAISAL INCLUDE ENGAGEMENT LETTER FROM HCSB? YES

IF NOT, WHY?

HAVE YOU VISITED THE SUBJECT PROPERTY? NO

DO YOU AGREE WITH FINAL ESTIMATION OF VALUE? YES

LOAN OFFICER

(Include this completed form with loan package)

APPRAISAL CHECKLIST
ADDENDUM 7

APPLICANT / LOAN NAME: CAJUN CAROLINA

APPRAISER: Hyman Tyler & Assoc

DATE OF APPRAISAL: 03-10-2009

FINAL ESTIMATION OF VALUE: $ 80,000.00

LOAN AMOUNT: $ 350,000.00 LOAN TO VALUE: 56 %

PROPERTY ADDRESS: Lot 68 Country Club Drive
Conway
SC
29526

PROPERTY DESCRIPTION: Land Only

AGE OF IMPROVEMENTS: 60

PROXIMITY OF COMPARABLE SALES:

1. .95
2. 2.19
3. 2.62

DO COMPARABLE SALES APPEAR REASONABLE? YES X NO ☐

NEED FOR SIGNIFICANT REPAIRS NOTED? YES NO X

IS APPRAISAL ADDRESSED TO HCSB? YES

DOES APPRAISAL INCLUDE ENGAGEMENT LETTER FROM HCSB? YES

IF NOT, WHY?

HAVE YOU VISITED THE SUBJECT PROPERTY? NO

DO YOU AGREE WITH FINAL ESTIMATION OF VALUE? YES.

Ann Mason
LOAN OFFICER

(Include this completed form with loan package)

APPRAISAL CHECKLIST
ADDENDUM 7

APPLICANT / LOAN NAME: CAJUN CAROLINA

APPRAISER: Hyman Tyler & Assoc

DATE OF APPRAISAL: 03-10-2009

FINAL ESTIMATION OF VALUE: $ 195,000.00

LOAN AMOUNT: $ 350,000.00 LOAN TO VALUE: 56 %

PROPERTY ADDRESS: 104 Country Club Drive
Conway
SC
29526

PROPERTY DESCRIPTION: 1897 sq ft 4 BR 1 Bath

AGE OF IMPROVEMENTS: 60

PROXIMITY OF COMPARABLE SALES:

1. .96
2. 2.16
3. 2.61

DO COMPARABLE SALES APPEAR REASONABLE? YES X NO ☐

NEED FOR SIGNIFICANT REPAIRS NOTED? YES NO X

IS APPRAISAL ADDRESSED TO HCSB? YES

DOES APPRAISAL INCLUDE ENGAGEMENT LETTER FROM HCSB? YES

IF NOT, WHY?

HAVE YOU VISITED THE SUBJECT PROPERTY? NO

DO YOU AGREE WITH FINAL ESTIMATION OF VALUE? YES

LOAN OFFICER

(Include this completed form with loan package)

APPRAISAL CHECKLIST
ADDENDUM 7

APPLICANT / LOAN NAME: CAJUN CAROLINA

APPRAISER: Hyman Tyler & Assoc

DATE OF APPRAISAL: 03-10-2009

FINAL ESTIMATION OF VALUE: $ 70,000.00

LOAN AMOUNT: $ 350,000.00 LOAN TO VALUE: 56 %

PROPERTY ADDRESS: Lot 14 Clayton St
Conway
SC
29526

PROPERTY DESCRIPTION: Land Only

AGE OF IMPROVEMENTS: 60

PROXIMITY OF COMPARABLE SALES:

1. 1.02
2. 2.08
3. 2.54

DO COMPARABLE SALES APPEAR REASONABLE? YES X NO ☐

NEED FOR SIGNIFICANT REPAIRS NOTED? YES NO X

IS APPRAISAL ADDRESSED TO HCSB? YES

DOES APPRAISAL INCLUDE ENGAGEMENT LETTER FROM HCSB? YES

IF NOT, WHY?

HAVE YOU VISITED THE SUBJECT PROPERTY? NO

DO YOU AGREE WITH FINAL ESTIMATION OF VALUE? YES

LOAN OFFICER

(Include this completed form with loan package)

APPRAISAL CHECKLIST
ADDENDUM 7

APPLICANT / LOAN NAME: CAJUN CAROLINA

APPRAISER: Hyman Tyler & Assoc

DATE OF APPRAISAL: 03-10-2009

FINAL ESTIMATION OF VALUE: $ 70,000.00

LOAN AMOUNT: $ 350,000.00 LOAN TO VALUE: 56 %

PROPERTY ADDRESS: Lot 7 Clayton St
Conway
SC
29526

PROPERTY DESCRIPTION: Land Only

AGE OF IMPROVEMENTS: 60

PROXIMITY OF COMPARABLE SALES:

1. .99
2. 2.11
3. 2.58

DO COMPARABLE SALES APPEAR REASONABLE? YES X NO ☐

NEED FOR SIGNIFICANT REPAIRS NOTED? YES NO X

IS APPRAISAL ADDRESSED TO HCSB? YES

DOES APPRAISAL INCLUDE ENGAGEMENT LETTER FROM HCSB? YES

IF NOT, WHY?

HAVE YOU VISITED THE SUBJECT PROPERTY? NO

DO YOU AGREE WITH FINAL ESTIMATION OF VALUE? YES

LOAN OFFICER

(Include this completed form with loan package)

Lender/Client	*Horry County State Bank*			File No.	*RE0904121*
Property Address	*104 Country Club Drive*				
City	*Conway*	County	*Horry County*	State *SC*	Zip Code *29526*
Client	*Horry County State Bank*				

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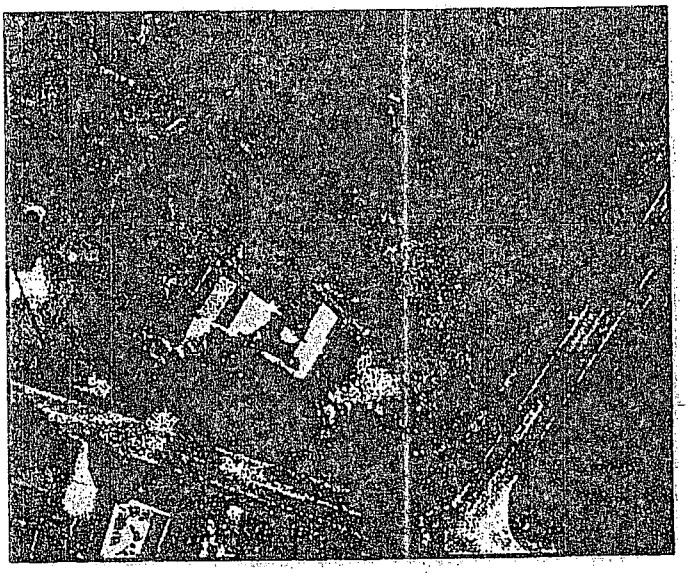

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Hyman, Tyler & Associates LLC
6346 Juniper Bay Rd
Conway, SC 29527

April 14, 2009

Horry County State Bank
1701 North Oak Street
Myrtle Beach, SC 29577

Re: Property: 104 Country Club Drive
Conway, SC 29526
Borrower: Cajun Carolina LLC
File No.: RE0904121

In accordance with your request, we have appraised the above referenced property. The report of that appraisal is attached.

The purpose of this appraisal is to estimate the market value of the property described in this appraisal report, as improved, in unencumbered fee simple title of ownership.

This report is based on a physical analysis of the site and improvements, a locational analysis of the neighborhood and city, and an economic analysis of the market for properties such as the subject. The appraisal was developed and the report was prepared in accordance with the Uniform Standards of Professional Appraisal Practice.

The value conclusions reported are as of the effective date stated in the body of the report and contingent upon the certification and limiting conditions attached.

It has been a pleasure to assist you. Please do not hesitate to contact me or any of my staff if we can be of additional service to you.

Sincerely,

Jonathan M. Hyman

APPRAISER DISCLOSURE STATEMENT

File No. *RE0904121* *RE0904121*

Name of Appraiser: *Jonathan M. Hyman*

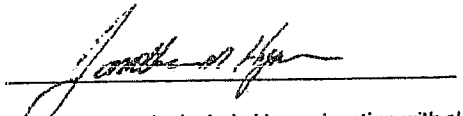
Class of Certification/Licensure:
- ☐ Certified General
- ☒ Certified Residential
- ☐ Licensed Residential
- ☐ Temporary ☐ General ☐ Licensed

Certification/Licensure Number: *CR 3509* *06/30/2010*
Certification/Licensure State: *SC* Expires: *6/30/2010*

Scope: This Report
- ☒ is within the scope of my Certification or License
- ☐ is not within the scope of my Certification or License

Service Provided By:
- ☒ Disinterested & Unbiased Third Party
- ☐ Interested & Biased Third Party
- ☐ Interested Third Party on Contingent Fee Basis

Signature of person preparing and reporting the Appraisal:



This form must be included in conjunction with all appraisal assignments or specialized services performed by a state-certified or state-licensed real estate appraiser.

SUMMARY OF SALIENT FEATURES

SUBJECT	
Subject Address	*104 Country Club Drive*
Legal Description	*.69 Acres+- Country Club Dr., Conway Township, Horry County, S.C.*
City	*Conway*
County	*Horry County*
State	*SC*
Zip Code	*29526*
Census Tract	*0702.00*
Map Reference	*123-00-02-069*
SALES PRICE	
Sale Price	$ *N/A*
Date of Sale	*N/A*
LOAN	
Lender/Client	*Horry County State Bank*
Client	*Horry County State Bank*
IMPROVEMENTS	
Size (Square Feet)	*1,897*
Price per Square Foot	$
Location	*Suburban/Avg*
Age	*1946/ Eff 20*
Condition	*Average*
Total Rooms	*7*
Bedrooms	*4*
Baths	*1*
APPRAISER	
Appraiser	*Jonathan M. Hyman*
Date of Appraised Value	*April 10, 2009*
VALUE	
Final Estimate of Value	$ *195,000*

Summary Appraisal Report

Uniform Residential Appraisal Report

RE0904121
File # RE0904121

The purpose of this summary appraisal report is to provide the lender/client with an accurate, and adequately supported, opinion of the market value of the subject property.

SUBJECT

Property Address *104 Country Club Drive* City *Conway* State *SC* Zip Code *29526*
Borrower *Cajun Carolina LLC* Owner of Public Record *Long, Rosemary* County *Horry County*
Legal Description *.69 Acres+- Country Club Dr., Conway Township, Horry County, S.C.*
Assessor's Parcel # *123-00-02-069* Tax Year *2008* R.E. Taxes $ *2,960.50*
Neighborhood Name *WM Long* Map Reference *123-00-02-069* Census Tract *0702.00*
Occupant ☒ Owner ☐ Tenant ☐ Vacant Special Assessments $ *0.00* ☐ PUD HOA $ *0.00* ☐ per year ☐ per month
Property Rights Appraised ☒ Fee Simple ☐ Leasehold ☐ Other (describe)
Assignment Type ☒ Purchase Transaction ☐ Refinance Transaction ☐ Other (describe)
Lender/Client *Horry County State Bank* Address *1701 North Oak Street, Myrtle Beach, SC 29577*
Is the subject property currently offered for sale or has it been offered for sale in the twelve months prior to the effective date of this appraisal? ☐ Yes ☒ No
Report data source(s) used, offering price(s), and date(s). *N/A*

CONTRACT

I ☐ did ☒ did not analyze the contract for sale for the subject purchase transaction. Explain the results of the analysis of the contract for sale or why the analysis was not performed. *N/A*

Contract Price $ *N/A* Date of Contract *N/A* Is the property seller the owner of public record? ☒ Yes ☐ No Data Source(s) *County Records*
Is there any financial assistance (loan charges, sale concessions, gift or downpayment assistance, etc.) to be paid by any party on behalf of the borrower? ☐ Yes ☒ No
If Yes, report the total dollar amount and describe the items to be paid. *N/A*

NEIGHBORHOOD

Note: Race and the racial composition of the neighborhood are not appraisal factors.

Neighborhood Characteristics		One-Unit Housing Trends		One-Unit Housing		Present Land Use %
Location	☐ Urban ☒ Suburban ☐ Rural	Property Values	☐ Increasing ☒ Stable ☐ Declining	PRICE	AGE	One-Unit *40* %
Built-Up	☐ Over 75% ☒ 25-75% ☐ Under 25%	Demand/Supply	☐ Shortage ☒ In Balance ☐ Over Supply	$ (000)	(yrs)	2-4 Unit %
Growth	☐ Rapid ☒ Stable ☐ Slow	Marketing Time	☐ Under 3 mths ☒ 3-6 mths ☐ Over 6 mths	*125* Low	*New*	Multi-Family %
				500+ High	*60+*	Commercial %
Neighborhood Boundaries *The neighborhood boundaries are the city limits of Conway.*				*185* Pred.	*18*	Other *60* %

Neighborhood Description *The subject is in the city limits of Conway in the WM Long Community. This area is mainly comprised of single family homes, and commercial use property. The subject is convenient to shopping, churches, employment and recreation*

Market Conditions (including support for the above conclusions) *Property values in suburban areas are stable in most all sections of Horry County as well as most all other areas (urban & rural) of the county. Average exposure time in this area is approximately 120-150 days. The market is typically healthy and closing concessions are not usually necessary, However, they are shown and adjusted for when present.*

SITE

Dimensions *0.69 Acres* Area *0.69 Acres* Shape *Rectanglar/Irregular* View *Other Resid.*
Specific Zoning Classification *SF 20* Zoning Description *Single Family*
Zoning Compliance ☒ Legal ☐ Legal Nonconforming (Grandfathered Use) ☐ No Zoning ☐ Illegal (describe)
Is the highest and best use of subject property as improved (or as proposed per plans and specifications) the present use? ☒ Yes ☐ No If No, describe *Property is currently in highest and best use.*

Utilities	Public	Other (describe)		Public	Other (describe)	Off-site Improvements - Type	Public	Private
Electricity	☒	☐	Water	☒	☐	Street *Paved*	☒	☐
Gas	☐	☒ *N/A Typical*	Sanitary Sewer	☒	☐	Alley *N/A Typical*	☒	☐

FEMA Special Flood Hazard Area ☐ Yes ☒ No FEMA Flood Zone *X* FEMA Map # *45051C0506H* FEMA Map Date *8/23/1999*
Are the utilities and off-site improvements typical for the market area? ☒ Yes ☐ No If No, describe
Are there any adverse site conditions or external factors (easements, encroachments, environmental conditions, land uses, etc.)? ☐ Yes ☒ No If Yes, describe
Site is typical for the area/neighborhood. No apparent easements except those of public record for common utilities. No apparent encroachments. An up-to-date survey is recommended.

IMPROVEMENTS

General Description		Foundation		Exterior Description - materials/condition		Interior - materials/condition	
Units	☒ One ☐ One with Accessory Unit	☐ Concrete Slab	☒ Crawl Space	Foundation Walls	*Masonry*	Floors	*Hardwood,Tile,Cpt*
# of Stories	*1.5*	☐ Full Basement	☐ Partial Basement	Exterior Walls	*Siding*	Walls	*Panel & Sheetrock*
Type	☒ Det. ☐ Att. ☐ S-Det./End Unit	Basement Area	*N/A* sq.ft.	Roof Surface	*Shingles*	Trim/Finish	*Wood/Avg*
	☒ Existing ☐ Proposed ☐ Under Const.	Basement Finish	*N/A* %	Gutters & Downspouts	*None*	Bath Floor	*Tile/Vinyl*
Design (Style)	*Trad/Avg*	☐ Outside Entry/Exit	☐ Sump Pump	Window Type	*Wood Frame*	Bath Wainscot	*Acrylic/Ceramic/A*
Year Built	*1946*	Evidence of ☐ Infestation	*None seen*	Storm Sash/Insulated	*None*	Car Storage	☐ None
Effective Age (Yrs)	*20*	☐ Dampness ☐ Settlement		Screens	*Some*		☒ Driveway # of Cars *2-4*
Attic	☐ None	Heating ☐ FWA ☐ HWBB ☐ Radiant		Amenities	☐ Woodstove(s) #	Driveway Surface	*Concrete*
☐ Drop Stair	☒ Stairs	☐ Other	Fuel *Electric*	☒ Fireplace(s) # *2*	☐ Fence		☒ Garage # of Cars *1-Car*
☐ Floor	☐ Scuttle	Cooling	☒ Central Air Conditioning	☒ Patio/Deck *Deck*	☒ Porch *Side*		☐ Carport # of Cars
☐ Finished	☐ Heated	☐ Individual	☐ Other	☐ Pool	☐ Other		☒ Att. ☐ Det. ☐ Built-In

Appliances ☒ Refrigerator ☒ Range/Oven ☒ Dishwasher ☐ Disposal ☐ Microwave ☐ Washer/Dryer ☐ Other (describe)
Finished area above grade contains: *7* Rooms *4* Bedrooms *1* Bath(s) *1,897* Square Feet of Gross Living Area Above Grade
Additional features (special energy efficient items, etc.). *Side Porch, Side Deck, Rear Shed/Storage, Fireplace, Hardwood Floors*
Describe the condition of the property (including needed repairs, deterioration, renovations, remodeling, etc.). *Physical depreciation is estimated at 33.3 %. This is based on the effective age of 20 years at a annual rate of 1.67% per year. Ther are no apparent functional or external inadequacies.*
Are there any physical deficiencies or adverse conditions that affect the livability, soundness, or structural integrity of the property? ☐ Yes ☒ No If Yes, describe
If there were any obivous viewable problems the appraiser of this report would have listed these items and would highly recommend a more thorough inspection by a home inspector or engineer. Appraisers are not knowledgeable of structural engineering and if the intended user of this report has concerns as to the structural integrity, or the possibility of any hidden damage, we suggest an inspection by a professional.
Does the property generally conform to the neighborhood (functional utility, style, condition, use, construction, etc.)? ☒ Yes ☐ No If No, describe
No functional or external obsolescences noted, as per inspection. Construction quality and condition are typical for the area/market.

Form 1004 — "WinTOTAL" appraisal software by a la mode, inc. — 1-800-ALAMODE

Uniform Residential Appraisal Report

RE0904121
File # RE0904121

There are comparable properties currently offered for sale in the subject neighborhood ranging in price from $ to $

There are comparable sales in the subject neighborhood within the past twelve months ranging in sale price from $ to $

FEATURE	SUBJECT	COMPARABLE SALE # 1		COMPARABLE SALE # 2		COMPARABLE SALE # 3	
Address	104 Country Club Drive Conway, SC 29526	900 15th Avenue Conway, SC 29526		1303 Barker Street Conway, SC 29526		1004 Lakeside Dr Conway, SC 29526	
Proximity to Subject		1.36 miles SW		1.75 miles SW		1.45 miles SW	
Sale Price	$ N/A		$ 198,000		$ 155,000		$ 200,000
Sale Price/Gross Liv. Area	$ sq.ft.	$ 90.00 sq.ft.		$ 96.88 sq.ft.		$ 121.58 sq.ft.	
Data Source(s)		MLS, Realtor, Inspection		County Records, Inspection		MLS, Realtor, Inspection	
Verification Source(s)		Inspection		Inspection		Inspection	
VALUE ADJUSTMENTS	DESCRIPTION	DESCRIPTION	+(-) $ Adjustment	DESCRIPTION	+(-) $ Adjustment	DESCRIPTION	+(-) $ Adjustment
Sales or Financing		Conv.		Cash		Conv.	
Concessions		None Known		None Known		None Known	
Date of Sale/Time		09/30/2008		12/11/2008		07/28/2008	
Location	Suburban/Avg	Similar		Suburban/Avg		Suburban/Avg	
Leasehold/Fee Simple	Fee Simple	Fee Simple		Fee Simple		Fee Simple	
Site	0.69 Acres	.27 Acres+-	+15,000	.22 Acres+-	+15,000	0.35+-Acs	+10,000
View	Other Resid.	Other Resid		Other Resid		Other Resid	
Design (Style)	Trad/Avg	Trad/Avg		Ranch/Avg		Trad/Avg	
Quality of Construction	Siding	Brick Veneer	-4,600	Vinyl Siding		Vinyl Siding	
Actual Age	1946/ Eff 20	1967/ Eff 20		1986/ Eff 20		1968+-/Eff 20	
Condition	Average	Average		Average		Average	
Above Grade Room Count	Total 7 / Bdrms. 4 / Baths 1	Total 7 / Bdrms. 4 / Baths 2	-3,600	Total 5 / Bdrms. 3 / Baths 2	-3,600	Total 5 / Bdrms. 3 / Baths 2.1	-5,400
Gross Living Area	1,897 sq.ft.	2,200 sq.ft.	-12,100	1,600 sq.ft.	+11,900	1,645 sq.ft.	+10,100
Basement & Finished Rooms Below Grade	N/A / N/A	N/A / None		N/A / None		N/A / None	
Functional Utility	Average/Typ	Average/Typ		Average/Typ		Average/Typ	
Heating/Cooling	Heat Pump	Central H&A		Central H&A		Central H&A	
Energy Efficient Items	Average/Typ	Average/Typ		Average/Typ		Average/Typ	
Garage/Carport	1-Car Garage	On Site	+4,000	On Site	+4,000	2-Car Garage	-4,000
Porch/Patio/Deck	Similar	Front Porch		Front Porch		Front Porch	
Additional Features	SdPch/Dk/Stg	Rear Porch		DK/A & DStg		Deck,AnStge	
Net Adjustment (Total)		☐ + ☒ -	$ -1,300	☒ + ☐ -	$ 27,300	☒ + ☐ -	$ 10,700
Adjusted Sale Price of Comparables		Net Adj. 0.7 % Gross Adj. 19.8 %	$ 196,700	Net Adj. 17.6 % Gross Adj. 22.3 %	$ 182,300	Net Adj. 5.3 % Gross Adj. 14.8 %	$ 210,700

I ☒ did ☐ did not research the sale or transfer history of the subject property and comparable sales. If not, explain *Sales history has been analyzed for the subject and all comparables contained in this report.*

My research ☒ did ☐ did not reveal any prior sales or transfers of the subject property for the three years prior to the effective date of this appraisal.

Data Source(s) *Property Tax Records*

My research ☒ did ☐ did not reveal any prior sales or transfers of the comparable sales for the year prior to the date of sale of the comparable sale.

Data Source(s) *Property Tax Records*

Report the results of the research and analysis of the prior sale or transfer history of the subject property and comparable sales (report additional prior sales on page 3).

ITEM	SUBJECT	COMPARABLE SALE #1	COMPARABLE SALE #2	COMPARABLE SALE #3
Date of Prior Sale/Transfer	09/10/2007	N/A	N/A	N/A
Price of Prior Sale/Transfer	$5.00	N/A	N/A	None
Data Source(s)	County Records	County Records	County Records	County Records
Effective Date of Data Source(s)	04/07/2009	01/07/2009	04/07/2009	04/07/2009

Analysis of prior sale or transfer history of the subject property and comparable sales *See above grid.*

SALES COMPARISON APPROACH

Summary of Sales Comparison Approach *The known payment of closing costs, points, buydowns or other sales concessions by the seller or purchaser have been taken into consideration by the appraiser when reconciling applicable data. It is the appraisers's opinion that if no adjustments are made on this form, there was no significant effect on the value of the subject property. Reconciliation of market data is given to real estate only and no items of personal property are included or considered in the final value estimate. Also See Attached Supplemental Addendum for Additional Comments*

RECONCILIATION

Indicated Value by Sales Comparison Approach $ *195,000*

Indicated Value by: Sales Comparison Approach $ *195,000* Cost Approach (if developed) $ *195,196* Income Approach (if developed) $ *N/A*

Most weight is placed on the Sales Comparison approach to value as this reflects the actions of the buyers and sellers in the market. It is closely supported by the Cost Approach. No rental sales data was available to develop the Income Approach.

This appraisal is made ☒ "as is", ☐ subject to completion per plans and specifications on the basis of a hypothetical condition that the improvements have been completed, ☐ subject to the following repairs or alterations on the basis of a hypothetical condition that the repairs or alterations have been completed, or ☐ subject to the following required inspection based on the extraordinary assumption that the condition or deficiency does not require alteration or repair:

Based on a complete visual inspection of the interior and exterior areas of the subject property, defined scope of work, statement of assumptions and limiting conditions, and appraiser's certification, my (our) opinion of the market value, as defined, of the real property that is the subject of this report is $ *195,000*, as of *April 10, 2009*, which is the date of inspection and the effective date of this appraisal.

Uniform Residential Appraisal Report

RE0904121
File # RE0904121

ADDITIONAL COMMENTS

***ADDITIONAL APPRAISER'S CERTIFICATION:** The appraiser also certifies and agrees that:*

The appraiser must provide his or her prior written consent before the lender/client specified in the appraisal report can distribute the appraisal report (including conclusions about the property value, the appraiser's identity and professional designations, and references to any professional appraisal organizations or the firm with which the appraiser is associated) to anyone other than the borrower; the mortgagee or its successors and assigns; the mortgage insurer; consultants; professional appraisal organizations; any state or federally approved financial institution; or any department, agency, or instrumentality of the United States or any state or the District of Columbia. The appraiser's written consent and approval must be obtained before the appraisal can be conveyed to anyone other than the client named in this report.

The information in this report was verified from available sources such as but not limited to MLS records, County and Public Records, and conversations with REALTORS, owners, buyers, sellers, and any other sources available. Information in this report is deemed to be correct but is not warranted.

The information contained in this report is the property of Hyman, Tyler & Associates. The intended user is the named client in this report. This report is not intended to be used by anyone other than the client named in this report in part or in its entirety.

This report is not to be transferred to any other lender, broker, borrower, mortgage insurers, government sponsored enterprises, or any secondary market participants that is not involved in the mortgage lending or financing of this particular report/transaction.

Any information regarding flood plain position or status is derived from FEMA Flood Insurance Rate Maps as available to Hyman, Tyler & Associates. These maps are assumed to be current and correct, but are subject to change with out our notice and are not warranted. It is the responsibility of the lender and/or client to make any final determination if flood insurance is required or needed. The client should consult an expert in this field to asccertain the precise status of the subject property with regard to any flood zone or floodway.

By accepting this report, the lender/client/recipient agrees that this report will not be quoted out of context, and that the values assigned herein will not be used as a fractional appraisal or in summation with any other appraisal.

We reserve the right to alter opinion of value on the basis of information withheld or not discovered in the normal course of diligent research.

Payment of invoice and or possession of this report by the client is considered acknowledgement, concurrence, agreement and acceptance of the assumptions and limiting conditions of this report.

COST APPROACH

COST APPROACH TO VALUE (not required by Fannie Mae)

Provide adequate information for the lender/client to replicate the below cost figures and calculations.

Support for the opinion of site value (summary of comparable land sales or other methods for estimating site value) *Site value is based on the review of recent land sales from county records. Cost data is from Marshall & Swift, our data banks and local contractors.*

ESTIMATED ☐ REPRODUCTION OR ☒ REPLACEMENT COST NEW	OPINION OF SITE VALUE			=$ 70,000
Source of cost data *Marshall and Swift*	DWELLING	*1,897* Sq.Ft. @ $ *80.00*		=$ *151,760*
Quality rating from cost service *Average* Effective date of cost data *12/2008*		*N/A* Sq.Ft. @ $		=$
Comments on Cost Approach (gross living area calculations, depreciation, etc.)	*Storage, Porches, Decks*			=$ *12,600*
	Garage/Carport	*487* Sq.Ft. @ $ *25.00*		=$ *12,175*
	Total Estimate of Cost-New			=$ *176,535*
	Less Physical	Functional	External	
	Depreciation *58,839*			=$(*58,839)*
	Depreciated Cost of Improvements			=$ *117,696*
	"As-Is" Value of Site Improvements			=$ *7,500*
Estimated Remaining Economic Life (HUD and VA only) *40* Years	INDICATED VALUE BY COST APPROACH			=$ *195,196*

INCOME APPROACH

INCOME APPROACH TO VALUE (not required by Fannie Mae)

Estimated Monthly Market Rent $ *N/A* X Gross Rent Multiplier *N/A* = $ *N/A* Indicated Value by Income Approach

Summary of Income Approach (including support for market rent and GRM) *N/A*

PUD INFORMATION

PROJECT INFORMATION FOR PUDs (if applicable)

Is the developer/builder in control of the Homeowners' Association (HOA)? ☐ Yes ☐ No Unit type(s) ☐ Detached ☐ Attached

Provide the following information for PUDs ONLY if the developer/builder is in control of the HOA and the subject property is an attached dwelling unit.

Legal Name of Project *N/A*

Total number of phases *N/A* Total number of units *N/A* Total number of units sold *N/A*

Total number of units rented *N/A* Total number of units for sale *N/A* Data source(s) *N/A*

Was the project created by the conversion of existing building(s) into a PUD? ☐ Yes ☐ No If Yes, date of conversion. *N/A*

Does the project contain any multi-dwelling units? ☐ Yes ☐ No Data Source *N/A*

Are the units, common elements, and recreation facilities complete? ☐ Yes ☐ No If No, describe the status of completion. *N/A*

Are the common elements leased to or by the Homeowners' Association? ☐ Yes ☐ No If Yes, describe the rental terms and options. *N/A*

Describe common elements and recreational facilities. *N/A*

Uniform Residential Appraisal Report

This report form is designed to report an appraisal of a one-unit property or a one-unit property with an accessory unit; including a unit in a planned unit development (PUD). This report form is not designed to report an appraisal of a manufactured home or a unit in a condominium or cooperative project.

This appraisal report is subject to the following scope of work, intended use, intended user, definition of market value, statement of assumptions and limiting conditions, and certifications. Modifications, additions, or deletions to the intended use, intended user, definition of market value, or assumptions and limiting conditions are not permitted. The appraiser may expand the scope of work to include any additional research or analysis necessary based on the complexity of this appraisal assignment. Modifications or deletions to the certifications are also not permitted. However, additional certifications that do not constitute material alterations to this appraisal report, such as those required by law or those related to the appraiser's continuing education or membership in an appraisal organization, are permitted.

SCOPE OF WORK: The scope of work for this appraisal is defined by the complexity of this appraisal assignment and the reporting requirements of this appraisal report form, including the following definition of market value, statement of assumptions and limiting conditions, and certifications. The appraiser must, at a minimum: (1) perform a complete visual inspection of the interior and exterior areas of the subject property, (2) inspect the neighborhood, (3) inspect each of the comparable sales from at least the street, (4) research, verify, and analyze data from reliable public and/or private sources, and (5) report his or her analysis, opinions, and conclusions in this appraisal report.

INTENDED USE: The intended use of this appraisal report is for the lender/client to evaluate the property that is the subject of this appraisal for a mortgage finance transaction.

INTENDED USER: The intended user of this appraisal report is the lender/client.

DEFINITION OF MARKET VALUE: The most probable price which a property should bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller, each acting prudently, knowledgeably and assuming the price is not affected by undue stimulus. Implicit in this definition is the consummation of a sale as of a specified date and the passing of title from seller to buyer under conditions whereby: (1) buyer and seller are typically motivated; (2) both parties are well informed or well advised, and each acting in what he or she considers his or her own best interest; (3) a reasonable time is allowed for exposure in the open market; (4) payment is made in terms of cash in U. S. dollars or in terms of financial arrangements comparable thereto; and (5) the price represents the normal consideration for the property sold unaffected by special or creative financing or sales concessions* granted by anyone associated with the sale.

*Adjustments to the comparables must be made for special or creative financing or sales concessions. No adjustments are necessary for those costs which are normally paid by sellers as a result of tradition or law in a market area; these costs are readily identifiable since the seller pays these costs in virtually all sales transactions. Special or creative financing adjustments can be made to the comparable property by comparisons to financing terms offered by a third party institutional lender that is not already involved in the property or transaction. Any adjustment should not be calculated on a mechanical dollar for dollar cost of the financing or concession but the dollar amount of any adjustment should approximate the market's reaction to the financing or concessions based on the appraiser's judgment.

STATEMENT OF ASSUMPTIONS AND LIMITING CONDITIONS: The appraiser's certification in this report is subject to the following assumptions and limiting conditions:

1. The appraiser will not be responsible for matters of a legal nature that affect either the property being appraised or the title to it, except for information that he or she became aware of during the research involved in performing this appraisal. The appraiser assumes that the title is good and marketable and will not render any opinions about the title.

2. The appraiser has provided a sketch in this appraisal report to show the approximate dimensions of the improvements. The sketch is included only to assist the reader in visualizing the property and understanding the appraiser's determination of its size.

3. The appraiser has examined the available flood maps that are provided by the Federal Emergency Management Agency (or other data sources) and has noted in this appraisal report whether any portion of the subject site is located in an identified Special Flood Hazard Area. Because the appraiser is not a surveyor, he or she makes no guarantees, express or implied, regarding this determination.

4. The appraiser will not give testimony or appear in court because he or she made an appraisal of the property in question, unless specific arrangements to do so have been made beforehand, or as otherwise required by law.

5. The appraiser has noted in this appraisal report any adverse conditions (such as needed repairs, deterioration, the presence of hazardous wastes, toxic substances, etc.) observed during the inspection of the subject property or that he or she became aware of during the research involved in performing the appraisal. Unless otherwise stated in this appraisal report, the appraiser has no knowledge of any hidden or unapparent physical deficiencies or adverse conditions of the property (such as, but not limited to, needed repairs, deterioration, the presence of hazardous wastes, toxic substances, adverse environmental conditions, etc.) that would make the property less valuable, and has assumed that there are no such conditions and makes no guarantees or warranties, express or implied. The appraiser will not be responsible for any such conditions that do exist or for any engineering or testing that might be required to discover whether such conditions exist. Because the appraiser is not an expert in the field of environmental hazards, this appraisal report must not be considered as an environmental assessment of the property.

6. The appraiser has based his or her appraisal report and valuation conclusion for an appraisal that is subject to satisfactory completion, repairs, or alterations on the assumption that the completion, repairs, or alterations of the subject property will be performed in a professional manner.

APPRAISER'S CERTIFICATION: The Appraiser certifies and agrees that:

1. I have, at a minimum, developed and reported this appraisal in accordance with the scope of work requirements stated in this appraisal report.

2. I performed a complete visual inspection of the interior and exterior areas of the subject property. I reported the condition of the improvements in factual, specific terms. I identified and reported the physical deficiencies that could affect the livability, soundness, or structural integrity of the property.

3. I performed this appraisal in accordance with the requirements of the Uniform Standards of Professional Appraisal Practice that were adopted and promulgated by the Appraisal Standards Board of The Appraisal Foundation and that were in place at the time this appraisal report was prepared.

4. I developed my opinion of the market value of the real property that is the subject of this report based on the sales comparison approach to value. I have adequate comparable market data to develop a reliable sales comparison approach for this appraisal assignment. I further certify that I considered the cost and income approaches to value but did not develop them, unless otherwise indicated in this report.

5. I researched, verified, analyzed, and reported on any current agreement for sale for the subject property, any offering for sale of the subject property in the twelve months prior to the effective date of this appraisal, and the prior sales of the subject property for a minimum of three years prior to the effective date of this appraisal, unless otherwise indicated in this report.

6. I researched, verified, analyzed, and reported on the prior sales of the comparable sales for a minimum of one year prior to the date of sale of the comparable sale, unless otherwise indicated in this report.

7. I selected and used comparable sales that are locationally, physically, and functionally the most similar to the subject property.

8. I have not used comparable sales that were the result of combining a land sale with the contract purchase price of a home that has been built or will be built on the land.

9. I have reported adjustments to the comparable sales that reflect the market's reaction to the differences between the subject property and the comparable sales.

10. I verified, from a disinterested source, all information in this report that was provided by parties who have a financial interest in the sale or financing of the subject property.

11. I have knowledge and experience in appraising this type of property in this market area.

12. I am aware of, and have access to, the necessary and appropriate public and private data sources, such as multiple listing services, tax assessment records, public land records and other such data sources for the area in which the property is located.

13. I obtained the information, estimates, and opinions furnished by other parties and expressed in this appraisal report from reliable sources that I believe to be true and correct.

14. I have taken into consideration the factors that have an impact on value with respect to the subject neighborhood, subject property, and the proximity of the subject property to adverse influences in the development of my opinion of market value. I have noted in this appraisal report any adverse conditions (such as, but not limited to, needed repairs, deterioration, the presence of hazardous wastes, toxic substances, adverse environmental conditions, etc.) observed during the inspection of the subject property or that I became aware of during the research involved in performing this appraisal. I have considered these adverse conditions in my analysis of the property value, and have reported on the effect of the conditions on the value and marketability of the subject property.

15. I have not knowingly withheld any significant information from this appraisal report and, to the best of my knowledge, all statements and information in this appraisal report are true and correct.

16. I stated in this appraisal report my own personal, unbiased, and professional analysis, opinions, and conclusions, which are subject only to the assumptions and limiting conditions in this appraisal report.

17. I have no present or prospective interest in the property that is the subject of this report, and I have no present or prospective personal interest or bias with respect to the participants in the transaction. I did not base, either partially or completely, my analysis and/or opinion of market value in this appraisal report on the race, color, religion, sex, age, marital status, handicap, familial status, or national origin of either the prospective owners or occupants of the subject property or of the present owners or occupants of the properties in the vicinity of the subject property or on any other basis prohibited by law.

18. My employment and/or compensation for performing this appraisal or any future or anticipated appraisals was not conditioned on any agreement or understanding, written or otherwise, that I would report (or present analysis supporting) a predetermined specific value, a predetermined minimum value, a range or direction in value, a value that favors the cause of any party, or the attainment of a specific result or occurrence of a specific subsequent event (such as approval of a pending mortgage loan application).

19. I personally prepared all conclusions and opinions about the real estate that were set forth in this appraisal report. If I relied on significant real property appraisal assistance from any individual or individuals in the performance of this appraisal or the preparation of this appraisal report, I have named such individual(s) and disclosed the specific tasks performed in this appraisal report. I certify that any individual so named is qualified to perform the tasks. I have not authorized anyone to make a change to any item in this appraisal report; therefore, any change made to this appraisal is unauthorized and I will take no responsibility for it.

20. I identified the lender/client in this appraisal report who is the individual, organization, or agent for the organization that ordered and will receive this appraisal report.

Uniform Residential Appraisal Report

RE0904121
File # RE0904121

21. The lender/client may disclose or distribute this appraisal report to: the borrower; another lender at the request of the borrower; the mortgagee or its successors and assigns; mortgage insurers; government sponsored enterprises; other secondary market participants; data collection or reporting services; professional appraisal organizations; any department, agency, or instrumentality of the United States; and any state, the District of Columbia, or other jurisdictions; without having to obtain the appraiser's or supervisory appraiser's (if applicable) consent. Such consent must be obtained before this appraisal report may be disclosed or distributed to any other party (including, but not limited to, the public through advertising, public relations, news, sales, or other media).

22. I am aware that any disclosure or distribution of this appraisal report by me or the lender/client may be subject to certain laws and regulations. Further, I am also subject to the provisions of the Uniform Standards of Professional Appraisal Practice that pertain to disclosure or distribution by me.

23. The borrower, another lender at the request of the borrower, the mortgagee or its successors and assigns, mortgage insurers, government sponsored enterprises, and other secondary market participants may rely on this appraisal report as part of any mortgage finance transaction that involves any one or more of these parties.

24. If this appraisal report was transmitted as an "electronic record" containing my "electronic signature," as those terms are defined in applicable federal and/or state laws (excluding audio and video recordings), or a facsimile transmission of this appraisal report containing a copy or representation of my signature, the appraisal report shall be as effective, enforceable and valid as if a paper version of this appraisal report were delivered containing my original hand written signature.

25. Any intentional or negligent misrepresentation(s) contained in this appraisal report may result in civil liability and/or criminal penalties including, but not limited to, fine or imprisonment or both under the provisions of Title 18, United States Code, Section 1001, et seq., or similar state laws.

SUPERVISORY APPRAISER'S CERTIFICATION: The Supervisory Appraiser certifies and agrees that:

1. I directly supervised the appraiser for this appraisal assignment, have read the appraisal report, and agree with the appraiser's analysis, opinions, statements, conclusions, and the appraiser's certification.

2. I accept full responsibility for the contents of this appraisal report including, but not limited to, the appraiser's analysis, opinions, statements, conclusions, and the appraiser's certification.

3. The appraiser identified in this appraisal report is either a sub-contractor or an employee of the supervisory appraiser (or the appraisal firm), is qualified to perform this appraisal, and is acceptable to perform this appraisal under the applicable state law.

4. This appraisal report complies with the Uniform Standards of Professional Appraisal Practice that were adopted and promulgated by the Appraisal Standards Board of The Appraisal Foundation and that were in place at the time this appraisal report was prepared.

5. If this appraisal report was transmitted as an "electronic record" containing my "electronic signature," as those terms are defined in applicable federal and/or state laws (excluding audio and video recordings), or a facsimile transmission of this appraisal report containing a copy or representation of my signature, the appraisal report shall be as effective, enforceable and valid as if a paper version of this appraisal report were delivered containing my original hand written signature.

APPRAISER *Jonathan M. Hyman*

Signature *Jonathan M. Hyman*
Name *Jonathan M. Hyman*
Company Name *Hyman, Tyler & Associates*
Company Address *6346 Juniper Bay Rd, Conway, SC 29526*

Telephone Number *(843) 397-2121*
Email Address *hymantyler@sccoast.net*
Date of Signature and Report *April 14, 2009*
Effective Date of Appraisal *April 10, 2009*
State Certification # *CR 3509 06/30/2010*
or State License #
or Other (describe) State #
State *SC*
Expiration Date of Certification or License *6/30/2010*

ADDRESS OF PROPERTY APPRAISED
104 Country Club Drive
Conway, SC 29526
APPRAISED VALUE OF SUBJECT PROPERTY $ *195,000*
LENDER/CLIENT
Name *Ann Marion*
Company Name *Horry County State Bank*
Company Address *1701 North Oak Street, Myrtle Beach, SC 29577*
Email Address *amarion@horrycountystatebank.com*

SUPERVISORY APPRAISER (ONLY IF REQUIRED)

Signature
Name
Company Name
Company Address

Telephone Number
Email Address
Date of Signature
State Certification #
or State License #
State
Expiration Date of Certification or License

SUBJECT PROPERTY

☐ Did not inspect subject property
☐ Did inspect exterior of subject property from street
Date of Inspection
☐ Did inspect interior and exterior of subject property
Date of Inspection

COMPARABLE SALES

☐ Did not inspect exterior of comparable sales from street
☐ Did inspect exterior of comparable sales from street
Date of Inspection

Uniform Residential Appraisal Report

RE0904121
File # RE0904121

FEATURE	SUBJECT	COMPARABLE SALE #4		COMPARABLE SALE #5		COMPARABLE SALE #6	
Address	104 Country Club Drive Conway, SC 29526	1301 8th Avenue Conway, SC 29526					
Proximity to Subject		1.39 miles SW					
Sale Price	$ N/A		$ 155,000		$		$
Sale Price/Gross Liv. Area	$ sq.ft.	$ 138.39 sq.ft.		$ sq.ft.		$ sq.ft.	
Data Source(s)		MLS, Realtor, Inspection					
Verification Source(s)		Inspection					
VALUE ADJUSTMENTS	DESCRIPTION	DESCRIPTION	+(-) $ Adjustment	DESCRIPTION	+(-) $ Adjustment	DESCRIPTION	+(-) $ Adjustment
Sales or Financing Concessions		Conv. None Known					
Date of Sale/Time		06/25/2008					
Location	Suburban/Avg	Suburban/Avg					
Leasehold/Fee Simple	Fee Simple	Fee Simple					
Site	0.69 Acres	.18 Acres+-	+15,000				
View	Other Resid.	Other Resid.					
Design (Style)	Trad/Avg	Ranch/Avg					
Quality of Construction	Siding	Vinyl Siding					
Actual Age	1946/ Eff 20	1940/ eff 20					
Condition	Average	Average					
Above Grade Room Count	Total 7 / Bdrms. 4 / Baths 1	Total 4 / Bdrms. 2 / Baths 1		Total / Bdrms. / Baths		Total / Bdrms. / Baths	
Gross Living Area	1,897 sq.ft.	1,120 sq.ft.	+31,100	sq.ft.		sq.ft.	
Basement & Finished	N/A	N/A					
Rooms Below Grade	N/A	N/A					
Functional Utility	Average/Typ	Average/Typ					
Heating/Cooling	Heat Pump	Heat Pump					
Energy Efficient Items	Average/Typ	Average/Typ					
Garage/Carport	1-Car Garage	On Site	+4,000				
Porch/Patio/Deck	Similar	Front Porch					
Additional Features	SdPch/Dk/Sig	RearPrch/Deck					
Net Adjustment (Total)		☒ + ☐ -	$ 50,100	☐ + ☐ -	$	☐ + ☐ -	$
Adjusted Sale Price of Comparables		Net Adj. 32.3 % Gross Adj. 32.3 %	$ 205,100	Net Adj. % Gross Adj. %	$	Net Adj. % Gross Adj. %	$

SALES COMPARISON APPROACH

Report the results of the research and analysis of the prior sale or transfer history of the subject property and comparable sales (report additional prior sales on page 3).

ITEM	SUBJECT	COMPARABLE SALE #4	COMPARABLE SALE #5	COMPARABLE SALE #6
Date of Prior Sale/Transfer	09/10/2007	04/13/2006		
Price of Prior Sale/Transfer	$5.00	$105,000		
Data Source(s)	County Records	County Records		
Effective Date of Data Source(s)	04/07/2009	04/07/2009		

PRIOR SALE/TRANSFER HISTORY

Analysis of prior sale or transfer history of the subject property and comparable sales

ANALYSIS/COMMENTS

Analysis/Comments

Supplemental Addendum

File No. *RE0904121*

Lender/Client	*Horry County State Bank*				
Property Address	*104 Country Club Drive*				
City	*Conway*	County *Horry County*	State *SC*	Zip Code *29526*	
Client	*Horry County State Bank*				

NOTE TO ALL INTENDED USERS; *Please read the following statement of limiting conditions and appraiser's certification and the additional comments (see below) carefully.*

The purpose of the appraisal is to estimate the market value of the subject property, as defined in this report, as of the effective date of this report.

The intended use of this appraisal is to assist the clients and any other intended users in the underwriting, approval, and funding of the mortgage loan. The intended users of this report are the stated clients and any other institutions involved in the underwriting, approval, and funding of the mortgage loan. No one else, including the buyer and seller, should rely on this report. The appraiser has met all of the supplemental standards of the intended users of the report, that are listed above, unless these standards conflict with or contradict the requirements of the Uniform Standards of Professional Appraisal Practice.

The current Uniform Standards of Professional Practice defines the market value conclusion as an opinion of market value and not an estimate of market value, as defined in this report, as of the effective date of this report.

A Full Inspection includes an inspection of the entire site, the inspection of all sides of the exterior of the dwelling, all areas of the interior, the basement or crawl space (if any), the attic (if any), and any detached structures. The appraiser has extensively researched the physical and economic factors that could affect the property. The search for data concerning the valuation of the subject property was extensive and is detailed in the following paragraph. All information has been analyzed fully and all appropriate approaches to value have been utilized. The scope of work is consistent with the requirements of a COMPLETE APPRAISAL.

The term "Inspection", as used in this report, is not the same level of inspection that is required for a "Professional Home Inspection". The appraiser does not fully inspect the electrical system, plumbing system, mechanical systems, foundation system, floor structure, roofing system or subfloor. The appraiser is not an expert in construction materials and the purpose of the appraisal is to make an economic evaluation of the subject property. If the client needs a more detailed inspection of the property, a home inspection, by a Professional Home Inspector, is suggested.

The estimated exposure time is based on the marketing times of actual sales in the market area. Sales were analyzed and the average of their marketing times was used as the exposure time for the subject property. Exposure times change based on the type of property, economic cycles, location and season of the year.

The signature(s) affixed to this report, and certification, were applied by the original appraiser(s) or supervisory appraiser and represent their acknowledgements of the facts, opinions and conclusions found in the report. Each appraiser(s) applied his or her signature electronically using a password encrypted method. Hence these signatures have more safeguards and carry the same validity as the individual's hand applied signature. If the report has a hand-applied signature, this comment does not apply.

The known payment of closing costs, points, buydowns or other sales concessions by the seller or purchaser have been taken into consideration by the appraiser when reconciling applicable data. It is the appraisers's opinion that if no adjustments are made on this form, there was no significant affect on the value of the subject property.

Survey and title search by professionals are recommended to ascertain whether there are or are not any easements, encroachments and to verify site size and flood zone information. This information should be reviewed by an attorney at the time of closing.

Appraisers are not qualified to detect problems with heating and air conditioning systems, termite or termite damage, mold infestation, water damage, mechanical, structural or engineering inadequacies that may or may not relate to the subject property at the time of this appraisal inspection. It is recommended that all buyers be aware and request a home inspection be made to determine if there are any problems relating to the structure or if any deferred maintenance exists. Typical contracts for sale in this area are contingent upon acceptable wood infestation reports and HVAC inspections, and any problems with these items will in all probability be corrected prior to the closing of the subject property or any of the comparable sales in this report. It is also assumed that these conditions, if any, have or will be corrected. The appraised value therefore is contingent upon completion of an acceptable and competent inspection.

Supplemental Addendum

File No. *RE0904121*

Lender/Client	*Horry County State Bank*				
Property Address	*104 Country Club Drive*				
City	*Conway*	County *Horry County*	State *SC*	Zip Code *29526*	
Client	*Horry County State Bank*				

NOTE TO UNDERWRITER:

All comparables used in this appraisal are the best available with similar construction, livability and utility at the time of the inspection.

Due to the lack of current closed sales within the immediate subject neighborhood, the appraiser selected comparable sales from nearby neighborhoods offering similar amenity, value range and market appeal when compared to the subject. Any appropriate locational adjustment or site/view adjustment is a market extraction based on available market data. The similarities of the neighborhoods used justify such data selection. Some or all of the comparables used in this report may be 5-20 or more miles from the subject property. This is also due to the lack of current close sales in the subject's neighborhood.

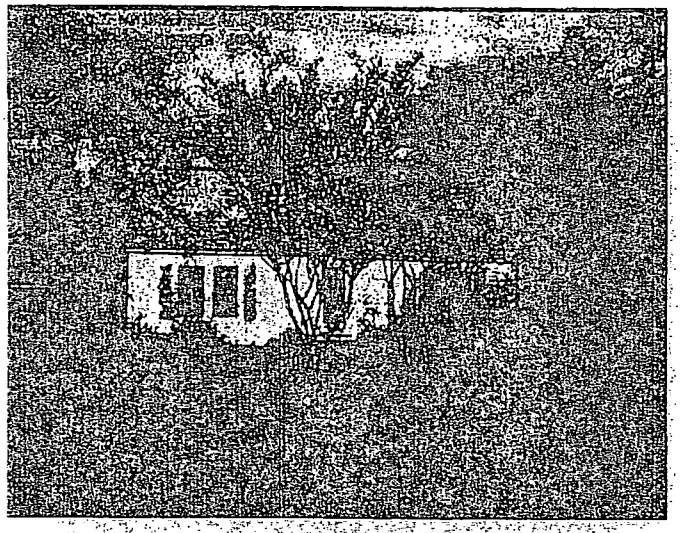
This appraisal is based on the information gathered by the appraiser from public records, other identified sources, inspection of the subject property and neighborhood, and selection of comparable sales, listings, and/or rentals within the subject market area. The original source of the comparable described in the Data Source section of the market grid along the source of confirmation, if available, are shown in the report. The original source is presented first. The sources and data are considered reliable but the appraiser cannot guarantee the validity of the information. When conflicting information was provided, the source deemed most reliable has been used. Data believed to be unreliable was not included in the report or used as a basis for the value conclusion.

Reconciliation of market data is given to real estate only and no items of personal property are included or considered in the final value estimate.

This appraisal report is also subject to the attached "Certification and Statement of Limiting Conditions". PLEASE READ CAREFULLY.

Subject Photo Page

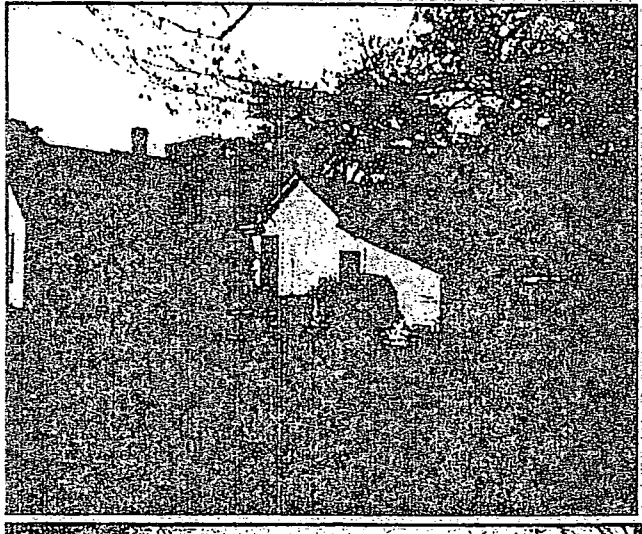
Lender/Client	*Horry County State Bank*				
Property Address	*104 Country Club Drive*				
City	*Conway*	County	*Horry County*	State *SC*	Zip Code *29526*
Client	*Horry County State Bank*				



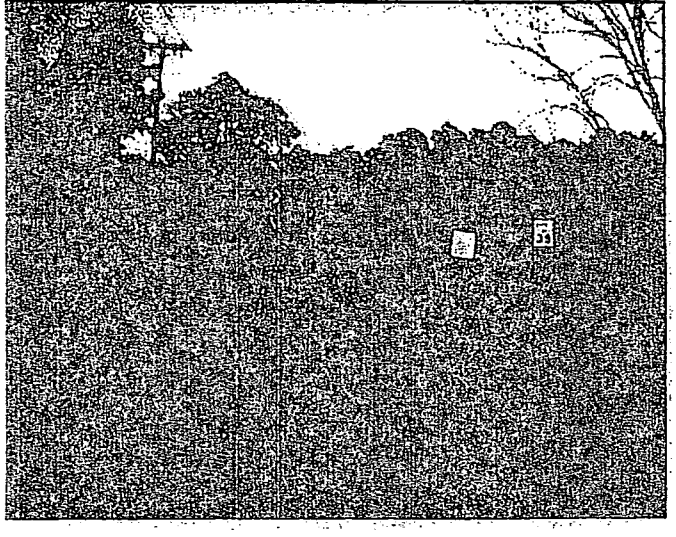
Subject Front

104 Country Club Drive

Sales Price	*N/A*
Gross Living Area	*1,897*
Total Rooms	*7*
Total Bedrooms	*4*
Total Bathrooms	*1*
Location	*Suburban/Avg*
View	*Other Resid.*
Site	*0.69 Acres*
Quality	*Siding*
Age	*1946/ Eff 20*



Subject Rear



Subject Street

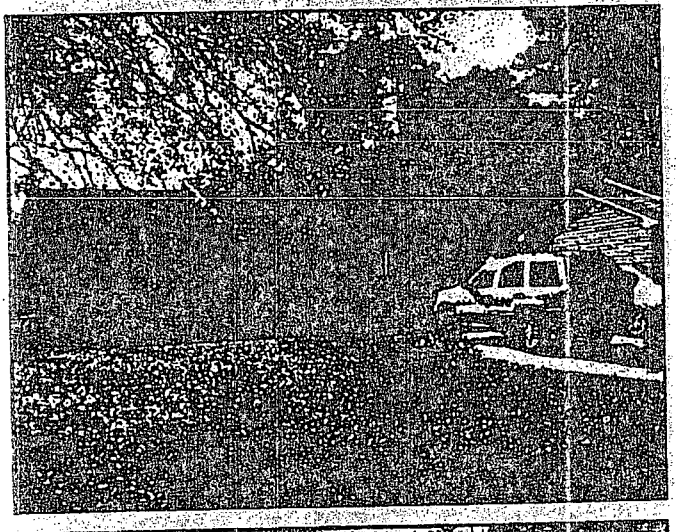
Comparable Photo Page

Lender/Client	*Horry County State Bank*				
Property Address	*104 Country Club Drive*				
City	*Conway*	County *Horry County*	State *SC*	Zip Code *29526*	
Client	*Horry County State Bank*				

Comparable 1

900 15th Avenue

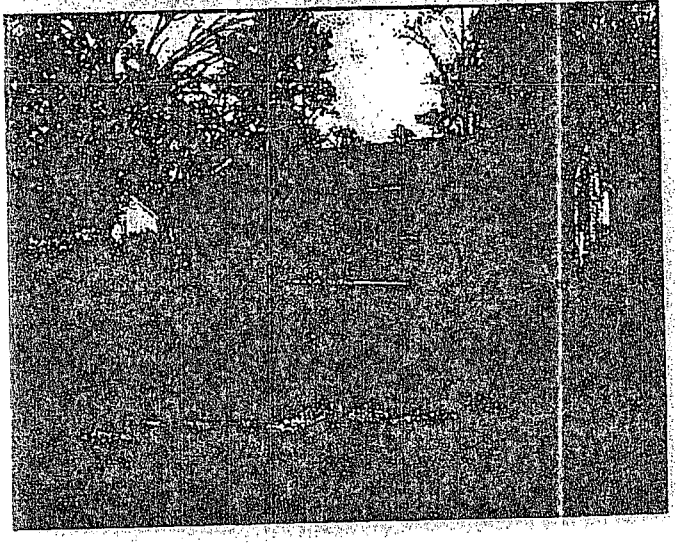
Prox. to Subject	*1.36 miles SW*
Sales Price	*198,000*
Gross Living Area	*2,200*
Total Rooms	*7*
Total Bedrooms	*4*
Total Bathrooms	*2*
Location	*Similar*
View	*Other Resid*
Site	*.27 Acres+-*
Quality	*Brick Veneer*
Age	*1967/ Eff 20*



Comparable 2

1303 Barker Street

Prox. to Subject	*1.75 miles SW*
Sales Price	*155,000*
Gross Living Area	*1,600*
Total Rooms	*5*
Total Bedrooms	*3*
Total Bathrooms	*2*
Location	*Suburban/Avg*
View	*Other Resid*
Site	*.22 Acres+-*
Quality	*Vinyl Siding*
Age	*1986/ Eff 20*



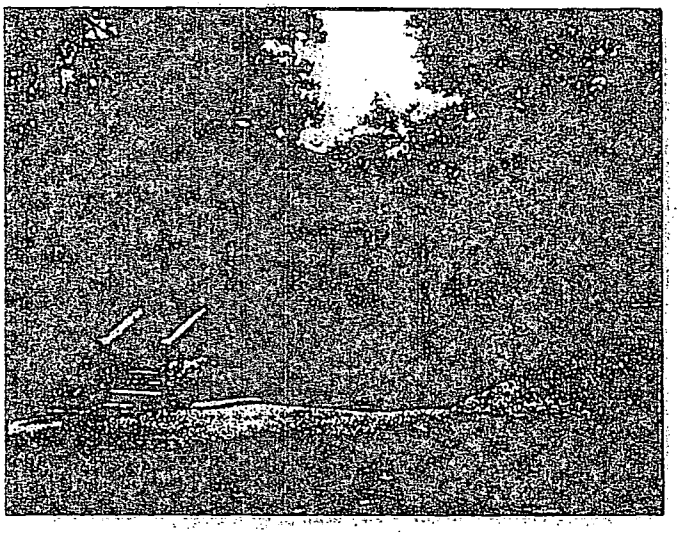
Comparable 3

1004 Lakeside Dr

Prox. to Subject	*1.45 miles SW*
Sales Price	*200,000*
Gross Living Area	*1,645*
Total Rooms	*5*
Total Bedrooms	*3*
Total Bathrooms	*2.1*
Location	*Suburban/Avg*
View	*Other Resid*
Site	*0.35+-Acs*
Quality	*Vinyl Siding*
Age	*1968+-/Eff 20*

Comparable Photo Page

Lender/Client	*Horry County State Bank*			
Property Address	*104 Country Club Drive*			
City	*Conway*	County *Horry County*	State *SC*	Zip Code *29526*
Client	*Horry County State Bank*			



Comparable 4

1301 8th Avenue

Prox. to Subject	*1.89 miles SW*
Sales Price	*155,000*
Gross Living Area	*1,120*
Total Rooms	*4*
Total Bedrooms	*2*
Total Bathrooms	*1*
Location	*Suburban/Avg*
View	*Other Resid.*
Site	*.18 Acres+-*
Quality	*Vinyl Siding*
Age	*1940/ eff 20*

Comparable 5

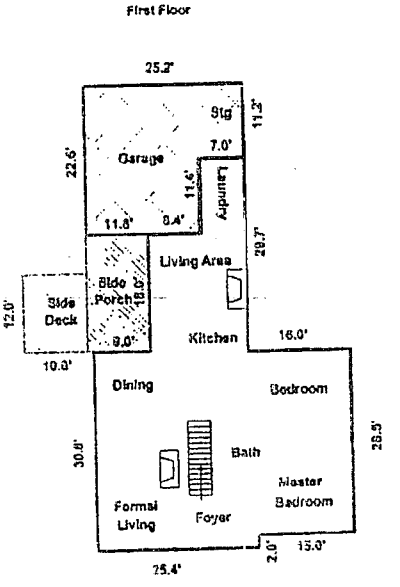
Prox. to Subject	
Sales Price	
Gross Living Area	
Total Rooms	
Total Bedrooms	
Total Bathrooms	
Location	
View	
Site	
Quality	
Age	

Comparable 6

Prox. to Subject	
Sales Price	
Gross Living Area	
Total Rooms	
Total Bedrooms	
Total Bathrooms	
Location	
View	
Site	
Quality	
Age	

Building Sketch

Lender/Client	*Horry County State Bank*				
Property Address	*104 Country Club Drive*				
City	*Conway*	County *Horry County*	State *SC*	Zip Code *29526*	
Client	*Horry County State Bank*				



Comments:

AREA CALCULATIONS SUMMARY

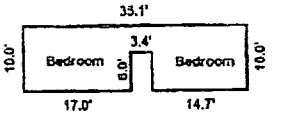
Code	Description	Net Size	Net Totals
GLA1	First Floor	1566.5	1566.5
P/P	Side Porch	180.0	
	Side Deck	120.0	300.0
GAR	Garage	487.4	487.4
Net LIVABLE Area		(Rounded)	1567

LIVING AREA BREAKDOWN

Breakdown			Subtotals
First Floor			
7.0	x	58.2	407.4
8.4	x	46.8	393.1
16.0	x	28.5	456.0
9.0	x	28.8	259.2
2.0	x	25.4	50.8
5 Items		(Rounded)	1567

Building Sketch

Lender/Client	*Horry County State Bank*				
Property Address	*104 Country Club Drive*				
City	*Conway*	County *Horry County*	State *SC*	Zip Code *29526*	
Client	*Horry County State Bank*				



Sketch by Apex IV™

Comments:

AREA CALCULATIONS SUMMARY

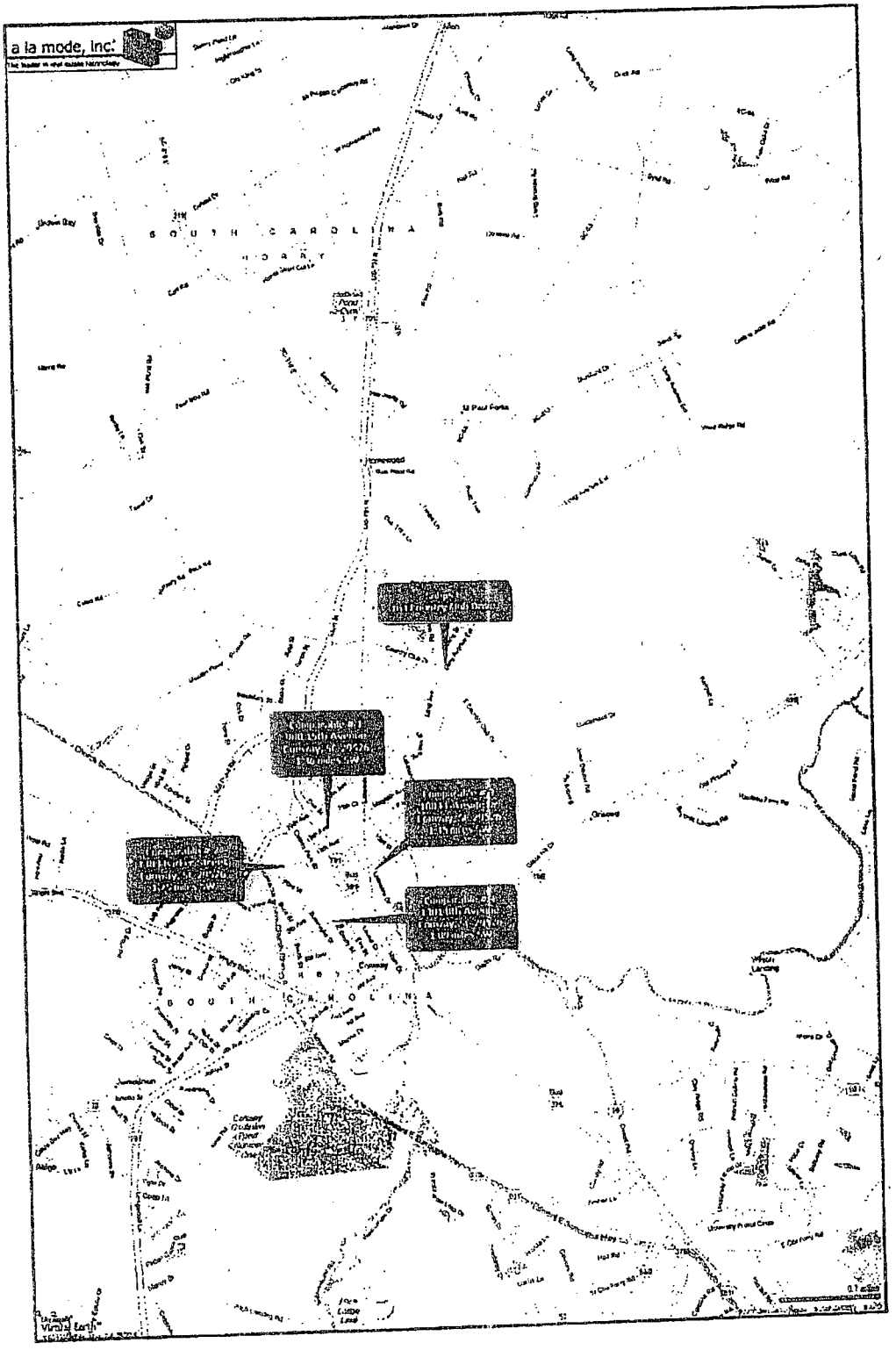
Code	Description	Net Size	Net Totals
GLA2	Second Floor	330.6	330.6
	Net LIVABLE Area	(Rounded)	331

LIVING AREA BREAKDOWN

Breakdown			Subtotals
Second Floor			
4.0	x	35.1	140.4
6.0	x	17.0	102.0
6.0	x	14.7	88.2
3 Items		(Rounded)	331

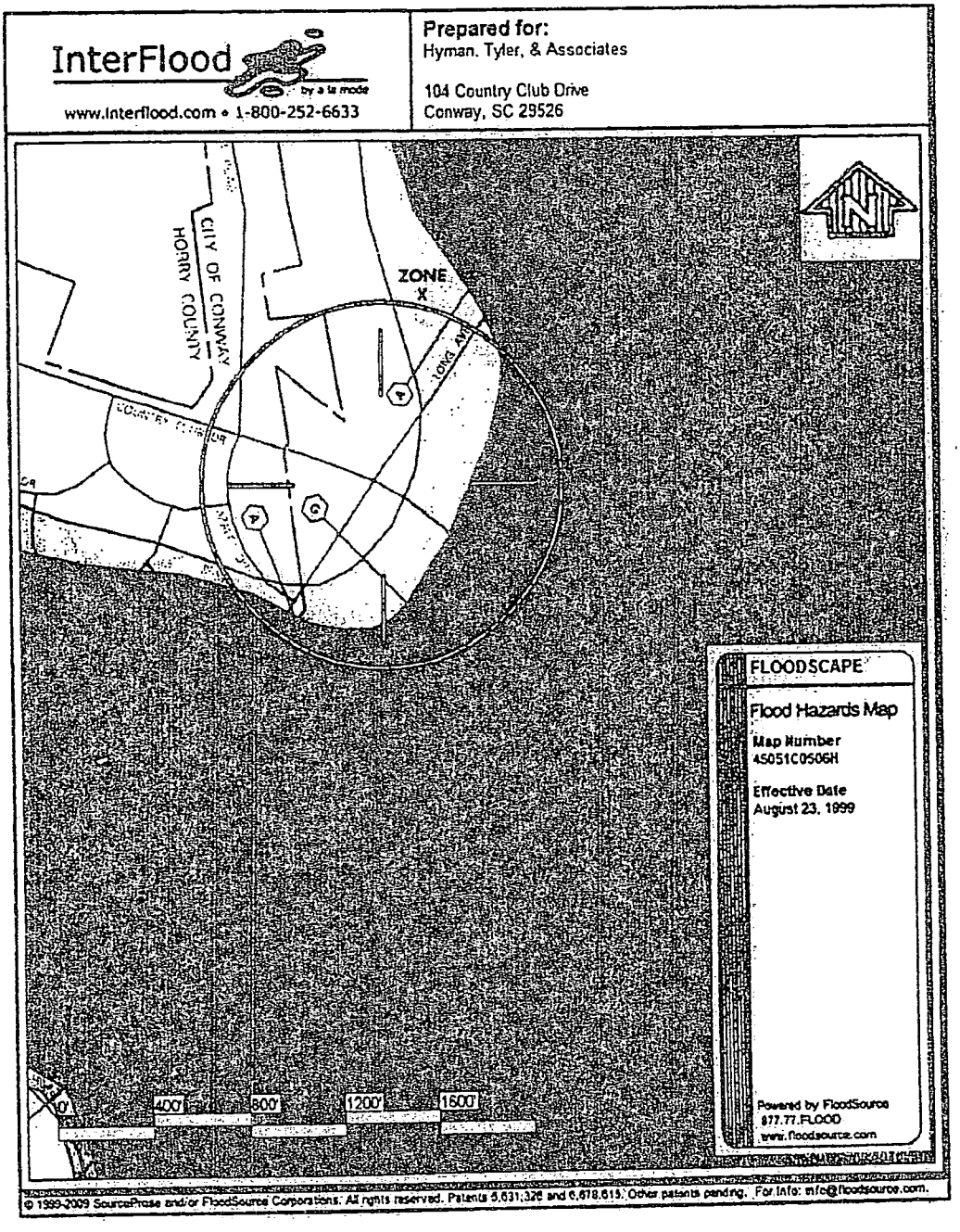
Location Map

Lender/Client	*Horry County State Bank*			
Property Address	*104 Country Club Drive*			
City	*Conway*	County *Horry County*	State *SC*	Zip Code *29526*
Client	*Horry County State Bank*			



Flood Map

Lender/Client	*Horry County State Bank*				
Property Address	*104 Country Club Drive*				
City	*Conway*	County *Horry County*	State *SC*	Zip Code *29526*	
Client	*Horry County State Bank*				



Corrected

AGREEMENT TO PROVIDE INSURANCE 1-89395.

DATE AND PARTIES. The date of this Agreement to Provide Insurance (Agreement) is 05-01-2009. The parties and their addresses are:

OWNER: CAJUN CAROLINA, LLC
104 COUNTRY CLUB DRIVE
CONWAY, SC 29526

SECURED PARTY: HORRY COUNTY STATE BANK
4800 HWY 17 S
MYRTLE BEACH, SC 29588

CORRECTED

The pronouns "you" and "your" refer to the Secured Party. The pronouns "I," "me" and "my" refer to each person or entity signing this Agreement as Owner.

1. LOAN, LEASE, OR CONTRACT DESCRIPTION (Loan).
   A. Date: 05-01-2009
   B. Loan Number:
   C. Loan Amount: 350,000.00
   D. Additional Information:

2. AGREEMENT TO PROVIDE INSURANCE. As part of my Loan, I agree to do all of the following (in addition to any requirements specified in the Loan documents).
   A. I will insure the Property as listed and with the coverages shown in the COVERAGES section.
   B. I will have you named on the policy, with the status listed under the STATUS section.
   C. I will arrange for the insurance company to notify you that the policy is in effect and your status has been noted.
   D. I will pay for this insurance, including any fee for this endorsement.
   E. I will keep the insurance in effect until the Property is no longer subject to your security interest. (I understand that the Property may secure debts in addition to any listed in the LOAN DESCRIPTION section.)

3. DESCRIPTION OF PROPERTY. The Property subject to this Agreement is described as follows.
   1ST REM 104 COUNTRY CLUB DRIVE CONWAY SC 29526

4. COVERAGES. I agree to insure the Property according to the following described risks, amount of coverage, and maximum deductible allowed.
   ☒ If checked, all coverages will be for the full replacement value of the Property.
   Homeowner's Coverage. ☐ H.O. ☐ Other (Describe) _____
   Insurable Value: Deductible:
   Automobile Coverages. ☐ Fire ☐ Theft ☐ Collision ☐ Comprehensive ☐ Liability ☐ Other _____
   Insurable Value: Deductible: Minimum Limits:
   Property Coverage. ☒ Fire ☒ Theft ☒ Collision ☒ Comprehensive ☒ Liability ☐ Other _____
   Insurable Value: Deductible:

5. STATUS. Your status shall be listed on the insurance policy as follows.
   ☐ Lienholder ☐ Certificate Holder ☐ Additional Insured ☒ Mortgagee ☐ Other _____
   California Real Property: Hazard insurance exceeding the replacement value of the improvements on the property is not required as a condition of this loan.

6. ADDITIONAL TERMS.

7. INSURANCE COMPANY. The insurance policy covering the Property and the insurance company issuing the policy are as follows.
   A. Policy Number: 636223-205838 Effective From 03-09-2009 To 03-03-2010.
   B. Insurance Company Name, Address, and Phone Number:
   NATIONAL SECURITY
   P O BOX 703
   ELBA, AL 36323
   1-800-798-2207

8. INSURANCE AGENCY AND AGENT. The insurance agency through which I have purchased, or intend to purchase, the required insurance is as follows.
   A. Agent Name: _____
   B. Agency Name, Address, and Phone Number:
   BRADHAM INSURANCE
   1323 4TH AVE
   CONWAY, SC 29526
   (843) 488-2888

9. SIGNATURES.

SIGNATURES FOR OWNER(S) AND AUTHORIZATION TO INSURANCE AGENT AND COMPANY. By signing below, I agree to the terms contained in this Agreement and acknowledge receipt of a copy of this Agreement. I request the listed insurance company and agency to provide the indicated coverage and list you on the policy with the indicated status. I also request the insurance company or its authorized agent to immediately confirm that the policy is in effect by signing this form and forwarding a copy of the policy to you.

CAJUN CAROLINA, LLC
X _____ Date 5-1-09
M BROOKS QUICKEL, MEMBER
X _____ Date

SIGNATURE FOR SECURED PARTY AND REQUEST FOR CONFIRMATION. Upon receipt of this Agreement, the insurance company or agency named above is requested to confirm the policy coverages shown above.

By X _____ Date 5-1-09
ANN MARION, ASSISTANT VICE PRESIDENT

SIGNATURE FOR INSURANCE COMPANY AND CONFIRMATION. By signing below, Insurance Company confirms the existence of the insurance coverages agreed to be provided by our insured and that you will be notified not less than 10 days before cancellation.

NATIONAL SECURITY
Insurance Company
By X _____ Date

Please return to Secured Party at the address listed in the DATE AND PARTIES section.

HCSB subpoenaed documents delivered on 3/21/13 to R. Jenrette counsel W. DesChamps, Jr. 2011-CP-26-9199 Page 251

HYPOTHECATION AGREEMENT

ROSEMARY LONG JENRETTE
3806 NORTH OCEAN BLVD
MYRTLE BEACH SC 29577

Date: 05-01-2009

Gentlemen:

In consideration of your making, renewing or extending a loan or loans to
CAJUN CAROLINA, LLC

hereinafter referred to as the borrower, for which the following property belonging to me has been tendered to you as collateral security:

LOTS 40 CLAYTON ST , LOT 68 COUNTRY CLUB DR, LOT 48 LONG AVE EXT, LOT 67 COUNTRY CLUB DR 104 COUNTRY CLUB DR CONWAY SC

for the purpose of enabling said borrower to obtain credit therefore, I hereby certify that the said property has been duly assigned, released, transferred and delivered to me to said borrower, and by these presents I do hereby assign, release, and transfer unto said borrower all of my rights, title, and interest in and to said property, and hereby expressly authorize said borrower to pledge or hypothecate all or any part of said property for the indebtedness aforesaid, and all renewal and any extensions thereof, and also for any and all other indebtedness of the same borrower to you, created at any time before this authorization shall have been revoked in writing and all renewals and extensions thereof, and I waive notice of all or any such indebtedness or extension or renewal thereof.

Furthermore, I request that you give or continue to give said borrower credit in the form of loans or renewals or extensions as aforesaid, and in consideration of all or any such credit so granted by you, I agree that all or any property pledged or hypothecated, as aforesaid, shall be subject in our hands or those of your assignees or pledgee or pledgees, to all powers which would apply thereto by contract or otherwise if said property in fact so pledged or hypothecated stood in the name of said borrower himself and not in my name. The proceeds of all loans shall be accounted for and paid over the borrower aforesaid, and said collateral securities may be disposed of and/or paid over to or upon the direction of said borrower.

This agreement shall be binding on my heirs, executors, administrators, and assigns and inure to the benefit of your successors and/or assigns.

Witness

M BROOKS QUICKEL

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM HORRY COUNTY
Court of Common Pleas

George C. James, Jr., Circuit Court Judge

Appellate Case No. 2014-001285

National Security Fire and Casualty Company, Plaintiff,

v.

Rosemary Jenrette, AKA Rosemary Long Jenrette and Horry County State Bank, Defendants,

Of whom

Rosemary Jenrette, AKA Rosemary Long Jenrette is the Appellant,

and

Horry County State Bank is the Respondent.

CERTIFICATE OF COUNSEL

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

November 14, 2014

/s/ William W. DesChamps, III

William W. DesChamps, III
William W. DesChamps, Jr.
1357 21st Avenue North, Ste. 102
Myrtle Beach, SC 29577
(843) 448-2391
Attorneys for Appellant

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM HORRY COUNTY
Court of Common Pleas

George C. James, Jr., Circuit Court Judge

Appellate Case No. 2014-001285

National Security Fire and Casualty Company, Plaintiff,

v.

Rosemary Jenrette, AKA Rosemary Long Jenrette and Horry County State Bank, Defendants,

Of whom

Rosemary Jenrette, AKA Rosemary Long Jenrette is the Appellant,

and

Horry County State Bank is the Respondent.

AMENDED FINAL BRIEF OF APPELLANT

RECEIVED
DEC 1 0 2014
SC Court of Appeals

William W. DesChamps, Jr.
William W. DesChamps, III
DesChamps Law Firm
1357 21st Avenue North, Suite 102
Myrtle Beach, South Carolina 29577
(843) 448-2391
Attorneys for Appellant

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STATEMENT OF ISSUES ON APPEAL

I. DID THE TRIAL COURT ERR IN FINDING THAT THERE WAS A DEBT AND SPECIFIC PROPERTY TO WHICH THE DEBT ATTACHED WHEN THE APPELLANT WAS NOT OBLIGATED TO PAY ANY INDEBTEDNESS TO THE RESPONDENT, AND THE RESPONDENT WAS NOT NAMED AS A LOSS PAYEE OR ADDITIONAL INSURED UNDER THE INSURANCE POLICY THE APPELLANT OBTAINED PRIOR TO THE EXECUTION OF THE MORTGAGE?

II. DID THE TRIAL COURT ERR IN FINDING THAT THE APPELLANT WAS BOUND BY A COVENANT IN THE MORTGAGE TO INSURE HER REAL PROPERTY FOR BETTER SECURITY OF THE RESPONDENT WHEN THE MORTGAGE WAS A STANDARD MORTGAGE THAT DID NOT PROVIDE THAT ANY INSURANCE POLICY OR INSURANCE PROCEEDS SHALL, MAY, OR WILL SERVE AS SECURITY FOR THE MORTGAGE DEBT?

III. DID THE TRIAL COURT ERR IN FINDING THAT THERE WAS AN EXPRESS INTENT THAT THE INSURANCE PROCEEDS SERVE AS ADDITIONAL SECURITY FOR THE PAYMENT OF THE MORTGAGE DEBT WHEN THE AGREEMENT BETWEEN THE PARTIES, AS SET FORTH IN THE MORTGAGE, DOES NOT PROVIDE THAT ANY INSURANCE POLICY OR INSURANCE PROCEEDS, SHALL, MAY, OR WILL SERVE AS SECURITY FOR THE MORTGAGE DEBT, AND THE RESPONDENT NEVER CONTACTED NOR REQUIRED THE APPELLANT TO OBTAIN INSURANCE FOR ITS BENEFIT?

IV. DID THE LOWER COURT ERR IN FINDING THAT THE ASSIGNMENT SET FORTH IN PARAGRAPH 3B OF THE MORTGAGE SURVIVED THE CANCELLATION OF THE MORTGAGE AND BINDS THE APPELLANT WHEN THE APPELLANT WAS NOT PERSONALLY LIABLE UNDER THE MORTGAGE AND WAS NOT OBLIGATED UNDER THE DEFICIENCY JUDGMENT AS A JUDGMENT DEBTOR TO PAY THE RESIDUE OF THE MORTGAGE DEBT REMAINING UNSATISFIED AFTER HER REAL PROPERTY WAS SOLD AT FORECLOSURE?

STATEMENT OF THE CASE

On November 3, 2011, Plaintiff National Security Fire & Casualty Company ("Insurer") filed this interpleader action naming Appellant Rosemary Jenrette, also known as Rosemary Long Jenrette ("Jenrette"), and Respondent Horry County State Bank ("Bank") as party defendants (R. p. 43). This action was commenced by the Insurer as a result of competing claims made by Jenrette and the Bank for insurance proceeds in the sum of $105,000.00 (R. p. 7). Jenrette and the Bank timely responded to the Insurer's complaint and asserted cross-claims against one another claiming entitlement to the entire sum of the disputed insurance proceeds that were deposited by the Insurer into an escrow account (R. p. 7). Jenrette, by way of a claim for declaratory judgment, seeks an order declaring that she is solely entitled to the disputed insurance proceeds as the named insured under an insurance policy issued by the Insurer insuring the parcel of real property ("Subject Real Property") bearing Tax Map Number 123-00-02-069 and located at 104 Country Club Drive, Conway, South Carolina (R. p. 7) (R. p. 48) (R. pp. 280-283). Jenrette claims that she is solely entitled to the disputed insurance proceeds because the insurance policy was obtained by her own will, and her relationship, as a non-debtor mortgagor, with the Bank terminated when the subject mortgage was satisfied (R. p. 48). The Bank claims an equitable lien on the disputed insurance proceeds (R. p. 7) because it was awarded judgment of foreclosure on April 22, 2011 and a deficiency judgment against the debtors on September 6, 2011 (R. p. 53). In support of its claim, the Bank alleged that Jenrette was the mortgagor under the subject mortgage instrument's contract terms, and that she defaulted on her obligations under the mortgage by failing to provide an insurance policy for the Bank's benefit (R. p. 53). The Insurer was released as a party

after the filing of the interpleader action and payment of the disputed insurance proceeds into the Clerk of Court's Office for Horry County (R. p. 40).

On May 16, 2012, the Bank filed a motion for summary judgment as to the relief set out in Jenrette's answer and cross-claim (R. p. 72). The Bank asserted that Jenrette's failure to maintain insurance for the Bank's benefit breached the terms of the subject mortgage, and that the alleged breach gave rise to an equitable lien on the disputed insurance proceeds even though the Bank could not obtain a deficiency judgment against Jenrette as she was not obligated on the promissory note (R. p. 81). On October 4, 2012, the trial court issued an order granting the Bank's motion for summary judgment which found that Jenrette breached the obligations under the terms of the subject mortgage, and that the Bank held an equitable lien on the disputed insurance proceeds (R. pp. 38-41). Thereafter, Jenrette timely filed and served a motion to reconsider the trial court's prior order of October 4, 2012 that granted the Bank's motion for summary judgment (R. p. 31). Jenrette, in support of her motion to reconsider, asserted that the prior order of October 4, 2012 incorrectly found that she breached the terms of the subject mortgage, and that the order made an incorrect conclusion of law with respect to its finding of an equitable lien (R. pp. 31-32). A hearing was held on January 23, 2013 (R. p. 31) and the trial court issued an order granting Jenrette's motion to reconsider on March 5, 2013 (R. p. 31). The order of March 5, 2013 found that the rights and obligations of Jenrette and the Bank with respect to one another were terminated upon the filing of the mortgage satisfaction (R. p. 35), and denied the Bank's motion for summary judgment as the trial court found that Jenrette was not liable for the outstanding indebtedness remaining unsatisfied after the foreclosure sale of the Subject Real Property (R. p. 37). Jenrette

filed a motion for summary judgment on June 3, 2013 seeking an order directing payment to her of the disputed insurance proceeds held on deposit (R. p. 88). In support of her motion for summary judgment, Jenrette asserted that the subject mortgage and the covenants contained therein were terminated upon the filing of the mortgage satisfaction, and that the Bank failed to make a showing sufficient to establish an equitable lien (R. pp. 88-89). On August 30, 2013, the trial court issued an order denying Jenrette's motion for summary judgment (R. p. 21), and the matter was tried as a non-jury trial before the Honorable George C. James, Jr., on December 17, 2013 (R. p. 7). At trial, the Bank claimed that paragraph 3 of the subject mortgage pledged insurance proceeds for any insurance policies Jenrette might have to the Bank (R. p. 147, line 23-p. 148, line 1) (R. p. 149, lines 13-18), and asserted that an equitable lien arose as a result of the loan commitment and agreement to provide insurance (R. p. 261, lines 1-14). Jenrette claimed that she was solely entitled to the disputed insurance proceeds as she was the named insured under the insurance policy (R. p. 1), and that any obligations she had under the subject mortgage were determined and terminated upon the filing of the mortgage satisfaction (R. p. 12). On February 11, 2014, the trial court issued an order ("Trial Order") which found that Jenrette was bound by the assignment in the subject mortgage, and that the assignment survived the cancellation of the mortgage (R. p. 13). The Trial Order also found that the Bank held an equitable lien on the disputed insurance proceeds since the successful bid at the foreclosure sale was in an amount less than the residue of the mortgage debt remaining unsatisfied after the foreclosure sale of the Subject Real Property (R. p. 18). Thereafter, Jenrette timely filed a motion to reconsider the Trial Order (R. p. 2). Jenrette claimed that the trial court erred by making findings of fact that

were not supported by the evidence introduced during the trial, by not making findings of fact that were supported by the evidence introduced during the trial, by making various incorrect conclusions of law, and by not considering or ruling upon various issues raised during the trial that had a direct and substantial bearing on the determinative issues of fact and law (R. p. 91). The trial court issued an order on June 3, 2014 ("Final Order") denying Jenrette's motion to reconsider (R. p. 2). The trial court amended the Trial Order in part and found that the promissory note was executed by Michael Brooks Quickel on May 1, 2009, that the subject mortgage was initially recorded on May 4, 2009 and re-recorded on May 5, 2009, and that it erred in finding that the power of attorney granted authority to Jenrette's attorney-in-fact to execute the promissory note in Jenrette's name (R. pp. 2-3). The Final Order found that the trial court failed to specifically make the fourteen findings of fact that Jenrette claimed were supported by the evidence introduced during the trial (R. p. 4). However, the trial court rejected Jenrette's motion that the Trial Order be amended to include Jenrette's fourteen proposed findings of fact as it found that those findings of fact were of no real import to the ultimate decision of the case (R. p. 4). On June 11, 2014, Jenrette served the Notice of Appeal on the Bank. The Trial Order and the Final Order are the subjects of this appeal. Jenrette received notice of entry of the Final Order on June 4, 2013.

STATEMENT OF FACTS

This interpleader action was commenced by the Insurer as a result of competing claims made by Jenrette and the Bank for insurance proceeds in the sum of $105,000.00 ("Insurance Proceeds") that were deposited by the Insurer into an escrow account (R. p. 7). The Subject Real Property was conveyed unto Jenrette pursuant to the deed of

conveyance recorded in the Horry County Register of Deeds on September 11, 2007 in Deed Book 3275 at Page 2145 (R. p. 236, lines 4-6) (R. pp. 280-283). On March 9, 2009, Jenrette obtained casualty and liability coverage through Bradham Insurance Agency ("Bradham") insuring the Subject Real Property against loss or damage for fire and other hazards (R. pp. 8-9) (R. p. 266, lines 14-20). Jenrette paid the sum of $397.00 as a premium to purchase insurance coverage under a policy issued by the Insurer (R. p. 287) (R. p. 116, line 6–p. 117, line 19). The Bank did not request Jenrette to pay the $397.00 sum for the insurance coverage (R. p. 239, lines 8-10). The insurance policy issued by the Insurer ("Insurance Policy") was a dwelling and mobile home insurance policy that provided dwelling fire policy coverage and personal liability coverage in the sum of $100,000.00 for the policy period of March 9, 2009 to March 9, 2010 (R. p. 118, lines 8-11) (R. p. 286) (R. pp. 289-300). Jenrette paid the premiums on the Insurance Policy, including the premium in the sum of $571.00 to renew the Insurance Policy in March of 2010 (R. p. 124, lines 1-13) (R. p. 239, line 11–p. 240, line 6). Jenrette did not consult with the Bank regarding the $571.00 sum she paid to renew the Insurance Policy, and she renewed the Insurance Policy for her sole benefit at the time of the March 9, 2010 renewal (R. p. 240, lines 10-21). The Insurance Policy's declaration's page for the policy period of March 9, 2009 to March 9, 2010 does not contain a mortgagee name, an address for any mortgagee, or a loan number referencing or relating to any mortgage loan (R. p. 122, lines 3-11) (R. p. 286). The declaration's page for the policy period of March 9, 2010 to March 9, 2011 does not contain a mortgagee name, an address for any mortgagee, or a loan number referencing or relating to any mortgage loan (R. p. 311).

Michael Brooks Quickel ("Quickel") sought to obtain a loan from the Bank to refinance existing debt and obtain business capital (R. p. 9). On April 24, 2009, Quickel, individually and on behalf of Cajun Carolina, LLC ("Cajun"), executed a loan commitment letter ("April 24, 2009 Loan Commitment") which listed Cajun as the "Borrower" and provided that certain real property, including the Subject Real Property, would be pledged as collateral (R. p. 9) (R. p. 383). The loan transaction was based upon the April 24, 2009 Loan Commitment (R. p. 128, line 13-p.129, line 21). Jenrette executed a power of attorney, dated April 27, 2009 ("April 27, 2009 POA"), to pledge part of her real property as collateral for the proposed loan (R. p. 217, line 11-p. 219, line 13). A document entitled "Agreement to Provide Insurance," dated May 1, 2009 ("Cajun Agreement to Provide Insurance"), was executed by Quickel, as member of Cajun, and Ann Marion, as Assistant Vice President of the Bank (R. p. 424). The Cajun Agreement to Provide Insurance sets forth the telephone numbers and addresses of Bradham and the Insurer, and lists the policy number and policy period pertaining to the Insurance Policy (R. p. 424). Quickel did not sign the April 24, 2009 Loan Commitment as Jenrette's attorney-in-fact as he executed it prior to the effective date of the April 27, 2009 POA (R. p. 10). On May 1, 2009, Quickel, in his capacity as member of Cajun, executed and delivered a promissory note to the Bank ("May 1, 2009 Note"), wherein Cajun, as maker of the May 1, 2009 Note, promised to pay the principal sum of $350,000.00 ("Mortgage Debt"), together with interest as set forth therein (R. p. 314) (R. p. 388) (R. p. 139, line 21–p. 140, line 2). The May 1, 2009 Note was secured by a real estate mortgage ("Quickel Mortgage") that was executed by Quickel on May 1, 2009 and recorded on May 4, 2009 in Mortgage Book 5166 at Page 2461, office of the Register of Deeds for

Horry County (R. p. 314). The Quickel Mortgage encumbered two lots (Lots 7 and 14) that were owned by Quickel (R. p. 314) (R. p. 320). Quickel also executed a personal guaranty agreement, dated May 1, 2009, whereby he agreed to be personally responsible for the Mortgage Debt owed by Cajun under the May 1, 2009 Note (R. p. 315). To further secure the loan to Cajun, Quickel, as Jenrette's attorney-in-fact, executed a real estate mortgage, dated May 1, 2009 ("Subject Mortgage"), encumbering five parcels of real property, including the Subject Real Property, owned by Jenrette (R. pp. 314-315) (R. p. 321). The Subject Mortgage was originally recorded on May 4, 2009 and re-recorded on May 5, 2009 in Mortgage Book 5166 at Page 3100 (R. p. 315).

Jenrette did not attend the closing of the loan to Cajun as the purpose of her signing the April 27, 2009 POA was to pledge her real property as collateral (R. p. 219, lines 2-13). Nothing in the April 27, 2009 POA specifically directed Quickel to procure hazard insurance (R. p. 200, lines 4-9) (R. pp. 386-387), and Quickel never obtained an insurance policy on behalf of Jenrette (R. p. 204, lines 22-24). Jenrette never executed a promissory note or a personal guaranty agreement as the Bank informed her that she did not have to make any payments or pay any money (R. p. 228, line 25-p. 229, line 3). No monies were delivered or paid to Jenrette under the May 1, 2009 Note as she did not receive any money from the Bank (R. p. 246, lines 4-6). The Bank did not create any special document for the closing of the loan to Cajun, and the Subject Mortgage was a standard mortgage used by the Bank (R. p. 147, lines 7-22). Paragraph 3 of the Subject Mortgage pertaining to insurance policies that "Borrower" may have is the language which the Bank uses in most of its mortgages (R. p. 395) (R. p. 147, lines 14-16). Paragraph 1 of the Subject Mortgage provides in pertinent part: "As further security for

all sums secured by this Mortgage, Borrower assigns to Lender all rents and profits arising from the Property" (R. p. 391). However, paragraph 3 of the Subject Mortgage fails to include any such language regarding any insurance policy or insurance proceeds serving as further security for all sums secured by the mortgage (R. p. 391) (R. p. 395). Paragraph 16 of the Subject Mortgage pertaining to the mortgagor's representations regarding hazardous substances provides in pertinent part: "The obligations and liabilities of Mortgagor under this paragraph shall survive the foreclosure of the Mortgage, the delivery of a deed in lieu of foreclosure, [and] the cancellation or release of record of this Mortgage" (R. p. 392). However, paragraph 3 of the Subject Mortgage fails to include any such language relating to any insurance policies or insurance proceeds (R. p. 391) (R. p. 395).

Cajun failed to make payments on the May 1, 2009 Note (R. p. 316), and the loan was turned over to Robert Smith, the Bank's Vice President in charge of special assets, to begin the litigation of the foreclosure of the Quickel Mortgage and the Subject Mortgage (R. p. 126, line 7-p. 127, line 16). The Bank filed a complaint in the case bearing the designation of Civil Action Number 2010-CP-26-04456 ("Prior Foreclosure") on May 19, 2010 (R. p. 313), and commenced foreclosure proceedings seeking judgment of foreclosure and sale of the parcels of real property securing the May 1, 2009 Note, including the Subject Real Property owned by Jenrette (R. p. 11). Jenrette was joined as a defendant in the Prior Foreclosure as the record owner of the Subject Real Property and as a mortgagor (R. p. 4). The Bank did not sue Jenrette for any money in the Prior Foreclosure (R. p. 242, lines 2-4). Cajun was joined as a defendant in the Prior Foreclosure as maker of the May 1, 2009 Note, and Quickel was joined as a defendant as

the owner of the two lots secured by the Quickel Mortgage and as a guarantor of the payment of the Mortgage Debt (R. p. 11) (R. pp. 314-317).

On January 15, 2011, the residence on the Subject Real Property was destroyed by fire (R. p. 11). Jenrette contacted Bradham and reported the fire casualty (R. p. 119, line 23-p.120, line 6). The Bank became aware that it was not named as a loss payee on the Insurance Policy during the pendency of the Prior Foreclosure (R. p. 11). From March of 2009 to the time of the January 15, 2011 fire casualty, Bradham did not receive any correspondence from the Bank requesting that the Bank be named as a loss payee under the Insurance Policy (R. p. 123, line 20-p. 124, line 1). The Bank did not require Jenrette to obtain casualty or liability insurance for its benefit (R. p. 267, lines 2-6), nor did the Bank contact Jenrette with regard to the Insurance Policy between the time she obtained the Insurance Policy and the time of the January 15, 2011 fire casualty (R. p. 267, lines 11-15). After the January 15, 2011 fire casualty, the Bank contacted Bradham regarding Jenrette's claim and asked that its purported interest be protected (R. p. 120, lines 7-13). Payment under the Insurance Policy was honored after Jenrette's claim was processed (R. p. 120, line 17-p.121, line 2), and the Insurer paid the sum of $105,000.00 (R. p. 246, line 25-p. 247, line 4). Due to the conflicting claims, a check was issued to both Jenrette and the Bank during the pendency of the Prior Foreclosure (R. p. 120, line 14-p. 121, line 2) (R. p. 247, lines 18-21).

A hearing in the Prior Foreclosure was held before the Master-in-Equity for Horry County on April 18, 2011 (R. p. 312), and a Master's Order of Foreclosure and Sale was filed on April 26, 2011 (R. p. 4). The Bank did not assert any cause of action against Jenrette with regard to the Insurance Proceeds in the Prior Foreclosure (R. p. 242, lines 5-

9). The Master's Order of Foreclosure and Sale did not render any findings as to Jenrette since she was not an obligor or guarantor of the Mortgage Debt (R. p. 12), but found that Cajun and Quickel were liable for the Mortgage Debt (R. p. 318). The Bank was the successful bidder after the mortgaged properties were sold at public auction on August 1, 2011 (R. p. 12). A Master's Report on Sale and Disbursements and an Order of Deficiency Judgment against Cajun and Quickel in the sum of $117,546.89 ("Deficiency Judgment") were filed on September 6, 2011. A Release of Lien Mortgage Satisfaction, dated September 2, 2011 and filed on September 8, 2011 ("Satisfaction"), released, cancelled, and satisfied the Subject Mortgage (R. p. 322) (R. p. 12).

STANDARD OF REVIEW

"An action to establish an equitable lien is an action in equity." *Chase Home Fin., LLC v. Risher*, 405 S.C. 202, 208, 746 S.E.2d 471, 474 (Ct. App. 2013). In an appeal of an "'action in equity, tried by the judge alone, without a reference, ... the appellate court has jurisdiction to find facts in accordance with its views of the preponderance of the evidence.'" *Barnes v. Johnson*, 402 S.C. 458, 466, 742 S.E.2d 6, 9 (Ct. Ap. 2013) (quoting *Townes Assocs., Ltd. v. City of Greenville*, 266 S.C. 81, 86, 221 S.E.2d 773, 775 (1976)). "However, this broad scope of review does not require an appellate court to disregard the findings below or ignore the fact that the trial judge is in the better position to assess the credibility of the witnesses." *Pinckney v. Warren*, 344 S.C. 382, 387, 544 S.E.2d 620, 623 (2001). The appellate court "will affirm the findings of the trial court in an equity case unless the appellant satisfies this court that the preponderance of the evidence is against the findings of the trial court." *Regions Bank v. Wingard Properties, Inc.*, 394 S.C. 241, 249, 715 S.E.2d 348, 352 (Ct. App. 2011). Legal questions in

equitable cases receive review on appeal as in law. *Sloan v. Greenville Cnty.*, 356 S.C. 531, 546, 590 S.E.2d 338, 346 (Ct. App. 2003). "Because questions of law may be decided with no particular deference to the trial court, this court may correct errors of law in both legal and equitable actions." *U.S. Bank Trust Nat'l Ass'n v. Bell*, 385 S.C. 364, 373, 684 S.E.2d 199, 204 (Ct. App. 2009).

ARGUMENT

I. THE TRIAL COURT ERRED IN FINDING THAT THERE WAS A DEBT AND SPECIFIC PROPERTY TO WHICH THE DEBT ATTACHED.

The Bank claims an equitable lien on the Insurance Proceeds because it was awarded judgment of foreclosure on April 22, 2011 and a deficiency judgment against Cajun and Quickel on September 6, 2011. To prove an equitable lien as to specific property, the Bank must establish the following: (1) a debt between Jenrette and the Bank; (2) specific property to which the debt attached; and (3) an express or implied intent that the property serve as security for the payment or obligation. *First Union Commer. Corp. v. Nelson, Mullins, Riley & Scarborough*, 81 F.3d 1310, 1319 (4th Cir. 1996). "If a party seeking an equitable lien cannot satisfy any one of these requirements, this remedy is not available." *Chase Home Fin., LLC*, 405 S.C. at 209, 746 S.E.2d at 475. In the context of a contract for fire insurance "'the authorities generally agree that a contract of fire insurance is a personal contract between the insurer and insured, by which the former undertakes to indemnify the latter for the loss he sustains by fire.'" *Barnes*, 402 S.C. at 467-68, 742 S.E.2d at 10 (quoting *Steinmeyer v. Steinmeyer*, 64 S.C. 413, 420, 42 S.E. 184, 186 (1902)). A holder of a mortgage encumbering an insured property, by reason of his status as mortgagee of an insured property, has no interest in law or

equity in an insurance policy obtained by the mortgagor in his own name and for his sole benefit. *Swearingen v. Hartford Ins. Co.*, 52 S.C. 309, 315, 29 S.E. 722, 723 (1898). "If the creditors have a lien by mortgage, judgment, or execution, they can insure their own interest, but they can have no right to attach insurance money due to anyone but their own debtor." *Steinmeyer*, 64 S.C. at 421, 42 S.E. at 186. In *Steinmeyer*, the creditors of a judgment debtor commenced an action against an insured property owner to set aside the judgment debtor's conveyance to the insured on the grounds of fraud, which resulted in a decree subjecting the property to the payment of the judgment. *Id.* at 416, 42 S.E. at 184. Thereafter, the property conveyed to the insured was sold under a court order, and the sales proceeds applied to the judgment were insufficient to satisfy the judgment. *Id.* The South Carolina Supreme Court found that the insured was entitled to the insurance proceeds, and that the proceeds could not be taken by the creditors for the debt even though the property itself could be taken. *Id.* at 422, 42 S.E. at 187.

In the instant action, the Bank seeks to recover the Insurance Proceeds as a partial satisfaction of the Deficiency Judgment against Cajun and Quickel. The Insurance Proceeds were paid under an insurance policy that Jenrette purchased in her name for her sole benefit prior to the pledging of the Subject Real Property as security for a third party debt. The Bank did not request Jenrette to pay the sum of $397.00 to purchase coverage under the Insurance Policy in March of 2009 and, in fact, the Bank could not have done so as it had no insurable interest in the Subject Real Property at that time. Jenrette paid the policy premiums, including the premium to renew the Insurance Policy for the policy period of March 9, 2010 to March 9, 2011. The policy declarations pertaining to the Insurance Policy for the policy periods of March 9, 2009 to March 9, 2010 and March 9,

2010 to March 9, 2011 do not contain a mortgagee name, an address for any mortgagee, or a loan number referencing or relating to any mortgage loan. No monies were delivered or paid to Jenrette under the May 1, 2009 Note. The Bank did not sue Jenrette for any money in the Prior Foreclosure because she never executed a promissory note or a personal guaranty agreement which obligated her to pay the Mortgage Debt. The Deficiency Judgment against Cajun and Quickel in the sum of $117,546.89 was awarded to the Bank after the August 1, 2011 foreclosure sale since the Bank's bid did not yield a sum sufficient to satisfy the Mortgage Debt. The Deficiency Judgment sum owed by Cajun and Quickel represents the residue of the Mortgage Debt remaining unsatisfied after the August 1, 2011 foreclosure sale. As in *Steinmeyer*, the Subject Real Property was taken in the Prior Foreclosure by a creditor for a debt not owed by the insured.

The Insurance Proceeds cannot be taken by the Bank for the Mortgage Debt owed by Cajun and Quickel even though the Subject Real Property itself was taken. Jenrette's relationship with the Bank was limited to the capacity of a non-borrower mortgagor who pledged some of her real property as security for a loan to a third party debtor. Like the debtor's creditors in *Steinmeyer*, the Bank has no right to attach insurance money due to anyone but its own debtors, Cajun and Quickel. The preponderance of the evidence is against the trial court's finding that there was a debt and specific property to which the debt attached. Therefore, the findings of the trial court must be reversed.

II. JENRETTE WAS NOT BOUND BY A COVENANT IN THE MORTGAGE TO INSURE THE SUBJECT REAL PROPERTY AS FURTHER SECURITY FOR THE PAYMENT OF THE MORTGAGE DEBT.

A. The Provisions of Paragraph 3A of the Subject Mortgage do not establish the Requisite Intent required to impose an Equitable Lien upon the Insurance Proceeds.

The trial court found that paragraph 3A of the Subject Mortgage required the procurement of insurance proceeds and was binding on Jenrette even though the Bank failed to require an insurance policy listing it as a loss payee in its pre-loan procedures (*See* R. pp. 13-14).

"An equitable lien does not arise as a result of a mere breach of contract." *Carolina Attractions, Inc. v. Courtney*, 287 S.C. 140, 145, 337 S.E.2d 244, 247 (Ct. App. 1985). "It is hornbook law that equity will not impose an equitable lien where there is an adequate remedy at law." *Id.* at 146, 337 S.E.2d at 247. The general rule that an equitable lien may arise upon proceeds paid under an insurance policy obtained by a mortgagor in his own name where the mortgagor has covenanted to insure the mortgage property for the mortgagee's benefit is based upon an express contract by which the property owner agrees to give a lien upon the particular proceeds. *Planters' Bank v. Globe & Rutgers Fire Ins. Co.*, 156 S.C. 453, 460, 153 S.E. 385, 387 (1930) (citing *Farmers' Loan & Trust Co. v. Penn Plate Glass Co.*, 103 F. 132 (3d Cir. 1900), *aff'd*, 186 U.S. 434 (1902)). *Carrington Mortg. Servs., Inc. v. Riley*, 478 B.R. 736 (Bankr. D.S.C. 2012) provides an analysis of the three elements which the Bank must prove to establish an equitable lien. In *Carrington Mortg. Servs., Inc., supra*, the mortgagor insured executed and delivered two notes and mortgages to the mortgagee. *Id.* at 739. The mortgagor failed to maintain insurance on the property as required in the mortgages.

Id. The United States Bankruptcy Court for the District of South Carolina found that the mortgagee met its burden of proof as to the first two elements because the mortgagor clearly owed a debt to the mortgagee and the debt was secured by a mortgage that required the mortgagor to maintain certain insurance coverage. *Id.* at 748. However, the mortgagee did not establish the existence of an equitable lien on the disputed insurance proceeds because it failed to meet its burden of proving the third element and did not satisfy other equitable considerations. *Id.* The court found that the mortgagee did not meet its burden of proof on the issue of the parties' intent when the evidence of intent presented by the mortgagee consisted of the mortgage language requiring insurance, the insurance policy, and the insurance check made payable to the mortgagor and mortgagee. *Id.*

In *Farmers' Loan & Trust Co.*, 186 U.S. at 444, the issue was whether an equitable lien should be imposed upon insurance monies to pay the residue of the balance remaining unsatisfied after application of the proceeds realized from the sale of the mortgaged property. The insurance policy was obtained by purchasers who took title to the mortgaged property subject to a mortgage lien. *Id.* at 444, 450. Although the facts are not analogous to the instant action, the United States Supreme Court first determined whether there was an obligation imposed by the mortgage on the mortgagor to obtain insurance. *Id.* at 449. The Court assumed that a covenant to insure on the part of the mortgagor existed under the terms of the mortgage. *Id.* at 453. The Court found that the mortgagor had no liability to pay the debt secured by the mortgage, and that the covenant to insure was of no materiality because the mortgagor was under no personal liability. *Id.* at 454, 457.

In the instant action, the Bank alleged that Jenrette, as mortgagor, defaulted under the terms of the Subject Mortgage by failing to provide an insurance policy for the Bank's benefit (*See* R. p. 53). The Bank did not allege that it had an inadequate remedy at law, but alleged that it elected to bring a successful foreclosure action resulting in the award of the Deficiency Judgment against Quickel and Cajun (*See* R. p. 53). The Bank's standard language set forth in paragraph 3A of the Subject Mortgage provides that the "Borrower" shall maintain insurance policies for the benefit of the Bank in amounts as the Bank may require, and that the form of such policy, the insurers, and the coverage provided shall be acceptable to the Bank (*See* R. p. 391; R. p. 395). However, the loan transaction was based upon the April 24, 2009 Loan Commitment which listed Cajun as the "Borrower." The Bank did not allege that it was the parties' intent, express or implied, that the Insurance Policy would serve as security for the Mortgage Debt owed by Cajun and Quickel. Quickel never obtained an insurance policy on behalf of Jenrette as the April 27, 2009 POA did not direct Quickel to obtain an insurance policy on Jenrette's behalf. The Bank did not present any evidence that it requested Jenrette to provide an insurance policy, nor did it present any evidence to show that it provided notice to Jenrette relating to any covenant or agreement pertaining to the procurement of an insurance policy. In the Prior Foreclosure, the Bank obtained judgment of foreclosure and sale of the Subject Real Property. As in the Prior Foreclosure, the Bank could have exercised the remedy available under the Subject Mortgage by commencing an action seeking judgment of foreclosure and sale of the Subject Real Property if Jenrette were to breach a covenant pertaining to the procurement of an insurance policy. However, the Bank would not have been able to obtain a money judgment against Jenrette since she

had no personal liability under the Subject Mortgage. The only evidence the Bank presented regarding the intent of Jenrette and the Bank was the language set forth in paragraph 3 of the Subject Mortgage. Jenrette's procurement of the Insurance Policy, her payment of the premiums, the policy declarations, the April 24, 2009 Loan Commitment, and the Bank's actions and omissions during the time period between the closing of the loan to Cajun and the judicial sale of the Subject Real Property do not fit squarely with the Bank's claim of an equitable lien. As in *Farmers' Loan & Trust Co.*, paragraph 3A is of no materiality because Jenrette had no personal liability under the Subject Mortgage. An equitable lien cannot arise from Jenrette's failure to procure an insurance policy for the Bank's benefit because the Bank did not allege that it had an inadequate remedy at law, and it failed to allege and present sufficient evidence to show that Jenrette and the Bank intended that Jenrette would insure the Subject Real Property as additional security for the Bank.

B. The Subject Mortgage does not require Jenrette to insure the Subject Real Property for the better Security of the Bank.

In the Trial Order, the trial court examined the Subject Mortgage and found that Jenrette was obligated under paragraph 3A to insure the Subject Real Property for the better security of the Bank (*See* R. p. 15). In support of its finding, the trial court reiterated the holding in *Blackwell v. State Farm Mutual Automobile Ins. Co.*, 237 S.C. 649, 118 S.E.2d 701 (1961) "that if a mortgagor is bound by a covenant in the mortgage to insure the mortgaged premises for the better security of the mortgagee, the mortgagee has an equitable lien on the money due on the policy taken out by the mortgagor, to the extent of the mortgagee's interest in the property is damaged or destroyed" (R. pp. 14-

15). In *Blackwell*, the insured purchased an automobile and borrowed a sum to pay the unpaid portion of the purchase price and the insurance premium. *Blackwell*, 237 S.C. at 650, 118 S.E.2d at 702. The loan was evidenced by a note that was secured by a chattel mortgage on an automobile. *Id.* at 651, 118 S.E.2d at 702. The bank immediately applied to the insurer for automobile coverage and paid the premium at the time the loan was made. *Id.* at 651, 118 S.E.2d at 703. An equitable lien in favor of the bank was imposed upon the insurance proceeds to the extent of the chattel mortgage debt. *Id.* at 653, 118 S.E.2d at 704.

"A mere intention to take additional security does not create a lien." *Perpetual Federal S & L Ass'n v. Willingham*, 296 S.C. 24, 27, 370 S.E.2d 286, 288 (Ct. App. 1988). "Where the agreement in question is a written contract, the intention of the parties must be inferred from the contents of the whole agreement and not from any one of its several parts." *Harmon v. Bank of Danville*, 287 S.C. 449, 453, 339 S.E.2d 150, 153 (Ct. App. 1985). The general rule that an equitable lien may arise upon proceeds paid under an insurance policy obtained by a mortgagor in his own name where the mortgagor has covenanted to insure the mortgaged property for the mortgagee's benefit is based upon an express contract by which the property owner agrees to give a lien upon the particular proceeds. *Planters' Bank*, 156 at 460, 153 S.E. at 387.

In the instant action, Jenrette obtained the Insurance Policy and paid the premium prior to the execution of the April 27, 2009 POA, the execution and recordation of the Subject Mortgage, and the closing of the loan to Cajun. *Blackwell* is distinguishable from the instant action from a factual basis as *Blackwell* involved a chattel mortgage and the loss of an automobile. Unlike the insured in *Blackwell*, Jenrette was not obligated to pay

the Mortgage Debt as she did not borrow any sums of money from the Bank, she was not a party to the May 1, 2009 Note, and the Bank did not pay the premium to obtain coverage. At trial, there was no evidence introduced that could reasonably support a factual finding that the Bank required or requested Jenrette to obtain an insurance policy naming it as an additional insured or loss payee. The record is clear that the Bank neither contacted Jenrette nor the Insurer regarding insurance coverage, the Insurance Policy, or the Insurance Proceeds prior to the January 15, 2011 fire casualty. However, the Bank was in possession of the Insurer's contact information and the policy number pertaining to the Insurance Policy on May 1, 2009 (*See* R. p. 424).

Paragraph 3A of the Subject Mortgage provides in pertinent part:

> Borrower shall at its sole expense obtain for, deliver to, and maintain for the benefit of Lender, during the life of the Mortgage, Insurance policies in such amounts as Lender may require, in no event less than the full insurable value, insuring the Property against fire, extended coverage and such other insurable hazards, casualties and contingencies as Lender may require including flood damage, and shall pay promptly, when due, any premiums on such insurance policies and on any renewals thereof.

Paragraph 1 of the Subject Mortgage provides in pertinent part that: "As further security for all sums secured by this Mortgage, Borrower assigns to Lender all rents and profits arising from the Property" (*See* R. p. 391). However, Paragraph 3 of the Subject Mortgage does not provide that any insurance policy or insurance proceeds shall, may, or will serve as security for any sums secured by the mortgage (*See* R. p. 391; R. p. 395). Rather than using its standard mortgage to secure a loan in a transaction where the mortgagor has no personal liability under a mortgage, the Bank could have incorporated language into paragraph 3A of the Subject Mortgage to provide that Jenrette covenanted to insure the Subject Real Property as additional security for the Bank. Based upon the

provisions of the Subject Mortgage and the evidence introduced at trial, there is no covenant in the Subject Mortgage obligating Jenrette to insure the Subject Real Property for the better security of the Bank. Therefore, the trial court's finding that Jenrette was obligated under paragraph 3A to insure the Subject Real Property for the better security of the Bank is against the preponderance of the evidence and must be reversed.

C. The Subject Mortgage's reference to Jenrette as "Borrower" does not give rise to an Equitable Lien in favor of the Bank.

The trial court found that Jenrette was the "Borrower" as that term is defined in the Subject Mortgage (R. p. 13), and that Jenrette, as "Borrower", made the assignment contained in paragraph 3B of the Subject Mortgage (R. p. 14). However, the trial court also found that Jenrette was joined as a defendant in the Prior Foreclosure as the record owner of the Subject Real Property and as a mortgagor.

"Where the agreement in question is a written contract, the intention of the parties must be inferred from the contents of the whole agreement and not from any one of its several parts." *Harmon*, 287 S.C. at 453, 339 S.E.2d at 153. "'A court of equity may not add or substitute other parties for those appearing on the face of a contract where the effect may be to make a new contract.'" *Independence National Bank v. Buncombe Professional Park, LLC*, 402 S.C. 514, 521, 741 S.E.2d 572, 576 (Ct. App. 2013) (quoting 66 Am. Jur. 2d *Reformation of Instruments* § 51 (2011)). "To give effect to the parties' intentions, the court will endeavor to determine the situation of the parties and their purposes at the time the contract was entered." *Bell*, 385 S.C. at 374, 684 S.E.2d at 205. The term borrower is defined as "a person or entity to whom money or something else is lent." *Black's Law Dictionary* (7th ed. 1999). A mortgage represents a security

instrument for a debt or obligation, but not the full payment thereof. *Perpetual Bldg. & Loan Ass'n of Anderson v. Braun*, 270 S.C. 338, 340, 242 S.E.2d 407, 408 (1978). In *Farmers' Loan & Trust Co.*, 186 U.S. at 453, the United States Supreme Court assumed that a covenant to insure on the part of the mortgagor existed under the terms of the mortgage. However, the Court found that the mortgagor had no liability to pay the debt secured by the mortgage, and that the covenant to insure was of no materiality because the mortgagor was under no personal liability. *Id.* at 454, 457.

In the instant action, the Bank alleged that Jenrette was the mortgagor under the Subject Mortgage's contract terms, and that she defaulted on her obligations under the mortgage by failing to provide an insurance policy for the Bank's benefit. At trial, the Bank asserted that an equitable lien arose as a result of the April 24, 2009 Loan Commitment and the Cajun Agreement to Provide Insurance. However, Quickel did not sign the April 24, 2009 Loan Commitment and the Cajun Agreement to Provide Insurance as Jenrette's attorney-in-fact. The Bank did not create any special document for the closing of the loan to Cajun as the Subject Mortgage was a standard mortgage used by the Bank. Quickel executed the Subject Mortgage as Jenrette's attorney-in-fact pursuant to the April 27, 2009 POA. The purpose of Jenrette signing the April 27, 2009 POA was to pledge some of her real property as collateral. The Bank's standard language contained in the Subject Mortgage listed Jenrette as "Mortgagor," but also referenced her as "Borrower" even though she was not obligated to pay the Mortgage Debt. The Bank's standard language contained in paragraphs 15 and 16 of the Subject Mortgage pertain to covenants and representations of a "Mortgagor" rather than a "Borrower." Pursuant to paragraph 8 of the Subject Mortgage, a default under the terms

therein will occur upon the failure of the "Borrower" to pay any sum secured by the mortgage when due. Conceptually, a literal interpretation of paragraph 8, without considering the other provisions in the Subject Mortgage, the May 1, 2009 Note, and the situation of the parties at the time of the closing of the loan to Cajun, could indicate that Jenrette was obligated as "Borrower" to pay the Mortgage Debt. Such an interpretation would make a new agreement between Jenrette and the Bank because the interpretation substitutes Jenrette for the actual borrower, Cajun. This could not have been the intention of the parties because no documents were executed which obligated Jenrette to pay the Mortgage Debt, and no monies were delivered or paid to Jenrette under the May 1, 2009 Note. The loan transaction was based upon the April 24, 2009 Loan Commitment which listed Cajun as "Borrower." As in *Farmers' Loan & Trust Co.*, the Subject Mortgage's reference of Jenrette as "Borrower" is of no materiality because she had no obligation to pay the Mortgage Debt. Therefore, the trial court's finding that Jenrette, as the "Borrower," made the assignment contained in paragraph 3B of the Subject Mortgage is against the preponderance of the evidence and must be reversed.

III. THE ASSIGNMENT PROVISION IN THE SUBJECT MORTGAGE DOES NOT IMPOSE AN EQUITABLE LIEN UPON THE INSURANCE PROCEEDS.

A. The Preponderance of the Evidence is against the Trial Court's finding that the Assignment was to provide Additional Security for the Mortgage Debt.

The Trial Order found that Jenrette, as "Borrower" under the Subject Mortgage, made the assignment contained in paragraph 3B of the mortgage (*See* R. p. 14), and that it made no difference that the Bank's pre-loan dealings with Quickel were less than thorough with regard to setting forth any insurance requirements since Quickel was authorized to execute the Subject Mortgage in Jenrette's name under the April 27, 2009

POA (*See* R. p. 14). The trial court found that the assignment of the Insurance Proceeds was valid regardless of whether Jenrette was obligated under the May 1, 2009 Note because the purpose of the assignment, in the trial court's view, was to provide additional security for the Mortgage Debt (*See* R. p. 18).

"A mere intention to take additional security does not create a lien." *Willingham*, 296 S.C. at 27, 370 S.E.2d at 288. A covenant to assign rents and profits does not create an equitable lien as it confers no interest in the property itself. *Id.* "Where the agreement in question is a written contract, the intention of the parties must be inferred from the contents of the whole agreement and not from any one of its several parts." *Harmon*, 287 S.C. at 453, 339 S.E.2d at 153. The general rule that an equitable lien may arise upon proceeds paid under an insurance policy obtained by a mortgagor in his own name where the mortgagor has covenanted to insure the mortgage property for the mortgagee's benefit is based upon an express contract by which the property owner agrees to give a lien upon the particular proceeds. *Planters' Bank*, 156 S.C. at 460, 153 S.E. at 387. In *Carrington Mortg. Servs., Inc.*, 478 B.R. at 748, the United States Bankruptcy Court for the District of South Carolina found that the mortgagee did not meet its burden of proof on the issue of the parties' intent when the evidence of intent presented by the mortgagee consisted of the mortgage language requiring insurance, the insurance policy, and the insurance check made payable to the mortgagor and mortgagee.

In the instant action, the only evidence the Bank presented regarding the intent of Jenrette and the Bank was the language set forth in paragraph 3 of the Subject Mortgage. The Bank did not allege that it was the parties' intent, express or implied, that the Insurance Proceeds from the Insurance Policy obtained by Jenrette would serve as

additional security for the Mortgage Debt owed by Cajun and Quickel. The loan to Cajun was based upon the April 24, 2009 Loan Commitment which listed Cajun as "Borrower." Paragraph 1 of the Subject Mortgage provides in pertinent part that: "As further security for all sums secured by this Mortgage, Borrower assigns to Lender all rents and profits arising from the Property" (R. p. 391). However, paragraph 3B of the Subject Mortgage does not provide that any insurance proceeds shall, may, or will serve as security for any sum secured by the mortgage (*See* R. p. 391; R. p. 395). The record is clear that the Bank neither contacted Jenrette nor the Insurer regarding insurance coverage, the Insurance Policy, or the Insurance Proceeds prior to the January 15, 2011 fire casualty. The Insurance Proceeds were paid by the Insurer under a check made payable to both Jenrette and the Bank despite the language set forth in paragraph 3B of the Subject Mortgage, and no evidence was introduced at trial to show that the Bank disputed the manner in which the check was issued by the Insurer. Paragraph 3B of the Subject Mortgage would include language similar to the provision set forth in paragraph 1 of the mortgage if the intent of the purported assignment was to provide additional security for the Mortgage Debt. Therefore, the trial court's finding that the purpose of the assignment was to provide additional security for the Mortgage Debt is against the preponderance of the evidence and must be reversed.

B. The Purported Assignment in the Subject Mortgage does not Survive Cancellation under the Facts of this Case.

The trial court concluded that the assignment in the Subject Mortgage survived its cancellation and bound Jenrette even though the Trial Order found that the Subject Mortgage was satisfied and cancelled when the foreclosure sale was finalized (R. p. 12).

In support of its conclusion, the trial court relied upon the rules and decisions espoused in The Restatement (Third) of Property, §4.8; *Jones v. Equicredit Corp. of South Carolina*, 347 S.C. 535, 556 S.E.2d 713 (Ct. App. 2001); *Emmons v. Lake States Ins. Co.*, 193 Mich. App. 460, 484 N.W.2d 712 (Mich. App. 1992); *Certain Underwriters of Lloyds v. U.S. Industrial Services, LLC*, 825 F. Supp. 2d 882 (E.D. Michigan 2011); *State Farm Life Ins. Co. v. P.M.C.*, Slip Copy 2013 W.L. 4009031 (U.S. District Court, Eastern District of Michigan); *Whitestone S & L Ass'n v. Allstate*, 28 N.Y.2d 332, 270 N.E.2d 694 (1971); *Smith v. Gen. Mortgage Corp.*, 402 Mich. 125, 261 N.W.2d 710 (1978); *Nationwide v. Wilborn*, 291 Ala. 193, 279 So.2d 460 (1973); *Allstate v. James*, 779 F.2d 1536 (11th Cir. 1986); *Helmer v. Texas Farmers Ins. Co.*, 632 S.W.2d 194 (Tex. App. 1982). However, none of the above-referenced authority involved or discussed a case or fact pattern wherein the mortgagor was not liable for the payment of the indebtedness secured by the mortgage.

In support of its finding that the assignment in the Subject Mortgage survived the Satisfaction, the trial court reiterated the holding in *Jones v. Equicredit Corp. of South Carolina*, *supra*, that "when the foreclosure sale does not satisfy the mortgage indebtedness, the mortgagee is entitled to collect insurance proceeds if the unpaid amount of the mortgage is in excess of the insurance proceeds" (R. p. 15). The trial court found that the holding of *Certain Underwriters of Lloyds v. U.S. Industrial Services, LLC*, *supra*, was in accord with the South Carolina Court of Appeals' conclusion in *Jones v. Equicredit Corp. of South Carolina* (R. p. 17). The trial court reiterated the holding in *Certain Underwriters of Lloyds*, "that because the foreclosure sale did not provide full satisfaction of the debt, the assignment in the mortgage survived the sale and the lender

therefore had a right to the insurance proceeds" (R. p. 17). In *Jones*, the plaintiff mortgagor borrowed the sum of $14,981.52 that was secured by a second mortgage on her property, and her note and mortgage were assigned to Fannie Mae. *Jones*, 347 S.C. at 538, 556 S.E.2d at 714. The defendant who claimed entitlement to the disputed insurance proceeds was the servicer of the loan under a contract between Fannie Mae and the defendant's predecessor in interest. *Id.* Two of the policy endorsements to the policy listed the defendant as the named insured and referenced the plaintiff mortgagor as borrower and an additional insured. *Id.* at 541, 556 S.E.2d at 716. The declarations page listed the plaintiff mortgagor as the insured and the defendant as a mortgagee. *Id.* at 541-42, 556 S.E.2d at 716. The policy expressly limited the plaintiff mortgagor's "right to recover to 'residual amounts of insurance over and above' ... [the defendant's] 'insurable interest.'" *Id.* at 542, 556 S.E.2d at 716. The plaintiff mortgagor claimed that the defendant did not have an insurable interest in the property after the foreclosure sale. *Id.* at 540, 556 S.E.2d at 715. In considering whether the defendant held an insurable interest, the court distinguished the insurable interest of a servicing agent from the interest of a mortgagee. *Id.* at 542, 556 S.E.2d at 717. The court found that the defendant's "insurable interest is based on its potential liability under the servicing agreement, and would not be extinguished even if the mortgage indebtedness is satisfied." *Id.* at 543, 556 S.E.2d at 717. *Certain Underwriters of Lloyds, supra*, involved a dispute between the United States claiming entitlement to insurance proceeds under a tax lien and a mortgagee claiming entitlement to the proceeds under a mortgage and an insurance policy. 825 F. Supp. 2d at 884. On January 27, 2006, the mortgagor in *Certain Underwriters of Lloyds* acquired a commercial property and granted a

$315,000.00 mortgage as security for a loan. *Id.* Three years after the issuance of the mortgage loan, the mortgagor obtained an insurance policy which named the mortgagee as a loss payee. *Id.* The insurance policy provided that the mortgagor would pay the remaining debt to the insurer if the insurer paid the principal on the debt plus accrued interest to the loss payee. *Id.* at 885. After the loan went into default, the mortgagee foreclosed on the mortgage and purchased the property for a sum that was less than the outstanding amount owed on the mortgage loan. *Id.* The property incurred water damage after it was conveyed to Fannie Mae. *Id.* The court found that without the conveyance to Fannie Mae, the mortgagee would have been entitled to the insurance proceeds under both the insurance policy and the mortgage. *Id.* at 892. The court also found that the mortgage assigned the mortgagee the right to the insurance proceeds to act as collateral security for the debt. *Id.* at 891. In reaching its conclusion as to the assignment in the mortgage, the court does not analyze or make any findings pertaining to the interpretation or intention of the mortgage provisions. *Id.* at 889-90. Instead, the opinion merely states that "the mortgage contained an assignment of certain rights to the mortgagee, including certain rights to insurance proceeds." *Id.* at 889. The opinion indicates that the United States did not dispute the mortgagee's contention that the mortgage "explicitly states that in the event of a foreclosure, the mortgagor's right to insurance proceeds are assigned to the mortgagee." *Id.* at 890.

Jones, supra, is distinguishable from the instant action from a factual basis as that case did not involve a claim of an equitable lien upon proceeds paid under an insurance policy that was procured by a non-borrower mortgagor. Unlike the instant action, *Jones* involved a dispute between a mortgagor who was the maker of promissory note secured

by a mortgage and a loan servicer who was named as a mortgagee on an insurance policy and listed as the named insured on two endorsements to the policy. The plaintiff mortgagor in *Jones* was referenced as a borrower and as an additional insured under the policy endorsements, and would have been personally liable for the residue of the indebtedness remaining unsatisfied after the foreclosure sale without a waiver of deficiency. *Certain Underwriters of Lloyds, supra*, is distinguishable from the instant action from a factual basis as that case involved a dispute between a holder of a tax lien and a mortgagee that was named as a loss payee under an insurance policy. Unlike the mortgagors in *Jones* and *Certain Underwriters of Lloyds*, Jenrette was not the borrower of the sums partially secured by the Subject Mortgage. The loan transaction in the instant action was based upon the April 24, 2009 Loan Commitment which listed Cajun as "Borrower." Paragraph 16 of the Subject Mortgage pertaining to the mortgagor's representations regarding hazardous substances provides in pertinent part: "The obligations and liabilities of Mortgagor under this paragraph shall survive the foreclosure of the Mortgage, the delivery of a deed in lieu of foreclosure, the cancellation or release of record of this Mortgage" (*See* R. p. 392). However, paragraph 3 of the Subject Mortgage pertaining to insurance policies that "Borrower" may have omits any such language relating to any insurance policies or insurance proceeds. Unlike the mortgage discussed in *Certain Underwriters of Lloyds, supra*, paragraph 3 of the Subject Mortgage does not explicitly state or even provide that the mortgagor's right to insurance proceeds is assigned to the mortgagee in the event of a foreclosure.

"A mortgage and a note are separate securities for the same debt, and a mortgagee who has a note and a mortgage to secure a debt has the option to either bring an action on

the note or to pursue a foreclosure action." *Bell*, 385 S.C. at 374, 684 S.E.2d at 204. A mortgage represents a security instrument for a debt or obligation, but not the full payment thereof. *Braun*, 270 S.C. at 340, 242 S.E.2d at 408. In *Farmers' Loan & Trust Co.*, 186 U.S. at 444, the United States Supreme Court determined whether an equitable lien should be imposed upon insurance proceeds to pay the residue remaining unsatisfied after the sale of a property. The Court found that the mortgagor had no liability to pay the debt secured by the mortgage, and that the covenant to insure was of no materiality because the mortgagor was under no personal liability. *Id.*

The Bank could not bring an action seeking judgment against Jenrette for the Mortgage Debt regardless of whether it elected to bring an action solely on the May 1, 2009 Note, solely on the Subject Mortgage, or on both the May 1, 2009 Note and the Subject Mortgage. The loan to Cajun was based upon the April 24, 2009 Loan Commitment which listed Cajun as "Borrower." The Subject Mortgage does not represent the full payment of the Mortgage Debt because the Mortgage Debt is the sum borrowed by Cajun, and the Subject Mortgage is the security instrument for the Mortgage Debt. Paragraph 3 of the Subject Mortgage would contain language similar to paragraph 16 if the parties intended the purported assignment provision to survive cancellation of the Subject Mortgage. Further, any purported assignment or covenant pertaining to insurance proceeds is of no materiality because Jenrette, like the mortgagor in *Farmers' Loan & Trust Co.*, was not obligated to pay the Mortgage Debt and had no personal liability under the Subject Mortgage.

C. The Trial Court erred in finding that the Assignment in the Subject Mortgage bound Jenrette because a Judgment issued by a Court Constitutes a Final Determination of the Rights of the Parties in a Specific Proceeding.

A judgment issued by a court constitutes a final determination of the rights of the parties in a specific proceeding. *Moore v. Holland*, 16 S.C. 15, 27 (1881). "The courts can enforce legal contracts of parties, as made, up to the time of the judgment, but, when the judgment is pronounced, the rights of the parties are determined up to that moment, and then the judgment must be enforced according to the law applicable to judgments." *Moore*, 16 S.C. at 28. "A judgment is the final determination of the rights of the parties in the action, and is conclusive of all matter necessarily involved, whether raised or not, especially if the party denying the adjudication knew of the matter and could have interposed it at the previous trial, either in support of a claim or as a defense." *Ryan v. The Southern B. & L. Ass'n*, 50 S.C. 185, 188, 27 S.E. 618, 619 (1897).

In the instant action, the Bank became aware that it was not named as a loss payee on the Insurance Policy during the pendency of the Prior Foreclosure. A check for the Insurance Proceeds was issued to both Jenrette and the Bank during the pendency of the Prior Foreclosure, but the Bank did not assert any cause of action against Jenrette with regard to the Insurance Proceeds. The Master's Order of Foreclosure and Sale of April 26, 2011 found that Cajun and Quickel were liable for the Mortgage Debt, but did not render any findings as to Jenrette since she was not an obligor or guarantor of the Mortgage Debt. The Deficiency Judgment against Cajun and Quickel was awarded to the Bank after the Subject Real Property was sold at public auction on August 1, 2011. The Bank elected to proceed with judgment of foreclosure and sale, judicial sale, and entry of the Deficiency Judgment in the sum of $117,546.89 without raising any issue with regard

to the Insurance Proceeds. Therefore, any rights and obligations of Jenrette and the Bank under the Subject Mortgage merged into the Master's Order of Foreclosure and Sale such that the rights and obligations of Jenrette and the Bank under the Subject Mortgage were extinguished.

D. The Trial Court erred in determining that Jenrette's reliance upon the Deficiency Statute was misplaced.

The trial court held that the Bank was entitled to the entire sum of the Insurance Proceeds since the bid submitted by the Bank at the August 1, 2011 foreclosure sale was less than the amount due on the Mortgage Debt (R. p. 18). However, the trial court determined that Jenrette's reliance upon S.C. Code Section 29-3-660 ("Deficiency Statute") was misplaced since the Bank was not seeking a deficiency judgment against her (R. p. 19).

South Carolina courts have found "that if the mortgaged premises are sold under a foreclosure decree and fail to bring a sufficient amount to satisfy the debt, the mortgagee is entitled, absent any statutory limitation or waiver on his part, to a personal judgment for the remaining deficiency." *Braun*, 270 S.C. at 340, 242 S.E.2d at 408. "If a statute's language is plain and unambiguous, and conveys a clear and definite meaning, there is no occasion for employing rules of statutory interpretation and the court has no right to look for or impose another meaning." *Tilley v. Pacesetter Corp.*, 333 S.C. 33, 38, 508 S.E.2d 16, 18 (1998). "The right to a deficiency judgment is provided by statute," *American Gen. Fin. Servs. v. Brown*, 376 S.C. 580, 583, 658 S.E.2d 99, 100 (2008), and permits a court in a mortgage foreclosure action to issue a deficiency judgment for the residue of the mortgage debt remaining unsatisfied after judicial sale in cases in which a mortgagor

or other person is personally liable for the mortgage debt. S.C. Code Ann. § 29-3-660 (2013). After a property is sold "pursuant to a decree of foreclosure, the officer of the court making the sale shall cause to be recorded in the office where the foreclosed mortgage is recorded a release, cancellation, and satisfaction of the lien." S.C. Code Ann. § 29-3-780 (2013). However, the recordation of the release, cancellation, and satisfaction does not satisfy the unpaid portion of the debt secured by the mortgage. *Id.*

In the instant action, the Bank claimed that it was entitled to the Insurance Proceeds since the Bank's successful bid at the August 1, 2011 foreclosure sale yielded a sum less than the Mortgage Debt, and the Deficiency Judgment was greater than the sum of the Insurance Proceeds on deposit (*See* R. p. 12). The Bank asserted an equitable lien on the Insurance Proceeds to partially satisfy the indebtedness owed by Cajun and Quickel under the Deficiency Judgment. The Deficiency Judgment against Cajun and Quickel in the sum of $117,546.89 became the unpaid portion of the Mortgage Debt when it was filed on September 6, 2011. Following the entry of the Master's Order of Foreclosure and Sale and the August 1, 2011 foreclosure sale, the Bank's remedy to satisfy the unpaid portion of the Mortgage Debt is codified by the Deficiency Statute and is limited to the execution and enforcement of the Deficiency Judgment against the judgment debtors, Cajun and Quickel. S.C. Code Section 29-3-780 is clear that the filing of the Satisfaction does not satisfy the unpaid portion of the Mortgage Debt owed by Cajun and Quickel. However, Jenrette was not personally liable for the Mortgage Debt under the Subject Mortgage, the Master's Order of Foreclosure and Sale, or the Deficiency Judgment. The plain and unambiguous language of the Deficiency Statute and S.C. Code Section 29-3-780 do not permit the Bank to execute or impose an

equitable lien on the assets of a non-debtor mortgagor to satisfy a deficiency judgment awarded against another party.

Under the trial court's holding, the provisions of the Subject Mortgage survived the recordation of the Satisfaction and required the Insurance Proceeds belonging to Jenrette to be paid to the Bank as partial satisfaction of the $117,546.89 deficiency sum owed by Cajun and Quickel. The trial court's holding permitted the Bank to execute on the Deficiency Judgment and obtain an asset of Jenrette even though she was not a judgment debtor. Jenrette relied on the Deficiency Statute to show that construction of S.C. Code Section 29-3-780 with respect to the unpaid portion of the Mortgage Debt is intended to apply to deficiency judgments awarded under the Deficiency Statute. Therefore, Jenrette's reliance on the Deficiency Statute is not misplaced as it must be considered when determining whether the provisions in the Subject Mortgage survived recordation of the Satisfaction, and whether the Bank can impose an equitable lien on Insurance Proceeds belonging to a non-borrower mortgagor to satisfy an indebtedness owed by another party under a deficiency judgment.

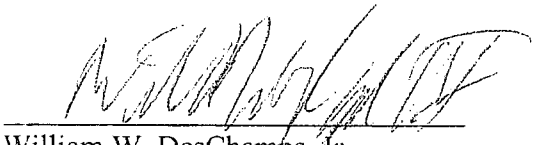
CONCLUSION

Equity does not permit the Bank to attach insurance money due to anyone but its own debtors, Cajun and Quickel. The rights and obligations of the Appellant and the Respondent under the Subject Mortgage were extinguished in the Prior Foreclosure, and the plain and unambiguous language of the Deficiency Statute does not permit the Respondent to impose an equitable lien on insurance proceeds paid under an insurance policy obtained by a non-borrower mortgagor in her own name for her sole benefit. The

decision of the trial court must be reversed because its finding of an equitable lien in favor of the Respondent is against the preponderance of the evidence.

December 10, 2014

Respectfully submitted,



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THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM HORRY COUNTY
Court of Common Pleas

George C. James, Jr., Circuit Court Judge

Appellate Case No. 2014-001285

National Security Fire and Casualty Company, Plaintiff,

v.

Rosemary Jenrette, AKA Rosemary Long Jenrette and Horry County State Bank, Defendants,

Of whom

Rosemary Jenrette, AKA Rosemary Long Jenrette is the Appellant,

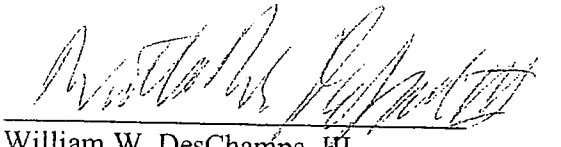
and

Horry County State Bank is the Respondent.

CERTIFICATE OF COUNSEL

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

December 10, 2014



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THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM HORRY COUNTY
Court of Common Pleas

George C. James, Jr., Circuit Court Judge

Appellate Case No. 2014-000783

National Surety Fire and Casualty Company, Plaintiff

vs.

Rosemary Lemette, a/k/a Rosemary Long Lemette, and Horry County State Bank, Defendants

Of Whom

Rosemary Lemette is the Appellant

and

Horry County State Bank is the Respondent

FINAL BRIEF OF RESPONDENT

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STATEMENT OF ISSUES ON APPEAL

I. DID THE TRIAL COURT CORRECTLY FIND THE EXISTENCE OF AN EQUITABLE LIEN IN FAVOR OF THE RESPONDENT MORTGAGEE ON THE INSURANCE PROCEEDS?

II. DID THE TRIAL COURT CORRECTLY FIND THAT THE APPELLANT MORTGAGOR WAS BOUND BY A COVENANT IN THE MORTGAGE TO INSURE THE SUBJECT PROPERTY AS SECURITY FOR THE MORTGAGE LOAN?

III. IS THE PRIOR ASSIGNMENT OF INSURANCE PROCEEDS BINDING ON THE APPELLANT MORTGAGOR AFTER THE CANCELLATION OF THE MORTGAGE INCIDENT TO FORECLOSURE?

IV. DID THE TRIAL COURT CORRECTLY FIND THE EXISTENCE OF AN EQUITABLE LIEN ON THE INSURANCE PROCEEDS BASED UPON THE ADDITONAL SUSTAINING GROUNDS?

STATEMENT OF THE CASE

On November 3, 2011, Plaintiff National Security Fire and Casualty Company, hereinafter "Carrier" filed this interpleader action, naming both Appellant and Respondent as Defendants in this action. (R., p. 43). Carrier filed this action as a result of Appellant's and Respondent's competing claims to the proceeds from an insurance policy in the amount of One Hundred Five Thousand and 00/100ths Dollars ($105,000.00) which were placed into an escrow account by the Carrier. (R., p. 7). Both Appellant and Respondent timely answered the Carrier's Complaint and cross-claimed against one another for the proceeds of the insurance policy. (R., p. 7). Appellant sought a declaratory judgment that Appellant was solely entitled to the proceeds of the insurance proceeds. (R., p. 7). Appellant also cross-claimed against Respondent for tortious interference with contractual relationship; however Appellant abandoned this cause of action at the trial. (R., p. 47; pp. 163, line 19- p. 165, line 12). Respondent cross-claimed against Appellant for the proceeds of the insurance policy under an equitable lien theory. (R., p. 7). Both Respondent and Appellant timely filed replies to the cross-claims and the pleadings were joined in this matter. After conducting discovery, Respondent filed a Motion for Summary Judgment on May 16, 2012. (R., p. 72). A hearing was held before the Honorable Larry B. Hyman, Jr. on September 18, 2012 whereby Respondent's Motion for Summary Judgment was granted. (R., pp. 38; 42). Appellant filed a Motion to Reconsider, which was heard by the Honorable Larry B. Hyman, Jr. on January 23, 2013. (R., p. 31). Appellant's Motion to Reconsider was granted by Judge Hyman by Order filed March 5, 2013. (R., p. 31).

On June 3, 2013, Appellant filed a Motion for Summary Judgment. (R., p. 88). A hearing was held before the Honorable Larry B. Hyman, Jr. on July 30, 2013, whereby Appellant's Motion for Summary Judgment was denied. (R., p. 21). Thereafter, this matter was placed on the

non-jury trial roster for October 14, 2013. Due to a scheduling conflict for a material witness, Respondent filed a Motion for Continuance on October 14, 2013. Subsequently, a non-jury trial was held on December 17, 2013 before the Honorable George C. James, Jr. (R., p. 7). At the conclusion of the trial, the Trial Court took the matter under advisement and issued its written Order on February 10, 2014 ordering that the funds placed into an escrow account by Carrier be paid to Respondent. (R., p. 20). Appellant filed a timely Motion to Reconsider the Trial Court's Order filed February 11, 2014 on March 3, 2014. (R., p. 91). The Trial Court denied Appellant's Motion to Reconsider without a hearing in an Order filed June 3, 2014, specifically setting forth the reasoning behind the Trial Court's decision. (R., p. 2). Appellant served her Notice of Intent to Appeal the Final Order filed February 11, 2014 and the Order Denying Jenrette's Motion to Reconsider filed June 3, 2014 on June 11, 2014. The funds placed into an escrow account with the Horry County Clerk of Court remain in escrow and have not been disbursed.

STATEMENT OF FACTS

The facts of this case are largely uncontroverted between the parties. Appellant obtained title to the real property which was the subject of the instant action, 104 Country Club Drive, on September 11, 2007 from her mother. (R., p. 236, lines 4-9). The property contained approximately one acre and a dwelling which was vacant from the time Appellant obtained title until December 2008, when Michael Brooks Quickel, Appellant's son moved into the house. (R., p. 236, lines 16-17; p. 8, ¶ 1). Appellant obtained a dwelling fire insurance policy insuring the subject property in the amount of One Hundred Thousand and 00/100ths Dollars ($100,000.00) for the effective of March 9, 2009 to March 9, 2010 from Carrier through Bradham Insurance Agency. (R., p. 118, lines 8-15; p. 121, lines 9-20; pp. 8-9, ¶ 1; pp. 284-286; pp. 324-349).

On April 24, 2009, Appellant's son, Michael Brooks Quickel obtained a loan commitment from Respondent for a loan in the amount of Three Hundred Fifty Thousand and 00/100ths Dollars ($350,000.00) for his limited liability company Cajun Carolina, LLC which was to be secured by Six (6) unimproved lots and the improved property which is the subject of this action. (R., p. 175, line 23- p. 177, line 2; pp. 383-385; p. 9, ¶ 3). On April 27, 2009, Appellant executed a Specific Power of Attorney granting Mr. Quickel authority to procure a loan with Respondent in the amount of $350,000.00 using Five (5) lots owned by Appellant, inclusive of the subject property, as security for the loan. (R., p. 137, line 21- p. 138, line 15; p. 178, line 25- p. 179, line 23; pp. 386-387; p. 9, ¶ 4). The Specific Power of Attorney signed by Appellant specifically authorized Mr. Quickel "to execute a note, evidencing said indebtedness and a mortgage on forms acceptable to the said Lender; to approve a closing statement, disclosure and loan disbursement statement; to execute any and all loan company forms required or necessary to effect the foregoing; to endorse checks, drafts or money orders evidencing said loan; and generally to execute and deliver all forms or documents executed and delivered in connection with the financing thereof by Horry County State Bank." (R., p. 386; p. 9, ¶ 4). The Power of Attorney executed by Appellant did not limit the authority granted to Mr. Quickel in any way. (R., p. 138, lines 6-15; p. 218, lines 4-13; p. 219, line 17- p. 220, line 2). On May 1, 2009, Mr. Quickel attended a closing where he executed a loan package in order to obtain the $350,000.00 loan from Respondent. (R., p. 187, lines 23-25; p. 10, ¶ 6). At the loan closing, Mr. Quickel executed a Promissory Note from Cajun Carolina, LLC to Respondent in the amount of $350,000.00 and several other documents, including Two (2) Mortgages, a Settlement Statement, an Agreement to Provide Insurance and Two (2) Hypothecation Agreements. (R., pp. 388-394; pp. 396-398; pp. 424-425).

Mr. Quickel, executed One (1) Mortgage on his own behalf, encumbering Two (2) lots he owned personally, and the other Mortgage on behalf of Appellant, as her attorney in fact, which encumbered Five (5) total lots owned by Appellant, including the residence which is the subject of this action. (R., pp. 390-394). The Mortgage germane to this action referred to Appellant as "Borrower" as that term was defined in the Mortgage. (R., p. 390). Section Three of the Mortgage encumbering this property included an Insurance Clause, requiring Appellant to obtain an insurance policy insuring the subject property against casualty for the benefit of the Respondent at Appellant's expense. (R., p. 391; p. 395; pp. 10-11, ¶¶7-8; p. 147, line 13-p. 148, line 7; p. 52, ¶ 11). Furthermore, Section Three of the subject Mortgage assigned the proceeds of any insurance policy to Respondent. (R., p. 11, ¶¶ 9-11; p. 391; p. 395; p. 147, line 23- p. 148, line 8). Appellant subsequently renewed the fire insurance policy for the policy period of March 9, 2010 to March 9, 2011. (R., p. 124, lines 9-11; p. 9, ¶ 2; p. 311; pp. 324-344; p. 354). However, Appellant failed to name Respondent as a loss payee or mortgagee on the insurance policy renewal. (R., p. 122, lines 6-24; p. 240, lines 18-21; p. 311; pp. 324-344; p. 354; p. 52, ¶ 15).

Subsequently, Mr. Quickel and Cajun Carolina, LLC defaulted on the loan and Respondent began a foreclosure proceeding against Mr. Quickel, Cajun Carolina, LLC and Appellant. (R., p. 11, ¶ 12; p. 127, line 10- p. 128, line 12; p. 190, lines 5-21). During the pendency of the foreclosure action, a fire occurred on the subject property, resulting in the total loss of the structure. (R., p. 119, line 23- p. 120, line 10; p. 154, line 13- p. 155, line 6; p. 190, line 22- p. 191, line 6; p. 222, lines 7-14; pp. 11-12, ¶ 13). On January 18, 2011, Respondent contacted Bradham Insurance Agency to make a claim to the proceeds under the fire insurance policy and forwarded information supporting the claim which was forwarded to the Carrier. (R.,

pp. 358-367). Carrier issued a check representing the proceeds of the insurance policy jointly to Appellant and Respondent. (R., p. 44, ¶ 10). Appellant refused to endorse the proceeds check as it was made payable to both Appellant and Respondent. (R., p.121, lines 3-4; p.246, line 25-p.247, line 23). The foreclosure action was concluded, resulting in the sale of the real property at public auction on August 1, 2011 to the Respondent as successful bidder. (R. p.12, ¶ 14; p.241, lines 20-23). Incidental to the sale of the property at public auction, Respondent obtained a deficiency judgment against Mr. Quickel and Cajun Carolina, LLC in the amount of One Hundred Seventeen Thousand Five Hundred Forty Six and 89/100ths Dollars ($117,546.89). (R. p.193, line 13- p.194, line 1; p.12, ¶ 14). Subsequent to the foreclosure sale, the Master in Equity for Horry County executed a Release of Lien relating to the subject property sold to Respondent at public auction as required by S.C. Code Ann. §§29-3-780 and 29-3-790 (2007) . (R., pp. 322-323; p. 12, ¶ 14; p. 242, line 10- p. 243, line 3). The deficiency resulting from the foreclosure sale remains unsatisfied.

STANDARD OF REVIEW

"An action to establish an equitable lien is an action in equity." Fibkins v. Fibkins, 303 S.C. 112, 399 S.E.2d 158 (Ct. App. 1990) *citing to* Swearingen v. Hartford Fire Ins. Co., 56 S.C. 355, 34 S.E. 449 (1899). "In an action in equity, tried by the judge alone, without a reference, the appellate court has jurisdiction to find facts in accordance with its own view of the preponderance of the evidence." Moore v. Benson, 390 S.C. 153, 700 S.E.2d 273 (Ct. App. 2010) *citing to* Townes Assocs., Ltd. V. City of Greenville, 266 S.C. 81, 221 S.E.2d 773 (1976). "However, this broad scope of review does not require an appellate court to disregard the findings below or ignore the fact that the trial judge is in the better position to assess the credibility of the witnesses. Moreover, the appellant is not relieved of his burden of convincing

the appellate court the trial judge committed error in his findings." Pinckney v. Warren, 344 S.C. 382, 544 S.E.2d 620 (2001). The appellate court "will affirm the findings of the trial court in an equity case unless the appellant satisfies this court that the preponderance of the evidence is against the findings of the trial court." Regions Bank v. Wingard Properties, Inc., 394 S.C. 241, 715 S.E.2d 348 (Ct. App. 2011) *citing to* Lewis v. Lewis, 392 S.C. 381, 709 S.E.2d 650 (2011).

"Additionally, 'a legal question in an equity case receives review as in law.'" North Am. Rescue Prod. v. Richardson, 396 S.C. 124, 720 S.E.2d 53 (Ct. App. 2011) *citing to* Sloan v. Greenville Cnty., 356 S.C. 531, 590 S.E.2d 338 (Ct. App. 2003). "Because questions of law may be decided with no particular deference to the circuit court, this court may correct errors of law in both legal and equitable actions." North Am. Rescue Prod. v. Richardson, 396 S.C. 124, 720 S.E.2d 53 (Ct. App. 2011) *citing to* I'On, L.L.C. v. Town of Mt. Pleasant, 338 S.C. 406, 526 S.E.2d 716 (2000).

ARGUMENT

I. THE TRIAL COURT CORRECTLY FOUND THE EXISTENCE OF AN EQUITABLE LIEN IN FAVOR OF THE RESPONDENT MORTGAGEE ON THE INSURANCE PROCEEDS

Appellant contends that the Trial Court erred in finding an equitable lien in favor of Respondent to the proceeds of the insurance policy insuring the improved real property which is the subject of this action against fire loss. This contention, simply stated, is untenable.

"While a policy of insurance is purely a personal contract between the insurer and the assured, and hence a mortgagee of the premises insured, merely as such, has no interest, whether in law or in equity, in a policy of insurance taken out by the mortgagor in his own name, and for his own benefit, yet if the mortgagor is bound, either by covenant in the mortgage or otherwise, -

for example, by a valid verbal agreement, -to keep the property insured, as a further security for the payment of the mortgage debt, then the mortgagee is entitled to an equitable lien upon the money due on the policy of insurance, even though taken out in the name of the mortgagor." Swearingen v. Hartford Ins. Co., 52 S.C. 309, 29 S.E. 722 (1898). "'If the mortgagor is bound, by covenant or otherwise, to insure the mortgaged premises for the better security of the mortgagee, the latter will have an equitable lien upon the money due on a policy taken out by the mortgagor, to the extent of the mortgagee's interest in the property destroyed.'" Swearingen 52 S.C. 309, 29 S.E. 722 (1898) *citing to* Wheeler v. Factors & T. Ins. Co., 101 U.S. 439, 442, 25 L.Ed. 1055 (1880). "'This equitable lien arises solely from the unperformed contract to protect, the theory being that since equity regards as done that which ought to have been done, if the mortgagor, having so covenanted, fails to make the insurance payable to the mortgagee, or to assign the same, the fund arising therefrom is within the operation of the maxim.'" Blackwell v. State Farm Mutual, 237 S.C. 649, 118 S.E.2d 701 (1961) *citing to* Farmers' & Merchants' National Bank of Lake City v. Moore, 135 S.C. 391, 133 S.E. 913 (1926); 47 A.L.R. 1001; Annotation 92 A.L.R. 559, 561.

It is uncontroverted that Appellant executed a Specific Power of Attorney granting Mr. Quickel authority to procure a loan with Respondent in the amount of $350,000.00 using Five (5) lots owned by Appellant, inclusive of the subject property, as security for the loan. (R., p. 137, line 21- p. 138, line 15; p. 178, line 25- p. 179, line 23; pp. 386-387; p. 9, ¶ 4). In particular, the Specific Power of Attorney executed by Appellant contained the following language:

> **I, Rosemary Long Jenrette, a/k/a, Rosemary Long, have made, constituted and appointed, and do by these presents make, constitute and appoint Michael Brooks Quickel my true and lawful attorney pertaining to the following described property ... 1600 Country Club Drive/ TMS 123-00-02-069... to procure a loan with Horry County State Bank in the amount of $350,000.00; to execute a note**

> **evidencing said indebtedness and a mortgage on forms acceptable to the said Lender; to approve a closing statement, disclosure and loan disbursement statement; to execute any and all loan company forms required or necessary to effect the foregoing; to endorse checks, drafts or money orders evidencing said loan; and generally to execute and deliver all forms or documents executed and delivered in connection with the financing thereof by Horry County State Bank. Giving and granting to my said attorney full power and authority to do and to perform all and every deed, act, matter and thing, whatsoever in and about the foregoing as fully and effectually to all intents and purposes as I might or could do in my own proper person if personally present, the above specifically enumerated powers being in aid and exemplification of the full, complete and general powers hereinabove granted, and not in limitation, definition thereof; and hereby ratify all that my said attorney shall lawfully do or cause to be done by virtue of these presents... I hereby declare that any act or thing done hereunder by said attorney shall be binding on me, my heirs, legal and personal representatives and assigns ...**

(R., pp. 386-387; p. 9, ¶ 4; p. 5, ¶ 2). It was likewise conceded by Appellant that Mr. Quickel had unlimited authority relating to the real property covered by the Specific Power of Attorney. (R., p. 218, lines 4-13; p. 219, line 17- p. 220, line 2). Furthermore, Appellant has never suggested Mr. Quickel lacked authority to execute the Mortgage at issue in this action on behalf of Appellant, or to pledge the property which is the subject of this action as security for the loan to Mr. Quickel and his company, Cajun Carolina, LLC.

The Mortgage executed by Mr. Quickel on behalf of Appellant referred to Appellant as "Borrower"; although it is uncontested that Appellant was not named as the debtor on the Promissory Note, which was secured by the subject Mortgage. (R., p.10, ¶ 6; p. 244, lines 6-11). The importance of the term "Borrower" as used in the Mortgage, is only to ensure that the individual named in the Mortgage, in this instance, Appellant, is specifically identified. The Mortgage could have used any number of terms to designate Appellant as the individual granting the Mortgage in favor of Respondent; it is of no real import that the document used the term "Borrower" and has no impact on the other terms, conditions, and obligations contained in the Mortgage document itself. In any instance, Appellant, by and through Mr. Quickel, pursuant to

the Specific Power of Attorney, accepted the terms and conditions of the Mortgage and executed the document; explicitly agreeing to be bound by its terms and conditions. The Mortgage executed on behalf of Appellant pursuant to the Specific Power of Attorney states in pertinent part:

> 3. Insurance. (A) *Borrower shall at its sole expense obtain for, deliver to, and maintain for the benefit of Lender, during the life of the Mortgage, insurance policies in such amounts as Lender may require, in no event less than the full insurable value, insuring the Property against fire,* extended coverage and such other insurable hazards, casualties and contingencies as Lender may require including flood damage, and shall pay promptly, when due, any premiums on such insurance policies and on any renewals thereof. The form of such policies, the companies issuing them, and the coverage provided shall be acceptable to Lender and *shall contain a non-contributory mortgage endorsement making losses payable to Lender.* At least thirty (30) days prior to the expiration date of all such policies, renewals thereof satisfactory to Lender shall be delivered to Lender. Borrower shall deliver to Lender receipts evidencing the payment of all premiums on such insurance policies and renewals. In the event of loss, Borrower will give written notice to Lender, and Lender may make proof of loss if not made promptly by Borrower. *In the event of the foreclosure of this Mortgage or any other transfer of title to the Property in extinguishment of the indebtedness and other sums secured hereby, all right, title, and interest of Borrower in and to all insurance policies and renewals thereof then in force shall pass to the grantee.* Upon the failure of Borrower to obtain and maintain insurance satisfactory to Lender, Lender may at its own discretion procure and substitute for any and all of the insurance so held as aforesaid, such other policies of insurance, in such amounts as Lender, acting in its sole discretion, may determine; *all without prejudice to its right to foreclosure hereunder, should Borrower fail or refuse to keep said premises so insured.* (B) *Borrower hereby assigns to Lender all proceeds from any insurance policies, and Lender is hereby authorized and empowered in its reasonable discretion, to adjust or compromise any loss under any insurance policies on the Property, and to collect and receive the proceeds from any such policy or policies. Each insurance company is hereby authorized and directed to make payment for all such losses directly to Lender alone, and not to Borrower and Lender jointly. After deducting such insurance proceeds any expenses incurred by Lender in the collection or handling of such funds, Lender acting in its sole discretion, may; apply the net proceeds (I) to the payment of any sum secured by this Mortgage in such order as Lender may determine* or (II) to the replacement, repair or restoration of the portion of the Property damaged or destroyed in a manner determined by Lender; or may release said net proceeds to the Borrower upon such conditions as Lender shall determine; or may apply said net proceeds for any combination of the foregoing; *all without affecting the lien of this Mortgage for the full amount secured hereby before such payment*

> ***took place.*** **If Lender elects to restore the improvements, any balance of such monies after restoration shall either be applied toward the reduction of indebtedness and any other sums secured hereby or shall be paid to Borrower. Lender shall not be responsible for any failure to collect any insurance proceeds due under the terms or any policy regardless of the cause of such failure... 17. Miscellaneous... (I)** ***If the Borrower is not obligated on the debt which this Mortgage secures, then the Borrower acknowledges that Note was made in consideration for this transaction and the owner of the Property agrees to be bound by all the terms and conditions of the Note and Mortgage.***

(R., p. 391; p. 395) (Emphasis Added). It is clear from the terms contained in the Mortgage, Appellant was obligated to obtain and maintain insurance coverage on the improved real property for the benefit of Respondent pursuant to paragraph 3 (A) of the Mortgage. It is clear from the language used that it was explicitly intended that Appellant, as the individual obligated under the terms and conditions of the Mortgage, was to obtain insurance coverage which would act as further security for the indebtedness evidenced by the use of the phrase "for the benefit of Lender". Furthermore, the intention is shown by the phrase "[i]n the event of the foreclosure of this Mortgage or any other transfer of title to the Property in extinguishment of the indebtedness and other sums secured hereby, all right, title, and interest of Borrower in and to all insurance policies and renewals thereof then in force shall pass to the grantee." Had the requirement that Appellant provide insurance not been intended to act as additional or further security, this phrase would not have been included in the Mortgage.

Not only was Appellant bound by the terms of the Mortgage to obtain and maintain insurance coverage for the benefit of Respondent, pursuant to Paragraph 3 (A) of the Mortgage, but Appellant assigned her interest to any insurance proceeds to Respondent through Paragraph 3 (B) of the Mortgage. It is obvious from the plain language of Paragraph 3 of the Mortgage that not only did Appellant, through her attorney in fact, agree to provide insurance coverage for the

benefit of Respondent; she also assigned any rights she had to the proceeds of any insurance policy to Respondent as well.

Appellant asserts that in order for an equitable lien to arise, Three (3) elements must be satisfied: (1) a debt between Appellant and Respondent; (2) specific property to which the debt attached; and (3) an express or implied intent that the property serve as security for the debt. (Appellant's Final Brief, p. 12). Appellant further contends that Respondent has failed to satisfy these elements. This is not the case.

As early as 1880, the United States Supreme Court opined "it is settled by many decisions in this country that if the mortgagor is bound by covenant or otherwise to insure the mortgaged premises for the better security of the mortgagee, the latter will have an equitable lien upon the money due on a policy taken out by the mortgagor to the extent of the mortgagee's interest in the property destroyed." Wheeler 101 U.S. 439 at 442 *citing to* Thomas's Adm'rs v. Vankapff's Ex'rs, 6 Gill & J. (Md.) 372. This rule was adopted in South Carolina by at least 1898, where the South Carolina Supreme Court announced the rule in Swearingen v. Hartford Ins. Co., 52 S.C. 309, 29 S.E.722 (1898). The appellate courts of this State have continued to affirm this rule. *See* Farmers' & Merchants' Nat. Bank of Lake City v. Moore, 135 S.C. 391, 133 S.E.913 (1926); Blackwell v. State Farm Mutual, 237 S.C. 649, 118 S.E.2d 701 (1961); Freshwater v. Colonial Production Credit Association, 286 S.C. 387, 334 S.E.2d 142 (1985); Lewis v. Aynor Farm Center, 290 S.C. 167, 348 S.E.2d 537 (Ct. App. 1986); Jones v. Equicredit Corporation, 347 S.C. 535, 556 S.E.2d 713 (Ct. App. 2001). Furthermore, this rule is recognized in a majority of jurisdictions in this country. *See* 92 A.L.R. 559 (1934).

In the instant case, it is uncontroverted that the Mortgage required Appellant to insure the property against fire loss for the benefit of Respondent. It is likewise uncontroverted that

Appellant failed to obtain the required insurance for the benefit of Respondent, even though she was aware that the property had been pledged to Respondent as collateral for the loan extended to her son. There is no question that after the foreclosure action was concluded, a deficiency remained and the debt is unsatisfied.

Respondent has sufficiently satisfied each element of an equitable lien and the Trial Court correctly ruled in favor of Respondent. There is no question that there was a debt to Respondent, the payment of which was secured by the Mortgage. Paragraph 17 of the Mortgage states in pertinent part: "[i]f the Borrower is not obligated on the debt which this Mortgage secures, then the Borrower acknowledges that Note was made in consideration for this transaction and *the owner of the Property agrees to be bound by all the terms and conditions of the Note and Mortgage*." (Emphasis added). Thus, Appellant was obligated and bound by the Promissory Note, as well as the Mortgage, even though Appellant was not the debtor named in the Promissory Note.

Next, the language contained in Paragraph 3 of the Mortgage indicates that the insurance proceeds were additional security for the debt, and to which the debt attaches. Specifically, the Mortgage states: "in the event of the foreclosure of this Mortgage or any other transfer of title to the Property in extinguishment of the indebtedness and other sums secured hereby, all right, title, and interest of Borrower in and to all insurance policies and renewals thereof then in force shall pass to the grantee." This clause suggests that the insurance proceeds were specifically meant to be additional security for the debt. Thus, the Trial Court correctly found the existence of an equitable lien upon the insurance proceeds at issue. (R., p. 18-19, ¶ 12).

Appellant relies heavily upon the case Steinmeyer v. Steinmeyer, 64 S.C. 413, 42 S.E. 184 (1902) in support of her argument that she is entitled to the proceeds of the insurance policy.

However, Steinmeyer is factually distinguishable from the instant case. In the Steinmeyer case, Eliza Steinmeyer, in 1894, voluntarily transferred title to property to Carrie Steinmeyer. In 1897, creditors of Eliza Steinmeyer brought an action against Eliza to set aside several voluntary conveyances, including the conveyance to Carrie, as fraudulent. The trial court ordered that these conveyances be set aside. Appeal was taken by all parties and the trial court's decision was affirmed by the South Carolina Supreme Court. On May 8, 1899, six days after the remittitur was filed in Charleston County, Carrie Steinmeyer obtained an insurance policy in her name insuring the subject property. On May 24, 1899, a fire occurred which damaged the real property, although did not destroy the property entirely. After the fire, the subject property was sold at public auction with the proceeds being applied to the judgments against Eliza Steinmeyer; however, the proceeds from the sale were insufficient to satisfy the judgments against Eliza Steinmeyer. The creditors of Eliza Steinmeyer subsequently brought suit against Carrie Steinmeyer and Germania Fire Insurance Company seeking to obtain the proceeds of the insurance policy to apply toward the judgments obtained against Eliza Steinmeyer. Germania argued that the policy of insurance was void based upon the assertion that Carrie Steinmeyer's ownership of the property was not unconditional. The South Carolina Supreme Court determined that the policy was valid and enforceable as her interest in the property with respect to the insurance company was unconditional. Essentially, the Steinmeyer Court opined that her title was good as to the entire world, except as to the creditors' right to have the property made subject to the judgment against the grantor, if necessary.

The Court then discussed whether Carrie Steinmeyer or Eliza Steinmeyer's creditors were entitled to the proceeds of the insurance policy. The South Carolina Supreme Court held that Carrie Steinmeyer was entitled to the proceeds. In doing so, the Steinmeyer Court reasoned that

an insurance policy is personal to the insured and does not run with the buildings to be insured and that, while there was no doubt that Eliza Steinmeyer's creditors' could look to the property itself to apply toward the judgments obtained against her; they could not reach the insurance proceeds.

The facts of the Steinmeyer case are far from analogous to the instant case. The most important distinction between Steinmeyer and this case is the fact that in this case, Appellant specifically agreed in the Mortgage to obtain and maintain insurance for the benefit of Respondent, creating contractual privity between Appellant and Respondent. In Steinmeyer, no such agreement, written or otherwise, existed. While this distinction may seem minor, it is a crucial difference. In Swearingen, Wheeler, Farmers' & Merchants', Blackwell, Freshwater, Lewis, and Jones, the determining factor was whether the mortgagor was obligated to insure the property for the benefit of the mortgagee based upon some agreement between the parties. Here, such an agreement was unquestionably present. Clearly, the existence of an obligation for Appellant to maintain insurance for the benefit of Respondent makes the instant scenario much more analogous to these cases.

Appellant further cites to the cases of Carrington Mortgage Services v. Riley, 478 B.R. 736 (Bankr. D.S.C. 2012) and Planters' Bank v. Globe & Rutgers Fire Ins. Co., 156 S.C. 453, 153 S.E. 385 (1930) in support of her contention that Respondent has failed to establish an equitable lien on the proceeds of the insurance policy. As with Steinmeyer, these cases are factually distinguishable.

In Carrington, the Bankruptcy Court for the District of South Carolina determined that the Plaintiff, Carrington Mortgage Services established two elements necessary to prove the existence of an equitable lien; namely, the debt and attachment of the debt to the property.

However, the Carington Court determined that Plaintiff failed to prove the third element, the intent that the property serve as security for the debt. The Bankruptcy Court reasoned that the proceeds were endorsed by the Plaintiff Carrington and the funds were placed into a bank account controlled solely by the Defendant. While Carrington alleged that the Defendant forged the endorsement in its pleadings, the record was devoid of any evidence addressing that allegation. The Bankruptcy Court, thus, reasoned that the endorsement was valid and properly placed into an account subsequently seized by the Trustee and that the proceeds were property of the bankruptcy estate. Obviously, these facts are distinguishable from the instant case at bar.

In Planters' Bank, the Plaintiff/ Appellant sought to recover the proceeds of an insurance policy obtained by lessee of a tract of land owned by its mortgagor. The Plaintiff/ Appellant was the second mortgagee and required the mortgagor to insure the property and assign the insurance policy to its predecessor in interest. Subsequently, the mortgagor leased a portion of the property, upon which a store and dwelling was built by a tenant, with the right to remove the building upon the expiration of the lease. The lessee subsequently obtained an insurance policy on the structure he placed on the leased tract, which named the third mortgagee of the landowner as the loss payee. Shortly after the building was constructed, a fire occurred and the building was destroyed.

The Plaintiff/ Appellant later brought a foreclosure action, in which the subordinate mortgagee and the lessee were named as Defendants, which resulted in a deficiency judgment against the mortgagor. Plaintiff/ Appellant attempted to assert an equitable lien on the proceeds of the insurance policy issued to the lessee of the mortgagor. The South Carolina Supreme Court, in declining to find an equitable lien stated: "it is manifest, therefore, that the right could not be enforced where the policy was taken out by someone not connected with the obligation of the

mortgagor to take out insurance for the benefit of the mortgagee." Planters' Bank v. Globe & Rutgers Fire Ins. Co., 156 S.C. 453 at 459. However, as with both Steinmeyer and Carrington, the facts of the case are not analogous. In the case at bar, Appellant clearly was connected to the transaction. She was the mortgagor who pledged the collateral to Respondent. Furthermore, it was her promise to insure upon which the instant case was predicated.

It is clear from the applicable case law, as well as the terms of the Mortgage granted to Respondent by Appellant, pursuant to a Specific Power of Attorney authorizing and ratifying such action, and the facts of this case, that Respondent is entitled to an equitable lien on the proceeds of the insurance policy which is at issue here. The Trial Court properly found the existence of an equitable lien to those proceeds and as such, the decision of the Trial Court should be affirmed.

II. THE TRIAL COURT CORRECTLY FOUND THAT THE APPELLANT MORTGAGOR WAS BOUND BY A COVENANT IN THE MORTGAGE TO INSURE THE SUBJECT PROPERTY AS SECURITY FOR THE MORTGAGE LOAN

Appellant argued at trial and now on appeal that Appellant was not bound by a covenant to insure the real property as additional security for the indebtedness. This is not an accurate statement of the facts of this case. The Trial Court properly found that Appellant was obligated pursuant to the Mortgage to insure the property for the benefit of Respondent, which she failed to do.

It appears that Appellant is attempting to argue that because she was not named as the debtor in the Promissory Note, the agreement to provide insurance contained in the Mortgage could not have been for the better security of Respondent. Appellant further attempts to support this belief by attempting to distinguish the holding from Blackwell as it involved an automobile, and not a residence as in the instant case. This logic is bizarre at best.

In submitting this argument, Appellant misinterprets the provisions of the subject Mortgage. Appellant cites to Paragraph 1 of the Mortgage which provides "As further security for all sums secured by this Mortgage, Borrower assigns to Lender all rents and profits arising from the Property; provided however, that so long as no Default as hereinafter defined has occurred, Borrower shall be entitled to collect and retain all such rents and profits as the sole property of Borrower without accounting to Lender thereof." (R., p. 391; p. 395). Appellant reasons that had the parties agreed that the insurance proceeds were to act as additional security for the indebtedness, which the Mortgage secured, it would have contained language similar to the language found in Paragraph 1 of the Mortgage. Contrary to Appellant's reasoning, the Mortgage does just that.

A superficial reading of Paragraph 3 of the Mortgage reveals the obvious intention that the insurance proceeds act as additional security. First, it requires Appellant to obtain insurance coverage "*for the benefit of the Lender.*" What other benefit to Respondent would there be, aside from serving as additional security for the repayment of the indebtedness? It seems Appellant is attempting to argue that the phrase "for the benefit of the Lender" is not analogous to the phrase "as further security"; an argument that was not convincing to the Blackwell Court, and should be as unsuccessful here. Clearly, the intention of the parties was for the insurance, and thus the insurance proceeds, to act as further security for the indebtedness. A continued reading of Paragraph 3 reveals the phrase that the insurance policies "*shall contain a non-contributory mortgage endorsement making losses payable to Lender.*" Again, this is consistent with the intention that the required insurance serve as additional security for the repayment of the indebtedness to Respondent. Further reading exposes the phrase: "*in the event of the foreclosure of this Mortgage or any other transfer of title to the Property in extinguishment of the*

indebtedness and other sums secured hereby, all right, title, and interest of Borrower in and to all insurance policies and renewals thereof then in force shall pass to the grantee." This phrase specifically addresses the fact that in the event of foreclosure, all of Appellant's interest in the insurance policy passes to the grantee, here Respondent. How could this not evidence the intention between the parties that the insurance proceeds act as additional security for the repayment of the indebtedness to Respondent?

Furthermore, Paragraph 3 (B) of the Mortgage, containing the assignment provision, states in pertinent part:

> **Borrower hereby assigns to Lender all proceeds from any insurance policies, and Lender is hereby authorized and empowered in its reasonable discretion, to adjust or compromise any loss under any insurance policies on the Property, and to collect and receive the proceeds from any such policy or policies. Each insurance company is hereby authorized and directed to make payment for all such losses directly to Lender alone, and not to Borrower and Lender jointly.** ***After deducting such insurance proceeds any expenses incurred by Lender in the collection or handling of such funds, Lender acting in its sole discretion, may; apply the net proceeds (I) to the payment of any sum secured by this Mortgage in such order as Lender may determine... all without affecting the lien of this Mortgage for the full amount secured hereby before such payment took place.***

It is obvious from just a cursory reading of the provisions of Paragraph 3 that the parties intended upon the insurance proceeds acting as further security for the repayment of the indebtedness due to Respondent. However, the fatal flaw to Appellant's argument is contained in Paragraph 17 (I) of the subject Mortgage which states: "if the Borrower is not obligated on the debt which this Mortgage secures, then the Borrower acknowledges that Note was made in consideration for this transaction and *the owner of the Property agrees to be bound by the terms and conditions of the Note and the Mortgage.*" (R., p. 393) (Emphasis Added). While Appellant argues that she is not a debtor on the Promissory Note and thus her agreement to provide insurance was not for the