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THE STATE OF SOUTH CAROLINA
In the Court of Appeals

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SC Court of Appeals

APPEAL FROM KERSHAW COUNTY
Court of Common Pleas

DeAndrea G. Benjamin, Circuit Court Judge
Diane S. Goodstein, Circuit Court Judge

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SC Court of Appeals

Consolidated Cases For Trial

Case No.: 2010-CP-28-322
Case No. 2010-CP-28-323

Jamie Curley, Plaintiff,

v.

SCENT Land Holdings, LLC, Amy Puchalski, and Robert Puchalski, Defendants and Dr. Orville Dyce, Plaintiff,

v.

South Carolina ENT, Allergy & Sleep Medicine, P.A., Amy Puchalski, and Robert Puchalski, Defendants

Of Whom Jamie Curley, and Dr. Orville Dyce are the Respondents/Appellants,

And

SCENT Land Holdings, LLC, Amy Puchalski and Robert Puchalski, South Carolina ENT, Allergy & Sleep Medicine, P.A. are the Appellants/Respondents.

RECORD ON APPEAL VOL. VI

Vincent A. Sheheen, Esquire
Michael D. Wright, Esquire
Savage, Royall & Sheheen, LLP
Attorneys for Appellants/Respondents
Post Office Drawer 10
Camden, SC 29021
803-432-4391

Morris Ellison, Esquire
Jana B. Baker, Esquire
Will Cleveland, Esquire
David Collins, Esquire
Attorneys for Respondents/Appellants
Womble Carlyle Sandridge & Rice, PLLC
PO Box 999
Charleston, SC 29402
843-720-4617

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THE COURT: You did.

MR. SHEHEEN: We're not contesting SCENT Land II doesn't exist because it's not a corporate entity.

THE COURT: It is not.

MR. SHEHEEN: Right. And I stated that to the Court.

THE COURT: You did. You did. And I just did that to refresh my recollection. I don't remember exactly at what point, but I do recall that.

MR. SHEHEEN: It was during Mr. Long's testimony, and I said that it was done for tax purposes and never was created. And if that was going to be your question, we could address that.

THE COURT: No, I just wanted to share that with you because I needed to refresh my memory to see if that's what we were talking about.

(Recess held.)

MR. SHEHEEN: Thank you. Your Honor, we'd call Mr. Marc Quigley to the stand.

MARC QUIGLEY,

being first duly sworn, testified as follows:

THE COURT: Come around, please, sir, and be seated. And when you're seated, state your full name for the record and spell your last name, please.

THE WITNESS: Yes, ma'am. My name is Marc Albert Quigley, Q-U-I-G-L-E-Y.

THE COURT: Thank you.

THE WITNESS: Thank you, ma'am.

THE COURT: Your witness.

MR. SHEHEEN: Thank you, Your Honor. And just so that we can try to make this go as well as possibly, do you have a copy of the shareholders agreement, the executed Plaintiff's 7? If you don't, I'm going to hand you one.

THE COURT: I just had it in chambers.

MR. SHEHEEN: We're not going to do it right off, but on Plaintiff's 7, which is the shareholder agreement, we're going to talk with Mr. Quigley a little bit about 4.5B.

THE COURT: You go right ahead because I've got it. I'm going to give it to Ryan.

MR. SHEHEEN: And we're not going to be there yet. I just wanted to --

THE COURT: Thank you.

MR. SHEHEEN: If I can just give you a little preview, as we talk with him, I will give him some -- what are called FASB codifications. I'll provide you with that. This will be guides that he uses we've provided to the other side.

THE COURT: Okay.

MR. SHEHEEN: We'll talk a little bit about the balance sheets and the P&L. Mr. Wright had provided them to you earlier, but I think this witness is more appropriate.

There will be an exhibit that they mentioned that we

provided them last week that we will go through. And then we'll probably talk a little bit about the tracking sheets.

THE COURT: Okay.

MR. SHEHEEN: Which you will recall is what the plaintiffs --

THE COURT: I do.

MR. SHEHEEN: And I think that's it for exhibits.

THE COURT: Gotcha. And I'm ready to go.

MR. SHEHEEN: Thank you.

THE COURT: And you said you're going to 4.5, right?

MR. SHEHEEN: We will talk about 4.5B in a little bit.

THE COURT: Okay.

MR. SHEHEEN: Okay? First I want to, obviously, go through his qualifications, who he is, all that good stuff.

THE COURT: Okay.

MR. SHEHEEN: Thank you, may it please the Court.

THE COURT: Yes.

DIRECT EXAMINATION BY MR. SHEHEEN:

Q. Would you state your name and your occupation for the record, please.

A. It's Marc A. Quigley, and I am a CPA in the public accounting firm of Sheheen, Hancock and Godwin.

Q. And just briefly tell the Judge a little bit about yourself personally, who you are.

A. Sure. I grew up right outside of Charleston, West

Virginia, graduated from the West Virginia State College at the time. It's now West Virginia State University. Graduated in 1994 and worked at the public accounting firm of Suttle & Stalnaker in Charleston, West Virginia.

And it took about three years. That firm was a local firm that worked with -- actually contracted with national firms to help perform the single audit for the State of West Virginia. I did so for three years in addition to preparing tax returns during the offseason for governmental auditing.

Then came to South Carolina in 1997 where I was employed by the firm, at the time it was Moore, Kirkland and Beauston was the name of it, subsequently was named Moore, Beauston and Woodham, and worked for that firm. Became a partner in 2007 at that firm. Left in 2012 and started working with Sheheen, Hancock and Godwin here in Camden.

Always lived in Camden since 1997. Married to my high school sweetheart, and we've been married for -- we're actually celebrating 20 years and have three children.

Q. Where's she from?

A. She's -- actually, her dad was a minister; so they traveled a lot.

Q. Okay.

A. But we met in West Virginia in high school.

Q. And you gave a little brief description of your past work history, but tell the Judge about your -- some of your

experiences in accounting and auditing, what types of things you would have done for these places you've worked.
A. Certainly. Most of my career's been focused in auditing and accounting. So I assist businesses in providing an opinion on their financial statements, sometimes for financing reasons. Lending institutions would require a financial statement that has an opinion from a third-party independent CPA, and I would provide that service to a number of my clients. Also performed a number of business consulting and tax preparation.
Q. What do you focus on at Sheheen, Hancock and Godwin, if anything?
A. Primarily in auditing, yes, sir, and have done so for the last two years at Sheheen, Hancock and Godwin.
Q. Have you taken any courses in forensic accounting?
A. Yes, I have. As part of being an auditor, it's important to have forensic training, in my opinion. And I've done so over the course of my career.
Q. And have you taken any courses in auditing?
A. Yes. We're required each year to have a certain number of -- we call it CPE, certified education. And I do that every year since I've had my license.
Q. Do you take continuing education?
A. Yes, I do, at least 40 hours a year.
Q. And do you -- you said you have clients at Sheheen,

Hancock and Godwin?
A. I do have clients there, yes.
Q. And what types of services do you provide them?
A. I provide a variety of services: Again, auditing of financial statements, also assist in doing some strategizing for tax purposes. We -- you know, consulting, from a business perspective, helping them with accounting, working with them, even in some of their internal processes related to internal controls. So there's just a variety of services.
Q. Do you provide services to any medical practices or healthcare entities?
A. Yes, sir.
Q. And have you done that during your career?
A. Yes, sir. Throughout my career, yes.
MR. SHEHEEN: Your Honor, I would offer Mr. Quigley as an expert witness in auditing, financial analysis and accounting.
THE COURT: Voir dire.
MR. CLEVELAND: Your Honor, we'll concede that he's got qualifications as an accountant.
THE COURT: All right. And how about the auditing?
MR. CLEVELAND: I would object to him offering any opinions on auditing because there's no -- there's no auditing issues in this case.
THE COURT: How about financial analysis?

MR. CLEVELAND: To the extent that that is suggesting he's qualified more than being an accountant, I would object to it.

THE COURT: Okay. Very well. And I'll just ask counsel, do you think it's more efficacious to object at the time that the question might be asked so we're not doing it in a vacuum?

MR. SHEHEEN: Are you asking me or him?

THE COURT: Well --

MR. SHEHEEN: Or both?

THE COURT: Well, I guess both of you.

MR. SHEHEEN: Your Honor, I believe that the opposing CPA and Austin were -- we agreed that they would be experts in financial analysis and accounting already.

THE COURT: Well, that's different --

MR. SHEHEEN: Okay.

THE COURT: -- than just a financial analysis, because it was auditing, financial analysis and accounting.

MR. SHEHEEN: Right. And the only one I'm adding here from the other two would be the auditing aspect of it. First of all, the question was is it relevant, which is really what the objection was, not whether he has it.

THE COURT: I'm not worried about that one, because I can handle that one.

MR. SHEHEEN: Well, he didn't object -- I didn't hear

him object to his qualifications in auditing. I heard him object to auditing is not relevant to the case.

THE COURT: That there aren't any issues involving auditing in this case?

MR. SHEHEEN: Yes. And he can object as we go along, but I still don't think it's relevant. But he is an expert in auditing. That's what he does.

THE COURT: But financial analysis, is the financial analysis -- does it arise out of accounting?

MR. SHEHEEN: Can I?

THE COURT: Yes, absolutely.

Q. Tell me why you have an expertise in financial analysis.

A. Financial analysis is a normal part of our practice on a regular reoccurring basis, particularly malpractice. I work with business owners in analyzing their financial information and helping really to communicate that information to them so that they can understand it.

MR. CLEVELAND: Your Honor, just so you know, I feel I must object to every aspect of this gentleman's testimony. So I concede to you that he's an accountant, and he's trained as an accountant. If they want to put more words on that, then I object to it.

THE COURT: Okay.

MR. CLEVELAND: I just want -- because this witness is being produced late, and we greatly appreciate the Court's

going to great lengths, which you have, to let us get up to speed and be prepared. I still think it comes too late. I think his testimony is irrelevant, and I object to it and want the record to be clear about that.

THE COURT: Gotcha. Now hold up. Because with the coming too late, I had a remedy. You didn't want the remedy. So the coming too late, I think, is abandoned unless you want to recapture it. If you do, tell me now.

MR. CLEVELAND: No. I understand why you feel that way, and I'm not prepared to disagree with you.

THE COURT: Okay. With regards -- let me tell you what my concern is about the financial analysis.

MR. SHEHEEN: Yes, ma'am. And I --

THE COURT: I have a cousin.

MR. SHEHEEN: Okay.

THE COURT: His name is Ben Bernanke.

MR. SHEHEEN: Yes, ma'am.

THE COURT: Now, that's pretty heavy duty financial analysis. I want you to know that I would qualify Ben Bernanke as a financial analyst. Anything to do with numbers, I'm there. The problem is that that topic is enormous.

MR. SHEHEEN: Yes.

THE COURT: Enormous.

THE WITNESS: Agreed.

THE COURT: And so while I don't want to hem myself in in qualifying him as an expert in financial analysis, but I think the kind of financial analysis that I'm contemplating, which arises out of the accounting of this particular entity, I think is probably -- he's there. Do you know what I mean?

MR. SHEHEEN: Your Honor, just for what it's worth, both Austin and Mr. Livingston, the Court and the parties agreed they would be qualified as experts in financial analysis, one, and accounting, two. That's all.

THE COURT: When was that?

MR. SHEHEEN: That was when Mr. Sheheen was offered as an expert.

THE COURT: Right.

MR. SHEHEEN: And when Mr. Livingston; so it was four months ago and a year ago.

THE COURT: I gotcha. Okay.

Well, you guys could not have stipulated to Mr. Quigley because he wasn't a factor at that point.

MR. SHEHEEN: I'm not saying -- obviously I haven't stipulated to it.

THE COURT: Right, right, right.

MR. SHEHEEN: I'm just saying for your information, those people were considered by the parties to be --

THE COURT: Just to move the peanut ahead, if you will --

MR. SHEHEEN: It doesn't matter to you.

THE COURT: -- what I'm willing to do is that if there is an objection with regards to the testimony, and it's on the basis of the expertise as a financial analyst, because you believe it arises outside of accounting, don't keep it to yourself.

MR. CLEVELAND: I won't. Thank you, Your Honor.

THE COURT: Very well. He's obviously an expert in auditing. He's an expert in accounting.

MR. SHEHEEN: Done. Thank you very much.

Q. Okay. Mr. Quigley.

A. Yes, sir.

Q. Please tell the Court what you were asked to do in this case.

A. We were engaged, I guess, to evaluate Section 4.5, really just specifically Section B of that agreement, which is addressed as accounts receivable, cash equivalents and really to provide an opinion along those lines.

MR. SHEHEEN: May I approach, Your Honor.

THE COURT: Right.

MR. SHEHEEN: Thank you.

THE COURT: Yes.

MR. SHEHEEN: I'm going to provide you with --

THE COURT: Are you talking about the accounting aspects of 4.5B?

MR. SHEHEEN: Your Honor, I'll ask him -- I'll just make it more specific so we don't drag it out.

THE COURT: Because I have to do the legal part.

MR. SHEHEEN: Yes, ma'am.

Q. Were you asked to evaluate the accounts receivable based on the language in 4.5B?

A. Yes, sir.

Q. And then were you also asked to give an opinion as to what the actual accounts receivable are irrespective of the language in 4.5B?

A. Yes, sir, that's correct, as of May 9, 2010.

Q. Okay. Great. Thank you. So we're going to be talking about those two things.

MR. SHEHEEN: And I'm going to do them in the order that I just did, Your Honor, if that helps.

Q. Why don't you, just so we can all start from the same discussion point, read slowly so the court reporter can hear you, 4.5B.

A. All right. Section 4.5B says, "One third of the sum of the accounts receivable of the corporation booked in accordance with the corporation's normal accounting methods and the cash (to include cash equivalents and marketable securities) of the corporation divided by the number of shareholders of the corporation, including the departing shareholder and minus C," the next section.

Q. And so for the first part of what we're discussing here, is that the language that you utilized to make a determination?
A. Yes.
Q. All right. What form -- are you familiar with -- strike all that.
As part of your review, did you look at documents in SCENT to determine what type of accounting they utilized?
A. Yes, sir.
Q. And what type of accounting does SCENT utilize?
A. Based on the documents that I reviewed, they have applied the cash basis of accounting on a consistent basis.
Q. Are there other forms of accounting that a practice can use?
A. They can, yes. There are other forms.
Q. Like what?
A. There's something called a modified cash basis of accounting. There is a full accrual basis of accounting, which would be generally accepted accounting principles. Those are just various types of accounting methods. And they selected the cash basis method.
Q. Are there hybrids of these that companies use?
A. There are hybrids. I mentioned the modified cash basis is somewhat of a hybrid, but it appeared to me that they used the cash basis solely.

Q. From your review of the records that you looked at, and we'll talk about those in a minute --
A. Sure.
Q. -- has SCENT always used a cash basis of accounting, from what you can tell?
A. Yes, sir. Based on the information that I looked at, yes.
Q. Have you reviewed any of their tax returns?
A. I did look at a couple of years of their tax returns, yes.
Q. And what do those tax returns reflect their accounting basis to be?
A. Yes. It's actually -- on the tax return, it requires you or asks you to mark which type or method of accounting that you use, and the tax returns that I viewed clearly marked them as cash basis.
Q. Are you familiar with what is commonly called accounts receivable?
A. I am.
Q. All right. And why don't you first -- well, let me show you. Did you refer to any documents or any research as you looked into this case and what accounts receivable --
A. Yes. Just to refresh my memory and to make sure I was clear, we did look up some of our professional language surrounding accounts receivable for healthcare entities.

Q. In your opinion, when a company uses a cash basis of accounting, what is the booked value for accounts receivable in that method of accounting?

MR. CLEVELAND: Objection, Your Honor. That question calls for this witness to come up with a definition of the word, "booked." I think that's a legal conclusion and that that's within the province of the Court to determine what this unambiguous sentence means.

He's not -- I think, based on my examination of him, he doesn't -- he says there's no definition of the word "booked" in any accounting standards. It's just a term that lay people use, and he's got his opinion as to what it means.

I don't think that it's within his province to come in and tell the Court what this sentence means, given that the term that he's interpreting is not an accounting term. It's a general laymen's term as meaning, but it's not up to him to tell you what that word means.

MR. SHEHEEN: Your Honor --

MR. CLEVELAND: I think it's a legal matter.

THE COURT: Got it.

MR. SHEHEEN: I think clearly you have to make a legal determination about what this contract means legally, and I can ask some foundational questions. But I want to ask him, as an accountant, what is the accounts receivable for this company based on this language that you use in accounting,

whether it's defined or not, in your practice as an accountant. That's what I want to ask, and I can lay that foundation if you want me to.

THE COURT: I gotcha. Okay. I'm with you. You can start to lay the foundation. And there are really two things that are at play here: Number one, what do the words mean? Are these stylized words? Are these words that have a specialized meaning within the context of his expertise? That's the first consideration.

The second consideration is what were or what was or what were if you were going to discuss one or multiple practices of this particular entity, SCENT. So there are really two things afoot here.

MR. SHEHEEN: At least.

THE COURT: Well, on this identified and now spotlighted issue. In other words, what do the words mean?

MR. SHEHEEN: Yes, ma'am.

THE COURT: And for that, there would need to be a foundational question or questions, because it must lie within his expertise.

MR. SHEHEEN: Yes, ma'am.

THE COURT: Secondly, what was the practice of the practice?

MR. SHEHEEN: Yes, and I'll get to that.

THE COURT: Soon.

MR. SHEHEEN: Soon.

THE COURT: Got it.

Q. Mr. Quigley.

A. Yes, sir.

Q. Let's look at 4.5B, that sentence that says or the phrase that says, "Booked in accordance with the corporation's normal accounting methods," okay? Do you see that?

A. Yes, sir.

Q. As an accountant, do you utilize the term "booked"?

A. It's a general term we use quite often, actually.

Q. And what does it mean to you as an accountant?

MR. CLEVELAND: Objection.

THE COURT: Okay.

MR. CLEVELAND: He said it's a general term that's used, and I don't think that it's proper to be asking this witness the definition of a general term. I think he can define accounting terms but not general terms. And he just said this is a general term, and it's like the word "method."

THE COURT: Here's what he asked him. This is the question: "As an accountant, do you utilize the term 'booked'?

"It is a general term we use quite often, actually.

"What does it mean to you as an accountant?"

Overruled.

MR. CLEVELAND: Thank you.

THE WITNESS: It means something that's been recorded in the general ledger, the financial statements of the company.

Q. You said "financial statements." I think we all understand what a general ledger is. What does financial statements mean to you as an accountant?

A. They can mean a couple of different things, but really it's a balance sheet and an income statement, either prepared internally or externally or -- but that generally includes a balance sheet, an income statement, perhaps a cash flow statement and note disclosures.

Q. As an accountant, do you use the words "normal accounting methods"?

A. Yes.

Q. And as an accountant, what do those words mean to you?

A. It's the normal practice, the method, the basis of accounting that is used by the corporation on an ordinary and normal course of business.

Q. What would you look at to determine that from an accounting perspective?

A. Well, we look at various things, and I would look at the general ledger. I would look at the internally prepared financial statements. I'd also look at the tax returns. All of those provide a very solid indication of what the normal basis of accounting is for that particular entity.

Q. Based on those documents what was the account receivable?

A. Zero.

MR. SHEHEEN: Okay. Your Honor, I'm going to show Mr. Quigley documents that you already have seen. And this might be redundant, and I apologize if it is, but this would be Defendant's Exhibit 244. I handed you all a copy of it earlier. Your Honor, you should have a copy of this on your desk.

THE COURT: This one?

MR. SHEHEEN: That's it.

Q. Tell the Court, have you reviewed these previously?

A. I did scan them, yes, sir.

Q. And what are they?

A. They appear to be the balance sheets and income statements of South Carolina ENT for a number of years, starting with 2007.

Q. And what do these tell you relating to the accounts receivable?

A. Well, there are no accounts receivable reported on these balance sheets. So it indicates to me, as well as other factors in looking at the reports, that, again, this entity reports on cash basis.

Q. And are profit and loss statements -- have you reviewed profit and loss statements?

A. I did.
Q. What do you consider to be the books of SCENT, as an accountant?
A. The books of record --
MR. CLEVELAND: Again, same objection. That's a general term, "books." He's laid no foundation that that has any meaning in the accounting profession. I object to it.
THE COURT: Okay. Very well.
Q. Do you use the term as an accountant and as an auditor? Well, let's just stick with accountant for now.
A. That's fine.
Q. As an accountant, do you look at the books of companies in your everyday practice?
A. We do, yes.
Q. And what -- when you're looking at the books, what do you mean as an accountant by "books"?
A. Generally, we refer to the general ledger, which is the basis for a set of financial statements.
MR. CLEVELAND: Objection, Your Honor. I think on this very important issue, to have the witness qualify his answers with words like "generally," make it confusing and unfair. He ought to respond to the question, if he has an answer. I would, of course, object to him defining "books," because I don't think -- there's been no foundation laid that that's an accounting term. I don't think it is.

But if he's going to be allowed to testify what he means by "books," he ought not qualify it with the word "generally" because it leaves him open to exclude things sometimes but not other things at other times. And I think that the issue in this case is --

THE COURT: What are the books involved here.

MR. SHEHEEN: Right.

MR. CLEVELAND: Right. I think the --

THE COURT: I understand. When he uses the term "books," what does he mean with regard to this particular entity?

MR. CLEVELAND: Well, it's not what he means. It's what -- what do the words mean is the only relevant question.

THE COURT: He can only testify to what he believes the words mean.

MR. CLEVELAND: Under your ruling, I think that's what he ought to do, just testify as to what they mean, but not in some general sense.

THE COURT: Okay.

MR. CLEVELAND: Thank you.

THE WITNESS: If I need to rephrase.

THE COURT: No.

MR. SHEHEEN: I mean, Your Honor, let me -- he can cross-examine him, and generally, that's what cross-examination is for, but let me maybe hone the question

a little bit.

THE COURT: In other words, just sort of cut to the chase, sir.

MR. SHEHEEN: All right. So I was trying to ask him as an accountant, because I think I need to lay that foundation, which I just did.

Q. In this case as an accountant, what do you consider the books to be?

A. The general ledger.

Q. And you might have already answered this, and I apologize if I'm being redundant, but how is accounts receivable treated in the general ledger?

A. They are not reported.

Q. So what are they valued at?

A. Zero.

Q. Okay.

MR. SHEHEEN: Beg the Court's indulgence.

THE COURT: Sure.

MR. SHEHEEN: Thank you.

Q. What are some of the things that are listed in the general ledger?

A. The general ledger includes the accounts, such as cash accounts. They also include the accounts for fixed assets, certain notes receivable, certain debt instruments, and they track the activity in those accountants for a given period of

time.
Q. Can a company change to a different accounting method?
A. They can.
Q. What do you consider the profit and loss and the balance sheets to be as part of the company?
A. Well, they are the financial statements themselves. They are prepared and based upon the accounts in the general ledger; so they are the financial statements of the company.
Q. As an accountant, do you have an opinion as to what one third of the sums of the accounts receivable of the corporation, booked in accordance with the corporation's normal accounting methods, would be?
A. Based upon that terminology, my answer would be zero.
Q. For the reasons that you already stated?
A. That's correct. This entity reports on the cash basis method of accounting as its normal practice; and, therefore, they do not report accounts receivable. They did not report accounts receivable in their general ledger. They did not report accounts receivable in their financial statements. They did not report accounts receivable in their tax returns; therefore, my answer to that is zero.
Q. Did SCENT actually have accounts receivable?
A. Yes.
Q. And just tell the Judge what you -- well, sorry. Strike that.

Do you look at any guidance in determining what accounts receivable means as an accountant?

A. Accounts receivable generally means the amounts that are due to the company from its customers, in this case, patients, for the services that they provide in the ordinary course of business. Certainly, those accounts receivable exist. They're just never reported.

MR. SHEHEEN: If I may approach the witness, Your Honor.

THE COURT: Okay.

Q. As an accountant, do you rely on published literature in forming your opinions?

A. Yes.

Q. And I just handed you two documents that have previously been given to opposing counsel. Could you tell the Court what those are?

A. One is a printout from the FASB codification. That's the Financial Accounting Standards Board. They issue a codification, Your Honor, specifically about various topics, accounting principles, in this case. And this handout is a definition of cash and cash equivalents out of Section 305-10-20.

Q. Put that one aside and tell the Court what the other is.

A. The other is an audit and accounting guide. And, Your Honor, that is issued by the American Institute of Certified Public Accountants, again, one of our professional bodies

that regulates some of our principles and procedures. And it's a guide specifically for healthcare entities. And this publication really is focused on revenue and receivables.
Q. Does that inform your opinions about actual accounts receivable at all?
A. Yes. It helps define. This one that you've handed me is an audit and accounting guide for healthcare entities, which is a specific industry guide for auditors and accountants to help use as a guide specifically with the healthcare industry about receivables and revenue. And, yes, it does have some guidance in there about what accounts receivable are and how they're determined.
Q. And what are accounts receivable? How do you determine what accounts receivable means?
A. I use this -- I use this guide and --
Q. Tell the Judge what that means.
A. Yes, certainly. This indicates, you know, patient receivables may include amounts due from patients, third-party payors and employers for provided healthcare services, and less contractual adjustments, discounts and any allowance for uncollectibles that are used to measure those receivables.
Q. Okay.
A. In essence, amounts due to the company from patients or third-party providers for services rendered that have not yet

been paid, and they're to be reported at the net realizable value, basically.

Q. Put that in English for the Judge. What does that mean?

A. Sure. It's amounts due to the company --

THE COURT: I understood what he said.

MR. SHEHEEN: Okay. You're better than I am, Judge.

Q. And I also handed you another one of these. Tell the Judge what that one is.

A. Again, this is out of the FASB codification, specifically for healthcare entities, Section 954-310-30, which is a measurement of accounts receivable in a healthcare entity.

Q. Do you rely on that?

A. Yes, this is something that we relied upon to help determine what accounts receivable are defined.

Q. In what part? Tell the Judge in what part.

A. I'm sorry. Repeat the question.

Q. How does it inform you? What does it say that's relevant to you?

A. Yes. It defines accounts receivable as contractual adjustments. It tells how to measure accounts receivable. And what it says is contractual adjustments, discounts and allowance for uncollectibles shall be recorded to measure the receivables for healthcare services initially at net realizable value.

Q. Is net realizable value a term that you use either as an auditor or an accountant?
A. Regularly, that's correct, yes.
Q. And could you explain to us what that means?
A. The net realizable value is really -- it's the expectation of what an entity is to realize from their accounts receivable. So we know what we charged a particular customer, patient, in this case. We know what was charged. We have to determine what we expect to realize from that charge, and that's really what accounts receivable are. It's a future economic benefit that we're determining at a given point in time.
MR. SHEHEEN: Your Honor, I'm not --
THE COURT: Got it.
MR. SHEHEEN: With these guides, I'm not sure whether they're authority like a law review would be or whether I should make them an exhibit.
THE COURT: They ought to at least be marked for identification purposes.
MR. SHEHEEN: Okay.
THE COURT: At least.
MR. SHEHEEN: Unless there's an objection, I'll move them in as exhibits.
MR. CLEVELAND: I don't think that standards like that are -- I shouldn't even use the word "standards." He said

guides. I object.

THE COURT: Well, they've been discussed. They ought to be marked for the record.

MR. CLEVELAND: I agree with that, but he wanted me to agree to have them introduced into evidence. I object.

THE COURT: We don't know -- if you don't know -- if they're guides, they're guides.

MR. SHEHEEN: Right. Let's ask him that question. First, let's mark them as Defendant's Exhibits, for identification purposes.

(Defendant's Exhibits 282-283 marked for identification.)

Q. Explain to the Judge what those are.

A. Sure. In our profession, Your Honor, we have a term that you may have heard and is regularly used called "generally accepted accounting principles." Those are accounting principles, again, that are generally accepted in practice. And those principles, in terms of accounts receivable, are what govern the measurement of accounts receivable.

There's not a book that you can go to to say that this is GAAP, generally accepted accounting principles. They're actually comprised of a number of different documents, or codifications, in this case, that help create a body of work that are generally accepted accounting principles.

There's a level of hierarchy of those different bodies of work. Certainly, the FASB codification would be a high level of hierarchy in relation to generally accepted accounting principles. And this is a printout directly from the FASB codification. That's the Financial Accounting Standards Board.

Another level of hierarchy are these audit and accounting guides that are issued directly from the American Institute of Certified Public Accountants, and they would also be considered a certain level of hierarchy within the GAAP realm. And I don't know the specific hierarchy, whether they're Level 1, 2, 3 or 4, but they're all considered generally accepted accounting principles guides.

Q. Do you use those in formulating your opinions in this case?

A. Yes, I did.

MR. SHEHEEN: Okay. Your Honor, I'll move to introduce them as exhibits.

MR. CLEVELAND: Your Honor, it's my understanding that a cash basis of accounting is not according to generally accepted accounting principles as a fundamental matter. And so bringing in documents that talk about generally accepted accounting principles to evaluate a company whose books are not kept according to generally accepted accounting principles because the cash basis is not a GAAP method of

accounting, I don't think it ties together or makes sense. And so I object to them on that basis.

MR. SHEHEEN: Your Honor, I think that's grounds for cross-examination.

THE COURT: I agree. I think it's grounds for cross-examination that may cause the Court to disregard it in its entirety, but I think it's cross-examination. Sure do appreciate the heads up though.

Q. Mr. Quigley, is the cash basis of accounting a generally accepted practice?

THE COURT: Accounting practice.

Q. Accounting practice.

THE COURT: A GAAP.

THE WITNESS: It really speaks back to our original assessment, which is on the cash basis method of accounting, there are -- there is no reported amount of accounts receivable. These definitions really do refer to generally accepted accounting principles, which are a full accrual basis method of accounting.

So in a cash basis method of accounting, there are no accounts receivable; therefore, there's no need for a definition of accounts receivable. In this case, I think you've asked me to assume that accounts receivable exist and, therefore, the only definition that I have is generally accepted accounting principles --

Q. Okay.
A. -- just to measure accounts receivable.
Q. So just for my understanding, maybe the Court's, in the first questions I was asking you about under the terms of 4.5.
A. Yes.
Q. Would you use these things to advise you?
A. No.
Q. Okay. But if we are alternatively saying the Court wants to understand what an accounts receivable is, then do you need to look at standards such as this?
A. I do, because that's the only definition of accounts receivable that I can come up with.
Q. Okay. So we are on the second part of what you were -- at the beginning of your testimony said you were going to try to determine. And we've talked about those. And you've explained -- did you discuss net realizable value with the Court?
A. I've mentioned net realizable value. I hope I explained it as being the amounts of cash that we expect to realize from our charges and services. That's the true benefit that an accounts receivable would provide, and that's how we would measure those accounts receivable.
Q. So let's stay there for just a minute, because when you give that definition, I believe you said -- and I don't want

to put words in your mouth, and I'm sure there will be an objection -- you said "expect to," what? You said expect to something.

A. They expect to realize it or actually receive it in cash, collect it.

Q. So what would billings be that weren't expected to be collected? What would you call those, if anything?

A. Well, in the case of SCENT, and in most medical practices, they would establish a charge for a certain level of service. And certainly they have the expectation, based on their contractual agreements with insurance companies, that they would not realize and collect that full charge that was either invoiced or billed to an insurance company or patient.

So they would need to establish what they truly expect to realize, and that would be the dollar amount of the accounts receivable. You would not want to overstate your accounts receivable by some grossed up level of billing or a charge that you may provide to an insurance company, knowing that you're not going to collect it, because it's not going to provide any future economic benefit.

Q. Do you ever -- as an accountant, are you ever hired to go into a company that might be being purchased by the purchaser to evaluate what accounts receivable would be?

A. Yes, sometimes that happens, yes, sir. It's referred to

as due diligence, perhaps sometimes some people refer to it that way, where you're evaluating certain assets and the accounting records of the business for the purchaser so that they can have confidence in knowing that they're getting what they're buying.

Q. The processes you would use in that, are they the same processes you used in this case to render the opinions you're going to render?

A. Yes. Generally, yes. That's correct, yes.

Q. Would you have used the same definition of accounts receivable that you just gave the Court?

A. I would.

Q. So I just want you to tell the Court, and I'll introduce his chart as we do that, what you did to try to create or to try to give an opinion as to what the accounts receivable, not as defined in 4.5, but what they would have been.

A. Certainly.

We were asked to really just determine, tell us what the actual accounts receivable are for SCENT. So in order to do that, we had to really evaluate and ask lots of questions to determine what information was really available to help determine what that accounts receivable was.

And what we found was the accounts -- excuse me, the billing system, the AllMeds system that SCENT uses for its practice management, its billing collection system, was not

able to provide a listing of accounts receivable as of May 9, 2010, which was the date in time that we were asked to develop the accounts receivable.

So what we had to do was try to determine methods in which we could extract data that would help determine that balance of accounts receivable. We did that in two methods: We worked with, I guess, some of the staff at AllMeds to help extract data directly from the AllMeds system specifically related to charges and collections.

MR. SHEHEEN: Your Honor, may I approach the witness.

THE COURT: You may.

MR. SHEHEEN: Thank you.

Q. Did you come up with a summary of your findings?

A. We did. And this document is really a summarized version of our findings. That's correct.

(Defendant's Exhibit 281 marked for identification.)

MR. SHEHEEN: Okay. Your Honor, it's been marked by us for identification purposes as Defendant's Exhibit 281.

Q. Okay. So did you put your findings onto that piece of paper?

A. We did.

MR. SHEHEEN: Just to move this a little bit, Your Honor.

Q. Did you use two methodologies?

A. We did.

Q. Why?
A. And, again, I say "we" because, although I stand here today as the primary representative of our firm, I did have other staff that worked with me because it was an involved process to try to determine the accounts receivable.
Q. Tell the Court what you did. I mean, did you have to get information from AllMeds?
A. We did.
Q. Tell them about dealing with AllMeds, what that was like?
A. We had several conversations and email correspondence with AllMeds to extract the data. And we specifically told them what it is that we wanted to get and could they provide that raw data to us. So we specifically asked for charges, all charges for all patients for all divisions of SCENT from the period of January 1, 2010, through May 31, 2010.

Now, I say that because our initial instruction was that we generally would collect our accounts receivable within, you know, 30 to 60 days. And so by using a January 1, 2010, date, we felt like that would encompass all of the charges that we needed to incorporate in our analysis. So they provided --

MR. SHEHEEN: Your Honor, this is going to be easier if you can look at this chart.

Q. Is this chart the chart you prepared of your summaries

of your findings?
A. It is a summary of the findings. That's correct.
Q. You believe it's accurate, in your opinion, as an accountant?
A. Yes.
Q. You believe, as an auditor, it is an accurate statement of your opinions and findings?
A. It's accurate to the best of my ability, yes.
MR. SHEHEEN: Your Honor, I would move in Defendant's Exhibit 281.
MR. CLEVELAND: I object, Your Honor. The requirement of Paragraph 4.5 of the Exhibit 7, shareholders agreement, calls for the data to be -- for the accounts receivable to be determined by the -- what's booked at SCENT, according to its normal accounting methods. This is clearly not that. This is a four-year-after-the-fact effort to come up with a number that is clearly not the process envisioned by the contract. I don't think he can have his cake and eat it too.
His first opinion is, applying the contract, we get zero, because, according to him, there are no accounts receivable in this company. We'll address whether that argument makes any sense on cross. But now for him to say this is a summary of opinions I have, when it's clearly not in conformance with the contract, I cannot see how this is in any way relevant to the issues in the case, and I object to

it.

MR. SHEHEEN: Your Honor, I think we've been pretty clear from the get-go here. He is providing you testimony as an expert into what he believes the accounts receivable is under the definition in the contract.

The Court -- I don't know what the Court's going to find. I don't know if the Court's going to find what the intent of the parties were in the contract. It is perfectly reasonable for us to provide you evidence as to what the actual AR was. You can reject it. You can accept it. You can say it doesn't fit within the language, but there's nothing wrong with us providing that evidence for consideration.

THE COURT: This is, if you will, your alternative position?

MR. SHEHEEN: Yes, ma'am.

THE COURT: Okay.

MR. SHEHEEN: Thank you.

THE COURT: Overruled.

MR. SHEHEEN: So that was Exhibit 281.

(Defendant's Exhibit 281 admitted into evidence.)

Q. You were walking the Court through what you did, and I thought it would be helpful if she could look at this. And you can use this to explain to her what you found.

A. Certainly.

Q. Are there two methods displayed on that?
A. There are. Your Honor, we used two different methodologies to try to calculate and develop an accounts receivable. The method that I was referring to earlier is referenced on this piece of paper as Methodology 2, and it's on the middle right-hand side of the page, if you see that.

And what, again, it indicates is that we pulled data directly from AllMeds from January 1, 2010, through May 31, 2010, all charges. And we based that data, the basis was the date of service. So if a patient came in, services were provided to a patient on May 9th, we wanted to make sure to incorporate that, to analyze that to determine when payment was received.

So first we obtained a list of all dates of service from those dates previously mentioned. And then we also told -- asked AllMeds to provide to us each of the subsequent payments, whether it was a patient payment, an insurance payment and a subsequent write-off or allowance of that initial charge that was provided to that patient. And we wanted to know the date that that subsequent payment or adjustment occurred, regardless of the date.

So from that we were able to isolate all charges as of May 9th or prior and then compare that to when the date of payment was received on that charge. So if the payment was received prior to May 9th, it's not accounts receivable. We

collected it. If payment was received subsequent to May 9th, then it truly is accounts receivable.

And we were able to utilize the functionality within Excel, utilizing that 150,000 lines of data that was previously mentioned, to isolate and determine a specific identification of accounts receivable for that time frame.

Q. I want you to explain to the Judge why in the world you would look at things that were actually collected to determine what accounts receivable was. Explain that to her.

A. Yes. Oftentimes, that's the best indication of what an accounts receivable was at a particular given point in time. If the definition of accounts receivable is the amount that we're going to realize, because we have hindsight, we know what the actual collection was, we know what we realized, so we look at subsequent cash collection to help really determine what the amount of the accounts receivable were.

Q. Is that the type of procedure and practice you would normally do in your profession?

A. Absolutely. We do it regularly in various situations to help determine the accuracy of an accounts receivable.

Q. Is that a standard accounting practice?

A. It's a standard practice, yes. It is a standard accounting practice. It's a standard auditing practice. In this particular instance, we have the challenge of actually going back in time to May 9th of 2010 to try to determine

what that accounts receivable balance was.

And so we had -- without the ability of that AllMeds system to just give us a printout --

Q. Well, let me interrupt you. Did you ask them to give you the AR figure for you?

A. I understand, yes, that we did. And apparently, the system does not allow for that.

Q. So you got data from them?

A. So we extracted all of the data that we were able to -- that we asked them to extract.

Q. When did you receive the data you used for Methodology 2 from AllMeds?

A. The first batch of data that we received from AllMeds, my guess, was sometime in the maybe mid-to-late-September time frame.

Q. Did you use that data?

A. Yes. We wanted to determine whether the data was accurate. Just because someone extracts data out of a system doesn't necessarily mean that it's accurate. So we wanted to test that data to determine that what we asked for is what we got.

And ultimately, we tested that data in October, and we found out that it was not reliable. It was missing particular bits of information that we felt like were key. Primarily, co-pays were not included. The receipt of

copayments from patients were not included in the data that we asked for.

Q. So when did you actually get the data that you asked for from AllMeds?

A. Maybe two weeks ago.

Q. Okay.

A. We had to go back to them to say, "Hey, this data is inaccurate from what we asked. Can you please, you know, correct it and give us the complete data?"

Q. And once you received the accurate data, how long -- is that the -- I don't know, whatever some number was thrown around during oral argument about 5,000 or 150,000 pieces of data or something --

A. That's the 150,000 lines of data within an Excel file is really what it was.

Q. What does that mean to a layperson? Explain that to us.

A. Each of those lines of data represent a particular charge to any given patient.

Q. Okay.

A. So there were over 150,000 charges from that period, January 1 of 2010 through May 31 of 2010.

Q. I don't know how interested the Court is in the detail of this, but, like, what did you physically do to go crunch these numbers, and how long did it take you?

A. We tested the data, again, to make sure that it was

accurate. That's really where the time-consuming portion of this process took.

So, Your Honor, we actually took those lines of data, and we wanted to verify that the patient charges were accurate. So we selected a sample of data out of that 150,000 lines of data and literally went back to the electronic medical record of the patient to determine that the charge that was in that data was evidenced by a patient visit and a code that was charged to that patient.

In addition to that, Your Honor, I had mentioned to you that we have the cash collection of that charge or the ultimate write-off and/or adjustment of that charge. So we literally took, again, a representative sample selected randomly from the data set. And we said, "Show us the deposit record. I mean, if you say that you deposited this or that you received this, show us the deposit record."

We took that deposit record and matched it against that data, that raw data that we had. And then we took that deposit and traced it into a bank statement to say that bank deposit cleared the bank statement.

So we know when you actually received it and recorded it into your billing and collection system, and we know that it was received because we actually traced it through the bank account through the bank statements to know that it flowed correctly.

Q. So once you actually got the good data that you needed --

A. Yes.

Q. -- however many weeks ago it was you just testified, how long did it take you to then crunch the numbers?

A. So then it was simply a matter of taking the functionality within Microsoft Excel and calculating an accounts receivable figure. So we used some filtering features with inside of Excel.

We used some formulas, mathematical formulas, inside of Excel to determine that if a charge occurred before or on May 9th but was not paid until after May 9th, that we included that in an accounts receivable balance, because we know the charge occurred and the payment actually came after May 9th. So it was a receivable as of May 9th.

And we summarized all of that data, and it came to 756,347.23. That's the number that's in this box under Methodology 2. That was our first process regarding calculation of accounts receivable.

Q. Why did you stop there?

A. We did not stop there.

Q. Why not?

A. Well, we wanted to perform a second methodology to balance off -- the direction that we did with Methodology 2 was to look at specifically the charges that occurred based

on those dates of service. So now we said, "What if we did a second methodology and we looked just at actual cash collections?"

So we went back to SCENT, and we had them provide us with exported data, again, out of the AllMeds system, where the cash collections were recorded after May 9th. And we asked them to provide us with the dates of service for those cash collections, and they did. So, again, we cross-referenced those dates.

So any cash that we received after May 9th where the service was provided before May 9th, we summarized all of that data.

And, Your Honor, this entire left side of this exhibit that's listed here indicates monies that were received after May 9th where the services were provided before May the 9th. And so in that first line at the top of that box, it indicates both total patient pays and insurance payments.

And those -- that first section is for services that were rendered in 2007 that were actually received after May 9th and so on and so forth. So we extended that all the way down to the May 9th of 2010, at the bottom.

And then we took the summarized amounts of receipts, and, Your Honor, we just summarized those in this top box on the right under Methodology 1. So each of those dates of service will then flow to that second summary schedule, if

you will. And if you look simply at cash collected after May 9th, that total came to $880,000.

Now, Your Honor, we didn't stop there because those amounts aren't -- one methodology says 880. One says 756. So we determined that based on the subsequent cash collection, we're actually receiving cash for some older dates. And so we added those periods that were before January 1 of 2010 in that second methodology because that was our data set. And if there were dates of service before January 1 of 2010, they weren't included in Methodology 2. We had to add them.

Q. So you capture it in the box.

A. We did. That was the 101,000. So then that comparison is 880,000 versus 857,000, which is very close, in my opinion.

Q. So how did you reconcile there was some difference -- let me strike that.

As an accountant in your practice, what would be an appropriate way to reconcile them to render an opinion?

A. To reconcile the two methodologies?

Q. Yes.

A. Well, based on the fact that we're going back a number of years and extracting data from the system, there's obviously a certain level of minute error in those two methodologies. So we simply averaged the two methods

together, saying that they were equally -- equally reliable. And we averaged the two methods to come to the $826,681.

Q. Assuming that the Court were to find that the agreement requires the calculation of an AR amount besides zero, is it your opinion, as an auditor and an accountant, that this is what the AR would have been?

A. That would be my opinion. I would represent that accounts receivable, the actual accounts receivable as of May 9th would be $826,000, because that was, in essence, the net realizable value at that given point in time.

Q. Would you look back at the Model 1, Methodology 1, and on the left-hand column, there's time gaps that you mentioned. Is there any patterns that you notice in that time?

A. Certainly. I mean, the older the date of service is, the less likely it is we're going to collect. I mean, that's pretty standard, accepted. The longer that someone waits to pay you, the less likely it is that you're going to collect it.

And so that came to be true in that you can see for dates of service in 2007, for some reason, we collected about $3,370 after May 9th. So that was -- you know, could be potentially three years old that we collected that.

The reason why I think that that is the -- SCENT would have a policy of turning over unpaid accounts receivable to a

collection agency. And at some point, those patients sometimes would pay those to help clear up their record. But, again, it's a small amount, so the majority of the accounts receivable are received within a very short period of time, and this indicates that.

Q. And do you have an opinion as to what period of time the majority would be received in?

A. Generally, it's within, you know, 30 to 35 days.

Q. And is that reflected by looking at this data here on the Exhibit 281?

A. Yes. Actually, if you can look in the box marked "Methodology 1," you know, $400,000 of collections came for services rendered in April and 165 for those first nine days in May. So, again, almost $600,000 of receivables were received within that very short period of time.

MR. SHEHEEN: Beg the Court's indulgence.

THE COURT: Okay.

Q. In this case there's been some other documents that have been put forth in relationship to accounts receivable. Did you review what have been called tracking sheets?

A. I did look at the tracking sheets. Again, we wanted to provide some reasonableness against the numbers that we were calculating with other documents that have been submitted.

MR. SHEHEEN: I'm going to -- Your Honor, this has previously been admitted as Plaintiff's Exhibit 250. You

looked at it, I think, maybe in chambers. I have a copy here if you want it.

THE COURT: I've got it. Go right ahead.

MR. SHEHEEN: They've been referred to as tracking sheets. I'm going to approach the witness, with your permission, Your Honor.

THE COURT: Yes.

MR. SHEHEEN: I'm going to hand you Plaintiff's Exhibit 250.

THE COURT: Got it.

MR. SHEHEEN: And I actually have in front of him 250.007.

THE COURT: Okay.

MR. SHEHEEN: Which is down at the very bottom.

Q. Have you ever seen that one that says 007 on the back?

A. Yes, I have.

Q. Okay. So tell the Court whether you use that in determining accounts receivable.

A. I mean, I looked at it and evaluated it and did some comparison with our other methodologies. And I determined that this number that's listed here as accounts receivable is overstated.

Q. Do you know what those sheets are?

A. Based on my inquiry of some of the internal staff and reading of some of the testimony in this case, these are

monthly schedules that are provided by SCENT's internal staff, some tracking sheets.

I know that there's contention about whether it's true accounts receivable or not, but I do understand that SCENT staff prepared this on a monthly basis, I believe, or every 60 to 90 days, somewhere around that neighborhood.

Q. As an accountant, would you consider those to be part of the books of SCENT?

A. No.

Q. Tell the Court what disagreement you have with the figures on there, if any?

A. Well, again, these are maintained in a Word file. An individual at SCENT takes data apparently from some various reports that are provided by AllMeds and puts it on here. And I understand, you know, based on some testimony, that it was for tracking purposes and analysis of collection.

Certainly, it does have a number on here that says accounts receivable. I determined that this number is overstated by virtue of the fact that the amounts that are reported on here included historical charges that were not adjusted off the accounts receivable.

Q. Would it include charges that were not net, not realizable?

A. Absolutely, I mean, certainly based on the collections, the normal monthly collections of SCENT, these amounts are

overstated. Based on my discussion with them, they turned over a number of uncollectible accounts to a collection agency subsequent to the preparation of this report. It includes historical charges that were never collected or realized by the entity. No one benefited from the amounts of those, at least to the extent that these numbers listed on here.

Q. I'm going to ask you a hypothetical. As an expert, if you had been representing a business, if you had been working for a business --

A. Yes.

Q. -- that was looking at purchasing SCENT, and you had been asked to evaluate AR, would you have utilized the figures on these sheets?

A. No.

Q. And why not?

A. It would have -- assuming in your hypothetical that I represented a buyer, this level of accounts receivable are materially overstated, and I certainly would not want my client, as the buyer, to overpay by virtue of relying on a receivable that was never realized by the entity and would not be realized by the entity.

Q. As an accountant, would you consider these sheets to be normal accounting methods of SCENT?

A. No.

Q. Let's just talk about -- let me -- I've got a copy of this for you. You see on that sheet 250.007. If you come down, there's a little bold area that says "$178,843.86." Do you see that?

A. Yes.

Q. Any idea what that means?

A. It appears to represent an open amount of accounts receivable after adjustments and collections on the charges for that month.

Q. Okay.

A. Only for that month. So, in essence, for the month of April, the total charges were 1,810,000. And we had collected some amounts, and we adjusted and wrote off some amounts, and those adjustments and write-offs, in my opinion, are contractual allowance for insurance payments, which left an open amount of 178,000.

Q. Does the simple fact that this $178,000 is on this sheet make it the normal accounting method of SCENT?

A. No. No.

Q. Does it make it the AR of SCENT?

A. No.

Q. Did you also look -- and I don't have it in front of me, Your Honor, but we referred to it earlier.

Did you also look at some sheets that had been run? It said "60-day AR" at the bottom. There was a little notation.

A. I did, yes.
Q. And it was AllMeds' sheet?
A. I did see that, yes. I saw the one summary page, the last page of the document.
Q. Do you believe that that is an accurate statement of accounts receivable?
A. I do not.
Q. Tell the Court why not.
A. Based upon my understanding of the AllMeds system, in my looking at a very limited one page, at the upper left-hand part of that document, it indicated the number of days for the dates of service for that report. And they were limited. So you don't get a complete full picture of accounts receivable.

In addition to that, those amounts would be the gross accounts receivable that would be perhaps due to the entity. They were not adjusted for net realizable value. They were not adjusted for the amounts that are expected to be collected. Therefore, in my opinion, it's just the wrong number.

Q. Okay.
A. For a number of reasons.

MR. SHEHEEN: Your Honor, I probably have maybe 20 to 30 minutes more. And this is actually a pretty good stopping point in my questioning, if it's an okay time to stop.

THE COURT: Yes, I think it is. I've kept court personnel a little bit longer than I anticipated.

MR. SHEHEEN: And I don't believe I'll be any longer than 30 minutes, at the most, tomorrow. And then, of course, there is cross-examination.

THE COURT: And the topics that remain are?

MR. SHEHEEN: Your Honor, they're generally these same topics and a discussion of the last section of that sentence in the agreement, which is where it discusses cash equivalents. I'm just going to ask him what cash equivalents are in relation to that sentence as well.

There's the discussion -- there's the contention between the parties about insurance contracts and a loan from SCENT Land to SCENT. That will be quick, it's just generally his understanding of what cash equivalents are.

And there will be a discussion about the reasonableness of these various figures that have been given, the 1.8, the 200 and whatever, based on this company.

THE COURT: You know what? I hate to do this --

MR. SHEHEEN: Yes, ma'am.

THE COURT: -- but I think I want to go ahead and finish his direct.

MR. SHEHEEN: That's fine. Okay. Great.

THE COURT: I just think that makes sense.

MR. SHEHEEN: That's fine. Like I said, it should take

me 30 minutes, at the most. Probably 20.
Q. We were talking about what had been an AllMeds printout at the bottom that had 30 day on it. That figure, do you recall what that figure was?
A. There was one report, if I recall correctly, that was a 60-day AR that may have had a $246,000 roughly figure, somewhere around that neighborhood, and then a 90-day report that was maybe 850, 854 --
Q. Okay.
A. -- with an outstanding amount. Am I wrong? I could be.
THE COURT: I just need to know what we're talking about.
MR. SHEHEEN: Let's stick with the 60 one because we've been talking about that more, and that is Exhibit --
MR. CLEVELAND: Defendant's Exhibit 214.
MR. SHEHEEN: Thank you. 214.
THE COURT: Got it.
Q. So in that Exhibit 214, which you've talked about, and you actually -- I believe you got the right number. It was $246,000.
A. It might help me if I had a copy of it.
Q. All right. We'll do that for you.
MR. SHEHEEN: May I approach the witness.
THE COURT: You may.
THE WITNESS: Thank you, sir.

Q. And that was listed as Exhibit 214?
A. 214.
Q. So you reviewed that, and you got that amount; is that right?
A. I've looked at this, yes.
Q. Okay.
A. And that's the $246,000 where it says "balance" on the far right.
Q. Right. And then you've also been provided with what we've been calling the tracking sheets. Again, I think you still have those up there. And that figure at the top had 1.8 million and some change; is that right?
A. 1,868,000, that's correct.
Q. And then it had this open amount we discussed on the tracking sheet.
A. Yes.
Q. That was what?
A. $178,843.
Q. All right. Are you familiar with the size of SCENT? Did you learn their -- how they -- the size of revenue, roughly?
A. In looking at their internal financial statements and their tax returns, yes.
MR. CLEVELAND: Let me just register my objection. He didn't offer any opinions about this that he's about to say

when we had our session. So I object to --

MR. SHEHEEN: Well, I don't want to go outside of what he asked him. I'm really just laying the foundation. All I was going to ask him is -- and you can object, but let me get it out there, because I'm not trying to say anything -- is based on the size of the company, can you estimate what a reasonable accounts receivable would be. That's basically all I'm saying.

MR. CLEVELAND: And I object because you didn't offer that he had an opinion about that when we were in our session.

MR. SHEHEEN: Your Honor, we were trying to be very transparent, and I was prodding him with any questions I thought I might ask, and I did not ask him that when we were sitting back there. I forgot. I don't want to misrepresent anything to the Court. So maybe I will just --

THE COURT: Why don't you just hold that, and then you all can go over that, and I'll hear that one area.

MR. SHEHEEN: Maybe I might hit it on redirect.

THE COURT: Okay.

MR. SHEHEEN: Just out of respect for what we're trying to do.

THE COURT: Okay.

Q. Have you got the shareholder agreement still in front of you?

A. Yes, sir.
Q. Would you refer again to the sentence in 4.5B that you read originally? Do you see that?
A. Yes.
Q. And when you read it, the latter part of it mentioned cash to include cash equivalents; is that right?
A. Yes.
Q. Okay. Is "cash equivalents" a term that is used in your accounting practice and your auditing practice?
A. Yes, it's regularly referred to.
Q. And do you utilize publications to help you form opinions as to what those terms mean for purposes of your practice?
A. Yes, we do.
Q. And I'm going to show you two documents.
MR. SHEHEEN: Your Honor, I'll ask to mark these for identification purposes.
(Defendant's Exhibits 284-285 marked for identification.)
Q. I'm going to hand these up to you.
A. Yes, sir.
Q. Tell the Court what those are. And you can reference those exhibit numbers at the bottom as you do it.
A. Sure.
Exhibit 285, Defendant's Exhibit 285 is a printout of

the FASB codification, specifically Section 305-10-20. And it's a glossary of cash and cash equivalents, which helps define what those two items are.

Q. Could you read that and explain to the Judge how that helps form your opinion in this case and generally as an accountant and auditor?

A. Yes. There are two sections: One's on cash, and one's a definition of cash equivalents. I'm assuming you want me to focus on the cash equivalents definition. And the definition says, "Cash equivalents are short-term, highly liquid investments that have both of the following characteristics: One, it's readily convertible to a known amount of cash. Two, it's so near their maturity that they present insignificant risks of change in value because of the changes in the interest rates."

It goes on to provide a little bit of example of what a traditional cash equivalent might be, and those include the definitions of perhaps US T-bills with maturity dates of three months or less, money market accounts, commercial paper, those types of things that are regularly referred to as cash equivalents.

Q. Okay.

A. That's the FASB codification definition.

Q. Tell us about the other document and its relevance to your opinions.

A. The other document, again, is an auditing and accounting guide, specifically for healthcare entities, issued by AICPA. Again, it's a chapter that focused on cash and cash equivalents, and it provides that same definition from the FASB codification of what a cash equivalent is. And it also provides a little bit of additional guidance for healthcare entities.

Q. Okay. And did you rely on those documents, in part, in forming your opinions, and do you normally rely on them in your practice?

A. We do normally rely upon them in our practice. And, yes, I did rely upon them in forming an opinion in relation to Section 4.5B of the shareholders agreement.

MR. SHEHEEN: Your Honor, I would move them into evidence.

MR. CLEVELAND: Same objections as before.

THE COURT: Very well. Over the objection, I'll allow it. They'll be in evidence.

(Defendant's Exhibit 282-285 admitted into evidence.)

Q. Were you made aware that there were -- there was a life insurance policy at issue in this case?

A. Yes, sir.

Q. Okay. Have you rendered any opinions -- or excuse me.

Will you render an opinion about whether or not you, as an auditor and an accountant, would consider that to be a

cash equivalent?

A. Typically, a cash-surrender value is not considered a cash equivalent. There's a number of reasons for that. Generally, it's not really deemed as a highly liquid investment. An entity or, in this case, an entity that owns a life insurance policy that has a cash-surrender value would have to go to the insurance company and request the cancellation of the policy and request that the value, that cash-surrender value, and certainly there are penalties that are associated with doing that. It's not considered a demand deposit, which is the traditional definition of cash and cash equivalent. An entity can't deposit more money into the life insurance policy and take money out as they deem necessary, like you would a traditional cash account or a demand deposit account.

And in this case, I would not -- in all cases, I've never seen cash-surrender value considered a cash equivalent.

Q. In the materials that you relied on, does it address requirements to be a cash equivalent?

A. Yes, there are two requirements.

Q. Could you read those to the Court in relationship to the life insurance policy?

A. Certainly. One says it's readily convertible to known amounts of cash. Readily convertible is what troubles me a little bit. Certainly, the insurance company would provide a

value after surrender charges of what that investment or that life insurance policy would be as an asset to the company. Is it readily convertible? Not necessarily and not such that it's in the definition of a true cash equivalent.

The second is that it's so near to maturity that they present insignificant risk of change in value because of the change in the interest rate. And certainly, there are surrender charges associated with an insurance policy and penalties for early withdrawal.

And what it says is original maturity date of three months or less. And certainly, with a life insurance policy, the original maturity date for a life insurance policy is generally over 30, 90 days or three months.

Q. You're getting about as good at math as me.

And there was also a -- were you made aware of a loan from SCENT to SCENT Land?

A. I understand from the testimony that there was a loan from SCENT to SCENT Land.

Q. Okay. And when you talk about testimony, did you read the testimony of Austin Sheheen and some of the other testimony in this case?

A. I did. I read the testimony of Richard Livingston, as well as Austin Sheheen.

Q. Explain to the Court whether or not you believe the loan from SCENT to SCENT Land is cash equivalent.

A. I do not consider it to be a cash equivalent. It is what you explained it to be, which is a loan.

And, Your Honor, as I understand the loan from SCENT to SCENT Land Holdings is that I'm not seeing any document that references a maturity date related to that loan. So it wasn't like there was a cash management pool between the related parties that, you know, SCENT could just go back and say, "Hey, I want my money back."

In this instance, I'm assuming, based on my understanding, that SCENT did not know when they were going to receive the loan, receive the cash back for the loan that they provided to SCENT Land Holdings. So, again, by definition, we don't know the original maturity date of that loan.

In addition to that, under this audit and accounting guide, it specifically addresses loans between related parties. In this instance, this healthcare industry audit guide issued by the AICPA, it addresses intercompany loans between parents and subsidiaries, which I would equate to this situation as a related party.

Certainly, SCENT Land Holdings was a related party to SCENT. And it specifically excludes intercompany loans as cash equivalents. It specifically says they would not be considered cash equivalents but would truly be considered loans. And that's what I think you have in this instance of

the loan from SCENT to SCENT Land Holdings. It's not a cash equivalent.

Q. Again, I'm going to ask you a hypothetical. If you, as an accountant and auditor, were hired by a company that wanted to purchase SCENT, would you have considered that loan to be a cash equivalent?

A. No. It's an intercompany loan.

Q. If you had been hired by another company as an auditor or accountant to evaluate the life insurance policy of SCENT, would you have considered it to be a cash equivalent?

A. No.

MR. SHEHEEN: Your Honor, I'm just about done. If you would just give me a minute.

THE COURT: Sure. Absolutely.

Q. On the same topic here that we're at, you mentioned a demand deposit as being a characteristic -- well, did you mention a demand deposit as being a characteristic of a cash equivalent?

A. Typically, in a relationship that an institution or a company has with its lending institution or bank, any financial institution, a traditional cash equivalent has the characteristics of a demand deposit. In essence, I put money into a bank account, and I have the opportunity to go and withdraw that money at any point in time.

Q. Did the SCENT note have any of those characteristics, in

your opinion?
A. No.
Q. You mentioned when you talked about the life insurance, would the life insurance be an asset of the company?
A. It would be an asset of the company.
Q. But is it a cash equivalent?
A. It is not a cash equivalent.
Q. To do the testing to get the right data from AllMeds and all the stuff you described to the Judge, did you bill SCENT for that?
A. I think we partially billed them, and we will bill them, I'm sure.
Q. Just guesstimate what the --
A. We've given an estimate up front, between 15 and $20,000.

MR. SHEHEEN: Okay. Your Honor, the only other thing I have is -- and this is really not related to him, but it's the perfect time to talk about it -- there were exhibits introduced through, I believe, Austin, 245, where Austin had plugged in the AR at the amount that we discussed during his testimony.

And for the Court's understanding, I went back to those, that exhibit, and I left everything the same that Austin had testified, but I have plugged in zero, and I have plugged in $826,681.52 so that the Court can --

THE COURT: A demonstrative aid.

MR. SHEHEEN: I believe it is a demonstrative aid. And I'm happy to --

THE COURT: And I understand that the document came in through Austin Sheheen's testimony. Who generated the document?

MR. SHEHEEN: You mean like did SCENT or my law firm or Austin Sheheen? I really don't know. I know that these, I generated these (indicating).

THE COURT: I understand. Have you showed them --

MR. SHEHEEN: I will do that. But I'm representing to you and to them that the only thing I changed was --

THE COURT: Okay.

MR. CLEVELAND: Just out of an abundance of caution, I think this is something that we, both sides, would submit to you as part of our briefing or proposed order. I don't think an exhibit to just come up with what he claims to be due without, you know, the author preparing it and endorsing it as with the proper --

THE COURT: And subject to cross-examination. Okay. Yes. I tend to agree with it. I mean, I want to get it, by the way.

MR. SHEHEEN: I think there's a lot of things in evidence that are really demonstrative exhibits, including some of the things they prepared for their expert.

THE COURT: I understand.

MR. SHEHEEN: But I just want to make sure you get it. And I don't think there's anything wrong with submitting it as a demonstrative exhibit. I mean, sometimes I go write on the board during, you know, my discussion, and that's a demonstrative exhibit. However you want to handle it.

THE COURT: I want to get it.

MR. SHEHEEN: Well, I would offer it as Defendant's Demonstrative Exhibit 1 and 2, I guess.

THE COURT: All right. And that's going to be -- yes, go ahead and submit it as additional numbers but for identification purposes because it is a demonstrative aid.

(Defendant's Exhibits 286-287 marked for identification.)

MR. SHEHEEN: I believe that's it, Your Honor.

THE COURT: Let me -- before I give him any instructions, is there any need to speak with him further this evening?

MR. CLEVELAND: No, Your Honor.

THE COURT: Very well.

MR. SHEHEEN: Your Honor.

THE COURT: Yes.

MR. SHEHEEN: On that, opposing counsel did request that, when he talked to Mr. Quigley, he had some things on the computer where he had calculated things. I'm not a

computer expert, so I don't really know what it was. But we have asked -- he asked that Mr. Quigley get that on the drive, and we are doing that so that he can take it tonight.

THE COURT: Okay. You all don't need to speak with him about that?

MR. CLEVELAND: No, Your Honor.

THE COURT: You just want the drive?

MR. CLEVELAND: Just want the drive so we can analyze it.

THE COURT: Got it. Very well. They don't want to talk to you about that, Mr. Quigley, but as I understand it, you'll produce that for counsel so they have it over the balance of the evening.

THE WITNESS: Yes, ma'am.

THE COURT: You can talk about the Clemson/Carolina game. You can talk about any other topics, but you cannot talk about your testimony. You are on the stand, and it would be inappropriate for you to speak with anyone, anyone, about your testimony.

THE WITNESS: Yes, ma'am.

THE COURT: And you very well may be asked under oath, "Did you do that?"

THE WITNESS: Yes, ma'am.

THE COURT: So I'm just kind of asking you not to do that, ordering you not to do that, because that would be a

violation of my order and our rules.

THE WITNESS: Yes, ma'am.

THE COURT: So if you will.

THE WITNESS: I will.

MR. SHEHEEN: And, Your Honor, I've not given -- usually I tell witnesses I called that type of thing. I also believe that he shouldn't be doing any research on the issue in the meantime.

THE COURT: Yes, anyone. That's right. Exactly. You're on the stand.

MR. SHEHEEN: Hang out with the family.

THE COURT: Well, what I don't want you to do is I don't want you to contact anyone that has anything to do with this case. In other words, I don't want you to go to the office and get any stuff.

THE WITNESS: Yes, ma'am.

THE COURT: I mean, you have all the stuff that you need.

Having said that, you know, if he gets concerned about, "Oh, my gosh, you know, there may be an Australian definition of accounts receivable, should I have mentioned the Australian definition of accounts receivable," and he wants to look at one of his own treatises regarding the Australian definition of accounts receivable, I don't care about that. I really don't. I don't care about that.

In other words, whatever you need to do to be prepared from the context of your own personal edification.

THE WITNESS: I understand.

THE COURT: If you want to go back and look at your stuff that you've already generated and your report, there's nothing wrong with that. But what I don't want you to do is I don't want you to talk to anybody that had anything to do with this case. I don't want you to access any information that you don't already have in your possession in that 5,000 pages or whatever. In other words, I don't want you ranging out.

THE WITNESS: I understand, Your Honor. Thank you.

THE COURT: Great. Thank you. And then we're going to start in the morning at 9:30. Great.

MR. CLEVELAND: May I ask Mr. Sheheen, for our planning purposes, when we're done, are you all done?

MR. SHEHEEN: I'm 90 percent sure that we're done, and I want to tell you 100 percent sure, Your Honor, but we've got to go back and talk, and we've got to debrief. And if something popped up, and they said, "You have to call blankety-blank," then I don't want to be in the position I can't call them. But right now, I'm planning to be done.

THE COURT: Okay. That's fine.

(Matter adjourned for the day.)

(Matter resumed on 11/25/15.)

(Plaintiff's Exhibit 317-321 premarked for identification.)

THE COURT: All right. Cross-examination.

MR. CLEVELAND: May it please the Court.

THE COURT: Yes.

MR. CLEVELAND: We have one housekeeping matter, very brief.

THE COURT: Okay. Yes.

MS. BAKER: Good morning, Your Honor.

THE COURT: Good morning.

MS. BAKER: Yesterday, during the testimony of Dr. Vidrine, Morris, or Mr. Ellison, used what we marked as Exhibit 321. It's a SCENT Land Holdings II tax return for 2010, and it was never actually introduced, and it was never made part of the Court's Exhibit.

THE COURT: I thought it already was in, because they were referring back to a book, but I'm not sure. I'm not sure, because there were a couple of them. There was a 2010, 2009. I guess I should just ask. Did you want me to put that into evidence, 2010 SCENT Land?

MR. SHEHEEN: Your Honor, they realized the document; we didn't.

THE COURT: Okay.

MR. SHEHEEN: So I don't --

THE COURT: So you don't have anything to do with it.

You want to put it in?

MS. BAKER: Right.

THE COURT: Any objection?

MR. SHEHEEN: No.

THE COURT: Very well. It's in. Plaintiff's 321.

(Plaintiff's Exhibit 321 admitted into evidence.)

MR. CLEVELAND: May it please the Court.

CROSS-EXAMINATION BY MR. CLEVELAND:

Q. Good morning, Mr. Quigley.

A. Good morning, sir. How are you today?

Q. I'm well. Thank you.

Mr. Quigley, I'd like to start with something that I hope is not controversial or something that we disagree about, based on what you told me yesterday.

A. Sure. Okay.

Q. There is in evidence in this case something that's been referred to as the 60-day report and which has an exhibit number Defendant's Exhibit 214.

A. Okay.

Q. And there's also, in this record, a document that's been referred to as the 90-day AR and has as an exhibit number Plaintiff's Exhibit 95.

A. Okay.

Q. Am I correct that it is your opinion that neither of these documents are reliable sources for the accounts

receivable number, assuming that Dr. Dyce is entitled to any accounts receivable, and putting aside for a second your opinion that there are no accounts receivable booked in this company, let's put that aside for a second, if you will.

Now, my question is do you agree that Defendant's Exhibit 214 and Plaintiff's Exhibit 95 are not reliable documents to try and determine the accounts receivable as defined in the shareholders agreement, Paragraph 4.5.

A. And let me say I believe I've only seen one page of those. If you have the exhibit, maybe I could just take a look at it just real quick to make sure I'm clear about what you're speaking about.

Q. Sure.

A. Is there just the one page?

Q. They're only one page.

A. Okay. If you don't mind, I'll just take a quick look.

Q. Sure.

A. Thank you, sir.

Q. Yes, sir.

A. Did I understand your question correctly to say that do these represent the accounts receivable as of May 9, 2010?

Q. No, sir, that wasn't my question.

A. Okay.

Q. My question is do you agree with me that neither of those documents are reliable sources of the accounts

receivable number that would be used in calculating the purchase price of Dr. Dyce's shares.

A. I don't think that they represent the accounts receivable number; however, I do think that they're important documents to evaluate to determine perhaps the reasonableness of an accounts receivable number.

Q. Okay. But you don't think these are -- how did you phrase it?

A. I don't think they're accurate in regards to representing an accounts receivable number at May 9, 2010.

Q. Thank you, sir.

A. Okay.

MR. CLEVELAND: Your Honor, I'm going to give Ms. Mott what's been marked as Plaintiff's Exhibit 320. I'd like to hand it up to you, if I may.

Q. And, Mr. Quigley, I'm handing you Exhibit 320.

A. Thank you, sir.

Q. Which are the defendants' answers to the plaintiff's second set of interrogatories. Would you turn to the second page.

A. Yes, sir.

Q. And Interrogatory No. 3 reads, "Please state the sum of the accounts receivable of SCENT booked in accordance with SCENT's normal accounting methods as of May 9, 2010."

Do you see that?

A. Yes, sir.
Q. And are you familiar with the fact that the interrogatory answers are considered to be sworn statements of the parties in the case?
A. If you represent to that; I'll agree to that, yes, sir. I'm not a legal expert.
MR. CLEVELAND: I'll allow Mr. Sheheen to correct me if that's --
MR. SHEHEEN: I'll object to him calling for legal conclusions, obviously, but the statement of law is the statement of law.
THE COURT: Yes. Okay. Thank you.
Q. Now, in its answer to that question, SCENT does not adopt the position that you have asserted in this Court that the accounts receivable booked in accordance with SCENT's normal accounting methods as of May 9, 2010, is zero, do they?
A. That's not the answer to this question; that's correct.
Q. And the answer to the question asserts numbers from the two reports that you've just testified are inaccurate, correct?
A. I think the numbers are accurate --
Q. Just answer "yes" or "no," and then you can explain.
A. Certainly.
Q. Do you want me to repeat the question?

A. Yes, please repeat the question.
Q. Isn't it true that the numbers that appear in the defendant's answer to Interrogatory No. 3, as propounded in Plaintiff's Exhibit 320, uses the numbers from the Defendant's Exhibit 214 and Plaintiff's Exhibit 95, which you just testified a moment ago do not contain accurate numbers for the accounts receivable for SCENT?
A. They do not represent the accurate accounts receivable for SCENT as that question states. Now, my explanation to that is I do think that they perhaps could represent a gross --
Q. I don't want you to speculate.
MR. SHEHEEN: Your Honor, there's been a pattern in this of cutting off answers in this trial. He is allowed to explain an answer, and that's what he's doing.
MR. CLEVELAND: I object to him speculating they could have.
MR. SHEHEEN: Well, if he speculates, absolutely. But his --
THE COURT: He says it could.
MR. SHEHEEN: When he asks the question, he gets what he gets. And you get to weigh it as you want to.
THE COURT: That wasn't the --
MR. SHEHEEN: He --
THE COURT: No, because here's what is occurring:

Mr. Cleveland is asking a very specific question, and he's asking a yes-or-no question. This witness wants to explain his answer. He's answered it "yes" or "no," but the explanation becomes speculative. You're going to just have to ask it on redirect. And I don't want him speculating.

MR. SHEHEEN: I don't either. I just didn't hear the answer because he cuts him off before --

THE COURT: He said it could be that. If he has an opinion more likely than not, that I'm interested in. He's testifying as an expert.

MR. SHEHEEN: Sure.

THE COURT: His answers have to be more likely than not. I'm not interested in could, because could's speculation from an expert.

MR. SHEHEEN: I'm with you, Your Honor. I would just like the witnesses to be able to finish what they're saying. And then if he wants to object to what they're saying, you can strike it.

THE COURT: Here's what we're going to do. Let me give you this instruction.

THE WITNESS: Yes, ma'am.

THE COURT: Because I don't want you wondering, "Now what am I going to do?"

THE WITNESS: Right. Sure.

THE COURT: If you get asked a yes-or-no question and

you're on cross-examination, and most questions, just to clue you in a little bit, are typically "yes" or "no."

THE WITNESS: Yes, ma'am.

THE COURT: A well-framed -- you learn in law school, a well-framed cross-examination question is a yes-or-no question. Got it?

THE WITNESS: Okay.

THE COURT: Now, I need you to answer it "yes" or "no," if you can.

THE WITNESS: Okay.

THE COURT: If it's one that just can't be, it can't be, but most can be. So if you can answer it "yes" or "no," but if when you answer it it's like, "I don't feel like" -- remember, you took an oath to tell the whole truth.

THE WITNESS: That's right.

THE COURT: Okay. If you need to explain your answer, you can explain your answer. Having said that, the explanation needs to be responsive to the "yes" or the "no."

THE WITNESS: That's fine.

THE COURT: Are you with me?

THE WITNESS: That's fine, yes, ma'am, thank you.

THE COURT: Okay. And what happened just then, just so you know, is that you're an expert. An expert has to testify in a certain way. Meaning if you have an opinion, it has to be more likely than not. It has to be within a reasonable

degree of certainty, or it doesn't do me any good.

THE WITNESS: Okay.

THE COURT: I could speculate. I don't need you to speculate. And "could" is speculation. More likely than not or within a reasonable degree of accounting certainty or financial analysis certainly or auditing certainty, that is helpful because it's more than 50 percent, if you will. Okay?

THE WITNESS: Yes, ma'am. I understand. Thank you.

MR. CLEVELAND: Thank you.

Q. Mr. Quigley, am I correct that it's your opinion that the definition of accounts receivable or how to calculate the accounts receivable that's contained in Paragraph 4.5 of Plaintiff's Exhibit 7, the shareholders agreement, am I correct that it's your opinion that because it uses the word "booked" that it is only or could only refer to items that appear in the general ledger and that because accounts receivable on a company that operates on a cash basis doesn't enter its accounts receivable in its general ledger; is that right?

A. If I understood your question correctly -- could you please repeat your question?

Q. Sure. And it was long, and I apologize.

Is it your opinion that the word "booked," as used in Paragraph 4.5 of Plaintiff's Exhibit 7, necessarily means

that you can find that number in the general ledger?
A. Yes. I think that is what my interpretation of reading that statement explains. Yes is my answer.
Q. Are you finished?
A. Yes, sir.
Q. Is it correct, then, that you believe that the word "booked" necessarily means that the things that are being talked about being booked have to be recorded in the general ledger in order to be booked?
A. I would say in the general sense that that's correct. Again, I'm not trying to interpret how the parties decided to decipher or develop that agreement. I'm just reading what's on the page, and that's the way that I interpret it.
Q. Yes, sir. But as I understand it, tell me if I've got it wrong, your opinion is that the use of the word "booked" in that paragraph, 4.5, means that whatever it's talking about can only be found in the general ledger, otherwise it's zero?
A. In the instance of the accounts receivable, that would be correct. That's what I agree.
Q. That's what we're talking about?
A. Yes.
Q. All right. Now, have you looked in the various standards and other sources that are available to you to provide us with a definition of booked that comports with

your definition of booked?
A. I don't have anything, no, sir.
Q. The question was did you look.
A. No, sir.
Q. You did not look?
A. No.
MR. SHEHEEN: Your Honor, I believe he just answered that question, and it was a leading question.
MR. CLEVELAND: I was just shocked.
MR. SHEHEEN: Which is inappropriate. So I would object.
THE COURT: Sustained.
Q. So you've not looked, and you don't have any standard that defines booked the way you're wanting the Court to interpret it; is that right?
A. I'm not aware of any, no, sir. I'm not aware that any exists.
MR. CLEVELAND: Your Honor, I'm handing you Plaintiff's Exhibit 317.
Q. Mr. Quigley, I'm handing to you now the title page and a couple of pages from Webster's New International Dictionary of the English Language. Are you familiar with Webster's Dictionary?
A. Yes, sir.
MR. SHEHEEN: Your Honor, nobody looks at Webster's

Dictionary. They go on the Internet when they want to find a definition.

THE COURT: I don't know. Now, Mr. Cleveland is an author. I bet authors still go to hard books.

MR. CLEVELAND: They do.

Q. Do you agree with me that Webster's Dictionary is authoritative on the meaning of English words?

A. Actually I don't know the answer to that. I'm not an English expert.

Q. Okay. Fair enough.

Would you turn to Page 309, which is the third page of Exhibit 317. And about two and a half inches from the top, it has the word "booked" there. Do you see that?

A. In the left column, yes, sir.

Q. And it says, "Booked, adjective." The word we're talking about, the "booked" we find in the contract is an adjective, isn't it?

A. Yes.

MR. SHEHEEN: Your Honor, I object, because I think he needs to be able to look at the contract to answer the question related to the words, because I believe it says "booked," as in a verb, booked in accordance to the corporation's normal accounting procedures.

MR. CLEVELAND: Well, I'll just finish my -- talk on this, and he can --

THE COURT: Okay.

MR. SHEHEEN: Could he look at the sentence that he's asking about the words?

MR. CLEVELAND: I'm not actually talking about the sentence right now.

MR. SHEHEEN: Okay.

MR. CLEVELAND: I want to kind of move through what's in the dictionary.

THE COURT: Okay.

Q. Mr. Quigley, it says, "A, the definition of booked is having studied books; and B, entered or placed in a book, register."

Now, Webster's Dictionary doesn't have anything about the general ledger in the definition of the word booked, does it?

A. No, sir.

Q. Now, let's talk about SCENT's practices in dealing with accounts receivable. Do you agree with me that on a regular basis, SCENT personnel would record the charges that SCENT had in place for the services it rendered to its patients?

A. Say that again, please.

Q. Yes, sir.

Do you agree with me that on a regular basis, SCENT personnel would enter into the AllMeds computer system the amount and date of the charges for the services that the

practice rendered?
A. Yes.
Q. And do you agree with me that on a regular basis, SCENT personnel would enter into the AllMeds computer system the payments that it received for those charges that had been previously recorded?
A. They would enter in the system as they were recorded, not necessarily previously recorded, but yes, they would regularly do that on a daily basis.
Q. For the services previously rendered?
A. Yes.
Q. And do you agree with me that on a regular basis, no less than monthly, SCENT personnel would make a determination as to what adjustments and write-offs it should make to the accounts receivable that were shown in its records?
A. I do not agree with that.
Q. You don't agree that they got together on a monthly basis?
A. I don't agree that they made adjustments to the charges on a regular monthly basis.
Q. Have you looked at Exhibit -- Plaintiff's Exhibit 250?
A. Yes, sir.
Q. You have it in front of you?
MR. CLEVELAND: And, Your Honor, this is in our Plaintiff's selected Exhibit No. 2.

Q. Now, I'm not sure I understand your testimony.
A. Okay.
Q. Are you saying that adjustments and write-offs were not recorded monthly?
A. Adjustments and write-offs were recorded regularly as cash was received for previous services. Adjustments were not recorded for charges where a payment has not yet been received. That is my understanding.
Q. But my question was did SCENT personnel get together on a monthly basis and make recordings of adjustments and write-offs in its records?
A. No. I would think that they did it on a regular daily basis as cash was received is my understanding.
Q. Well, look at Plaintiff's Exhibit 250, if you would.
A. Yes, sir.
Q. And let's pick a month. What month are you looking at?
A. I have Plaintiff's Exhibit 250.007, which is the month of April 2010.
Q. Okay. Now, the adjustments and write-offs that are recorded on Plaintiff's Exhibit 250.007 is how much?
A. $892,183.82.
Q. All right.
A. Sir, that number, to my understanding, represents adjustments on cash collected. So as cash is collected, an adjustment is made for those charges that were charged

previously. So if a charge had not yet been paid, there is no adjustment on that dollar amount, as I understand it.

Q. I didn't ask you about all that. I asked you something very simple. Let me ask it again.

Do you agree that SCENT personnel, on a monthly basis, made recordings in the write-offs and adjustments when preparing the tracking sheets that comprise Plaintiff's Exhibit 250?

A. My answer is no. They do it on a daily basis as cash is received.

Q. All right. Let me ask it differently, then. Do you agree with me that no less than monthly, SCENT personnel made adjustments in the write-offs -- excuse me, made recordings in the write-offs and adjustments when calculating the numbers that go on Exhibit 250?

A. Yes.

Q. Now, do you contend that the recording of the charges that SCENT personnel do on a regular basis, do you contend that those charges are not booked?

A. They are not booked in the general ledger.

Q. I didn't ask you about the general ledger.

A. Okay. Excuse me.

Q. I just want to make sure that I understand. Do you contend that the recording of the charges that are done on a regular basis for the services that are provided are not

booked?
A. Do I agree that they are not booked?
Q. Do you contend that they are not booked?
A. The charges are not booked.
Q. That's your opinion?
A. In the general ledger, that's correct.
Q. I didn't ask you about the general ledger.
A. I apologize. I thought we had established the definition of booked being in the general ledger, and I wanted to be clear about that.
Q. But I want to make sure that I understand your opinion, which is that you don't need to tack on the words "general ledger" every time you say it. So I want to know if you contend that the charges that were recorded by SCENT on a regular basis are not booked, period. Is that your contention?
A. It depends on what your definition of booked is, sir.
Q. I understand. With whatever definition you feel is appropriate, do you contend that those charges are not booked?
A. They are not booked.
Q. And would you say the same thing about the recording of the payments that are received? Do you contend that those are not booked either?
A. No, sir, the payments and receipts are booked.

Q. And do you agree that Plaintiff's Exhibit 250 constitutes the recording that SCENT personnel did on a regular basis with respect to its accounts receivables?
A. Ask the question one more time, please.
Q. Yes, sir.
Do you agree that Plaintiff's Exhibit 250 constitutes the recordings by SCENT personnel of its analysis of the corporation's accounts receivable?
A. Yes.
Q. Thank you.
Now, it's my understanding that you contend, in addition to the word "booked" having the definition that you ascribe to it, that in addition to that, do you think that the accounts receivable that are shown on Plaintiff's Exhibit 250.007 are too high?
A. I believe they are overstated, yes, sir.
Q. That they're overstated. All right.
Now, you would agree, though, that if the contract calls for using the accounts receivable that SCENT recorded at the time of the valuation that we need to do, that Exhibit 250 is their recording of the accounts receivable?
MR. SHEHEEN: Your Honor, I object. There is no language in the contract that says what he just said. If he can ask -- if he wants to refer to the contract, he should ask it like I did, with the language of the contract. He

just made up terms and said, "If this means this, then this." And that's not what's in the contract, what he just said, not even close.

THE COURT: Say the question again.

MR. CLEVELAND: Thank you. Maybe I'll try and rephrase it.

Q. Mr. Quigley, do you agree that if the contract calls for using SCENT's recording of its accounts receivable that was done in the ordinary course of business, then Plaintiff's Exhibit 250 is the recording that does that?

MR. SHEHEEN: And, Your Honor, my objection was the contract has language, and if he wants to ask him under the language of the contract, "Is Exhibit 250," then he should use the language of the contract, not ascribe other meaning to the language of the contract.

THE COURT: Hold on one second.

I'll allow it. You may respond.

THE WITNESS: Can you please repeat the question, sir?

THE COURT: (Reading): "Mr. Quigley, do you agree that if the contract calls for using SCENT's recording of its accounts receivable that was done in the ordinary course of business, then Plaintiff's Exhibit 250 is the recording that does that."

THE WITNESS: I'm not sure that I can answer that question effectively. This appears to be a summary of other

documentation, and I'm just not sure about how to answer that question.

Q. Okay. Well, we're looking at Plaintiff's Exhibit 250.007.

A. Yes.

Q. And the second line or the first line under "monthly" on that exhibit has the words "closing AR." Do you see that?

A. Yes, sir.

Q. And then in the middle column it says, "report number 0203-2." What is 0203-2?

A. I'm not a hundred percent sure about what that does, what that number means, but I believe it represents a report that comes from AllMeds.

Q. Okay. So AllMeds produces an accounts receivable report. Is that your belief?

A. I don't know that. I have not seen that report.

Q. I thought you just said that that's what you thought was the case.

A. I think it refers to a report.

Q. Right.

A. But I'm not sure it's an accounts receivable report.

Q. Okay. Well --

A. Those other schedules that we talked about earlier, the 60-day report and the 90-day report are not complete presentations of accounts receivable reports, but they have

the -- they have some of the characteristics of an accounts receivable report.

Q. I'm interested in report 203-2.

A. And I have not seen that report.

Q. Did you ask for it?

A. I'm not sure that it was available. As I recall, it was not available.

Q. Did you ask for it is the question.

A. I don't recall. I would suspect that I did, but I don't specifically recall.

Q. Am I correct that all you know about report No. 203-2 is what's shown on this exhibit, Plaintiff's Exhibit 250.007?

A. I mean, we use that number. I did not rely upon it because I believe it was overstated.

Q. I didn't ask you about the number.

A. Okay.

Q. Please listen to my questions. We'll get through this a lot quicker.

A. Certainly.

Q. Do you know anything about Report 203-2 other than what you can infer from looking at Exhibit -- Plaintiff's Exhibit 250.007?

A. I know that I have not seen it.

Q. I didn't ask you that. I'm trying to find out if you know anything about it from wherever you may have gleaned

that information. Do you have any information about that report other than what you see on that exhibit?
A. No.
Q. And so you don't know what AllMeds information may have been used to prepare Plaintiff's Exhibit 250.007, do you?
A. We did not -- we did not trace these numbers to --
Q. That's a yes-or-no question.
A. Ask the question again.
Q. Yes. You don't know what information was used from AllMeds to prepare Plaintiff's Exhibit 250.007?
A. No, sir. And we did not track these numbers back to a majority of the AllMeds reports.
Q. Now, what you do in your analysis is that you get the AllMeds data, but you didn't get all the AllMeds data, did you?
A. No, sir, we only extracted certain portions of data that we felt were applicable to the task at hand.
Q. Okay. So you got data that starts on January 1st, 2010?
A. That was part of the data that we received, yes, sir.
Q. And it extends through May the 9th, 2010?
A. It actually extended through May 31st, 2010, yes, sir.
Q. May 31st, 2010. And then you know for a fact, do you not, that there were accounts receivable that were posted before January 1st, 2010, that ultimately were paid by the people that owed the money on those receivables?

A. Yes.
Q. And you didn't include in your requests for information the data about all those people?
A. No, sir, we did. So let me clarify my answer previously in that we initially requested the data from AllMeds and extracted it from January 1 of 2010 through May 31 of 2010 for the charges of patient charges. But in regards to collections of accounts receivable, we obtained and extracted data for a much larger period of time, which even extended from 2007 through March 31st of 2011.
Q. Looking back at your -- I can't remember the exhibit now, but you had a summary of your work that you talked with Mr. Vincent Sheheen about yesterday.
A. Yes, sir.
Q. In Methodology 1, where did that information come from in Methodology 1?
A. It came from extracted data from the AllMeds system that were payments received from the period as far back as 2007 through March 31st of 2011.
Q. Who extracted that information?
A. It was extracted directly from SCENT, from the AllMeds system.
Q. Thank you. My question is who extracted the information.
A. Kim Roberts, formerly Kim Koumas.

Q. All right. So am I correct that all that data was not provided in response to your request to AllMeds, it was provided by SCENT personnel?
A. It was provided by SCENT personnel after our discussions with AllMeds; that's correct.
Q. And they applied a cutoff of March 31st, 2011, did they not?
A. In response to our request, yes is your answer.
Q. And so just in summary, what you did is you took the data that you got, and then you went back, and for every accounts receivable that was in the records as of May 9th, you concluded that if it had not been paid as of now, that you would exclude it from the accounts receivable that you contend existed as of April 2010?
A. You have to ask that question again, please.
Q. Yes. I'm just trying to summarize what you did in your report.
A. I understand.
Q. I'm not trying to take liberties with it.
A. Okay.
Q. Didn't you get the data from AllMeds and from SCENT?
A. Yes.
Q. And developed an analysis whereby you decided that all of the accounts receivable that were on SCENT's records should be removed if they haven't been paid by now?

A. If they hadn't been paid by March 2011, they were not included in an analysis of accounts receivable.
Q. So the number that you come up with, the 800-some-odd thousand dollars --
A. Yes, sir.
Q. -- that you contend is the accounts receivable that should be used if any are going to be used --
A. Yes, sir.
Q. -- that number reflects receivables all of which have been paid, 100 percent?
A. Yes, which have been paid, because that's the best representation of accounts receivable because it's the definition of a net realizable value. In essence, if we've received that money, then it had value as of May 9th because it was a true receivable. It was able to be collected.
Q. In order to -- well, first of all, that's applying 20/20 hindsight, isn't it?
A. It is, yes, sir.
Q. Okay. And in the real world, accounts receivable on a company's books and records constitute a projection of what may happen in the future, right?
A. It is an estimate of what is to be collected or expected to be collected, which is why every entity that records their accounts receivable is required, by definition, to estimate an uncollectible amount of receivables for contractual

allowances and bad debt, uncollectible accounts.
Q. And on a daily basis, SCENT personnel went through and recorded write-offs and adjustments based on what you told me before?
A. No, sir, that's not correct, not in relation to estimating uncollectible accounts in the future. They were operating on a cash basis. So as they collected funds, they realized at that point in time, we knew our charge, for example, was $500. If we charged a patient $500, then SCENT maintained that in their receivables with no adjustment whatsoever.

Once they received either an insurance payment, based on the amount that was contractually agreed to from the insurance company, at that point in time of the receiving of the insurance payment, they recognized that they were -- let's say they collected $200 out of a $500 charge. At that point in time, they knew that our contractual allowance is $300, and that's when they recorded the contractual allowance.

So charges that existed in the system that had not yet been paid still included the overstated charge, not the reduced amount of the contractual allowance.
Q. Let me show you what's been marked as Exhibit 318.
A. Thank you, sir.
MR. SHEHEEN: What is that?

MR. CLEVELAND: 318.
MR. SHEHEEN: You said it's already been admitted.
MR. CLEVELAND: Excuse me?
MR. SHEHEEN: You said it's already been admitted?
MR. CLEVELAND: No, it's been marked.
MR. SHEHEEN: I thought you handed it to the Judge.
MR. CLEVELAND: I did.
MR. SHEHEEN: Okay. It's not been admitted yet?
THE COURT: I haven't looked at it.
MR. SHEHEEN: Okay. Thank you.
Q. You provided a spreadsheet with your analysis last evening, did you not?
A. Yes, sir, we did.
Q. And do you recognize this as being taken from your spreadsheet?
A. If you represent that it was, but, yes, I recognize this is similar to what was on that spreadsheet, a portion of it, yes, sir.
Q. Well, I'll represent to you --
A. Yes, sir.
Q. -- it came from your spreadsheet.
A. Yes, sir, that's fine.
MR. CLEVELAND: Your Honor, I would offer this.
MR. SHEHEEN: No objection.
THE COURT: Very well. 318 in evidence without

objection.

MR. CLEVELAND: Thank you.

(Plaintiff's Exhibit 318 admitted into evidence.)

Q. Now, what this Plaintiff's Exhibit 318 shows is your analysis of what you think the accounts receivable were as of May 9, 2010?

A. This is an incomplete presentation only because it represents charges from January 1 of 2010 through May 9th of 2010. We've subsequently adjusted this number to include dates previous to January 1.

Q. Right. And that's not shown on your summary that you offered yesterday?

A. Yes, sir, it is. Yes.

Q. Now, I'm interested in the write-offs and administrative charges. You say here that these numbers, $3,519,455.57, constitute the total write-offs on charges as of and before May 9, 2010, regardless of the posting date?

A. Yes, sir, that's correct.

Q. And what that means, does it not, is that the accounts or that the write-offs relate to charges that were done prior to May 9th?

A. That's correct.

Q. And the decision to make the write-off occurred after May 9th in many occasions?

A. I think that would be accurate.

Q. So what you've done to calculate this is rather than take the AllMeds data that existed as of May 9th, you have superimposed on that an extra requirement that all of the accounts receivable be deemed to have been paid in order to be included in what you think the accounts receivable were at that time?

A. Based upon the definition of accounts receivable and the tasks that we were asked to do, which was to develop that accounts receivable, your answer is yes, we reduced all charges by any write-off or adjustment that was performed on that account, regardless of the date that it was done.

Q. Do you have a computer here, laptop?

A. No, sir.

Q. That's okay. We've got one for you.

A. That would be fine.

Q. Mr. Quigley, we've put the spreadsheet that you provided us into a computer so you'd be able to look at it.

We contend that the correct accounts receivable is a million eight for the period of time prior to May 9th. And as of May 9th, the accounts receivable, as shown on the records of SCENT, was a million eight.

And what I'd like you to do is go through and calculate how many or the amount of the payments that were posted after May 9th, 2010.

In other words, what I want you to do is to restore --

what I want to do is see how much there would be in accounts receivable if you didn't use 20/20 hindsight and just used the information that the SCENT personnel applied in the ordinary course of business in April and May, 2010.

MR. SHEHEEN: Your Honor, I'm going to object to that question, because the way he's phrasing it, he's telling him to figure the accounts receivable. He has testified what accounts receivable means. What he's asked him to do is contrary to what he testified accounts receivable means.

If he wants him to perform a mathematical function, which I think is what he wants him to do, he wants him to back out the things that were written off, fine, do that. But the way he phrased it is, "Find the accounts receivable," when he's testified that that's not what accounts receivable is on multiple occasions during his testimony.

THE COURT: If he's not able to do it, he can say he can't do it. I'll allow the question. Cross-examination.

You may proceed.

Q. Go ahead, Mr. Quigley. What I want you to do is figure out from the spreadsheet what the uncollectible AR -- the uncollected AR would be as of May 9, 2010, if you didn't remove those things that got written off after the valuation date.

A. To save some time for the Court, sir, have you already calculated that number based upon data that's already

presented on this spreadsheet?

Q. Yes, sir.

A. Okay.

MR. SHEHEEN: Your Honor, just so I understand what's going on, does that mean that, like, it's already run and it's sitting in front of him?

THE COURT: It's not. He just asked him, "Do you know what the number is? Do you have the number?" He asked him a question.

MR. SHEHEEN: Okay. I've got it.

THE COURT: And he answered it.

Q. I'm asking you to do the analysis.

THE COURT: And then Mr. Quigley asked Mr. Cleveland, "Have you figured out the number?" And Mr. Cleveland said, "Yes, I have."

MR. SHEHEEN: Okay. I just want to know what's going on, because I can't see what he gave him.

MR. CLEVELAND: It's just his spreadsheet.

MR. SHEHEEN: Okay.

MR. CLEVELAND: It's his spreadsheet with nothing else done to it.

THE COURT: Okay. Thank you.

And while you do that, we're going to take a little break. How about that? Give you a minute, if you're looking at something. Are you working on that?

THE WITNESS: Yes, ma'am.

THE COURT: Okay. Well, then we'll take a little break. You're not going to get a break. We'll give you a comfort break.

THE WITNESS: Thank you so much.

THE COURT: But we'll take a little comfort break, and, Counsel, you all take a little comfort break, and then I need to see you in chambers, please.

(Recess held.)

Q. Mr. Quigley, did you make the adjustments I asked you to make in your spreadsheet?

A. Thank you, sir.

As I understand your question, you wanted me to calculate the net amount of charges as offset by all payments up through May 9th and offset by all write-offs and adjustments up through May 9th; does that sound right?

Q. No, sir. If you look at Plaintiff's Exhibit 318, which is this sheet that has the yellow (indicating).

A. Yes.

Q. And you told us that this contains -- and this is your work product?

A. Yes. Yes, sir.

Q. And in calculating the amount of AR that you contend, the amount of accounts receivable that you contend should properly be recorded as of May the 9th --

A. Yes.
Q. -- you removed from the total all of those accounts receivable that were written off after the May 9th date, correct? Correct?
A. I don't know the answer to that.
Q. Listen to my question.
A. Yes, sir. I don't know the answer to that, because the date of the write-off is not in the extracted data.
Q. Yes, sir. But what do you mean it's not in the extracted data?
A. The date that the write-off occurred is not in the data, only the date of payment. So we do not know the date that SCENT actually wrote off or adjusted the accounts receivable. We know the amount of the adjustment and the write-off, but we don't know the date in which that occurred. It's not in the extracted data.
Q. And that's because the write-off data is not in there?
A. The amount --
Q. The write-off date is not in there?
A. The write-off date is not in there, that's correct, only the deposit date.
Q. Let me ask --
A. I appreciate your question, because I think you're trying to hone in on this and --
Q. Could you take a look at Plaintiff's Exhibit 319.

MR. CLEVELAND: Your Honor, may I put it on your desk for now.

Q. Now, do you recognize that as being the first three pages of the 150,000 lines of data that you got from AllMeds?

A. If you'll represent that, yes, I recognize that.

Q. All right. And if you look in the write-off column, do you see there are various things that are written off, correct?

A. Yes, sir.

Q. And the date of the write-off is under the -- is shown here, is it not? Yes or no.

A. No.

Q. What are these dates that line up with the write-off? Let's take the first, the first, the very first thing --

MR. CLEVELAND: And, Your Honor, I should say for the record, these records have patient names in them.

THE WITNESS: Yes.

MR. CLEVELAND: And so I would ask that this be marked for identification and -- well, actually, I'm going to ask you to admit it as an exhibit but to put it in a seal so that that is not available because of the privacy issue.

THE COURT: Any objection?

MR. SHEHEEN: Did you move it in?

MR. CLEVELAND: Yes.

MR. SHEHEEN: I don't have any objection to it being

admitted, and I don't have any objection to it being sealed.

THE COURT: Very well.

(Plaintiff's Exhibit 319 admitted into evidence.)

THE WITNESS: Perhaps we could refer to the patient ID number, if that's helpful.

Q. Yes. Let's look at the first one, 39077.

A. Yes, sir.

Q. All right. If you come along here, under the write-off column there's $149?

A. And two cents. Yes, sir, that's correct.

Q. And you come out here, and it has a date.

A. There are two dates, that's correct.

Q. And what does that 2/17/2010 refer to?

A. That's the date that the deposit was entered into the system for that particular patient.

Q. What deposit do you see entered into the system?

A. Okay. In that instance, you would be correct. There's no deposit listed. So that would be the date that the write-off was written off. That's correct.

Q. Exactly.

A. Yes, sir.

Q. So the dates of the write-offs appear in this spreadsheet.

A. Some of them do; that's correct.

Q. All right. Now, I had asked you to remove all the ones

that have -- and I'll represent to you that our accountant has been able to do this. It took him about three or four minutes --

A. Yes.

Q. -- to be able to make this calculation. Are you telling us you can't do it?

A. No, sir, that's not what I'm saying. What I'm saying is I can't 100 percent tell you that the dates that the adjustments were made, the write-offs or the adjustments, were the same date as the deposit. Now, it's been represented to me that that's generally the case, but perhaps not in all cases. So if we make that assumption, then I could perhaps give you that number.

Q. How about doing it?

A. Yes, sir, that's fine. So if we make the assumption that --

Q. I'm asking you to make the calculations on the computer, the way we did before the break. And I understand you haven't done that.

A. No, sir, I did, based on that assumption.

Q. Oh, you did?

A. Yes, sir, I did.

Q. All right. What is the number of the AR that you --

A. $1,814,450.18.

Q. All right. So let me see if I understand.

MR. SHEHEEN: Your Honor, he needs to be allowed to explain. He was trying to explain.

THE WITNESS: Yes.

THE COURT: Okay.

THE WITNESS: What I would explain is that's not my representation as the amount of the accounts receivable, but that is the answer to your question.

Q. But that number, a million eight, which coincidentally happens to be pretty close to what SCENT recorded on Plaintiff's Exhibit 250.007, correct?

A. I actually don't think it's coincidentally, no, sir, at all. I don't think it's a coincidence.

Q. Let me take the word "coincidentally" out of it.

A. Yes, sir.

Q. I was trying to be glib. I apologize.

A. Right.

Q. The a million eight is a number that's pretty close to the AR shown on Plaintiff's Exhibit 250.007?

A. And, sir, I'll represent to you --

Q. Just answer it "yes" or "no."

A. It is not as close --

MR. SHEHEEN: Your Honor, I'm going to object.

THE WITNESS: It is not as close as another number on that sheet.

MR. SHEHEEN: I'll object, because he can't tell him,

"Just answer 'yes' or 'no.'" He can answer "yes" or "no," and he can explain his answer.

THE COURT: If you're concerned about his response, then direct that to me. Let me do that.

MR. CLEVELAND: I apologize.

THE COURT: That's okay.

THE WITNESS: I don't know how you define "close," but I would represent to you that it's closer to the amount of SCENT charges that are also listed on that sheet as a million 810 in comparison as a million 814, which represents total charges for the month of April 2010 that have not been adjusted for contractual allowances and write-offs.

Q. Sir, the -- you calculated on Plaintiff's Exhibit 318 what the uncollected AR at May 9, 2010, would be, and you reported on Plaintiff's Exhibit 318 that it was $756,000, correct?

A. Yes, sir, that's correct.

Q. Now, I asked you to do the same calculation but don't take out the accounts receivable that get written off after the valuation date.

MR. SHEHEEN: Your Honor --

THE WITNESS: So you're asking me for --

THE COURT: Whoa, whoa, whoa.

MR. SHEHEEN: Your Honor, I'm going to object because counsel continues to misuse the word "accounts receivable"

when he's asking the question. There's been testimony over and over again by the witness that that's not his definition of accounts receivable.

THE COURT: Well, then he won't be able to answer the question, I guess. You know, he knows if he can or he can't.

MR. SHEHEEN: Thank you.

THE WITNESS: That's --

THE COURT: Whoa.

THE WITNESS: Yes, ma'am.

THE COURT: Now ask the question, because you were stopped mid-question.

MR. CLEVELAND: Thank you.

Q. Mr. Quigley, I asked you to do the calculations that appear on Plaintiff's Exhibit 318 but to not exclude those accounts receivable that were written off after May 9, 2010. Is that what you did or attempted to do?

A. Yes, based on the assumptions that we presented earlier.

Q. And what happened when you did that, when you added back the accounts receivable?

A. The write-offs and adjustments.

Q. When you added back the accounts receivable.

A. When I added back the write-offs and adjustments.

THE COURT: Hold on one second. I've got to make a decision.

THE WITNESS: Yes, ma'am.

THE COURT: And when you want to finish his question and he wants to shake his head and say, "Don't finish my question," and then he starts and then you finish his question again, all of a sudden my head wants to explode.

THE WITNESS: I understand.

THE COURT: So even if you think you know exactly what he's going to ask you, hold on, because my court reporter, then her head's going to explode because she has to get it all down. So just hold up. He's going to ask you a question. He pauses sometimes.

THE WITNESS: Yes, ma'am.

THE COURT: So just hold up, okay?

THE WITNESS: Okay. Yes, ma'am.

MR. CLEVELAND: Thank you.

Q. Mr. Quigley, the reason that I'm asking you about this is because we have SCENT's record of what it wrote down as being the accounts receivable on April 2010. Do you see that on the exhibit, Plaintiff's Exhibit 250.007?

A. I see that on there, but I'm not sure that's what they intended that to be.

Q. Well, I want you to assume for the purposes of my question that Plaintiff's Exhibit 250.007 was produced as the accounts receivable tracking sheets for SCENT.

A. Yes, sir.

Q. Can you assume that?

A. Yes, sir.
Q. Okay. Now, with that assumption in mind, SCENT and its personnel recorded that in April of 2010 it had $1,868,707.37 of accounts receivable in its records, correct?
A. Of gross accounts receivable.
Q. And when we look at what you did, it turns out that you reduced that number to $756,347.23, as shown on Plaintiff's Exhibit 318, by reducing the accounts receivable by deducting those that get written off after the termination of Dr. Dyce's employment.
A. Yes, sir, that's correct, based upon the contractual allowance agreements that it had with its insurance providers and government payors.
Q. And you applied 20/20 hindsight to your analysis, did you not?
A. I did, because, if at May 9th the entity would have appropriately reported accounts receivable, it would have been their responsibility to estimate the amount of contractual allowances and write-offs that are embedded within a gross accounts receivable number.
Q. Now, let's look at Plaintiff's Exhibit -- what is this? What is the exhibit number on that?
A. I have 319.
Q. Thank you, sir. Now, did you rely on this data that this Plaintiff's Exhibit 319 forms a part of?

A. Yes, we did rely upon that data, yes, sir, as one of our methodology tests.
Q. All right. Let's go back to that first patient, Patient 39077.
A. Yes, sir.
Q. And look out here on the far right-hand column. It says, "Insurance deposit on February 17, 2010." Do you see that?
A. Yes.
Q. And then come over here to in the middle of the page where it says "type." Do you see that? It has capital letters underneath it?
A. Yes.
Q. And for the second line for Patient No. 39077, it has the letter P there.
A. Yes.
Q. That means payment, doesn't it?
A. Yes.
Q. And so we have the insurance deposit being characterized as a payment on February 17, 2010, correct?
A. Say that again one more time, please.
Q. We have an insurance deposit. Look at the far right column.
A. Yes.
Q. That was received or posted on February 17th, 2010.

A. Yes.
Q. And recorded as a payment?
A. Yes, as a type P.
Q. Right. But what column does the number go into?
A. There was no payment. It was a write-off.
Q. Why would there be a write-off of an insurance deposit? What are you looking at?
A. I'm looking at Exhibit 319 in its complete form on the Excel spreadsheet.
Q. All right. Why would an insurance deposit be recorded as a write-off?
A. Repeat your question one more time.
Q. Yes, sir.
We have an insurance deposit --
A. Yes.
Q. -- shown on the far right-hand column of Plaintiff's Exhibit 319.
A. Yes.
Q. You've told us it was booked as a payment because of the capital P under type, yet it appears in the write-off column. Why is that?
A. I have to assume that --
Q. Wait a minute. Do you know the answer?
A. Not specifically related to that item, but the answer that I would provide to you is that they must have been

instructed by the insurance company that there was no payment to be received; and, therefore, they wrote off the balance at that point in time. So they would have received an acknowledgment from the insurance company that the insurance would not cover that charge; and, therefore, they wrote off the 149.

Q. Well, then why would you book it as a payment, and why would you book it as an insurance deposit?

A. It's simply a process of posting it into their system.

Q. To record a write-off as an insurance deposit? Explain that to me.

A. Well, the insurance company indicated, "We are paying you zero." So they posted zero, and they wrote off the rest of the --

Q. How do you know that?

MR. SHEHEEN: Your Honor, there's been a habit of cutting off the answer, and I object to it.

THE COURT: Yes. Please don't cut him off.

MR. CLEVELAND: Thank you. I will not.

THE WITNESS: How would I know that would be just through discussions with perhaps Kim Koumas and Theresa Williams and performance of our work during this process.

Q. Explain it to me again. If it's an insurance deposit, that means monies received. Those words mean money received,

right?
A. In this case it was zero.
Q. Well, how do you know it's zero?
A. Because under the insurance payment column, there is a zero.
Q. And the $149.02 is on the same column as the insurance deposit description, is it not?
A. Yes, that is correct.
Q. Normally insurance deposit would mean you received money from an insurance company, correct?
A. Or a note, yes, correct, or a notification that no payment was to be received.
Q. And when you put a P as characterizing the type of entry it is, it says "payment," correct?
A. That is correct.
Q. All right. And your explanation as to why you would book a payment from an insurance company as a write-off is what again?
MR. SHEHEEN: Your Honor, he's said it three times. It's been asked; it's been answered.
MR. CLEVELAND: I didn't understand.
THE WITNESS: I'll answer the question.
MR. SHEHEEN: I'll withdraw my objection.
THE COURT: Okay.
THE WITNESS: Just to further, I guess, help explain and

provide an understanding, this goes back to where I'd suggested at the time that an insurance company would pay or notify SCENT, my understanding is at that point in time, they would either receive payment, in this case no payment, and they would also understand at that point in time that the insurance company intended to only pay a portion or no payment.

Therefore, they would write-off the rest of the accounts receivable for that charge because that was the point in time at which they knew that they would not be receiving 100 percent of the charge that they provided to the patient.

Q. First of all, could this just be a mistake in the data?

A. Anything is possible, but I'm not sure that it's a mistake. I don't take it as a mistake.

Q. I apologize. I interrupted you. Please explain.

A. I think I finished.

Q. Now, are you telling the Court that SCENT would not exercise any independent judgment but would wait until an insurance payment was made before they would write off amounts they knew were uncollectible?

A. That's my understanding, yes, sir.

Q. All right. And otherwise, they never exercised their judgment to write things off on their own; is that your testimony?

A. No, sir, not in all cases.

Q. Well, let's look at the third item on Plaintiff's Exhibit 319, which is Patient 39902. Do you see that?
A. Yes, sir.
Q. And the date of service is January the 1st, 2010, correct?
A. Yes, sir.
Q. And the charge, capital C, is $120?
A. I apologize. What line are you on?
Q. We're on the third patient, whose number is 39902.
A. Okay. I apologize, 39902, the first line.
Q. Yes, sir.
A. Okay.
Q. The date of service is January 1st.
A. Yes.
Q. It's booked as a C, which means a charge?
A. Yes, that's correct.
Q. And $120 is booked as the charge for that service?
A. That's correct.
Q. All right. And then come down to the second line. Isn't it true that this reflects that SCENT personnel made an adjustment in this accounts receivable within the very same month that they posted the charge?
A. Yes, sir. One was on January the 25th, and one appears to be on October the 29th of 2010.
Q. And this reflects, does it not, that SCENT personnel

were making adjustments without regard to whether they got an insurance payment on their accounts receivable?
A. They did, in this case, make an adjustment to the charge; that's correct.
Q. Are you aware of situations where a company will be sold by its present owners to buyers and the contract will accord some value to the accounts receivable of the company being sold; are you aware of that situation?
A. That would probably normally be the case, yes, sir.
Q. And are you aware of situations where the purchase price is determined by the -- in part, by the value assigned to the accounts receivable; are you aware of situations like that?
A. Yes.
Q. Are you aware of situations where the buyer and the seller will agree that they will track the accounts receivables that are received after the closing date; are you aware of situations like that?
A. Yes.
Q. Are you aware of situations where the buyer and seller, after some period of time, say six months or a year, will evaluate whether the accounts receivable that have actually been received since the closing date match the expectations the parties had at the time of the closing date?
A. Yes, sir.
Q. Are you aware of situations like that?

A. Yes, sir.
Q. Are you aware of situations where the parties will agree that if the accounts receivable that are actually received after the closing date materially deviate from their expectations, there may be an adjustment in the purchase price, either up or down, depending on what occurred in the interim?
A. Yes, that's correct. Often referred to as a haircut provision.
Q. A haircut provision?
A. Yes, sir.
Q. Okay. Was there any haircut provision in the Dr. Dyce shareholders agreement, Plaintiff's Exhibit 7?
A. I can't represent to that. I only looked at Section 4.5 of the agreement.
Q. Was there any haircut provision, as you've used that term, in Paragraph 4.5 of Plaintiff's Exhibit 7?
A. Not that I've seen, no, sir.
Q. So what that means, does it not, is that Dr. Dyce and SCENT agreed to use the accounts receivable that were shown on its records as of the time of the termination, putting aside your theory about booked?
A. Yes, sir.
Q. Put that aside for a second.
A. Yes, sir.

Q. What this contract does, without having any haircut provision, is it says they agree to use the accounts receivable that had been recorded by SCENT on its records as the source of the number for that part of the formula?
A. Sir, I can't represent to you what the intent of the parties were when they made this agreement. I can only look at what the agreement specifically says, which is accounts receivable. And I'm providing to you what I believe the definition of accounts receivable are, in my opinion.
Q. I want you to assume for the purposes of my next question that the Section 4.5 of the shareholders agreement, and particularly the language about accounts receivable, is construed to mean that the purchase price for Dr. Dyce's shares shall include one-third of the sum of the accounts receivable of the corporation as recorded by the corporation in the ordinary course of business.

I want you to assume that Paragraph 4.5 is construed to mean what I just read. Do you understand the assumption?
A. I believe so.
Q. With that assumption, do you agree with me that the amount of the accounts receivable recorded by SCENT in the ordinary course of business on April 30th, 2010, was a million eight?
A. As I understand the definition of -- excuse me. As I understand the definition of accounts receivable, the

corporation did not record its accounts receivable under that definition.

Q. I understand that you take issue with the way they did it.

A. Yes, sir.

Q. But I want you to assume that the contract is construed to mean that we're going to take the accounts receivable as recorded by SCENT in the ordinary course of business. With that assumption, would you agree with me that the number that should be allocated for accounts receivable in that formula is a million eight?

MR. SHEHEEN: Your Honor, I object. That's the same question he asked, and he answered it very specifically. It's been asked and answered.

THE COURT: Cross-examination. I'll allow it. You may proceed.

MR. CLEVELAND: Thank you.

THE WITNESS: I apologize. Will you ask the question again? It threw me off.

Q. Yes, sir. I want you to assume that the contract between Dr. Dyce and SCENT is construed to mean that the accounts receivable number that will be used to calculate the purchase price for his shares will be the accounts receivable as recorded by SCENT on its records in the normal, ordinary course of business.

And if that's -- with that assumption, do you agree with me that the account receivable number that we should use in calculating the purchase price of his shares is $1,868,707.37?

A. I did not test gross accounts receivable, and I did not -- that was not what I was asked to do. I do not have the detail of the million 868. So all I have is one number on a piece of paper. And if you're suggesting that they're saying that that is their gross accounts receivable, then I'll accept that, but I cannot represent to you that that is the case.

Q. And if you accept that, the answer to my question would be yes?

A. Yes.

MR. CLEVELAND: Thank you. I have no further questions.

THE COURT: Redirect.

MR. SHEHEEN: Thank you, Your Honor.

REDIRECT EXAMINATION BY MR. SHEHEEN:

Q. Mr. Quigley, you were asked about Webster's Dictionary definition of booked, I think?

A. Yes, sir.

Q. And it was an adjective in there.

A. Exhibit 317.

Q. Good. I want to draw your attention to the whole sentence or the whole phrase in Section 4.5, and it's in

front of you, "Booked in accordance with the corporation's normal accounting methods." Okay?
A. Yes, sir.
Q. First of all, does "booked," as a term, have meaning to you as an accountant?
A. It does.
Q. Okay. And what is it generally referring to?
A. It's an antiquated term that historically referred to the fact when companies would maintain their financial records, not in the computer, we didn't have computers back then, so they were literally manual ledgers that they were called the books.
Q. Okay.
A. The financial books, which referred to the general ledger.
Q. So in this case, as an accountant, what does that tell you? What is it referring to?
A. It refers to the general ledger.
Q. Let's look at normal accounting methods.
A. Yes.
Q. As an accountant, what does that mean to you?
A. That would be the accounting method that an organization would normally use in presenting their financial information: Their general ledger, their financial statements and their tax returns.

Q. Are those tracking sheets, in your opinion, normal accounting methods of SCENT's practice?
A. No.
Q. What are they, in your opinion as an accountant?
A. They are what they represent, in my opinion, which are tracking sheets related to the billings and collections of SCENT. And they were isolated to only certain divisions of SCENT. I believe that's the case.
Q. Okay. You were asked a different question by counsel relating to --
MR. SHEHEEN: I can't remember the exact words he used, Your Honor; so I apologize.
THE COURT: That's all right.
Q. I think he called them recordings, accounts receivable recordings of SCENT.
A. Right.
Q. And you talked about the exhibits, the tracking sheet exhibit. And you were also shown by him the 60-day AR, which was Exhibit 214, and the 90-day AR, the thing that said 90-day AR?
A. Yes.
Q. Is that a recording of accounts receivable?
A. It is a schedule that tracks perhaps certain accounts receivable. It's not a complete picture.
Q. How about the tracking sheets, Exhibit 250 you've got up

there with you?
A. Yes, sir.
Q. Is that a complete recording of the accounts receivable?
A. Ask your question again. Is it a recording?
Q. Is that a complete recording of accounts receivable?
A. No, it's not a complete and accurate recording of accounts receivable.
Q. I want you to look at -- you've got 250 up there in front of you, right?
A. Yes. For April 2010.
Q. Right. Do you see where it says "open amount"?
A. Yes.
Q. Does that relate to accounts receivable?
A. I would think that it does relate to accounts receivable.
Q. And it's recorded right there?
A. It is.
MR. CLEVELAND: Your Honor, let me state my objection. I don't believe his answer is responsive in terms of having an opinion based on a reasonable degree of certainty in the accounting profession. He's speculating, and I object to it.
THE COURT: Thank you. Thank you very much. If he's giving an opinion, but I don't know that that's what you're eliciting from him at this point is an opinion.
MR. SHEHEEN: I was actually asking him, in his review

of the sheet, does that appear to be related to accounts receivable.

THE WITNESS: Yes.

Q. Okay. And the -- you were asked by opposing counsel about the 1 million 800 and some change figure at the top.

A. Yes.

Q. Does that relate to accounts receivable?

A. It does relate to accounts receivable.

Q. Are any of the numbers on this page, in your opinion, the accounts receivable of SCENT?

A. No.

Q. There was a lot of back and forth between you and opposing counsel about write-offs and adjustments. So I want to explore that a little bit for the Judge, because I'm a little bit confused.

A. Sure.

Q. She might not be.

And I believe he asked you whether it was done regularly, and you said there was some write-offs and adjustments done, perhaps on a daily basis. Do you remember that line of questioning?

A. Yes. Yes.

Q. Okay. Are there things that weren't written off that, as an accountant, you believe should be written off when you are determining accounts receivable?

A. Yes.
Q. Explain that to the Court.
A. Again, Judge, as I understand the practices of SCENT in regards to their billing and collections, they would not adjust their billing and collections system, their practice management system, until such time that they had some level of assurance about what they might collect or what they did collect on a particular charge.

So they would wait a period of time, perhaps when the insurance payment came in. And at that point in time, they would take the full charge against the amount of the insurance payment and make a judgment about what should be written off at that point in time.

So, therefore, the amount of accounts receivable or unpaid charges that are still in their billing and collections system are at an elevated amount because they do not have the expectation of collecting those, but they had not yet adjusted them down to a net realizable value, which is the definition of accounts receivable.
Q. So we'll take that, and then we're going to continue with this. The figure on Exhibit 250, the 1.8 that opposing counsel keeps referring to.
A. Yes.
Q. Is that figure net realizable value?
A. It is not.

Q. All right. Now, give the Judge a specific, if you can, of the circumstance of where something wouldn't be written off on SCENT's books that you believe wouldn't be written off on SCENT's tracking that should have been written off if it were really AR.

A. I think any particular charge that would have been performed in a recent time frame of this April tracking sheet where a payment had not yet been received from an insurance company, it would be reported then in these $1.8 million figures at that gross amount. So it would not be reported at net realizable value in that instance.

Q. Let me give you a hypothetical. Let's say that they performed a task, a procedure, whatever you want to call it, in 2006. And they had received no payment from it or nothing from the insurance company. How would that be reflected on this tracking sheet?

A. It may still be in this number. I don't know the answer to that. They -- as I understand from discussions with some of the internal staff that they were not -- they had been delayed in turning over certain collections to a collection company. And so they were evaluating accounts receivable, but they had not yet turned it over to a collection agency for collection. So it could potentially still be buried in that number at the gross amount.

Q. Did they eventually turn over amounts to a collection

agency? Do you know?
A. They did turn over a significant number of amounts to a collection agency and, as I understand it, have changed their process to do it more frequently.
Q. Okay. And was that subsequent to the day that Dr. Dyce left?
A. It was subsequent to the date of even the preparation of this tracking sheet and the date that Dr. Dyce left, as I understand it.
Q. Okay. Did you test, based on the data you had from the AllMeds system, whether or not this 1.8 million figure was -- you had a term for it. I'll say too much. Did you test it --
A. Overstated.
Q. Overstated. Did you test, with the data that you received from AllMeds, whether this $1.8 million figure was overstated?
A. The answer is yes to your question in that by analyzing the two methodologies that we did, which was to determine what was the amount of subsequent cash collection and what were the net amount of accounts receivable based upon the write-offs and adjustments that we knew occurred at some point in time, that the 1.8 had to be overstated, because the net accounts receivable, as we calculated them, were approximately 826,000, roughly.

Q. You were asked about if -- when a company buys a company.
A. Yes.
Q. If you, as an accountant and auditor, were retained by a company who was buying SCENT and asked to tell them what the accounts receivable are, was, would you be committing malpractice if you told them it was 1.8 million and some change?
A. I don't know if I'd be committing malpractice, but it would certainly be an incorrect number. I would investigate, as part of the due diligence for a potential buyer, to determine what amount -- what would that accounts receivable be. In essence, what benefit as a buyer am I going to receive from that accounts receivable in the future? And it would have to be an estimate of what we actually expect to collect.
Q. Okay.
A. Therefore, I would not purchase it or recommend it to be purchased at a value that was higher than what was going to be realized.
Q. Are you, at that point, determining for them what an estimated accounts receivable is?
A. I would, and that's the requirement of presenting an accounts receivable at a net realizable value, because it indicates the future economic benefit that an owner would

receive at any given point in time, and that is the value of an accounts receivable.

Q. What is the best model for you to perform to determine what an accounts receivable actually was that day. Now that we're trying to determine the date as of May 2010, what's the best model?

A. The benefit of that is having hindsight, as was mentioned previously, which is to determine what we actually collected. That is, the subsequent cash collection of an outstanding accounts receivable is the true value of what you receive in the future.

SCENT did not benefit from $1.8 million subsequent to May 9th. They only benefited to approximately $826,000 because that's what they actually collected.

Q. Is that analysis the appropriate analysis in the standards of the accounting and auditing practice?

A. Yes.

Q. Is there any other analysis that would be an appropriate analysis?

A. The only other analysis is, at a given point in time, without hindsight, is to develop an estimate of the uncollectible amounts of the gross accounts receivable, some of that which can be done by virtue of the fact we have an arrangement with our insurance providers, and there's a contractual allowance that they've agreed to pay for certain

services; therefore, we might have some kind of idea about what our historical collection percentage is.

Q. And on that figure -- strike that.

Do you understand that there are set charges that a medical practice has for procedures; do you understand that?

A. I do.

Q. And do you understand that they are then allowable amounts that an insurance company allows them to charge under specific insurance agreements?

A. Yes, about what the insurance company would pay.

Q. Right. And is that normally less than what the standard charge is in the medical practice?

A. It is.

Q. And is that true in every medical practice you've evaluated before?

A. Every one that I've experienced, yes.

Q. This 1.8 million figure?

A. Yes.

Q. To your knowledge and from your analysis, does it include the total charge?

A. I think it includes the total charge.

Q. And if --

A. Again, I did not test that number to say that that is the actual gross accounts receivable, but to me, it's reasonable.

Q. So if they --

MR. CLEVELAND: I object to that testimony as not complying with the standard that an expert has to comply with in terms of the basis of his opinions. I think it's speculative.

THE COURT: Sustained.

MR. CLEVELAND: Thank you.

Q. Based on your analysis, and if you can't answer it, just say you can't answer it.

A. Okay.

Q. Based on your analysis and your review of the data and your conversations with staff and your previous experience, does this 1.8 million figure include charges that could not be reimbursed by insurance companies based on the agreements with insurance companies?

A. Yes. We know that by virtue of the fact that there was an adjustment against those charge. That's the number that I was asked to previously add back to our net number of 756.

Q. What other types of things -- excuse me. What other type -- strike that.

If you could describe this 1.85 figure at the top, how would you describe it? What is it?

A. You mean the 1 million 868?

Q. No. I'm talking about 1 million --

A. What month do you have there?

Q. I'm sorry. I'm looking at -- what are you looking at?
A. April 2010.
Q. I'll look at that one. Okay. The number at the top, would you read it to the Court.
A. $1,868,707.37.
Q. What would you describe that as?
A. I actually don't know how to describe it other than to say that there apparently was, at some point in time, a report from 0203-2, which is the number of the report, that I believe came from the AllMeds system that would have that number on it.
Q. How about we look down lower maybe where it says, "SCENT charges." What is that?
A. I did see that report. That's 0248, and that represents the charges that occurred for the month of April at gross.
Q. You were asked about the data that you got from AllMeds and SCENT. Did you set forth the specifications for the data you wanted from AllMeds?
A. Yes.
Q. And did you eventually receive it?
A. Eventually, yes.
Q. And did you decide that March 31st, 2011, would be the cutoff date?
A. Yes.
Q. Why did you pick that?

A. Based on our experience, as a charge ages, it becomes less collectible.
Q. And if you look at the exhibit, the sheet you prepared.
A. I actually don't have that in front of me.
Q. Okay. We'll get it for you.
MR. SHEHEEN: Your Honor, it was Exhibit 281.
Q. And you can look in the left-hand column. Does it kind of tell you when collections quit coming in, date-wise?
A. It indicates the dates of service for when the charges originally occurred for payment that was received after May 9th up through that March 31st of 2011 date.
Q. Can you tell from that the likelihood of receiving payment after, say, six months go by?
A. Yes. You can see that as the dates become older, the dollar amount of the collections reduce. So, for example, for services that occurred in 2009, of which we received a payment after May 9, 2010, they were 80,000; for 2008's services that we received or collected, after May 9th it was 17,000; and then for 2007, it was down to 3,000.
So as time passes, the likelihood of collection becomes -- it becomes much less likely that we'll collect.
Q. Based on the testing you did of the 1. -- of the -- I'll say April you were talking about $1.7 million. Based on the testing that you've done and the analysis that you've done, does that figure include things that have not been adjusted,

adjudicated or prosecuted or adjusted?
A. Explain your question again.
Q. Based on your analysis of the data and your discussions with staff and other research you may have done, does that $1.7 million figure in the April tracking sheet include --
A. I don't see the $1.7 million figure. I apologize.
Q. I'm sorry. You said you were on April 2009?
A. April 2010.
Q. Sorry. I'm in the wrong one. What's the little number at the very bottom?
A. 0250.007. That's Plaintiff's Exhibit.
Q. The top number, what is it?
A. Million 868,707.
Q. Based on your analysis and your work in this case, does that figure include charges that have not been prosecuted or adjudicated or written off?
A. I'm not sure what you mean by prosecuted or adjudicated.
Q. How about written off?
A. They've not been written off.
Q. Okay.
A. It includes certain amounts that have not been written off.
Q. Okay.
A. As of the date of preparation of that tracking sheet.
MR. SHEHEEN: Beg the Court's indulgence for a minute.

THE COURT: Okay.
Q. If you were hired to do an audit of SCENT, would you ever use the tracking figure number for your audit report?
A. I would not present that number on the balance sheet as the accounts receivable.
Q. After May 9th, are you aware of how much of that figure on the tracking sheet was turned over for bad debt?
A. To a collection agency?
Q. Yes, sir. I'm sorry. To a collection agency.
A. As part of our work, we did discuss with Kim Roberts about their process for turning over uncollected charges to a collection agency. That's when she explained that they weren't as diligent about doing it during that time frame, and she provided me with documents subsequent to May 9th that were turned over to a collection agency, yes.
Q. Do you remember approximately how much it was, ballpark?
A. It was about $1,295,000 that were turned over to a collection agency for collection.
Q. Would you consider those -- as an accountant and auditor, would you consider those amounts turned over to a collection agency as part of accounts receivable?
A. Again, they would have to be evaluated for the net amount that was expected to be collected or realized for them to be determined as net accounts receivable.
Q. Is there a difference between accounting method -- as an

accountant and as an auditor, is there a difference between accounting methods and internal tracking methods of the company?

A. Yes. In essence, someone can track something internally for a number of different reasons and methods to determine for management purposes, for evaluation, but it does not necessarily equate to what actually gets reported on the financial statements under their normal accounting method.

MR. SHEHEEN: Okay. Beg the Court's indulgence for one moment.

Q. Mr. Quigley, based on your expertise and your experience, to a reasonable degree of your expertise, what would one third of the sum of the accounts receivable of the corporation booked in accordance with the corporation's normal accounting methods be?

A. Zero.

Q. Based on your experience and your expertise, if alternatively you were trying to figure out what the actual accounts receivable would be, what would that figure be?

A. One-third or the actual?

Q. The actual.

A. It would be the net realizable value of accounts receivable, which we've calculated at approximately $826,000.

Q. Did you calculate that utilizing normal accounting and auditing practices in your industry?

A. Yes, we did.

MR. SHEHEEN: Nothing further, Your Honor, thank you.

THE COURT: Recross.

MR. CLEVELAND: Briefly, Your Honor.

RECROSS-EXAMINATION BY MR. CLEVELAND:

Q. Mr. Quigley, the shareholder agreement, Plaintiff's Exhibit 7, provides a mechanism for adjusting the accounts receivable number that is used in calculating the price of Dr. Dyce's shares, does it not?

A. Under Section 4.5B?

Q. Yes, sir.

A. It does adjust the value of the sum of the accounts receivable, yes.

Q. By how much?

A. By the amount one third.

Q. One third?

A. Yes.

Q. So Dr. Dyce would only get the benefit or value of one third of the accounts receivable as recorded by SCENT in its books and records under this contract, would he not?

A. That appears what -- yes, that appears what the shareholders agreed to.

Q. Now, just briefly, GAAP, generally accepted accounting principles, G-A-A-P, doesn't govern SCENT's preparation of its books and records, does it?

A. No. They have elected to use a different method of accounting.
Q. Than GAAP?
A. Yes.
Q. And is it true that month in, month out, since the formation of SCENT, members of your firm have met with SCENT and its personnel to review its financial records?
A. That's what I understand. I've not been a part of that, but that's what I understand, yes, sir.
Q. And are you aware of your firm ever taking issue with the manner in which SCENT recorded in its books and records its accounts receivables on a monthly basis?
MR. SHEHEEN: Your Honor, I object because there's no evidence that the accounting firm ever had anything to do with these sheets, because they didn't, because they're not the normal accounting methods of the practice.
THE COURT: Say what?
MR. SHEHEEN: There's no evidence in the record because it's not true that the accounting firm ever had anything to do with these sheets at all, review them, talk about them, do anything with them, because it was not part of the normal accounting method.
And his question was did the accounting firm ever have objection to them. I'm objecting to that question because the accounting firm never had anything to do with them,

period; so they couldn't object to them. It presupposes facts that aren't in the record.

THE COURT: I'm with you. Okay. Overruled. It's cross-examination.

Q. Did you understand the question?

A. No, sir. Please repeat it.

Q. Are you aware of any statements or suggestions made by your firm that SCENT was not accurately recording its accounts receivables?

A. I am not aware of that because I believe they were accurately reporting their accounts receivables on the cash basis method of accounting, which was zero. The answer to your question is no, I'm not aware.

Q. Are you aware of anyone from your firm other than you taking the position that the booked accounts receivable of SCENT are zero?

A. Repeat that again.

Q. Are you aware of anyone in your firm other than you who adopts the position that the booked accounts receivable at SCENT were zero?

A. Yes.

Q. You're aware of other people in your firm?

A. I am aware of that, yes, sir.

Q. And you saw the interrogatory answer. Did your firm participate in helping form that answer?

A. I do not know the answer to that.

MR. CLEVELAND: No further questions.

THE COURT: Okay. Is this witness free to leave?

MR. CLEVELAND: Yes, from the plaintiff's perspective.

THE COURT: Thank you. Thank you. You're free to go.

THE WITNESS: Thank you, Your Honor.

THE COURT: Call your next witness.

MR. SHEHEEN: Thank you, Your Honor. Your Honor, that is all the witnesses we have. I think I need to make a directed verdict motion. If we could break, I have to pull my mind together for that. It won't be long.

THE COURT: Sure. Go right ahead. Take it right now.

(Recess held.)

THE COURT: All right. Yes, sir.

MR. SHEHEEN: Thank you, Your Honor.

THE COURT: Yes.

MR. SHEHEEN: Your Honor, for the record, I need to make a directed verdict motion, and I will try to make it as expeditious as possible.

THE COURT: Sure.

MR. SHEHEEN: Your Honor, there are, obviously, in this case claims by the plaintiff, and there are claims by the defendant -- the defendants. I would first deal with the claims made by the plaintiff.

Your Honor, claimant, plaintiff has filed a claim for

breach of contract. South Carolina law provides that a fundamental and substantial breach of an agreement by the plaintiff defeats the purpose of the entire contract, namely, the opposing party. Your Honor, we believe that there has been a fundamental and substantial breach of the agreement, and that's been proven to you, and we're asking for directed verdict on their breach of contract claim.

Evidence that has supported that includes the fact that Dr. Dyce, as you'll recall, took insurance contracts from SCENT, asked Kimberly Koumas to keep it on the down low and admitted that he took those for his own purposes. That has been undisputedly proprietary information of SCENT.

Your Honor, you also recall that Dr. Dyce received an unsigned affidavit from Dr. Gunnlaugsson. He had a duty and an obligation under the contract to act in the best interests of SCENT, did not alert SCENT to that. And, in fact, you've been shown information contained in that affidavit by Dr. -- that was prepared by Dr. Gunnlaugsson's lawyer that could only have been obtained by Dr. Dyce. That's a breach of his contract.

Your Honor, you've also been given evidence that Dr. Dyce filed a lawsuit violating the arbitration clause. There was testimony to you that the purpose of the arbitration clause, one of the purposes, is to keep these disputes private, not in the public sector. That was a

breach of the contract.

Your Honor, there was also a breach, a fundamental and substantial breach by Dr. Dyce, when he, through his attorney, sent a letter April 16th, 2010, saying that he was repudiating and not intending to abide by the covenant not to compete, which was a part of the contractual documents, and stating that he was going to be operating, I believe at that time, out of his home in Hartsville, which would have been a violation of the covenant.

Your Honor, there was also a fundamental and substantial breach by the plaintiff that has been shown by the fact that in HMA's Dr. Dyce prospectus, which has been presented to you, they have the payor mix of SCENT. Testimony was to you that this is confidential, proprietary information. Certainly nobody from SCENT gave it to HMA. And the evidence should lead the Court to conclude and find that the only place they could have gotten that was from Dr. Dyce, and that's a violation of his contract.

Your Honor, there's also a breach by Dr. Dyce we're asking that was substantial and fundamental to the contract -- excuse me, that is displayed by the fact that he gave information to Dr. Gunnlaugsson that was included in Dr. Gunnlaugsson's complaint, information related to the shareholder dispute and the contractual terms that were being negotiated by the shareholders, Dr. Dyce and Dr. Puchalski.

And, Your Honor, there's also a fundamental breach of the contract that was shown in the equipment exhibit that HMA -- that was introduced to you that showed that HMA was receiving equipment for Dr. Dyce. You'll recall that Dr. Dyce's testimony said that might have been for an operating room, but it's clear in the exhibit that's to set up an ENT office, which would have been a violation of the covenant and the contract.

Your Honor, of course, he also has asserted in his tax return that there was a third shareholder, which would be a breach of the fundamental understanding of the shareholder agreement.

So, Your Honor, our first directed verdict is that -- against their breach of contract claim, because the breaches by the plaintiff were so fundamental and substantial to defeat the purpose of the entire agreement and relieve the defendant, SCENT, of any obligations it might have.

Your Honor, the next claim -- these might not be in order of the complaint; so I apologize for that.

THE COURT: That's okay.

MR. SHEHEEN: -- was for an accounting. Austin Sheheen, testimony you received and the only testimony I recall you receiving about an accounting was from Austin Sheheen on Pages 3 -- around 313 and after, where he talked -- where he presented the Court with an accounting and said that this

accounting had been presented regularly when Dr. Dyce was there in meetings that he'd had.

Accounting's been done. The document's have been presented to the Court, and beyond the normal accounting that Austin Sheheen presented, and he wasn't challenged on that, voluminous documents have been provided and the accountant's office was opened up to the plaintiffs. They spent time there and made thousands of copies of documents. So we'd ask for a directed verdict on the accounting claim.

Your Honor, there has been individual claims against Amy Puchalski that were filed. Those were focused around a constructive trust. The only testimony -- first of all, there are certain elements to a constructive trust that have not been proved.

But secondly, the only evidence that has been presented to you has been that any monies Amy Puchalski received were monies that were due her husband, and there's nothing inappropriate in a spouse receiving the funds their husband is due. We would ask Amy Puchalski be dismissed or the directed verdict be granted to Amy Puchalski.

Your Honor, there's also an individual claim against Dr. Puchalski. You heard -- the only testimony you've heard has been from Professor Freeman, where he said that his evaluation was that Dr. Puchalski was operating within the business judgment rule at all times. You heard testimony

from Austin Sheheen that, in his experience as the accountant, Dr. Puchalski was acting in his role as an officer of SCENT and that he acted in the best interests of SCENT.

You also heard that testimony from Macy Vidrine that, as a shareholder and former employee or employee and later a shareholder, his observations were that Dr. Puchalski was acting in his role as an officer of SCENT in these allegations and that he acted in the best interests of SCENT. We would ask that a directed verdict be given to Dr. Puchalski as well.

Your Honor, also, the articles of incorporation have certain indemnification language. We would ask you to look at that in making that determination as well.

Your Honor, there's also a claim by Dr. Dyce that he became a shareholder prior to July 16, 2008. Your Honor, the contract that the plaintiff claims has been breached is the shareholder contract that is dated July 16, 2008, where the parties agreed that he would become a shareholder on July 16, 2008.

If you look through Mr. Livingston's testimony, on Page 8, Mr. Cleveland says to you there are a number of dates that he could have been a shareholder: Early '07, August '07, January '08, July '08. And then they talk about which one they think was right.

There's not a number of dates that somebody became -- that he became a shareholder. It's the date on the contract, July 16, 2008, which is what the parties agreed to in that document. They were both represented, if my recollection is correct, at the time.

Your Honor, Dr. Dyce got his stock certificate, the evidence shows you, then. He signed a tax return that's consistent with that. His original complaint alleged that that's when he became a shareholder. He didn't sign on the debt until after that. And he didn't cosign contracts for the company or be listed as a shareholder on insurance policies and other things until that July 16th date.

And you've heard the testimony of Macy Vidrine that Dr. Dyce told him after that that he had just become a shareholder. They played in a golf tournament with owners and employees and that that was what he stated. Your Honor, we would ask for a directed verdict on his claim that he became a shareholder prior to the date that he agreed in the shareholder agreement that he became a shareholder.

Your Honor, there's also a claim for unpaid wages in the case. I think that claim kind of folds into the -- it's related to the shareholder status. There's no testimony that as an employee he didn't receive what he was due as an employee. I think it's kind of like saying, "Well, we became a shareholder earlier; so we were owed this money as a

shareholder." But there's no evidence that as an employee he didn't receive what he was supposed to receive, and that should be dismissed.

Your Honor, there's also a claim for conversion. The elements of that have not been met.

There was also a claim for post-termination profits at one point, and that would be after he was working -- excuse me, after he was not working at SCENT. Your Honor, we'd ask for directed verdict on that. Essentially, they're trying to double dip.

And then, Your Honor, there was a claim related to Somnus. And you'll remember the evidence in the agreement in Somnus was that you're supposed to get $100 when you left. You're supposed to pay $100 to come in. All the evidence is that he never paid the $100 to come in; so that's a wash. There's no contradicting evidence to that.

Your Honor, I stated this in my directed verdict motion after the plaintiff's case, they introduced no evidence in their case relating to SCENT Land and any amounts being owed to Jamie Curley under SCENT Land. So any relief they're asking from you, I believe -- well, we're asking for directed verdict on because it's been banned at this point.

It would be inappropriate for them to come in in rebuttal and put up evidence about SCENT Land when they didn't do it in their case in chief. So we're asking for a

directed verdict for any relief. I'm not sure what they're asking on that, because they didn't put up anything in their case related to that.

Your Honor, the last point related to all their claims is Dr. Dyce did not mitigate. He has an obligation to mitigate his damages. You'll recall the only evidence in the record was he was offered an opportunity to come back at over a million dollars as an at-will employee, but that would be mitigation of his damages that he refused to take.

Your Honor, those would be the claims of the plaintiff. There are also counterclaims by the defendants. Your Honor, there is a counterclaim for breach of the contract, the employment agreement and the shareholder agreement. I've basically been through that with you related to the breaches already; so I won't repeat myself. I'll just say we're making the same arguments that I just made.

There's the breach of the covenant not to compete, and I do want to address that briefly. And we're asking for a directed verdict on the breaches. Your Honor will remember there are two covenants in the agreement. There's the employment agreement. There's the one for post -- when you leave, you're not supposed to compete. And that was Exhibit A to the employment agreement. And there was language within the agreement, things he was not supposed to do. So we're claiming that he breached both of those, and I

believe the evidence shows that he did breach both of those.

Your Honor, he violated the covenants in many ways. I'm just going to bring forth to you some that I believe are undisputed. Again, the letter from his lawyer repudiating it, saying it's not enforceable, we're not going to abide by it. That was April 14, where he also said that he was going to be at his home and operating out of his home or have an office out of his home.

Your Honor, there was the June 21st quote by HMA for the ENT equipment, which I already discussed, which clearly was to open an office for him. There's no other conclusion that could be drawn.

There is the fact that he contacted Lance Jones. As we mentioned, Lance Jones was the HMA CEO, and eventually went to work.

These are all clear breaches of the covenant not to compete and the covenant in the agreement to act in the best interests of SCENT.

Your Honor, we also had the claim for breach of fiduciary duty. There's evidence throughout the record that Dr. Dyce breached his fiduciary duty. He breached it by not letting SCENT know that Dr. Gunnlaugsson was adverse to the company, which led to severe harm to the company. He breached it when he gave Dr. Gunnlaugsson information that Dr. Gunnlaugsson was not entitled to. He breached it when he

failed to act in the best interests of SCENT. And we believe that you should give a directed verdict for the breach of fiduciary duty.

Your Honor, I left one thing out, the breach of the covenant not to compete, and I apologize for that. Your Honor, there were two substantial breaches after he left, and they caused different harm.

One was in Cheraw. If you recall, we had an office in Cheraw. He opened an office there. He competed against us there. There was an office in Hartsville. He opened an office there and competed against us there. We introduced the fact that there were damages that came from those separate breaches. There's also, we believe, the liquidated damages provision should apply to both those breaches.

Your Honor, there was a claim for shareholder oppression. Professor Freeman addressed that, but you also heard testimony throughout the case related to it. Dr. Dyce oppressed SCENT and Dr. Puchalski by failing, for example, or refusing to sign off on new malpractice insurance the company needed to operate successfully; by failing to sign off on new EMR licenses, which would allow a new doctor to bill; by failing to renew a line of credit that the company needed so they could continue to work in conjunction with SCENT Land to operate; all of which stymied the company to the point -- I don't have to go into it. You know what happened, and he was

terminated, and we're here.

Your Honor, the last claim that we had that we're asking for a directed verdict on is the conspiracy claim. You'll recall that undisputed evidence of the phone charts between Dr. Gunnlaugsson and Dr. Dyce, back and forth, back and forth. Dr. Gunnlaugsson would call his lawyer and then call Dr. Dyce back.

Again, the affidavit of Dr. Gunnlaugsson had information that Dr. Dyce had to have given him. Dr. Dyce knew about it. Didn't work with the company to solve the problem. We had the complaint from Dr. Gunnlaugsson with information that could have only been provided by Dr. Dyce. And you had the tape-recorded calls of hours and hours and hours of conversations.

And you had the one call, which I think is particularly important, to show that there was a conspiracy going on when Dr. Puchalski says, "Is anybody taping the call?" And Dr. Dyce is on the phone and Jamie Curley is on the phone, and Jamie Curley says "No," and they were taping the call.

So, Your Honor, we're asking for a directed verdict on all these claims, and I'm renewing my motion for directed verdict if I left anything out that I made after the close of the plaintiff's case. Thank you for your time.

THE COURT: Thank you. Thank you so much.

I'm going to ask you about specific ones, okay?

MR. CLEVELAND: Yes.

THE COURT: The accounting.

MR. CLEVELAND: Yes. One of the major things that occurred in the trial was finally sorting out when Dr. Dyce became a shareholder, and that was on February 1st, 2008. And that's very important because then we submitted to the Court the analysis that Mr. Livingston prepared showing the many, many, many hundreds of thousands of dollars of distributions that Dr. Puchalski paid himself and did not pay Dr. Dyce his share.

And so our request that the Court settle the account between the parties arises in large part out of our fact that we have proven that Dr. Puchalski misrepresented when Dr. Dyce became a partner, a shareholder, based on the evidence in the case. And we think the evidence has been submitted to you where you can settle the accounts of what SCENT and Mrs. Puchalski and Dr. Puchalski owe Dr. Dyce.

THE COURT: That's what I thought too. In other words, there's not a request now for an accounting but that based upon the information provided that the accounts be settled.

MR. CLEVELAND: Right.

THE COURT: Yes, okay. Very well. That was my belief as well, that there wasn't the equitable -- there wasn't a request for an equitable accounting at this point but just to settle accounts.

MR. SHEHEEN: Which is the crux of the claims.

THE COURT: Without question. Yes. Very well. And that's what I thought; so that's why I said that specifically.

Insofar as that request is a request now for an accounting, I don't believe that's -- I don't even think at this point that's requested. The settling of the accounts, sure. And that will arise out of the claims.

Okay. Very well. Talk to me about Amy Puchalski.

MR. CLEVELAND: The evidence is that during 2008, 2009 that many, many hundreds of thousands of dollars were paid.

THE COURT: Got it. I'm with you. I got that. I just needed to hear that that was still the position. Got it.

Employee wages, that goes to that period from -- let me listen to you.

MR. CLEVELAND: I think so, on the employee wages, that would be the basis of that claim. I'm a little cold right now on the details of the analysis that was done on that 2008-2009, but that's where the employee wage claim would be based.

THE COURT: Got it.

MR. SHEHEEN: Your Honor, if I could just address that.

THE COURT: Sure, sure.

MR. SHEHEEN: Originally, that came out of, I believe, and this might be wrong, I'm just going to address him.

THE COURT: Yes.

MR. SHEHEEN: There was the call pay issue about whether he got call pay or not. I think that all got settled out, but it might not be.

THE COURT: You all touch base about that. And if I need to hear argument, I certainly will.

Conversion.

MR. CLEVELAND: Again, Dr. Puchalski and Mrs. Puchalski, by taking hundreds of thousands of dollars --

THE COURT: Okay. Got it.

Post termination, got that.

Somnus, the $100 on Somnus.

MR. ELLISON: The claim, Your Honor, was not for $100.

THE COURT: Okay.

MR. ELLISON: We have asserted that Dr. Dyce was a member of the LLC.

THE COURT: Right.

MR. ELLISON: And that there was money that -- and monies were supposed to be spent, paid 50/50. They weren't paid 50/50. And instead, Dr. Dyce got nothing out of Somnus. And Dr. Puchalski took, if I remember correctly, it was either 50 or $100,000, something like that, in monies that were not paid to Dr. Dyce as well.

THE COURT: Best of my memory, Somnus is its debt. Didn't it buy equipment?

MR. ELLISON: It was sleep labs.

THE COURT: Yes, yes, yes. And Dr. Dyce is obligated individually on that loan, no?

MR. SHEHEEN: That's SCENT Land. Your Honor, in Somnus, it was for sleep services.

THE COURT: Right.

MR. SHEHEEN: Thus Somnus. Your Honor, I understand the arguments. The only testimony was that he was the operating manager, whatever you call it. The only testimony, this was from Austin Sheheen, was that what he was paid for doing that was reasonable. We laid the groundwork for that. I think it was 40 something.

MR. ELLISON: Your Honor, actually -- sorry.

MR. SHEHEEN: And it was a management fee, and the reason I mentioned the $100 is because the agreement itself says that when there's a departure, that what the member departing gets is 100 bucks, but the member was supposed to pay 100 bucks in. The only evidence in the record is it was never paid. That's my point.

THE COURT: Okay.

MR. ELLISON: And the point that we would make is in Exhibit 296, Mr. Livingston presented evidence that when Dr. Dyce left Somnus, that half the management fees paid to Dr. Puchalski was $12,000 and that Dr. Dyce should have received that amount as well. And there was also a cash

balance in Somnus's account as of May 9, 2010, and half of that cash balance would have been $43,000, and that Dr. Dyce was entitled, as a 50 percent member in Somnus, to both of those sums of money.

THE COURT: Okay.

MR. ELLISON: It wasn't over $100.

THE COURT: I gotcha.

MR. SHEHEEN: That's not what I'm saying. What I'm saying was the evidence, the agreement says what he's supposed to get.

THE COURT: Okay. I got you.

MR. SHEHEEN: Not the expert just saying, "Hey, you're supposed to get it."

THE COURT: I understand.

MR. SHEHEEN: Thank you.

THE COURT: And then SCENT Land.

MR. CLEVELAND: Your Honor, in this case, the Court, not you, but Judge Benjamin or Lee --

MR. SHEHEEN: Benjamin.

MR. CLEVELAND: Benjamin issued an order granting summary judgment declaring that SCENT Land needed to be dissolved because of the failure of Dr. Puchalski to buy out Dr. Dyce. And the evidence that we offered on the value of SCENT Land at the time, she ordered that it needed to be dissolved in order to -- that we were entitled to dissolution

of SCENT Land.

And the evidence of the value of SCENT Land is the fact that Dr. Puchalski and Mrs. Puchalski took out a million two of equity and by having SCENT Land sign a note and a mortgage. Dr. Vidrine testified about that yesterday.

And so what they did was they recognized the value -- determined the value, in large basis, with Dr. Vidrine being a million two and then transferred all that to Mrs. Puchalski. We think Jamie Curley is entitled to half of that.

MR. SHEHEEN: Your Honor, I have a big problem with this, because in the plaintiff's case, they put up zero about this. It's their burden, they're trying to get relief, to put up the evidence. They put up nothing. They put up nothing. So that's the first basis of my directed verdict.

But secondly, Your Honor, what he's saying is that a completed building, the SCENT Lugoff -- remember, when Jamie Curley exited SCENT Land, there was a half-constructed building. There was not a completed building.

So they're trying to tell you that under their argument -- which I think you shouldn't take anyway because they did not put forth any evidence in their case -- their argument is that somehow, months later, when the building was completed and debt had been paid off, paid back to SCENT and a lot of things had happened, you should use that value to

somehow say that SCENT Land needs to pay Jamie Curley money. That's not a legitimate argument.

But for my directed verdict motion, more importantly, I suppose, is that they refused or failed to put up any evidence during their case to talk about the value of SCENT Land.

THE COURT: I got it. Here's where SCENT comes into it, SCENT Land Holdings comes into it. Obviously, if Judge -- and I've gotten that. I do recall now that you all talked about it early on with regards to the dissolution of SCENT Land.

Here's my problem with that, because one of two things happened, either there was a -- and, of course, I've heard testimony regarding the failure of the million two, which was loaned by SCENT to SCENT Land at the point in time when Dr. Dyce was there. That can't be -- as I understand your position, that cannot be considered a cash equivalent because of the reasons that I heard, based on the definition of cash equivalent.

MR. SHEHEEN: For SCENT. It was a loan from SCENT -- our position it was a loan from SCENT to SCENT Land.

THE COURT: For a million two.

MR. SHEHEEN: Yes, ma'am.

THE COURT: And even though it's interbusiness to some extent, to some extent it certainly is not.

MR. SHEHEEN: And it wasn't a million two. I don't know the exact figure. I'm sorry.

THE COURT: I think it was.

MR. SHEHEEN: No.

THE COURT: It is what it is.

Here's my problem with it, because, as I understand it, as soon as the loan was given on the building to satisfy the contractor, then the other monies were to be paid back immediately to SCENT as well.

MR. SHEHEEN: That is what happened.

THE COURT: Okay.

MR. SHEHEEN: That is not what an arrangement was. What happened was they were trying to put money into SCENT Land and keep the construction going to pay down the contractors. They hoped that they would be able to pay it back. I don't know that it was planned to be two days later, three days later, a month later, three months later, and I don't want to tell you what the testimony was because I don't recall.

THE COURT: I do recall, and I recall that -- I wouldn't know. I haven't talked to these people. I've got one way of knowing stuff, and that's based on the testimony presented. Like, remember, I was a blank canvas.

MR. SHEHEEN: Right. I know there were no terms, if you recall --

THE COURT: No, there weren't. Exactly. But, again, I

mean, here's the reality: The reality is that I've learned that Dr. Puchalski, whether he's in it or not in it, he manages it. And he has managed it. And I don't think there's a soul that's testified that doesn't acknowledge that.

So to say he doesn't have some role in whether or not SCENT Land was going to pay the money back to SCENT would be to deny what I've heard for 11 days.

MR. SHEHEEN: The goal clearly was to pay the money back to SCENT Land.

THE COURT: Absolutely.

MR. SHEHEEN: Yes.

THE COURT: Absolutely. So it's one of two things. If it's not a cash equivalent, it came from the practice and was certainly a note due or monies due to SCENT. It's either in SCENT Land or it's in SCENT. It's got to be one or the other. It's either in SCENT Land as value or it's a note due by SCENT.

MR. SHEHEEN: Yes.

THE COURT: Right.

MR. SHEHEEN: A note due by SCENT Land --

THE COURT: SCENT Land to SCENT.

MR. SHEHEEN: Yes.

THE COURT: A receivable. It's either a receivable of SCENT, or it is value that is in SCENT Land, based on where

my head is. In other words, the amount, as I recall, is a million two, but I actually have to go back and take a look. But there is an amount of money that's a substantial amount of money that's somewhere between these two companies.

MR. SHEHEEN: Right.

THE COURT: Depending on where it lands will be -- will, I think, have great consideration who gets the money, whether it's going to be benefit from it. It may be Dr. Dyce, it may be Ms. Curley, but at this point, point I'm not prepared to --

MR. SHEHEEN: I understand. Just so I'm clear with you on what our position is.

THE COURT: I got your position.

MR. SHEHEEN: Okay. We have in our estimates, which you'll see back later, that the money was used to pay contractors. So it's at SCENT Land, and there's a debt to SCENT. That's how we're showing it.

THE COURT: To which Dr. Dyce does not benefit, because it's not a cash equivalent; and, therefore, he's not entitled to it. Not entitled to it. It does not add any value to his interest, right?

MR. SHEHEEN: In the SCENT side.

THE COURT: Right. He's not a party to SCENT Land Holdings.

MR. SHEHEEN: No. Under the buyout formula.

THE COURT: Yes, exactly.

MR. SHEHEEN: Correct.

THE COURT: Right. So that's why it's still in here right now. It may ultimately not be there, but it is at this moment. So that would be the matter involving Ms. Curley.

All right. And then we're to the counterclaim. They're in. They're in. It's in.

Now, with regards to the breach of contract, both ways, they're in.

With regards to the covenants, the breach of the covenants, I don't want to steal your thunder, but it's in. I mean, given the -- I have grave concerns about the survivability of the employment covenant, because I went back and read it yesterday and -- but I've got to go back, because I think what I was looking at is I was looking at the separate one that was in the July agreement. I need to go back and look at February and look at -- see what the covenant says.

MR. SHEHEEN: Your Honor, as you look, I just --

THE COURT: My concern is that the one that I looked at, it talks in terms of the practice of medicine or the providing of medical -- I forgot what the term was, medical services. In other words, he can be a nurse.

MR. SHEHEEN: Your Honor, just as you make your decision, I'll remind the Court that this issue has been

litigated on that specific covenant in the Gunnlaugsson case, and there's some persuasive authority that, if you don't have, I would like to provide you with from other judges. And there's also authority upholding similar covenants with similar language.

THE COURT: You can do -- this is just directed verdict, remember.

MR. SHEHEEN: That's a big issue, because we've been fighting it back and forth, not just in front of you, but in front of, like, three other judges in this case and other cases. And I understand on directed verdict what you're saying. I just want to be able to fully provide you with all of the either authority and persuasive authority and discussion before you reach a decision.

THE COURT: I'm not deciding anything. I'm just telling you that on that one, I definitely think it's very much in the mix.

MR. SHEHEEN: Gotcha.

THE COURT: It's all in there. It's all in there, folks. I mean, it really is. The accounting is the one that I thought we had reached a point that -- regarding the directed verdict. And this is not going to be an equitable accounting in the pure sense of an equitable accounting that will go on from today, but there is a settlement of accounts. I absolutely agree with that. And I think I've kept you from

having to make one. But do you want to make one? Make one.

MR. CLEVELAND: Your Honor, it's my understanding that you have expressed the Court's view that in response to the motion for directed verdict that I would make that --

THE COURT: It's in.

MR. CLEVELAND: That all of the issues will be submitted to the Court for resolution.

THE COURT: Yes.

MR. CLEVELAND: But that I'm deemed to have complied with whatever obligation I've got to make a directed verdict.

THE COURT: Thank you. That's nicely stated. Absolutely.

Both of you, assuming in a nonjury that you are required to make a directed verdict motion, you all have done a magnificent job, as you always do. You have covered all of the bases. If there was one little piece of one that you didn't cover, you really did, and certainly in generalities. And I have certainly taken it that way. And but for the comments that I've made on any equitable accounting, I think it's all in the mix. I think it's all in.

MR. SHEHEEN: Thank you, Your Honor.

THE COURT: We're going to take lunch, and then we'll come back. We'll hear from your witnesses. How many do you have?

MR. CLEVELAND: Zero.

THE COURT: You have zero?

MR. CLEVELAND: We are prepared to rest.

THE COURT: You are resting? You are so comfortable you are resting. How about that.

MR. SHEHEEN: We can go eat lunch and never come back.

THE COURT: Exactly.

MR. CLEVELAND: Your Honor, may I say for the record that we both -- I believe it's the case that both of us have now supplied our obligation with regard to any other motions for directed verdict we may be required to make given our resting at this point.

THE COURT: Indeed, big time.

MR. SHEHEEN: Thank you, Your Honor.

THE COURT: Absolutely. Handled. Covered.

MR. SHEHEEN: While we're on the record, from both parties, all parties want to thank you for your time and effort, because I know it's been a lot.

THE COURT: It's been wonderful.

MR. CLEVELAND: Yes. Thank you.

THE COURT: Absolutely wonderful.

--- END OF TRANSCRIPT OF RECORD ---

STATE OF SOUTH CAROLINA)
) SHAREHOLDER'S AGREEMENT
COUNTY OF KERSHAW)

This Agreement is entered into this 31st day of August, 2007, by and between Robert Puchalski, M.D. and Orville Dyce, M.D. as the shareholders of South Carolina Ear, Nose, Throat & Facial Plastic Surgery, Inc.

WITNESSETH:

1. NAME: The name of this Corporation is South Carolina Ear, Nose, Throat & Facial Plastic Surgery, Inc., which is a Statutory Close Corporation, organized and existing under the laws of the State of South Carolina and incorporated on November 5, 2004.

2. MANAGEMENT: The management of the Corporation shall be with the consent of all shareholders. At its annual meeting each year in the Fall, the shareholders shall elect a President, Vice-President, Secretary and Treasurer. The shareholders shall also designate, by proper resolution, a "designated director" pursuant to S.C. Code Section 33-18-210(c)(5) for the purposes of signing corporate documents that may be required in the usual and regular course of business. The term " managing shareholder" shall also refer to the President of the Corporation.

3. MEETINGS: The Corporation shall not be required to elect a board of directors but shall hold an annual meeting. A meeting of the shareholders may be called at any time by an officer or shareholder, upon ten (10) days written notice to each shareholder. Notice of such meetings may be waived in writing by each shareholder.

4. VOTING: Each shareholder shall have one (1) vote per share of stock owned in the Corporation. Properly executed proxies may be voted on any matter to come before the Corporation.

5. DUTIES, AUTHORITY, LIMITATIONS & COMPENSATION: The duties, authority, limitations and compensation of officers and employees shall be determined by the majority vote of the shareholders.

6. STOCK: Stock Certificates are to be issued in return for value received by the Corporation, upon the signature of the President and Secretary. The shares of stock in this Corporation may not voluntarily or involuntarily be transferred except as provided in South Carolina Law or as modified by the parties' agreement entitled "Stock Purchase Agreement" dated 31st day of August, 2007.

7. LOANS TO AND FROM SHAREHOLDERS: No shareholder shall have any obligation to make contributions to the Corporation other than those as mutually agreed upon. Any shareholder that makes a loan to the Corporation shall do so in writing with such loan not effective unless authorized by the President of the Corporation.

8. SHAREHOLDER GUARANTEES OF CORPORATION OBLIGATIONS: If required, shareholders of the Corporation shall execute whatever guarantees are necessary to secure the obligations of the Corporation upon a majority vote of the shareholders.

9. ALLOCATIONS OF PROFITS AND LOSSES: The shareholders shall be entitled to an allocation of the Corporation's profits and losses, to allocations of the Corporation's assets and to a distribution of such profits and assets as can be agreed upon by a majority vote of the shareholders. In any case, the profits of the Corporation will be

distributed on an annual basis unless the shareholders agree by majority vote not to distribute such profits.

10. HIRING AND FIRING OF EMPLOYEES OF THE CORPORATION: The shareholders agree the managing shareholder shall not hire or fire any employee of the Corporation at the director level or above, physician extenders, physicians or practice manager without consultation with all shareholders and by agreement of the majority of the shareholders. The managing shareholder may hire or terminate any other employee of the Corporation without consultation with other shareholders.

11. CAPITAL EXPENDITURES: The managing shareholder shall not be entitled to expend any of the cash or assets of the Corporation or incur any debt above five thousand and no/100 ($5,000.00) dollars without consultation with all shareholders and a majority agreement of those shareholders.

12. FEES PROPERTY OF THE CORPORATION: The shareholders agree that all monies or fees earned by them in the course of the practice of their profession as employees of the Corporation with the exception of medical directorships individually entered into by shareholders or for any fees earned for speaking engagements, shall be the sole and exclusive property of the Corporation.

13. NO DUTY TO RECORD DECISIONS: The managing shareholder shall have no duty to record in writing or otherwise any decision of the managing shareholder and the managing shareholder's failure to make such record shall not impair the validity of such decision.

14. DISSOLUTION OF THE CORPORATION: Dissolution of the Corporation may occur upon majority vote of the outstanding shares of the Corporation. Upon a determination by the majority of the shareholders to dissolve the Corporation, all shareholders shall cooperate in the winding up of the affairs of the Corporation and liquidation and distribution of the proceeds of the sale or disposition of the assets of the Corporation to creditors and then to shareholders in accordance with their respective ownership in the Corporation. The managing shareholder shall cause to be filed a certificate of dissolution with the Secretary of State upon the completion of the winding up of the affairs of the Corporation. The certificate of dissolution shall set forth the effective date of the cancellation of the Corporation's termination.

15. ENTIRE AGREEMENT: This agreement shall contain the complete agreement between the parties concerning its subject matter and replaces all earlier agreements between the shareholders, whether written or oral, concerning the subject matter of this agreement.

16. AMENDMENTS: No amendment to this agreement shall be valid unless set forth in writing and signed by a majority of the shareholders.

17. NOTICES: All notices to this agreement shall be in writing and sent by fax or mailed to the parties at the respective address which is set forth in this agreement.

18. GOVERNING LAW: This agreement shall be governed exclusively by the laws of the State of South Carolina. Venue for any action brought pursuant to this agreement or the articles of incorporation shall be in Kershaw County, South Carolina.

IN WITNESS WHEREOF, we have hereunder set our Hands and Seals this 31st day of August, 2007.

In the presence of:

Robert Puchalski, Shareholder

Orville Dyce, Shareholder

Amended Shareholders August.wpd

STATE OF SOUTH CAROLINA)
)
COUNTY OF KERSHAW)
)
South Carolina Ear, Nose & Throat and Facial Plastic Surgery, Inc.)
)
and)
) STOCK PURCHASE AGREEMENT
Robert Puchalski, M.D. and Orville Dyce, M.D.)
)

This Agreement entered into by and between South Carolina Ear, Nose & Throat and Facial Plastic Surgery, Inc. ("Corporation"), Robert Puchalski, M.D. and Orville Dyce, M.D. (hereinafter referred to as "Shareholders");

WITNESSETH:

1. Robert Puchalski, M.D. is the sole shareholder of all of the outstanding capital stock of the Corporation which is duly organized and authorized to do business under the laws of the State of South Carolina, with its principal place of business located at 1165 Highway 1 South, Lugoff in Kershaw County, South Carolina.

2. Robert Puchalski, M.D. wishes to sell fifty (50%) percent of the outstanding shares of capital stock of the Corporation to Orville Dyce, M.D. who also wishes to purchase the stock as set forth below. No additional shareholders shall be brought into the Corporation without the consent of the then present shareholders. The parties specifically agree that such purchase of stock does not include the accounts receivable based on the date of service prior to March 2007 and any cash in the Corporation's bank accounts or certificates of deposits prior to March, 2007. Such assets will remain the property of the seller.

3. The parties also wish to provide for the sale by a deceased shareholder's estate of his interest in the Corporation and the purchase of such interest by the

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Plaintiffs' Ex 0004.001

Corporation. In addition, the shareholders wish to provide for the manner of the sale of a withdrawing shareholder's stock to the Corporation or other shareholders.

NOW, THEREFORE, in consideration of the mutual promises and obligations as set forth hereafter, each party hereto agrees as follows:

1. At the time of the execution of this agreement, the outstanding capital stock of the Corporation consists of one hundred thousand (100,000) shares of stock which is currently held by Robert Puchalski, M.D.

2. This agreement is executed in recognition of the restriction on alienation of stock presently in the Corporation's bylaws which prevents the transfer, hypothecation or disposition of stock of the Corporation, but the existence of this agreement and provision in the bylaws does not in any way effect a Shareholder's rights to vote his stock or received dividends thereon.

3. As of July 1, 2007, the total value of the capital stock of the Corporation for the purposes of this agreement is one hundred thousand ($100,000.00) dollars. In addition, the parties also agree to establish the value of the shareholder's equity by use of the following formula:

> The Corporation shall average the gross receipts for two (2) years prior to the entrance of new shareholders, death of a shareholder or withdrawal of a shareholder. The value of the entire shareholder equity shall be twenty-five (25%) percent of the average gross receivables for the two (2) year period prior to the entrance of new shareholders, death of a shareholder or withdrawal of a shareholder. Individual shareholders will own a percentage of the capital stock and shareholder equity in an amount to be determined by and between them. This formula shall remain effective for the purposes herein until there is a redetermination of the value of the stock by amendment to this agreement.

4. Upon the death of a shareholder, his estate shall sell, and the Corporation shall purchase, all of the shares of stock owned by the shareholder at the time of his death for a price to be determined as set forth above. The Corporation shall then hold the stock as treasury stock to be disposed of in a normal manner according to the bylaws on the disposition and the sale of stock. A deceased shareholder's personal

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Plaintiffs' Ex 0004.002

representative shall hold the stock in a non-participating escrow status until the Corporation completes the purchase of his shares. No person shall own stock who is not licensed to practice medicine in the State of South Carolina. Furthermore, the deceased shareholder's estate will be entitled to receive from the corporate bank accounts and investments an amount equivalent to the percentage of his stock ownership or one hundred thousand ($100,000.00) dollars which ever is lesser. In addition, the deceased stockholder's estate will be entitled to receive a share equivalent to his percentage of ownership, of the accounts receivable for the ancillary services offered by the Corporation (Allergy, Carolina Cosmetics, Clarity Hearing, Hearing Aids, Radiology, etc.). The deceased shareholder's estate will be entitled to receive the gross collections for services performed by the deceased stockholder prior to his death.

5. To assure that all or the substantial part of the purchase price of a deceased shareholder's shares shall be available in cash upon his death, the Corporation has purchased insurance on the lives of the shareholders for the purpose of funding and effectuating this agreement. The Corporation shall be the owner of all such policies and shall promptly pay the premiums. So long as this agreement remains in effect, it is expressly agreed that the Corporation will not exercise any of the rights or privileges granted to it as the owner by the terms of the policies (such as the right to borrow upon, surrender for cash, change the beneficiary, or assign the policy) except with the written consent of all of the shareholders of the Corporation. Any dividends payable upon a policy prior to its maturity, however, shall be payable to the policy owner or otherwise in accordance with the dividend option in the policy or as the policy owner may direct.

6. Each shareholder agrees to cooperate with the Corporation in regards to applying for life insurance including submitting to physical exams and other screening tests as required or requested by the insurance company selected by the Corporation. Nothing in this agreement shall be construed to prevent the Corporation from

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purchasing further insurance on each of the shareholder's lives at a later date to fund an increase in the value of the stock in the event there is an amendment to this agreement.

7. Upon the death of a shareholder, the following procedure shall be followed:

(a) The Corporation shall promptly file claims to collect the death benefits of the policies outstanding on the deceased shareholder's life which are the subject of this agreement.

(b) As soon as the Personal Representative of the deceased shareholder has been appointed, the Corporation shall pay to the Personal Representative of the deceased shareholder the proceeds of the insurance policies as called for herein, for an amount equal to the value of the deceased shareholder's capital stock and equity, but in no event shall payment be made later than one hundred eighty (180) days from the death of the deceased shareholder. The Corporation shall be bound to deliver the total sum of the deceased shareholder's capital stock and equity to the Personal Representative of the deceased shareholder whether or not the purchase price is fully funded by insurance.

(c) Upon receipt of the full purchase price for the deceased shareholder's capital stock and equity, the Personal Representative of the deceased shareholder shall deliver and transfer to the Corporation the stock owned by the deceased shareholder at the time of his death. The Personal Representative of the deceased shareholder shall be bound to transfer complete title of the deceased shareholder's interest in the Corporation and to promptly execute and deliver to the Corporation all instruments necessary to transfer full ownership of the shares of stock for which payment has been made. The transfer of the shares shall be made free and clear of all taxes, debts, claims, or other encumbrance whatsoever.

8. All shareholders are employees of the Corporation and provide full time services as a Physician to the Corporation. In the event the Physician encounters a physical or mental impairment which substantially renders him incapable of performing

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2301

Plaintiffs' Ex 0004.004

services to the Corporation for a period of nine (9) months or longer, he shall withdraw as a shareholder of the Corporation. The disabled shareholder shall be required to deliver and transfer the stock owned in the Corporation to the Corporation on the following terms:

(a) The Corporation shall be bound to deliver to the disabled shareholder, or his authorized representative should one be appointed, a note obligation equal to the principal sum as determined by the formula valuing a shareholder's capital stock and equity as set forth in this agreement. The note terms shall provide for equal monthly payments with interest on the unpaid balance with interest accruing at the average prime interest rate as posted by the Wall Street Journal plus one (1%) percent on the date the note is issued. The note shall be amortized over a five (5) year period "repayment period" to begin nine (9) months after shareholder becomes disabled.

(b) Upon the execution of the note, the disabled shareholder or his representative shall be bound to endorse the stock certificate and transfer and deliver the stock in the Corporation owned by the disabled shareholder to the Corporation.

(c) During the repayment period, the disabled shareholder will not have voting rights within the Corporation and will not have rights to any profits.

(d) Furthermore, the disabled shareholder will be entitled to receive from the corporate bank accounts and investments an amount equivalent to the percentage of his stock ownership or one hundred thousand ($100,000.00) dollars which ever is lesser. In addition, the disabled stockholder will be entitled to receive a share equivalent to his percentage of ownership, of the accounts receivable for the ancillary services offered by the Corporation (Allergy, Carolina Cosmetics, Clarity Hearing, Hearing Aids, Radiology, etc.). The disabled shareholder will be entitled to receive the gross collections for services performed by the disabled stockholder prior to becoming disabled.

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Plaintiffs' Ex 0004.005

9. In the event a shareholder elects to withdraw from the ownership of the Corporation or terminates his employment with the Corporation, the withdrawing shareholder will be treated in the same manners as if he was a disabled shareholder. If such shareholder fails to provide at least nine (9) months written notice to the managing shareholder of his intention to withdraw, the principal amount to be paid by the Corporation in the manner as set forth above will be reduced by seventy-five (75%) percent. Furthermore, the withdrawing stockholder who does not give nine (9) months notice will not be entitled to receive any cash from the corporate accounts or investments nor any share of the accounts receivable from the ancillary services or from the withdrawing shareholder's services performed prior to his departure date.

10. Any member (the "Purchasing Member") may at any time submit a written offer (the "Purchase Offer") to purchase all the Company interest of all the other Members (the "Selling Members"). The Purchase Offer shall set forth all of the terms and conditions of the proposed purchase and sale, including but not limited to the amount to be paid for the Company Interests of the Selling Members, the security for any deferred payments, and any restrictive covenants that will apply to the Selling Members after the sale (which will supercede the covenants in any other agreements). The Purchasing Member shall, if requested by the Selling Members, provide the Selling Members with such other information as the Selling Members may reasonably request concerning the proposed offer, including, if relevant to the ability of the Purchasing Member to consummate the proposed offer, information relating to the financial condition of the Purchasing Member. Within ninety (90) days from the receipt of the Purchase Offer, each Selling Member shall choose in writing to accept or reject the Purchasing Member's Offer.

11. This agreement may be amended at any time by written agreement signed by all shareholders of the Corporation.

12. The agreement shall terminate upon any of the following events:

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Plaintiffs' Ex 0004.006

(a) the written agreement of all of the shareholders;

(b) the dissolution, bankruptcy, or insolvency of the Corporation;

(c) the sale or other disposition of all of the shareholder's stock during his lifetime to any party or parties except the Corporation or the other shareholders subscribed hereto; or,

(d) the acquisition by the Corporation of the interest of a shareholder which then leaves only one surviving shareholder as a party to this agreement.

13. This agreement shall be binding upon the Corporation, its successors and assigns and the shareholders, their heirs, legal representatives, successors and assigns.

14. Each shareholder will not, while this agreement is in effect or for a period of two (2) years after their withdrawal as a shareholder of the Corporation (the "Restricted Period") without prior written consent of the Corporation, directly or indirectly, own, manage, operate, join, control or participate in or be connected with, as an officer, consultant, agent, employee, partner, shareholder or otherwise, any entity located within a twenty (25) mile radius of any office or facility of the Corporation which are now located in Lugoff, South Carolina; Hartsville, South Carolina; Northeast Columbia, South Carolina; and Cheraw, South Carolina. All parties to this agreement have examined the Restrictive Covenants in detail and agree the restraints imposed are not unreasonable in light of legitimate interests of the Corporation and are not unduly harsh in respect to an individual shareholder's ability to earn a living. If any shareholder violates any provision of the restrictive covenants while a stockholder of the Corporation and does correct their actions within thirty (30) days after receiving written notice, such shareholder will have been deemed to have withdrawn as a shareholder of the Corporation and their interest will be re-purchased as set forth above for a voluntarily withdrawing shareholder who did not provide nine (9) months written notice to the managing shareholder.

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Plaintiffs' Ex 0004.007

15. Each shareholder agrees that during the restrictive period, they shall not, directly or indirectly, solicit or induce, or attempt to solicit or induce, any person who is or was employed by the Corporation at any time during the one (1) year period immediately preceding the shareholder's withdrawal from the Corporation, to leave the Corporation's employment for any reason whatsoever or to hire or enter into agreement for services of such individual in any capacity. The shareholders agree that should they engage in such practice, the individual shareholder involved shall pay the Corporation as fair and liquidated damage to compensate the Corporation (and not as a penalty) in an amount equal to one hundred (100%) percent of the gross compensation or fees paid by the Corporation to such person during the six (6) months immediately preceding the shareholder's withdrawal from the Corporation. The shareholders agree that during the Restrictive Period, they will not, directly or indirectly, solicit or induce, or attempt to solicit or induce, on the shareholder's own account or on account of any other person or entity, any patient or any person or entity affiliated with the Corporation. The shareholder agrees that should they engage in such conduct, they shall pay to the Corporation as fair and liquidated reasonable damages to compensate the Corporation (and not as penalty) an amount equal to one hundred (100%) percent of the fees collected by the shareholder or entity to which the shareholder has become affiliated as an employee, shareholder, officer or shareholder for services rendered to such patient or entity during the Restrictive Period.

16. The shareholder acknowledges and agrees that damages alone would be an inadequate remedy for breach or threatened breach of the Restrictive Covenant and the Corporation shall be entitled, as a matter of right, to equitable relief, including preliminary and permanent injunctive relief and specific performance in any court of competent jurisdiction for any such breach. Such remedies are in addition to any other remedies available to the practice whether given at law or in equity and are cumulative and may be enforced successfully or concurrently. The Corporation shall also be

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Plaintiffs' Ex 0004.008

entitled to recover from any withdrawing shareholder all attorney's fees, court costs and other expenses incurred by the Corporation in connection with the enforcement of its rights hereunder.

17. The Restrictive Covenants as set forth herein shall be construed as independent of any other provisions of this agreement. The existence of any claim or causes of action of the shareholder against the Corporation, whether predicated on this agreement or not, shall not constitute a defense to enforcement by the Corporation of the Restrictive Covenants contained herein.

IN WITNESS WHEREOF, the parties hereunto set their Hands and Seals this 31st day of August, 2007.

In the presence of:

South Carolina Ear, Nose & Throat and Facial Plastic Surgery, Inc.

BY: _____
Its President

Robert Ruchalski

Orville Dyce

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From: Theresa Williams [twilliams@southcarolinaent.com]
Sent: Tuesday, January 15, 2008 8:16 AM
To: 'Theresa'
Subject: DyceBuyinandupdates.xls
Attachments: DyceBuyinandupdates.xls

CONFIDENTIAL

Plaintiffs' Ex 0005.001

Payperiod	Distribution Amt
7-Mar	21000
21-Mar	21000
4-Apr	21000
18-Apr	21000
2-May	21000
16-May	21000
30-May	21000
13-Jun	21000
27-Jun	21000
11-Jul	21000
25-Jul	21000
8-Aug	21000
22-Aug	21000
5-Sep	21000
19-Sep	21000
3-Oct	21000
16-Oct	21000
31-Oct	21000
14-Nov	21000
27-Nov	21000
12-Dec	21000
26-Dec	21000
9-Jan	21000
23-Jan	21000
total	504,000.00
Capital Reserve	100,000.00
Buy in as of Jan 23	604,000.00

2007 SCENT Sweeps
$ 86,000.- July
$150,000.-August
$150,000.-September
$0. --------October
$100,000.- November
$100,000.- December
$178,210-January (final)
total: $ 764,210

Funds owed to KENT	
1 payroll	$110,000
$500K	$ 56,642
DOS Reconciliation March/April/May	
	$451,568
total:	$618,210

**June-January collections beyond May DOS forfeited in lieu of credit card charge charges.

checking acct balances	Feb. 1, 2008
SCENT	145,971
Carolina Cosmetics	7831.93-
Clarity	15,639.74
total	161,611

CONFIDENTIAL

SCENT Sweeps
$ 86,000.- July
$150,000.-August
$150,000.-September
$0. ----------October
$100,000.- November
$100,000.- December

CONFIDENTIAL

Payperiod	Distribution Amt
7-Mar	21000
21-Mar	21000
4-Apr	$
18-Apr	21000
2-May	21000
16-May	21000
30-May	21000
13-Jun	21000
27-Jun	21000
11-Jul	21000
25-Jul	21000
8-Aug	21000
22-Aug	21000
5-Sep	21000
19-Sep	21000
3-Oct	21000
16-Oct	21000
31-Oct	21000
14-Nov	21000
27-Nov	21000
12-Dec	21000
26-Dec	21000
9-Jan	21000
total	483,000.00
Capital Reserve	100,000.00
Buy In as of Jan 09	583,000.00

checking acct balances	9-Jan-08
SCENT	378,032
Carolina Cosmetics	-5,713
Clarity	45,786.14
total	418,105

CONFIDENTIAL

STATE OF SOUTH CAROLINA)
)
COUNTY OF KERSHAW)
)
Robert Puchalski, M.D.)
)
and)
) BILL OF SALE
Orville Dyce, M.D.)
)

For valuable consideration, the receipt of which is hereby acknowledged, Robert Puchalski, M.D. (hereinafter referred to as "Seller"), hereby transfers and conveys unto Orville Dyce, M.D. (hereinafter referred to as "Buyer") the following:

1. 50,000 shares of the capital stock in South Carolina Ear, Nose, Throat & Facial Plastic Surgery, Inc. for fifty thousand and no/100 ($50,000.00) dollars.

2. The Seller warrants that he owns such stock in the Corporation subject to the Shareholder's Agreement and Stock Purchase Agreement and that such stock is free and clear of all liens and encumbrances. The parties specifically exclude the accounts receivable prior to March, 2007 and all cash in the Corporation's bank accounts or certificates of deposits as of March 1st.

IN WITNESS WHEREOF, the Seller has hereunto set his Hand and Seal this __ day of August, 2007

In the presence of:

Robert Puchalski

M:\wp\DOCUMAM\PUCHALSK\Stock Purchase Agreement\Amended Bill of Sale August.wpd

THIS AGREEMENT IS SUBJECT TO ARBITRATION
PURSUANT TO S.C. CODE ANN. § 15-48-10, et seq.

SHAREHOLDERS' AGREEMENT

BY AND AMONG

SOUTH CAROLINA ENT, ALLERGY & SLEEP MEDICINE, P.A.

AND

ITS

SHAREHOLDERS

1207429

-Doc# 598947.10-

DYCE/SCENT 6

Plaintiffs' Ex 0007.001

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THIS AGREEMENT IS SUBJECT TO ARBITRATION PURSUANT TO S.C. CODE ANN. § 15-48-10, et seq.

SHAREHOLDERS' AGREEMENT

This Shareholders' Agreement ("Agreement"), effective as of July 16, 2008 ("Effective Date") is entered into by and among South Carolina ENT, Allergy & Sleep Medicine, P.A. (the "Corporation"), and each of the persons listed on Schedule A hereto (such persons and their respective successors and assigns are hereinafter referred to collectively as the "Shareholders" and individually as a "Shareholder").

RECITALS

1. The authorized capital stock of the Corporation consists of Five Hundred Thousand (500,000) shares of common stock (hereinafter referred to as "Common Stock");

2. As of the Effective Date of this Agreement, the Corporation has issued and outstanding One Hundred Thousand (100,000) shares of Common Stock in the amounts and to the Shareholders identified on Schedule A;

3. The Corporation was organized as a Statutory Close Corporation; and

4. The Shareholders desire to set forth certain understandings regarding their ownership of the Common Stock and to impose certain restrictions upon the Transfer of their Common Stock in the Corporation.

NOW, THEREFORE, in consideration of the premises and the mutual covenants herein contained, the parties hereto agree as follows:

ARTICLE I

RECITALS

Section 1.1 Recitals. The above recitals are true and correct and incorporated herein.

ARTICLE II

DEFINITIONS

Section 2.1 Definitions. As used in this Agreement, the following terms shall have the following meanings:

"Agreement" means this Agreement (together with Exhibits), as amended, supplemented, modified or waived from time to time, in accordance with its provisions.

"Articles of Incorporation" means the Corporation's Articles of Incorporation, as amended from time to time, in accordance with its provisions.

"Bankruptcy" shall mean, with respect to any Person, that such Person has: (i) applied for or consented to the appointment of a receiver, trustee, liquidator or custodian or the like, of his property; (ii) admitted in writing his inability to pay his debts generally as they become due; (iii) made a general assignment for the benefit of his creditors, (iv) been adjudicated a bankrupt or insolvent; (v) commenced a voluntary case under the federal bankruptcy laws of the United States of America; (vi) filed a voluntary petition or answer seeking an arrangement with creditors or an order for relief or seeking to take advantage of any insolvency law; or (vii) filed an answer admitting the material allegation of a petition filed against him in any bankruptcy or insolvency proceeding. For the purpose of any provision contained in this Agreement requiring reference to the date on which a bankruptcy has occurred, a bankruptcy shall be deemed to have occurred upon the commencement of the first to occur of any one of the foregoing enumerated events.

"Bylaws" means the Corporation's Bylaws, as in effect on the date hereof, as amended, supplemented or modified from time to time, in accordance with its provisions.

"Code" shall mean the Federal Internal Revenue Code of 1986, as the same may be amended from time to time.

"Common Stock" shall have the meaning set forth in the recitals.

"Corporation" shall have the meaning set forth in the preamble.

"Departing Shareholder" shall mean a Shareholder who is Transferring Shares in accordance with any provision of this Agreement, including by virtue of a permitted sale, or as a result of death, disqualification, termination of employment or Permanent Disability. Where applicable, Departing Shareholder shall also mean the personal representative of a deceased Shareholder.

"Departure Event" is any event described in Section 4.2, 4.3 and 4.4.

"Disability" is the inability of Shareholder to perform the usual and customary duties of a physician employed in a full-time medical practice, as such term is defined in any Disability income insurance policy that the Corporation or Shareholder has obtained with respect to such Shareholder.

"Effective Date" shall have the meaning set forth in the preamble.

"Employment Agreement" is the agreement between a Shareholder and Corporation establishing the employment obligation of the shareholder.

"Equal Percentage" means, with respect to any Shareholder as of any date, the result (expressed as a percentage) obtained by dividing the number of Shares held by the Shareholder by the number of Shares of Common Stock then issued and outstanding.

"Involuntary Transferee" shall have the meaning set forth in Section 4.2.

"Managing Shareholder" shall mean the President of the Corporation.

"Note" shall have the meaning set forth in Section 4.7.

"Permanent Disability" occurs when the insurance carrier providing Disability Insurance to the Shareholder has determined that the Shareholder has a total disability.

"Person" shall mean an individual or a corporation, association, partnership, joint venture, organization, business, trust, or any other entity or organization, including a government or any subdivision or agency thereof.

"Purchase Price" means that amount paid a Departing Shareholder as set forth in Section 4.5 and paid in accordance with Sections 4.6 and 4.7.

"Qualified Person" shall mean an individual who is licensed to practice medicine in the State of South Carolina in the area of Otolarygology surgery.

"Remaining Shareholders" are those Shareholders retaining Shares in Corporation after the Transfer of Shares, disqualification, termination, Disability or death of a Shareholder.

"Retirement Notice" shall have the meaning set forth under the term Approved Retirement.

"Shareholder" or "Shareholders" shall have the meaning set forth in the preamble.

"Shares" means any Common Stock purchased or otherwise acquired by any Shareholder or any equity securities issued or issuable directly or indirectly with respect to the Common Stock.

"Transfer" shall have the meaning set forth in Section 4.1.

"Transferred Shares" shall have the meaning set forth in Section 4.2.

ARTICLE III

MANAGEMENT AND CONTROL; CAPITAL CONTRIBUTIONS

Section 3.1 General. The business and affairs of the Corporation shall be managed, controlled and operated in accordance with its Articles of Incorporation and this Agreement, as the same may be amended from time to time, except that the Articles of Incorporation shall not be amended in any manner that would conflict with, or be inconsistent with, the provisions of this Agreement.

Section 3.2 Corporation Shall Have No Board of Directors and the Powers of a Board of Directors Shall be Exercised by the Shareholders. As the Articles of Incorporation have dispensed with the Board of Directors pursuant to S.C. Code Ann. § 33-18-210, all corporate powers shall be exercised by or under the authority of, and the business and affairs of the

Corporation shall be managed under the direction of, the Shareholders. The Shareholders shall hold an annual meeting on or around Labor Day each year at which the officers of the Corporation shall be elected for terms that will commence on January 1 of the succeeding year. A special meeting of the Shareholders may be called at any time by any Shareholder upon ten (10) days written notice to each Shareholder. Notice of a meeting may be waived in writing by a Shareholder.

Section 3.3 Voting Requirements. Except as otherwise provided in this Section, each outstanding Share entitled to vote shall be entitled to one vote upon each matter submitted to a vote at a meeting of the Shareholders. In the event of a tie in the voting on any matter requiring a majority vote, the Managing Shareholder shall break the tie by casting a second vote to decide the matter.

Section 3.3.1 Supermajority Voting Requirements. Notwithstanding any other provision of this Agreement, the Shareholders of the Corporation shall approve the following actions of the Corporation by affirmative vote of greater than a sixty-seven percent (67%) vote of the Shareholders:

(i) Merger, consolidation, joint venture, dissolution or liquidation of the Corporation;

(ii) Establishment of a new practice site for the Corporation's medical practice; and

(Iii) Creation of any subsidiary organization or affiliation of the Corporation with any other entity for the purpose of the joint conduct of business or other programs whether in the form of participation in a corporation (either through the holding of capital stock or by membership), partnership, joint venture, co-tenancy, limited liability company, limited liability partnership or other form of ownership or control.

Section 3.3.2 Unanimous Voting Requirements. The following actions of the Corporation require unanimous consent of the Shareholders of the Corporation:

(i) Amendments to the Articles of Incorporation or this Agreement;

(ii) Requirement of loans or contribution of capital from Shareholders;

(iii) The admission of a shareholder in the Corporation or acceptance of an offer of Transfer of Shares, including, but not limited to, preliminary offers or discussions with any person regarding admission as a shareholder; and

(iv) Termination of a Shareholder's Employment Agreement without cause provided that no Shareholder shall be entitled to vote for or against his or her termination and any Shares of a Shareholder who is subject to a vote for termination shall not be counted in determining whether the vote is unanimous. The foregoing sentence shall be construed as express

authority to terminate a Shareholder's Employment Agreement in accordance with Section 2.3(c) of the Shareholder's Employment Agreement.

Section 3.3.3 Informal Action by Shareholders. Any action required or permitted to be taken at a meeting of the Shareholders may be taken without a meeting if one or more consents in writing, setting forth the action so taken, shall be signed by all of the Shareholders entitled to vote with respect to the subject matter thereof and are delivered to the Corporation for inclusion in the minute book. A consent signed under this section has the effect of a meeting vote and may be described as such in any document.

Section 3.4 Officers. The officers of the Corporation shall consist of a President, Vice President, Secretary and Treasurer. The President may also be referred to as the "Managing Shareholder" of the Corporation. No Shareholder shall be eligible to serve as a Managing Shareholder until such person has been a Shareholder for three (3) complete years.

Section 3.4.1 Number. The officers of the Corporation shall be a President, a Vice President, a Secretary, and a Treasurer, each of whom shall be appointed by the Shareholders. Such other officers and assistant officers as may be deemed necessary, including any Vice Presidents, may be appointed by the Shareholders. If specifically authorized by the Shareholders, an officer may appoint one or more assistant officers. The same individual may simultaneously hold more than one office in the Corporation.

Section 3.4.2 Appointment and Term of Office. Except as provided otherwise in this Agreement, the officers of the Corporation shall be appointed by the Shareholders for a term of one (1) year. (The designation of a specified term grants to the officer no contract rights and the Shareholders can remove the officer at any time prior to the termination of such term). Once elected, an officer shall serve until their successor is appointed or until they resign, die, or until they are removed in the manner provided in §3.3 of this Article III.

Section 3.4.3 Removal. Except as provided otherwise in this Agreement, the President may be removed by the Shareholders at any time, with or without cause, upon the affirmative vote of Shareholders holding at least two-thirds (2/3) of the issued and outstanding Shares. The other officers may be removed at any time, with or without cause, upon recommendation by the President and the affirmative vote of Shareholders holding at least a majority of the issued and outstanding Shares. Such removal shall be without prejudice to the contract rights, if any, of the person so removed. Appointment of an officer shall not of itself create contract rights.

Section 3.4.4 President. The President shall be the principal executive officer of the Corporation and, subject to the control of the Shareholders, shall in general supervise and control all of the business and affairs of the Corporation. He shall have direct responsibility for all employees and shall determine staffing levels and assign work descriptions and duties for all employees of the Corporation. He shall, when present, preside at all meetings of the Shareholders. He may sign, with the Secretary or any other proper officer of the Corporation thereunto authorized by the Shareholders, certificates for Shares and deeds, mortgages, bonds, contracts, or other instruments which the Shareholders have authorized to be executed, except in

cases where the signing and execution thereof shall be expressly delegated by the Shareholders or by these Bylaws to some other officer or agent of the Corporation, or shall be required by law to be otherwise signed or executed; and in general shall perform all duties incident to the office of President and such other duties as may be prescribed by the Shareholders from time to time.

Section 3.4.5 Vice President. If appointed, or in the event of the President's death or inability to act, the Vice President (or in the event there be more than one Vice President, the Vice Presidents in the order designated at the time of their election, or in the absence of any designation then in the order of their appointment) shall perform the duties of the President, and when so acting, shall have all the powers of and be subject to all the restrictions upon the President. (If there is no Vice President then the Treasurer shall perform such duties of the President.) Any Vice President may sign, with the Secretary or an assistant Secretary, certificates for Shares the issuance of which have been authorized by resolution of the Shareholders; and shall perform such other duties as from time to time may be assigned to him by the President or by the Shareholders.

Section 3.4.6 Secretary. The Secretary shall: (a) keep the minutes of the proceedings of the Shareholders in one or more books provided for that purpose; (b) see that all notices are duly given in accordance with the provisions of these Bylaws or as required by law; (c) be custodian of the corporate records and of any seal of the Corporation and if there is a seal of the Corporation see that it is affixed to all documents the execution of which on behalf of the Corporation under its seal is duly authorized; (d) when requested or required, authenticate any records of the Corporation; (e) keep a register of the post office address of each Shareholder which shall be furnished to the Secretary by such Shareholder; (f) sign with the President, or a Vice President, certificates for Shares, the issuance of which shall have been authorized by resolution of the Shareholders; (g) have general charge of the stock transfer books of the Corporation; and (h) in general perform all duties incident to the office of Secretary and such other duties as from time to time may be assigned to him by the President or by the Shareholders.

Section 3.4.7 Treasurer. The Managing Shareholder shall also serve as the Treasurer. The Treasurer shall: (a) have charge and custody of and be responsible for all funds and securities of the Corporation; (b) receive and give receipts for moneys due and payable to the Corporation from any source whatsoever and deposit all such moneys in the name of the Corporation in such banks, trust companies or other depositaries as shall be selected by the Shareholders; and (c) in general perform all of the duties incident to the office of Treasurer and such other duties as from time to time may be assigned to him by the President or by the Shareholders. If required by the Shareholders, the Treasurer shall give a bond for the faithful discharge of his duties in such sum and with such surety or sureties as the Shareholders shall determine.

Section 3.4.8 Assistant Secretaries and Assistant Treasurers. The assistant secretaries, when authorized by the Shareholders, may sign with the President or a Vice President certificates for Shares the issuance of which shall have been authorized by a resolution of the Shareholders. The assistant Treasurers shall respectively, if required by the Shareholders, give bonds for the faithful discharge of their duties in such sums and with such sureties as the Shareholders shall determine. The assistant secretaries and assistant Treasurers in general, shall

perform such duties as shall be assigned to them by the Secretary or the Treasurer, respectively, or by the President or the Shareholders.

Section 3.4.9 Salaries. The salaries of the officers shall be fixed from time to time by the Shareholders.

Section 3.5 Shareholder Guarantee. The Shareholders agree to execute any guarantee necessary to secure the obligations of the Corporation as approved by a majority of the Shareholders.

Section 3.6 Capital Contributions. Additional Capital Contributions must be approved by the unanimous consent of all Shareholders as provided in Section 3.3.2.(ii). None of the Shareholders shall at any time be required to contribute a larger sum than the Shareholder's Equal Percentage of the total amount of any capital contribution. This paragraph shall not apply to a Shareholder's initial purchase of stock in the Corporation.

Section 3.7 Confidentiality. The Shareholders shall not disclose any information relating to the Corporation regarding the Corporation's operations, records, patients, or procedures, to any persons other than employees of the Corporation, federal and state regulatory agencies, third-party reimbursement agencies, the Corporation's accountants, lawyers, consultants and other professional advisors, without the prior written consent of the Corporation or, as the case may be, an enforceable subpoena, or the final order of a court of competent jurisdiction. Each Shareholder shall use information related to the business of the Corporation to advance the Corporation's best interests, and not to benefit their personal interest. All forms, templates, systems (including billing systems) are the property of the Corporation and shall not be used apart from the Corporation by a Shareholder or Departing Shareholder without the written consent of the Corporation. This provision shall survive the termination of this Agreement or the termination of a Shareholder's Employment Agreement. This confidentiality clause is not intended to restrict or limit any confidentiality clause contained in a Shareholder's Employment Agreement. Accordingly, any separate confidentiality clause contained in a Shareholder's Employment Agreement will be separately enforceable in addition to the terms contained in this Agreement.

Section 3.8 Banking. Corporation's banking arrangements with any banking institution shall provide that deposits may be withdrawn only by check, wire transfer or other similar instruments and valid only when signed by the Managing Shareholder or other Person authorized (by appropriate corporate resolutions) by the Corporation.

Section 3.9 Founding Shareholder Protection Provisions. The following provisions shall apply to Robert Puchalski during the term of his employment with the Corporation:

(i) The Shareholders agree to vote their Shares each year to elect Robert Puchalski as the Managing Shareholder through the end of the calendar year 2014. Thereafter, the Managing Shareholder may only be removed from office "for cause" by the unanimous vote of all Shares excluding the Shares owned by the Managing Shareholder.

(ii) If Robert Puchalski's Employment Agreement is terminated without cause, as provided in Section 2.3(c) of his Employment Agreement, then simultaneously with the termination, the Employment Agreement shall be deemed amended to provide:

(a) Section 3.10 of the Employment Agreement shall not be applicable to prohibit or otherwise restrict Robert Puchalski from discussing and hiring Stephanie Tetterton, Robert Puchalski's current physician assistant, or any other employee of the Corporation hired prior to March 31, 2005;

(b) Section 3.9 of the Employment Agreement and the Covenant Not to Compete referenced therein shall allow Robert Puchalski to conduct a medical practice at one (1) location in Kershaw or Richland County, South Carolina, with such location determined in his sole discretion, without any restrictions imposed by application of Section 3.9 or the Covenant Not to Compete referenced therein; and

(c) Section 3.7 of the Employment Agreement shall be amended to allow Robert Puchalski to retain copies of all medical records of patients treated by him while an owner of the Corporation.

(iv) If Robert Puchalski's Employment Agreement is terminated without cause, as provided in Section 2.3(c) of his Employment Agreement, then simultaneously with the termination, Section 3.7 of this Agreement shall be deemed amended to provide that Robert Puchalski shall be entitled to use any forms or systems of the Corporation in place prior to March 31, 2005.

(v) Robert Puchalski shall retain Stephanie Tetterton, or her replacement, as his physician assistant while he is employed by the Group.

(vi) Notwithstanding anything in this Agreement or Robert Puchalski's Employment Agreement to the contrary, in the event of a purchase of all of Robert Puchalski's Shares by the Corporation, for any reason, the purchase price shall be 100% of the Purchase Price and the 50% reduction in Section 4.5 shall not be applicable.

Section 3.10 East Campus Protection Provision. If any Shareholder practicing primarily at the Hartsville, South Carolina, (the "Hartsville site") and the Cheraw, South Carolina (the "Chesterfield site"), practice sites is terminated without cause as provided in Section 2.3(c) of such Physician's Employment Agreement and the Hartsville site is closed either within 18 months prior or 18 months subsequent to the termination, then such Employment Agreement shall be deemed amended upon the later of the date of termination of the Employment Agreement or date of the closing of the Hartsville site to provide:

(a) Section 3.9 of the Employment Agreement and the Covenant Not to Compete referenced therein shall be void as to any restrictions within Darlington or Chesterfield Counties, South Carolina.

(b) Section 3.10 of such Shareholder's Employment Agreement shall be amended to remove any restrictions from hiring Corporation employees whose jobs required they perform a majority of their services at the Hartsville site or the Chesterfield site.

(c) Section 3.7 of such Shareholder's Employment Agreement shall be amended to provide that such Shareholder shall be entitled to retain copies of medical records of patients treated by such Shareholders at the Hartsville site or the Chesterfield site.

For purposes of this Section 3.10, an office site will be deemed to be "closed" upon the earlier of the time it: (i) is operating for three (3) consecutive calendar months providing less than fifty percent (50%) of the level of services to patients that it customarily provides, or (ii) when it physically closes it doors for business on a permanent basis.

Section 3.11 Richland County Campus Protection Services. If any Shareholder practicing primarily at the Richland County, South Carolina, practice site (the "Richland site") is terminated without cause as provided in Section 2.3(c) of such Physician's Employment Agreement and the Richland site is closed either within 18 months prior or 18 months subsequent to the termination, then such Employment Agreement shall be deemed amended upon the later of the date of termination of the Employment Agreement or date of the closing of the Richland site to provide:

(a) Section 3.9 of the Employment Agreement and the Covenant Not to Compete referenced therein shall be void as to any restrictions within Richland County, South Carolina.

(b) Section 3.10 of such Shareholder's Employment Agreement shall be amended to remove any restrictions from hiring Corporation employees whose jobs required they perform a majority of their services at the Richland site.

(c) Section 3.7 of such Shareholder's Employment Agreement shall be amended to provide that such Shareholder shall be entitled to retain copies of medical records of patients treated by such Shareholders at the Richland site.

For purposes of this Section 3.11, an office site will be deemed to be "closed" upon the earlier of the time it: (i) is operating for three (3) consecutive calendar months providing less than fifty percent (50%) of the level of services to patients that it customarily provides, or (ii) when it physically closes it doors for business on a permanent basis.

Section 3.12 Managing Shareholder Protection Provision. The Managing Shareholder shall have at least two (2) extra half days each week during normal business hours to perform

administrative duties of the practice in lieu of providing patient services. For purposes of the Managing Shareholder's Employment Agreement, the extra half days referenced above shall be counted as annual leave and credited to the Managing Shareholder's Total Production in the manner described in Section 4.2(c) of the Employment Agreement.

Section 3.13 Personnel. The Managing Shareholder shall have the right to hire and terminate any employee of the Corporation except that the hiring or termination of a physician, physician extender, or office manager shall require the vote of a majority of the Shareholders. The duties, authority, limitations and compensation of officers and employees shall be determined by the majority vote of Shareholders.

Section 3.14 Distributions. Each year all compensation, including bonuses, shall be paid to the Shareholders in their capacity as employees and all operating expenses of the Corporation shall be paid prior to any distribution of profits of the Corporation. Subject to available cash flow, after the payment of all compensation and operating expenses, the Corporation shall make the following distributions to the Shareholders:

(a) Every two weeks, Physician shall receive a distribution in such amount as recommended by the Managing Shareholder, based on available cash flow, from time to time and approved by a majority of the Shareholders (the "Biweekly Distribution"); and

(b) On a monthly basis, Physician shall receive an amount established by the Managing Shareholder as a month-end distribution (the "Sweep Distribution").

Section 3.15 Expenditures. The Managing Shareholder shall not make any disbursements of cash or assets of the Corporation or incur any debt on behalf of the Corporation in excess of Ten Thousand and 00/100 ($10,000) dollars without consultation and agreement by a majority of the Shareholders with the exception of recurring ordinary and necessary expenses of the Corporation which may be disbursed without consultation and agreement by the Shareholders.

Section 3.16 Loans To and From Shareholders. No Shareholder shall have any obligation to make contributions to the Corporation other than those as mutually agreed upon. Any Shareholder that makes a loan to the Corporation shall do so in writing with such loan not being effective unless authorized in writing by the Managing Shareholder.

ARTICLE IV

RESTRICTIONS ON TRANSFER OF SHARES

Section 4.1 General. No Shareholder may sell, assign, transfer, grant, give away, hypothecate, pledge or in any manner dispose of or encumber ("Transfer") any Common Stock whether presently owned or hereafter acquired, except as specifically set forth in this Article IV. No Transfer of Common Stock shall be valid or recognized in the books and records of the Corporation without first obtaining the written consent of the Corporation and the other Shareholders or, in the absence of such written consent, without first complying with the terms

and conditions of this Agreement. No Transfer of any Common stock pursuant to this Agreement shall be valid or recognized on the books and records of the Corporation as a Transfer of the interest in the Corporation unless such transferee is a Qualified Person who first becomes a party to this Agreement and evidences his or her consent to, and approval of, the terms and provisions hereof by execution of this Agreement. If any Common Stock is transferred in accordance with this Article IV, the Employment Agreement of such Shareholder shall terminate effective upon such transfer.

Section 4.2 Involuntary Transfers or Transfers According to Judicial Process. Any Person (the "Involuntary Transferee") who becomes the holder of any Shares or possessor of any certificates representing Shares (the "Transferred Shares") by virtue of any judicial process, attachment, bankruptcy, receivership, execution, insolvency proceeding and competency proceeding, judicial sale or divorce decree (a "Departure Event") shall immediately offer all such Shares to the Corporation whenever requested by the Corporation to do so. The Corporation shall have the obligation to purchase the Transferred Shares, which right shall be exercised by written notice given to the Involuntary Transferee within 30 days after the Shares are presented to the Corporation for registration in the Involuntary Transferee's name. None of such Shares will be entitled to any vote nor will any dividend or other distribution be paid, allowed or made upon any of such Shares for so long as such Involuntary Transferee fails to comply with such request. Corporation shall pay such holder of any Shares or possessor of such certificates representing Shares pursuant to this Section in accordance with Sections 4.5, 4.6 and 4.7 of this Agreement. The Shareholder's salary and bonus set forth under such Shareholder's Employment Agreement and the distributions due the Shareholder pursuant to this Agreement will be reduced and the reduction applied to the Purchase Price set forth in Section 4.5, by such amounts as determined in the Corporation's sole discretion, until the Purchase Price is paid.

Section 4.2.1 Transfer Upon Shareholder Disqualification. In the event that a Shareholder is no longer authorized to practice medicine in South Carolina in the area of Otolarygology, other than for a period lasting no longer than five months, (a "Departure Event"), then the Corporation shall have the obligation to purchase the Departing Shareholder's Shares. The Corporation shall pay such holder of any Shares in accordance with Sections 4.5, 4.6 and 4.7 of this Agreement.

Section 4.3 Transfer Upon Death or Permanent Disability of Shareholder. In the event of the death or Permanent Disability (each, a "Departure Event") of a Shareholder, the Corporation or the Remaining Shareholders shall purchase, according to their Equal Percentages, and the Departing Shareholder agrees to sell, all Shares owned by the Departing Shareholder in accordance with Sections 4.5, 4.6 and 4.7 of this Agreement.

Section 4.3.1 Simultaneous Death. If all of the Shareholders shall die simultaneously or shall die within thirty (30) days of one another, then there shall be no obligation by any party herein to purchase the Shares of any Shareholder in the Corporation, unless a sale shall have taken place prior to the first death, pursuant to this Agreement. As long as no such prior sale shall have occurred, the Departing Shareholder's interest in the proceeds of the liquidation of the Corporation and the proceeds of any insurance policies owned pursuant to Article V of this Agreement shall be delivered to the estate of such deceased Shareholder.

Section 4.4 Compulsory Redemption of Stock Upon Termination of Employment. If a Shareholder's Employment Agreement is terminated: (i) by the Corporation pursuant to Section 2.2. of the Shareholder's Employment Agreement, (ii) by the Shareholder pursuant to Paragraph 2.3(a) of the Shareholder's Employment Agreement, or (iii) because the Shareholder elects not to renew his Employment Agreement upon the expiration of its term (each a "Departure Event"), the Corporation shall purchase such Departing Shareholder's Shares in the Corporation in exchange for the payment as provided in Sections 4.5, 4.6, and 4.7 of this Agreement. Nothing in this Section shall affect a Shareholder's right to arbitrate a decision of the Corporation to terminate his Employment Agreement.

Section 4.4.1 Modification of Employment Agreement by Corporation. If the Corporation elects not to extend the term of a Shareholder's Employment Agreement by giving notice to the Shareholder in accordance with such agreements, then the Corporation must offer a new Employment Agreement to all Shareholders on substantially identical terms.

Section 4.5 Purchase Price. The Corporation or the Remaining Shareholders, as the case may be, shall pay the Departing Shareholder a purchase price ("Purchase Price") for the Shares in an amount equal to: (A) one-fourth of the total collected revenue of the group for the twelve whole calendar months preceding the Departure Event divided by the number of Shareholders of the Corporation including the Departing Shareholder plus (B) one-third of the sum of the accounts receivable of the Corporation, booked in accordance with the Corporation's normal accounting methods, and the cash (to include cash equivalents and marketable securities) of the Corporation divided by the number of Shareholders of the Corporation including the Departing Shareholder, and minus (C) any amount, if any, owed by the Departing Shareholder as of the effective date of the Termination of Employment under Section 4.6.4 of this Agreement. The Departing Shareholder also agrees that he shall sell his interest in SCENT Land Holdings, LLC at the price specified in that company's operating agreement at the same time the Shareholder's Shares are redeemed pursuant to this Agreement. Provided, however, the Purchase Price shall be reduced by fifty percent (50%) if (i) the term of Physician's employment did not consist of at least thirty-six (36) whole calendar months, (ii) Physician elects to terminate the Employment Agreement without cause pursuant to Section 2.3(d) of the Employment Agreement and Physician fails to give the Group the twelve (12) whole calendar months written notice requested by that provision, or (iii) Physician is terminated pursuant to Sections 2.2(c)-(h) or Section 2.3(a). For clarity, any termination pursuant to Section 2.2(a)(death), Section 2.2(b)(disability), Section 2.2(i)(change in law), Section 2.3(a)(a material breach by the Corporation), Section 2.3(b)(mutual agreement), or Section 2.3(c)(by the group without cause) or Section 2.3(d)(by Physician without cause with twelve months notice) shall be subject to payment for Physician's Shares at the Purchase Price. The Corporation and the Departing Shareholder may agree that such payments may be made in cash or as a distribution of corporate assets in kind to satisfy the Corporation's obligations. Notwithstanding anything in this Agreement to the contrary, a Departing Shareholder shall not be entitled to any distribution from the Corporation nor be entitled to vote the Shares subsequent to the Event of Departure.

Section 4.6 Method and Schedule of Payment of Purchase Price.

Section 4.6.1 Payment of Purchase Price. The Corporation or the Remaining Shareholders, as the case may be, shall commence payment of the Purchase Price as defined in

Section 4.5 above to the Departing Shareholder, within sixty (60) days after the following applicable date: (i) effective date of the Departing Shareholder's Termination Date; (ii) the effective date that a Shareholder is deemed to have a "Permanent Disability"; (iii) the effective date that a Shareholder is disqualified from being a shareholder in the Corporation; (iv) the date of receipt of notice of the qualification of the personal representative of the estate of a Departing Shareholder; or (v) the date of notice to the Involuntary Transferee that the Corporation will purchase the Transferred Shares. To the extent permitted by applicable law, the Purchase Price shall be paid to the Departing Shareholder in sixty (60) equal monthly installments as evidenced by a promissory note. Notwithstanding the above, any life insurance proceeds or any Disability "buy-out" insurance proceeds received from such insurance policies on the Shareholder shall be paid as provided for in Article V of this Agreement.

Section 4.6.2 Closing of Sale of Shares. Upon the payment of the first installment of the Purchase Price as provided above in this Article IV, the Departing Shareholder shall endorse all of the Shares to be sold and deliver such Shares to an escrow agent appointed by the Corporation together with: (i) the appropriate amount of federal and state documentary stamps affixed thereto; and, if applicable; (ii) the appropriate tax waiver from the Estate Tax Division of the South Carolina Department of Revenue; and (iii) a certificate of discharged property from lien of federal estate tax. The Shares shall be held by the escrow agent until such time as the Purchase Price for the Shares has been fully paid. Upon payment in full of the Purchase Price, the escrow agent shall deliver the Shares together with all endorsements to the Remaining Shareholders or the Corporation, as applicable. Title to the Shares shall be deemed to have passed to the Remaining Shareholders upon the payment of the first installment of the Purchase Price.

Section 4.6.3 Shareholder Representations. The Departing Shareholder shall deliver at the closing and as a condition of sale, the following written representations: (i) that he or she is the owner and holder of record of such Shares being sold, that such Shares are free and clear of any and all liens, security interests, pledges, judgments or other encumbrances of any kind, and that the Departing Shareholder has full power to sell the Shares being sold; (ii) that the Departing Shareholder has not entered into on behalf of the Corporation, any agreement, commitment or understanding binding upon the Corporation except for transactions in the normal course of business, in amounts, quantities and nature which are normal and reasonable in relation to the normal and reasonable requirements of the Corporation's businesses as have been previously conducted and which have been fully recorded on the books and records of the Corporation or fully disclosed to the Shareholders of the Corporation; (iii) that the Departing Shareholder has not incurred any debt or other charges for which the Corporation may be liable except for normal and reasonable charges in connection with the business of the Corporation and that Departing Shareholder has surrendered to the Corporation all credit cards issued to the Corporation in the Departing Shareholder's possession.

Section 4.6.4 Setoff. Any damages resulting from the breach of any of the foregoing representations or a breach of Section 3.6 shall be applied against the balance of the Purchase Price in the same manner as if there were a prepayment of the Purchase Price. The intent of this provision is to provide for a reduction in the Purchase Price as a result of such a breach. Additionally, any damages owed to the Corporation by the Departing Shareholder under an Employment Agreement between the Corporation and the Departing Shareholder shall be

setoff against the Purchase Price. To the extent such adjustment or amount required to be paid shall exceed the balance due on the Purchase Price, the Departing Shareholder shall make prompt payment of such excess to the Corporation or the Remaining Shareholders.

Section 4.7 Promissory Note. The Remaining Shareholders or the Corporation, as the case may be, shall execute a promissory note (hereinafter referred to as "Note") for all payments due pursuant to Article IV of this Agreement. Such Note shall be negotiable and bear interest at the adjusted prime rate plus one percent (1%). The Note shall become due and payable at the option of the holder immediately upon the occurrence of the following events:

(i) Default in the payment of any installment. Default shall occur following a thirty (30) day grace period after written notice of nonpayment is given to the defaulting party. If payment is not made within the thirty (30) day grace period, the Payee shall be in Default;

(ii) Sale of substantially all of the Corporation's assets;

(iii) Dissolution and liquidation of the Corporation; or

(iv) Bankruptcy of the Corporation.

Section 4.7.1 Default. If the payor of the Note shall default in paying any installment of the Purchase Price, then all remaining installments shall be accelerated. In the event of the liquidation or dissolution of the Corporation, the Departing Shareholder shall be paid the balance of the Purchase Price remaining unpaid out of the proceeds of such liquidation or dissolution.

Section 4.8 Legend on Shares. The certificates for the Shares shall, in addition to any notice thereon required by the Articles of Incorporation or Bylaws of the Corporation, or the Securities Act and other applicable securities laws, bear the following notice conspicuously marked on the face or back thereof:

> The securities evidenced hereby are subject to the terms of a Shareholders' Agreement among the Company and the shareholders of the Company. A copy of the Shareholders' Agreement is on file at the office of the Company and is available upon request. The Shareholders' Agreement provides, among other things, for restrictions on the sale, transfer, pledge, hypothecation or other disposition of the securities represented by this Certificate. Any attempted sale, transfer, pledge, hypothecation or other disposition of the securities represented by this Certificate not in compliance with the terms and conditions of the Shareholders' Agreement shall be void and of no force and effect.

Section 4.9 Effect of Waiver. Any failure of the Corporation to exercise any option to purchase given under this Agreement and any waiver by the Corporation of any rights hereunder as to any Transfer will not, as to any future Transfer of the Shares (either voluntary or by operation of law), discharge the Shares from any of the restrictions herein contained.

ARTICLE V

COVENANTS REGARDING SUBCHAPTER S

Section 5.1 Revocation. If the Shareholders shall determine to revoke the Corporation's Subchapter S election, each Shareholder agrees that he or she shall execute all documents and take such further action as may be necessary or advisable to effectuate such revocation.

Section 5.2 Maintain S Status. Except as provided in Section 5.1 above, the Corporation and each Shareholder covenant and agree not to do any act or fail to do any act, the commission or omission of which would cause the termination of the Subchapter S election of the Corporation. In the event of the violation of any provision of this Section 5.2 by the Corporation or any Shareholder, the Shareholder who authorizes or causes the violation, whether in his or her capacity as a Shareholder, officer, employee or agent for the Corporation or otherwise, shall be liable to the Corporation and to the other Shareholder(s) for any damages, liabilities, or costs resulting directly or indirectly therefrom, including, without limitation, any additional federal or state income tax, penalties and interest incurred by the Corporation and the other Shareholder(s); provided, however, that no Shareholder shall be so liable if such Shareholder acted in the good faith belief and upon the advice of tax counsel that termination of the election would not be caused thereby. In the event of an inadvertent termination of the Corporation's Subchapter S election, the Corporation and each Shareholder shall take whatever actions are necessary under Section 1362(f) of the Code and the Regulations thereunder to request a determination of inadvertent termination from the Commissioner of Internal Revenue allowing the Corporation to be treated as continuing to be an S corporation, and if a waiver of the terminating event is not granted, to request consent for an early reelection of Subchapter S status under Section 1362(g) of the Code and the Regulations thereunder.

Section 5.3 Dividend Distributions. Each Shareholder and the Corporation acknowledge that the Corporation shall use its best efforts to make pro rata (based on the total Shares owned by each Shareholder) distributions of money with respect to the Shares in an amount at least sufficient to pay the federal and state income taxes on the income that passes through to the Shareholders from the Corporation under Section 1366 of the Code for each taxable year, net of any tax benefits produced by losses, deductions and credits that pass through under Section 1366 of the Code. The Corporation shall use its best efforts to make such distributions on a quarterly basis during each taxable year and in any event no later than ninety (90) days following the end of each taxable year. The Managing Shareholder, after consultation and reasonable input from the Shareholders', shall make the final decision as to the amount of each distribution with respect to the Shares. For purposes of this Section 5.3 a distribution shall be treated as made with respect to a particular taxable year of the Corporation if (A) it is made during the taxable year and not designated by the Corporation as made with respect to another taxable year or (B) it is specifically designated by the Corporation as made with respect to that particular taxable year. The foregoing distribution requirement set forth in this Section 5.3 is subject, however, to (Y) the reasonably required needs of the Corporation as determined by the Managing Shareholder to maintain sufficient funds for working capital and business needs so as not to impair the ability of the Corporation to continue its business operations, and (Z) any applicable restrictions contained in loan documents with the Corporation's creditors.

Section 5.4 Withholding. The Corporation is authorized to withhold from amounts to be distributed to any Shareholder hereunder any amount required to be withheld by any provision of the Code, Treasury Regulations or other applicable law, and to pay such amounts to the Internal Revenue Service ("IRS") or other appropriate taxing authority in accordance with the Code, Treasury Regulations or other applicable law. In addition to such withholding from distributions, the Corporation is authorized to remit to the IRS or other appropriate taxing authority any amounts due as a result of the allocation of taxable income to any Shareholder. Any amounts paid over to the IRS or other appropriate taxing authority with respect to this Section to a Shareholder pursuant to this Section shall be treated for all purposes hereunder as a distribution made to the Shareholder with respect to whom such withholding or remittance was made.

Section 5.5 Code Section 1377(a)(2) Election. If a Shareholder makes a Transfer of his or her Shares pursuant to this Agreement while the Corporation is an S corporation, and such Transfer results in the complete termination of the interest in the Corporation of such Shareholder, and if either the selling Shareholder or the purchaser requests, then all of the Shareholders and the Corporation agree to take appropriate action to make an effective election under Section 1377(a)(2) of the Code and the Regulations thereunder to treat the taxable year of the Transfer as if it consisted of two taxable years, the first of which ended on the effective date of the Transfer. For purposes of this election, Shareholders shall mean all Persons who are or were Shareholders of the Corporation at any time during the taxable year in which the Transfer occurs.

Section 5.6 Closing of Corporate Books. In the event the Corporation's Subchapter S status terminates during the course of a taxable year for any reason whatsoever, and if any Shareholder so requests, then all of the Shareholders shall take appropriate action to make an effective election under Section 1362(e)(3) of the Code and the Regulations thereunder to close the Corporation's books on the date immediately preceding the date on which the termination of Subchapter S status occurs. For purposes of this election, the term Shareholders shall mean all Persons who are or were Shareholders of the Corporation at any time during the taxable year ending on the date of termination of the Corporation's Subchapter S status and all Persons who are or were Shareholders in the Corporation on the first day following the termination of the Corporation's Subchapter S status.

Section 5.7 South Carolina S Corporation Status. Each Shareholder agrees to file a South Carolina income tax return and pay South Carolina income tax on his or her proportionate share of the Corporation's taxable income for each taxable year of the Corporation that he or she is a Shareholder and the Corporation is an S corporation, and to execute such consents as are necessary to assure that the Corporation's Subchapter S election will be effective for South Carolina income tax purposes.

Section 5.8 President as Attorney-in-Fact for Elections. If any document evidencing a Shareholder's consent or other action is required for filing or for other purposes under the provisions of the Code or otherwise in order to effectuate the matters set forth in Article V and any Shareholder is unable or otherwise fails to execute such document in a timely manner, then such Shareholder hereby appoints the President of the Corporation, as from time to time elected, as his agent and attorney-in-fact for the purpose of executing any such document and taking all such further action as may be necessary or advisable to effectuate such consent or other action. The Corporation shall

indemnify, defend and hold harmless the President of the Corporation from, against and in respect of any liabilities, damages, losses, costs or expenses (including attorneys' and accountants' fees) incurred by him or her as result of acting under such power of attorney.

Section 5.9 Tax Matters Person. The Managing Shareholder is hereby designated as the tax matters person of the Corporation. The tax matters person may resign at any time by giving written notice to the Corporation and each of the other Shareholders, and the tax matters person may be removed at any time by unanimous consent of all of the other Shareholders. Upon the resignation or removal of the tax matters person, a new tax matters person, who must be a Shareholder, shall be elected by holders of a majority of the Shares, which majority shall be determined by excluding the Shares of a removed tax matters person. The Corporation shall indemnify, defend and hold harmless the tax matters person from, against and in respect of any liabilities, damages, losses, costs or expenses (including attorneys' and accountants' fees) incurred by him or her as a result of acting as tax matters person.

ARTICLE VII

INSURANCE

Section 6.1 Life Insurance. The Corporation and each Shareholder shall have the right to purchase and maintain insurance on the life of each of the Shareholders.

Section 6.2 Disability Insurance. The Corporation and each Shareholder shall have the right to purchase and maintain Disability "buy-out" insurance on each of the Shareholders.

Section 6.3 Excess Insurance Proceeds. To the extent any insurance proceeds are in excess of the amount due a Shareholder under Section 4.5, such excess shall not affect the purchase price under Section 4.5. Any excess proceeds from a policy purchased by the Corporation or a Shareholder shall be retained by the Corporation or Shareholder, as the case may be.

Section 6.4 Shareholders' Right to Purchase Insurance Policies. In the event that a Shareholder Transfers his Shares, or upon dissolution or liquidation of the Corporation before the death or Permanent Disability of such Shareholder, the insured Shareholder shall have the right to purchase such life insurance and Disability insurance policies purchased by the Corporation that are subject to this Agreement for a purchase price equal to the amount of:

(i) the cash surrender value thereof, if any, calculated on a prorated basis to the date of the transaction, exclusive of any dividend, dividend accumulations, or policy loans, but inclusive of the cash value of any paid-up insurance additions; plus

(ii) the pro rata portion of any premium paid prior to the date which covers a period extending beyond the date of the transaction; plus

(iii) any dividend or dividend accumulations; and less

(iv) any policy loan plus interest then due.

The rights granted in this Section 6.4 shall lapse and expire unless the Transferring Shareholder notifies the Corporation in writing within thirty (30) days of the effective date of the Transfer of Departing Shareholder's Shares of his desire to purchase all or some of the Disability or life insurance contracts maintained pursuant to this Article V. Any policy or policies not purchased within such thirty (30) day period may be disposed of by the Corporation in its discretion and the Departing Shareholder agrees to execute and deliver such instruments as may be required by the Corporation to dispose of such policies. If such an insurance policy is transferred to a Departing Shareholder, the Corporation shall execute and deliver to the Departing Shareholder, such instruments as are necessary and proper to transfer full and complete title to such policies.

ARTICLE VII

TERM AND TERMINATION

The term of this Agreement shall begin on the Effective Date and terminate upon the occurrence of any of the following: (i) the bankruptcy of the Corporation or (ii) a written agreement to terminate this Agreement executed by Shareholders of not less than one hundred percent (100%) of the Common Stock subject to this Agreement.

ARTICLE VIII

MISCELLANEOUS

Section 8.1 Prior Agreements. All other agreements dated prior to the date of this Agreement are hereby superseded in their entirety by the terms and conditions of this Agreement; provided however, that this Agreement shall not be deemed to supersede the terms and conditions of the Employment Agreements executed simultaneously with this Agreement. Any inconsistency or ambiguity with the terms of this Agreement and the terms of the Employment Agreements shall be construed and interpreted in accordance with the terms of this Agreement.

Section 8.2 Patient Records. The Corporation owns all patient records and charts. The records of patients of a Departing Shareholder shall remain with the Corporation. In the event of dissolution of Corporation, the patient records shall be provided to the Shareholder who primarily treated the patient. Notwithstanding the above, upon written authorization of a patient, the patient's records shall be provided to such Departing Shareholder (or former Shareholder if a liquidation or dissolution has occurred) who shall bear the cost of such photocopying.

Section 8.3 Shareholder's Personal Property. Each of the Shareholder's personal property at the Practice location is listed in Schedule B hereto which shall remain each Shareholder's property and may be removed from the Practice location at any time by the owning Shareholder. Any amendments to the inventory list in this Schedule B must be approved by all of the Shareholders.

Section 8.4 Notices. All notices and other communications required or permitted hereunder shall be in writing and shall be deemed effectively given upon personal delivery, and in the case where delivery is made by any established and reputable next day delivery service, delivery shall be deemed to occur on the day after delivery to such delivery service, or on the fifth day following mailing by registered or certified mail, return receipt requested, postage prepaid, addressed at such Shareholder's address as set forth on Schedule A attached hereto or at such other address as such Shareholder shall designate by written notice to the Corporation and the other Shareholders; or if to the Corporation, at 1165 Highway 1 South, Suite 300, Lugoff, South Carolina, or at such other address as the Corporation shall have furnished to the Shareholder in writing.

Section 8.5 Construction. The Shareholders hereby agree and consent to take or cause to be taken all actions necessary to implement the intents and purposes of this Agreement, including, but not limited to, to vote their Common Stock to amend the Articles of Incorporation or the Bylaws in such manner as may be necessary to implement the provisions of this Agreement, and further agree not to vote their Common Stock at any time so as to amend the Articles of Incorporation in a manner inconsistent with or in contravention of this Agreement.

Section 8.6 Counterparts. This Agreement may be executed in several counterparts, each of which when so executed shall be deemed to be an original and such counterparts, taken together, shall constitute and be one and the same instrument.

Section 8.7 Successor and Assigns. This Agreement shall be binding upon the parties hereto, their heirs, legal representatives, successors and permitted assigns.

Section 8.8 Entire Agreement. This Agreement contains the entire agreement of the parties with respect to its subject matter.

Section 8.9 Remedies. The parties acknowledge that remedies at law for breach of covenants contained in this Agreement may be inadequate and that the Corporation may be entitled to injunctive or to such other equitable relief as a court may deem appropriate for a breach of such covenants. If such covenants are at any time adjudged invalid to any extent by any court of competent jurisdiction, such covenants shall be deemed modified to the extent necessary to render any or all of them enforceable.

Section 8.10 Disputes. Any controversy or claim arising out of or relating to this Agreement, or the breach thereof, shall be settled by binding arbitration, which shall be conducted in Camden, South Carolina, in accordance with the NHLA Alternative Dispute Resolution Service Rules of Procedure for Arbitration, and which to the extent of the subject matter of the arbitration, shall be binding not only on all parties to the Agreement, but on any other entity controlled by, in control of or under common control with the party to the extent that such affiliate joins in the arbitration. Judgment upon the award rendered by the arbitrators may be enforced in any court having jurisdiction thereof and all costs shall be borne by the party against whose interest the arbitration is adversely determined.

Section 8.11 Amendment. This Agreement may not be amended or supplemented except in writing, executed by holders of not less than one hundred (100%) percent of the Common Stock subject to this Agreement.

Section 8.12 Severability. If any provision of this Agreement is held invalid or unenforceable, such invalidity or unenforceability will not affect the validity or enforceability of any other provisions hereof, all of which provisions are hereby declared severable.

Section 8.13 Choice of Law. This Agreement is to be governed by and construed in accordance with the laws of the State of South Carolina.

Section 8.14 Descriptive Headings and Section References. The descriptive headings of this Agreement are inserted for convenience only and do not constitute a part of this Agreement. Provided, however, any reference in this Agreement to a particular Section shall also include all subsections thereto unless explicitly referenced otherwise (e.g., a reference to Section 4.2 shall also include Section 4.2.1, 4.2.2, etc.).

Section 8.15 Gender and Number. Whenever the context hereof requires, the gender of all words shall include the masculine, feminine and neuter, and the number of all words shall include the singular and plural.

Section 8.16 Applicability of Agreement. Unless otherwise provided by this Agreement, each provision of this Agreement shall apply to all of the Shares owned by each Shareholder, whether presently owned or hereafter acquired.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first above written.

SOUTH CAROLINA ENT, ALLERGY & SLEEP MEDICINE, P.A.

By: _____
Robert Puchalski
Its: President

SHAREHOLDERS:

_____
Orville Dyce

SCHEDULE A

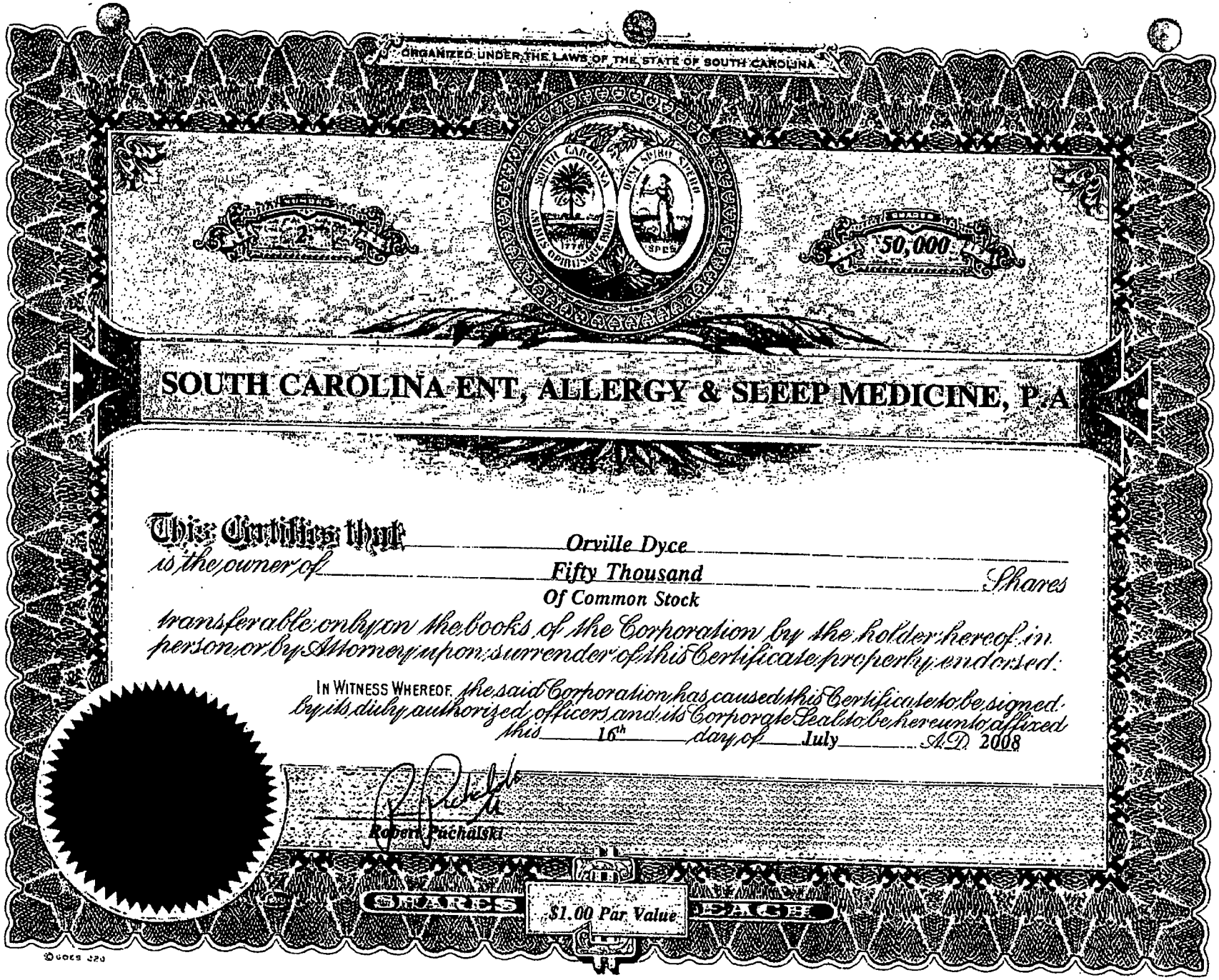
SHAREHOLDERS AND NUMBER OF SHARES

Name and Address of Shareholder	Number of Shares
Robert Puchalski	50,000
Orville Dyce	50,000

SCHEDULE B

PERSONAL PROPERTY

Plaintiffs' Ex 0007.026



ORGANIZED UNDER THE LAWS OF THE STATE OF SOUTH CAROLINA

2

50,000

SOUTH CAROLINA ENT, ALLERGY & SLEEP MEDICINE, P.A.

This Certifies that *Orville Dyce*

is the owner of *Fifty Thousand* Shares

Of Common Stock

transferable on the books of the Corporation by the holder hereof in person or by Attorney upon surrender of this Certificate properly endorsed.

IN WITNESS WHEREOF, the said Corporation has caused this Certificate to be signed by its duly authorized officers and its Corporate Seal to be hereunto affixed this 16th day of July A.D. 2008

Robert Puchalski

SHARES $1.00 Par Value PAGE

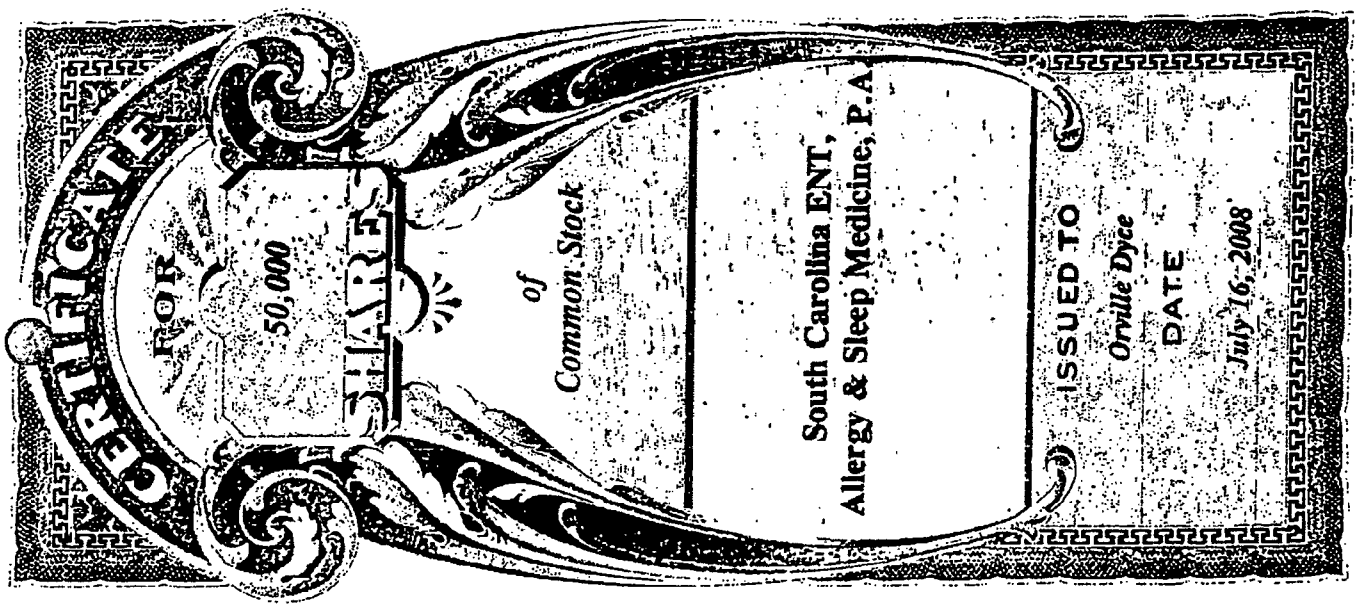
The shares represented by this certificate were issued by the Corporation pursuant to exemptions from registration under both federal and state securities laws. Such exemptions may prohibit certain transfers of these shares. Therefore, none of the shares (nor any interest in such shares) may be transferred in any manner whatsoever (either voluntarily or involuntarily, by pledge, sale, gift, levy or any other attempted method of transfer) without the prior written consent of the Corporation.

The Corporation's shareholders have elected for the Corporation to receive the tax treatment accorded by Subchapter "S" of the Internal Revenue Code. Therefore, none of the shares (nor any interest in such shares) may be transferred in any manner whatsoever (either voluntarily or involuntarily, directly or indirectly, by pledge, sale, gift, levy or any other attempted method or transfer) without the written consent of the Corporation.

The transfer of shares of a professional corporation is restricted by the South Carolina Professional Corporation Supplement, Chapter 19 of Title 33, and may be subject to further restriction imposed by the licensing authority. Shares of a professional corporation are subject also to a statutory repurchase obligation.

The rights of shareholders in a statutory close corporation may differ materially from the rights of shareholders in other corporations. Copies of the Articles of Incorporation and By-laws, Shareholders' Agreements, and other documents, any of which may restrict transfers and affect voting and other rights, may be obtained by a shareholder on written request to the Corporation.

The securities evidenced hereby are subject to the terms of a Shareholders' Agreement among the Corporation and the shareholders of the Corporation. A copy of the Shareholders' Agreement is on file at the office of the Corporation and is available upon request. The Shareholders' Agreement provides, among other things, for restrictions of the sale, transfer, pledge, hypothecation or other disposition of the securities represented by this certificate. Any attempted sale, transfer, pledge, hypothecation or other disposition of the securities represented by this certificate not in compliance with the terms and conditions of the Shareholders' Agreement shall be void and of no force and effect.



For Value Received _____ *hereby sell, assign and transfer*

unto _____

_____ *Shares*

represented by the within Certificate, and do hereby irrevocably constitute and appoint

_____ *Attorney*

to transfer the said Shares on the books of the within named Corporation with full power of substitution in the premises.

Dated _____

In presence of

_____

NOTICE: THE SIGNATURE OF THIS ASSIGNMENT MUST CORRESPOND WITH THE NAME AS WRITTEN UPON THE FACE OF THE CERTIFICATE, IN EVERY PARTICULAR, WITHOUT ALTERATION OR ENLARGEMENT OR ANY CHANGE WHATEVER.

Plaintiffs' Ex 0008.002

STOCK PURCHASE AGREEMENT

THIS STOCK PURCHASE AGREEMENT (the "Agreement") is made to be effective the 16th day of July, 2008, by and between Orville Dyce, M.D., ("Purchaser") and South Carolina ENT, Allergy & Sleep Medicine, P.A., a South Carolina corporation (the "Corporation") ("Seller").

WHEREAS, Seller desires to sell, and Purchaser desires to purchase shares of capital stock of the Seller in accordance with the terms and conditions hereinafter set forth.

NOW, THEREFORE, in consideration of the foregoing, and the respective representations, warranties, covenants and agreements set forth herein, the parties hereto agree as follows:

1. Sale and Purchase of Shares. Subject to and in accordance with the terms and conditions of this Agreement, Seller agrees to sell, and Purchaser agrees to purchase, 50,000 shares of the Corporation's common stock ("Shares") for $50,000.

2. Closing. The closing of the sale and purchase of the Shares (the "Closing") shall be on July 16, 2008, or as soon as possible thereafter, provided Purchaser's rights as a stockholder shall be given retroactive effect to July 16, 2008.

3. Deliveries at Closing.

(a) At Closing, Seller shall deliver to Purchaser a certificate evidencing the Shares.

(b) At Closing, Purchaser shall deliver the purchase price to Seller.

4. Representations and Warranties of Seller. Seller represents and warrants to Purchaser as follows:

(a) Seller has full power and authority to execute and deliver this Agreement and to perform Seller's obligations hereunder. This Agreement, and each and every other agreement, document and instrument to be executed, delivered and performed by Seller in connection herewith constitute, or will, when executed and delivered, constitute the legal, valid and binding obligation of Seller, enforceable in accordance with their respective terms and conditions. Seller is not required to give any notice to, make any filing with, or obtain any authorization, consent or approval of any person, any private entity, or any governmental agency, court or other public entity in respect of entering into this Agreement or performing Seller's obligations hereunder.

(b) Neither the execution and delivery of this Agreement, nor the consummation of the transactions contemplated hereby, will: (i) violate or constitute a default under (or an event which, with notice or lapse of time or both, would constitute a default), or require notice or consent or permit the acceleration of obligations, under any mortgage, deed of trust, lease, contract, agreement, license or other instrument or document; or (ii) violate, conflict with, or require notice or consent under any law, regulation, rule, injunction, order, decree, ruling,

judgment or other restriction of any governmental agency, court or other public entity to which Seller or the Shares are subject.

5. Purchaser's Representations and Warranties.

(a) Purchaser represents and warrants to Seller that Purchaser has full power and authority to execute and deliver this Agreement and to perform its obligations hereunder. This Agreement constitutes the legal, valid and binding obligation of Purchaser, enforceable in accordance with its terms and conditions. Purchaser is not required to give any notice to, make any filing with, or obtain any authorization, consent or approval of any person, any private entity, or any governmental agency, court or other public entity in respect of entering into this Agreement or performing its obligations hereunder.

(b) Investment. Purchaser acknowledges that, as and when issued, the shares would be and are a security under the Securities Act of 1933, as amended, and the rules and regulations of the Securities and Exchange Commission promulgated thereunder (the "Securities Act") and applicable state securities laws. Accordingly, this Agreement is made with Purchaser in reliance upon its representation to the Corporation, which by Purchaser's execution of this Agreement Purchaser hereby confirms, that the Shares to be received by Purchaser will be acquired for investment for Purchaser's own account, not as a nominee or agent, and not with a view to the sale or distribution of any part thereof, and that Purchaser has no present intention of selling, granting any participation in, or otherwise distributing the Shares. By executing this Agreement, Purchaser further represents that it has no, and covenants that it will not enter into any, contract, undertaking, agreement, or arrangement with any person to sell, transfer, or grant participation to such person or to any third person, with respect to the Shares.

(c) No Public Market. Purchaser understands and acknowledges that the offering of Shares pursuant to this Agreement and will not be registered under the Securities Act on the grounds that the offering and sale of the Shares contemplated by this Agreement are exempt from registration pursuant to Section 4(2) and or Section 3(b) of the Securities Act, and that the Corporation's reliance upon such exemption is predicated upon Purchaser's representations as set forth in this Agreement. Purchaser further understands that no public market now exists for any of the securities issued by the Corporation and that the Corporation has made no assurances that a public market will ever exist for Corporation's securities.

(d) Limitations on Transferability. Purchaser covenants that in no event will it dispose of the Shares when and as issued to Purchaser unless and until complied with (a) the terms and conditions of any Stock Purchase Agreement, by and among the Corporation and its Stockholders, (b) Purchaser shall have notified the Corporation of the proposed disposition and shall have furnished the Corporation with a statement of the circumstances surrounding the proposed disposition, and (c) if requested by the Corporation, Purchaser shall have furnished the Corporation with an opinion of counsel satisfactory in form and substance to the Corporation and the Corporation's counsel to the effect that (x) such disposition will not require registration under the Securities Act and (y) appropriate action necessary for compliance with the Securities Act and any applicable state, local, or foreign law has been taken.

(e) Experience. Purchaser represents that: (a) he has such knowledge and experience in financial and business matters as to be capable of evaluating the merits and risks of the Shares; (b) he has had the opportunity to discuss the Corporation's business, management, and financial affairs with the Corporation's management, (c) he has the ability to bear the economic risks of its prospective investment; and (d) he is able, without materially impairing its financial condition, to hold the Shares, as applicable, for an indefinite period of time and to suffer a complete loss on its investment.

(f) Legends on Certificates. Purchaser understands that Shares shall bear the following or similar legend and that appropriate stock transfer instructions will be entered in the stock records of the Corporation:

THE SHARES REPRESENTED BY THIS CERTIFICATE WERE ISSUED BY THE CORPORATION PURSUANT TO EXEMPTIONS FROM REGISTRATION UNDER BOTH FEDERAL AND STATE SECURITIES LAWS. SUCH EXEMPTIONS MAY PROHIBIT CERTAIN TRANSFERS OF THESE SHARES. THEREFORE, NONE OF THE SHARES (NOR ANY INTEREST IN SUCH SHARES) MAY BE TRANSFERRED IN ANY MANNER WHATSOEVER (EITHER VOLUNTARILY OR INVOLUNTARILY, BY PLEDGE, SALE, GIFT, LEVY, OR ANY OTHER ATTEMPTED METHOD OF TRANSFER) WITHOUT THE PRIOR WRITTEN CONSENT OF THE CORPORATION.

THE CORPORATION'S SHAREHOLDERS HAVE ELECTED FOR THE CORPORATION TO RECEIVE THE TAX TREATMENT ACCORDED BY SUBCHAPTER "S" OF THE INTERNAL REVENUE CODE. THEREFORE, NONE OF THE SHARES (NOR ANY INTEREST IN SUCH SHARES) MAY BE TRANSFERRED IN ANY MANNER WHATSOEVER (EITHER VOLUNTARILY OR INVOLUNTARILY, DIRECTLY OR INDIRECTLY, BY PLEDGE, SALE, GIFT, LEVY OR ANY OTHER ATTEMPTED METHOD OF TRANSFER) WITHOUT THE WRITTEN CONSENT OF THE CORPORATION.

THE TRANSFER OF SHARES OF A PROFESSIONAL CORPORATION IS RESTRICTED BY THE SOUTH CAROLINA PROFESSIONAL CORPORATION SUPPLEMENT, CHAPTER 19 OF TITLE 33, AND MAY BE SUBJECT TO FURTHER RESTRICTION IMPOSED BY THE LICENSING AUTHORITY. SHARES OF A PROFESSIONAL CORPORATION ARE SUBJECT ALSO TO A STATUTORY REPURCHASE OBLIGATION.

THE RIGHTS OF SHAREHOLDERS IN A STATUTORY CLOSE CORPORATION MAY DIFFER MATERIALLY FROM THE RIGHTS OF SHAREHOLDERS IN OTHER CORPORATIONS. COPIES OF THE ARTICLES OF INCORPORATION AND BY-LAWS, SHAREHOLDERS' AGREEMENTS, AND OTHER DOCUMENTS, ANY OF WHICH MAY RESTRICT TRANSFERS AND AFFECT VOTING AND OTHER RIGHTS, MAY BE OBTAINED BY A SHAREHOLDER ON WRITTEN REQUEST TO THE CORPORATION.

THE SECURITES EVIDENCED HEREBY ARE SUBJECT TO THE TERMS OF A SHAREHOLDERS' AGREEMENT AMONG THE CORPORATION AND THE SHAREHOLDERS OF THE CORPORATION. A COPY OF THE SHAREHOLDERS' AGREEMENT IS ON FILE AT THE OFFICE OF THE CORPORATION AND IS AVAILABLE UPON REQUEST. THE SHAREHOLDERS' AGREEMENT PROVIDES, AMONG OTHER THINGS, FOR RESTRICTIONS OF THE SALE, TRANSFER, PLEDGE, HYPOTHECATION OR OTHER DISPOSITION OF THE SECURITIES REPRESENTED BY THIS CERTIFICATE. ANY ATTEMPTED SALE, TRANSFER, PLEDGE, HYPOTHECATION OR OTHER DISPOSITION OF THE SECURITIES REPRESENTED BY THIS CERTIFICATE NOT IN COMPLIANCE WITH THE TERMS AND CONDITIONS OF THE SHAREHOLDERS' AGREEMENT SHALL BE VOID AND OF NO FORCE AND EFFECT.

6. Covenants of the Parties. Subject to the terms and conditions of this Agreement, the parties hereto shall use all reasonable efforts to take, or cause to be taken, all actions, and to do, or cause to be done, all things necessary, proper, or advisable under applicable laws to consummate and make effective, as soon as practical after the date of this Agreement, the transactions contemplated by this Agreement. Each party hereto shall cooperate with the other, and execute and deliver, or cause to be executed and delivered, all such additional instruments, including instruments of conveyance, assignment and transfer and take all such other actions as may reasonably be requested from time to time in order to effectuate the provisions and purposes of this Agreement or to ensure that each party hereto receives the full benefit of the transactions contemplated by this Agreement.

7. Miscellaneous. This Agreement (and the documents and instruments referred to herein) constitute the entire Agreement between the parties with respect to the matters herein addressed, and supersede and cancel all prior or contemporaneous agreements, representations, warranties, communications or understandings, whether oral or written. This Agreement may not be modified or amended except by a writing duly executed and delivered by the parties. No waiver of any provision of this Agreement shall be effective against a party unless in a writing duly executed and delivered by such party. No waiver of any particular provision of this Agreement shall constitute a waiver of any other provision hereof. No waiver of any provision of this Agreement in respect of a particular event or circumstance shall constitute a waiver of the same provision in respect of any other event or circumstance. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, legal representatives, executors, administrators, successors and assigns. The invalidity or unenforceability of any provision of this Agreement shall not render invalid or unenforceable any other provision hereof. This Agreement shall be governed by and construed in accordance with the laws of the State of South Carolina, without giving effect to its choice of law provisions. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties have caused this Agreement to be duly executed and delivered to be effective the 16th day of July, 2008.

PURCHASER

Orville Dyce, M.D.

SELLER

By: Robert Puchalski
Its: President

~Doc# 5994016.3~

SCENT 0579

Plaintiffs' Ex 0009.005

THIS AGREEMENT PROVIDES FOR ARBITRATION PURSUANT TO THE SOUTH CAROLINA UNIFORM ARBITRATION ACT (S.C. CODE ANN. § 15-48-10 ET SEQ.) AS AMENDED.

EMPLOYMENT AGREEMENT

THIS AGREEMENT (the "Agreement") is entered into effective as of the 1st day of June, 2008 ("Effective Date"), by and between South Carolina ENT, Allergy & Sleep Medicine, P.A. (the "Group"), and Orville Dyce, M.D. ("Physician").

WHEREAS, Physician is a duly licensed physician, qualified to provide physician services at the Group's facilities;

WHEREAS, Physician has entered into a separate covenant not to compete with the Group which is an essential element in this contractual relationship with the Group;

WHEREAS, the Group and its Physician shareholders (each a "Shareholder") have entered into that certain Amended and Restated Shareholders Agreement by and among South Carolina ENT, Allergy and Sleep Medicine, P.A. and its Shareholders dated June 1, 2008 ("Shareholders Agreement").

NOW, THEREFORE, in lieu of any and all previous agreements, whether oral or written, and in consideration of the recitals and the mutual covenants and agreements set forth in this Agreement the parties agree as follows:

1.0 EMPLOYMENT.

1.1 Engagement of Physician. The Group hereby employs Physician on a full-time basis as a Shareholder employee and Physician hereby accepts employment as a Shareholder employee on the terms and conditions set forth in this Agreement (collectively, all Group Shareholder-Track Physicians and Shareholder employees shall be referred to as the "Physician-employees").

1.2 Qualifications.

(a) Medical Staff Privileges. Physician shall maintain membership on the active Medical Staff of Carolina Pines Medical Center, Kershaw County Medical Center, and Providence Medical Center (singularly or collectively the "Hospital") and appropriate unrestricted admitting and clinical privileges at such other facilities or entities as mutually agreed upon by the Group and Physician from time to time during the term of this Agreement.

(b) Medical Licenses. Physician hereby certifies that he or she is duly licensed without restriction to practice medicine in the State of South

Plaintiffs' Ex 0010.001

Carolina and has obtained all appropriate approvals to prescribe and dispense drugs under applicable state and federal laws. Physician shall maintain without restriction such license and approvals throughout the term of this Agreement.

(c) Board Certification. Physician certifies that he or she is board certified or board eligible in Otolaryngology. Physician shall maintain such board certification or eligibility during the term of this Agreement.

2.0 TERM AND TERMINATION.

2.1 Term. The term of this Agreement shall commence on the Effective Date and continue until the fifth anniversary thereof unless earlier terminated pursuant to Sections 2.2 or 2.3 of the this Agreement. Upon expiration of the initial term, or any renewal term thereof, this Agreement shall automatically renew for successive one-year terms. If either Group or Physician desires not to so extend the term of Physician's employment hereunder, such party shall notify the other party not less than 120 days prior to the expiration of the then current term.

2.2 Termination by the Group. Notwithstanding the foregoing, and in addition to the termination provisions stated elsewhere herein, this Agreement may also be terminated by the Group upon the occurrence of any of the following events:

(a) the death of Physician;

(b) the disability of Physician. For purposes of this subsection, "Disability" shall mean a condition, physical, mental or emotional in origin, which constitutes a long-term disability under the disability insurance policy covering Physician. Barring a disability insurance policy with an applicable definition, Disability shall be determined by agreement of Physician and the Group. Unless a dispute resolution process is otherwise prescribed in the disability insurance policy with respect to Physician, if Physician and the Group cannot agree as to whether Physician is disabled, Physician and the Group shall select a medical doctor who shall make the determination of Disability, and whose determination shall be binding upon all parties to this Agreement. If Physician and the Group cannot agree upon such medical doctor, Physician and the Group shall each select a medical doctor and the medical doctors so selected shall select a third medical doctor, whose determination shall be binding upon all parties to this Agreement. The Group shall bear all costs incident to obtaining the medical examination hereunder;

(c) Physician's failure to comply with a clear management directive of the Group's Managing Shareholder that is reasonable under the circumstances, and which is approved by a majority of the Shareholders, after Physician

has been advised in writing that failure to so comply may be grounds for termination;

(d) Physician's license to practice medicine in South Carolina is revoked, suspended or materially restricted in any manner;

(e) Physician's state or federal drug registration and/or approvals are revoked, suspended or materially restricted in any manner;

(f) Physician's staff privileges at Hospital are revoked, suspended or materially restricted in any manner;

(g) Gross or flagrant professional negligence by Physician;

(h) Upon a vote of a majority of the Shareholders if Physician fails to meet the production standards in Section 3.1(f) or the residency requirements in Section 3.1(d) of this Agreement; and

(i) State or federal laws are amended or interpreted such that this Agreement or any material part hereof is in violation of such laws or interpretations or would reasonably be construed to subject Group to possible fines, penalties or assessments; provided Group shall in good faith attempt to modify this Agreement so as to avoid such risk, if Group has adequate time to do so in light of the exigencies of the then existing circumstances.

2.3 Other Termination. This Agreement may also be terminated by either party as follows:

(a) Termination With Cause. This Agreement may be terminated for cause by a party upon 30 days' written notice to the other party, in the event of the other party's breach of a material term or condition of this Agreement (unless the breach is susceptible to being cured and is cured within 30 days after notice of such breach).

(b) Termination by Agreement. This Agreement may be terminated by mutual written agreement of the Group and Physician, at any time.

(c) Termination Without Cause by the Group. This Agreement may be terminated upon sixty (60) days written notice without cause by a vote of the Shareholders in accordance with the terms of the Shareholders Agreement. The Group, at its option, shall have the right to restrict or prohibit Physician from the continued active performance of services for the Group during the sixty (60) day period while paying the compensation due to Physician pursuant to this Agreement for the remainder of the notice period.

(d) Termination Without Cause by Physician. Physician may terminate this Agreement upon twelve (12) whole calendar months written notice to the Group.

2.4 Payment For Services Upon Termination. In the event of termination, payments for compensation including Base Compensation and all components of variable compensation in Section 4.2 and vested rights to fringe benefits shall be prorated to the date of termination.

3.0 RESPONSIBILITIES OF PHYSICIAN.

3.1 Job Description.

(a) Physician shall render a full range of professional services typically provided by a licensed physician practicing in the area of Otolaryngology at such of the Group's practice sites as requested by the Managing Shareholder. As of the date of this Agreement the Group's service area includes Chesterfield, Darlington, Kershaw and Richland Counties of South Carolina. Physician shall devote his best efforts and loyalty to the treatment of patients and the provision of related health care and other services. Physician shall provide office coverage, call coverage and adhere to a holiday schedule as determined by the officer of the Group designated as the "Managing Shareholder" pursuant to the Shareholders Agreement; provided, however, in the event any Shareholder raises an objection to the office coverage, call coverage or holiday schedule, then Physician shall adhere to such schedules approved by a majority of the Shareholders. Except as otherwise provided in the Shareholders Agreement, Physician's responsibilities shall include (i) such office hours and hospital rounds as established by the Group, from time to time, (ii) weekday call coverage, (iii) weekend call coverage during which time Physician shall provide coverage for the entire medical practice for all locations of the Group, and (iv) after hours responsibilities to attend administrative meetings and perform administrative functions as requested from time to time by the Managing Shareholder. In the event that coverage cannot be provided by Physician, or in the event that any change must be made to office coverage, Physician shall obtain the approval of the Managing Shareholder.

(b) Physician shall comply with all rules and regulations of the Group and perform all duties in the manner determined by the Group; provided, however, that the Group shall not require performance of any duties which violate any law or ethical principle of medicine. Physician shall use Physician's best efforts to further the practice of the Group and enhance the Group's standing among members of the medical profession

and present or prospective patients. Physician will refrain from any conduct or actions which would be libelous or slanderous to the Group or the physician employees of the Group or otherwise would negatively impact the Group members of the medical profession and present or prospective patients.

(c) With the exception of income received from such teaching, medical directorships, speaking or consulting engagements, publishing, expert witness testimony, Hospital stipends for administrative services and other such activities that may be specifically approved by the Group, all income and fees that Physician earns during the term of this Agreement from the practice of medicine shall belong to the Group. Provided, however, prior to engaging in any medically related work not performed exclusively for the Group, Physician shall obtain the prior written approval of the Managing Shareholder, which approval shall only be given by the Managing Shareholder after the approval of a majority of the Shareholders, to engage in such outside work and submit such documentation as requested from time to time by the Managing Shareholder that Physician has in full force a liability policy with coverage limits satisfactory to the Group covering such outside work.

(d) Physician agrees that during the term of this Agreement Physician shall maintain a full-time residence in the geographic area of Darlington and Kershaw Counties South Carolina or one of the developments on the east side of Spears Creek Church Road and South of Route 1 in Richland County, South Carolina. To the extent Physician maintains, as of the Effective Date, a residence, or subsequently moves to a residence, with a postal zip code in one of the communities of Camden (zip codes 29020, 29021), Lugoff (zip code 29078), Hartsville (zip codes 29550, 29551) or one the developments on the east side of Spears Creek Church Road and South of Route 1 in Richland County (contained in a portion of zip code 29045), Physician agrees not to subsequently relocate Physician's full-time residence out of such geographic area defined by such zip code, or any successor code thereto, during the term of this Agreement or any extension thereof without the consent of the Managing Shareholder. Physician acknowledges that the success of Group's medical practice depends upon Physician's presence in the geographic areas referenced in this subparagraph and Physician shall use his best efforts to comply with this provision.

(e) During the term of his employment with the Group, Physician shall not engage in the provision of medical services or any related activity which competes with the Group or which interferes with the proper performance of Physician's obligations under this Agreement.

(f) Physician acknowledges and agrees that Physician's Total Production, as defined below, is required to be within twenty eight percent (28%) of the Average Production, defined below. In the event that Physician's Total Production is less than the Physician's Average Production for two (2) consecutive years, then this Employment Agreement may be terminated for cause by a vote of a majority of the Shareholders.

3.2 Supervision of Professional Services and Personnel. Physician shall manage the professional services provided by him at the Group's facilities. Physician shall be responsible for the supervision of the nursing and other technical staff working at the Group's facilities with or for Physician. Upon the Group's request, Physician shall advise the Group on issues relating to the efficient management of the personnel, including staff evaluations.

3.3 Standard of Care. Physician shall provide medical services of a type and quality consistent with the standards and principles of the American Academy of Otolaryngology Allergy and any other applicable generally recognized and accepted standards. Nothing in this paragraph 3.3 shall affect coverage under any professional liability insurance or be deemed to provide rights or remedies with respect to any person not a party to this Agreement.

3.4 Quality Improvement, Risk Management, and Utilization Review. Physician agrees to participate in and abide by the processes utilized by the Group for quality improvement, risk management, utilization management, and complaint resolution; so long as Physician's patient care is not reduced below the standards set under Section 3.3 hereinabove.

3.5 Third-Party Payor Programs. Physician agrees to participate as a provider of medical services under any agreements with third-party payors, including any HMO, PPO, managed care plan, or employer as entered into by or on behalf of the Group.

3.6 Continuing Medical Education. Physician is encouraged to maintain updated clinical skills by regularly participating in appropriate continuing medical education activities, particularly, Sleep Medicine and Otolaryngic Allergy.

3.7 Reports and Medical Records. Physician shall complete all reasonably required medical records and other documentation as may be reasonably required by the Group in a timely fashion. Physician shall reasonably assist the Group in the billing and collection of fees for the provision of professional services under this Agreement. Physician acknowledges and agrees that, unless otherwise agreed to in writing by the Group, all medical records, patient charts, files, X-rays, patient lists, patient credit information and histories as well as the other documents and records which are currently existing or are generated in connection with the Group belong to and shall remain the property of the Group. Upon termination of this Agreement, (i) if Physician is involved in litigation or an administrative proceeding which is related to a patient seen or treated by Physician while at or on behalf of the Group, the Group will provide to Physician, at no charge, a copy of all medical records, patient charts, files, X-rays, patient lists, patient credit information and histories as well as the other documents and

records which are currently in existence for such patient; and (ii) the Group will provide to Physician, upon payment of a reasonable fee for reproduction, the medical record of any patient who requests that his record be transmitted to Physician.

3.8 Agreement to Not Bind the Group. Physician acknowledges that except as provided in the Shareholders Agreement, Physician has no authority to make decisions regarding the business operations of the Group and Physician shall not take any individual action that purports to bind the Group. The Group shall be bound only by decisions made and agreements executed in accordance with the requirements of the Shareholders Agreement.

3.9 Covenant Not to Compete. Physician acknowledges that Physician has on this date entered into a covenant not to compete with the Group (the "Covenant Not to Compete"), a copy of which is attached hereto as Exhibit A and incorporated herein by reference. The covenant not to compete contained therein will not become effective until the earlier of the expiration of the term of this Agreement as provided in Section 2.1, or other termination of this Agreement pursuant to Section 2. In addition to the covenant in Exhibit A, Physician agrees that during the term of his employment hereunder, Physician shall not (i) engage in any business activity or employment related to the provision of health care services or products except as expressly permitted by this Agreement; (ii) take any action which would interfere with or prevent his performance of the duties assigned to him by the Group or be inconsistent with or detrimental to the Group's business; or (iii) solicit or attempt to induce any patient of the Group to obtain medical services from any person, corporation, partnership, professional association, unincorporated association, or other entity by which Physician is employed to perform, or otherwise is remunerated, directly or indirectly, in cash or in kind, for performing, medical services. Violation of the covenants of this Section 3.9 by Physician will entitle the Group to injunctive or other relief, including damages in a court of competent jurisdiction.

3.10 Non-Solicitation. Except as otherwise provided in the Shareholders Agreement, Physician acknowledges that during the term of his employment hereunder, he will have extensive contacts with the professional staff and other employees of the Group, and other affiliates of the Group. Accordingly, Physician covenants and agrees that during the term of his employment hereunder and during the two-year period immediately thereafter he will not hire, solicit or attempt to induce any professional staff or other employee of the Group or an affiliate of the Group to leave their employment or to work directly or indirectly for or with Physician, or for or with any person, corporation, partnership, professional association, unincorporated association, or other entity by which Physician is employed to perform, or otherwise is remunerated, directly or indirectly, in cash or in kind, for performing, medical services. If Physician violates the covenants in this Section 3.10, then Physician agrees to pay the Group upon demand as liquidated damages an amount equal to One Hundred Twenty-Five Thousand and 00/100 Dollars ($125,000) plus interest computed annually at the prime rate (as quoted in the Wall Street Journal) from the date of the violation until payment is made. Physician and the Group acknowledge and agree that the liquidated damages amount is a fair and reasonable measure of the foreseeable harm to the Group as a result of such termination or breach. Physician further acknowledges the Group's right to liquidated damages is in addition to the Group's right to injunctive relief and that it is not intended by the parties that the Group's right to liquidated

damages in any way invalidates its right to injunctive relief.

3.11 Liquidated Damages. Physician acknowledges that the Group will incur substantial expenditures in connection with the development and operation of Physician's medical practice during the term of this Agreement and the Group would suffer damages as a result of a breach by Physician of this Agreement or the Covenant Not to Compete. Accordingly, in the event (i) Physician's employment terminates for any reason other than (a) a material breach by the Group related to the payment of Physicians Base Compensation or Variable Compensation (after the applicable cure periods in Section 2.3(a)), (b) Physician's death, (c) Physician's Disability (within the meaning of Section 2.2(b)), or (d) a change in law as described in Section 2.2(i); or (ii) Physician violates the terms of the Covenant Not to Compete, then Physician agrees to pay the Group upon demand as liquidated damages an amount equal to Seven Hundred Fifty Thousand and 00/100 Dollars ($750,000), plus interest computed annually at the prime rate (as quoted in the Wall Street Journal) from the date of the termination or violation, as applicable, until payment is made. Physician and the Group acknowledge and agree that the liquidated damages amount is a fair and reasonable measure of the foreseeable harm to the Group as a result of such termination or breach. Physician further acknowledges the Group's right to liquidated damages is in addition to the Group's right to injunctive relief and that it is not intended by the parties that the Group's right to liquidated damages in any way invalidates its right to injunctive relief.

4.0 RESPONSIBILITIES OF THE GROUP.

4.1 Base Compensation. The Group shall, during the term of this Agreement, pay Physician compensation at the rate of $ 260,000 per annum (the "Base Compensation"), less required deductions for federal, state and local wage and employment taxes and any other applicable deductions. Payments shall be made in installments every two weeks less such required deductions. In the event that this Agreement is terminated prior to the expiration of its term, the Group shall be obligated to pay Physician all compensation earned and owing to the date of termination, but Physician so terminated shall have no interest in the accounts receivable or other assets of the Group.

4.2 Variable Compensation. In addition to Physician's Base Compensation, Physician shall receive the following components of variable compensation:

(a) On a monthly basis, Physician shall receive an amount equal to the total monetary stipends that the Group received for the prior month after deducting any portion paid to physician extenders divided by the number of eligible (as eligibility is defined by the Group's administrative policies) full-time physicians employed by the Group during the prior month (the "Pay for Call Stipend");

(b) Every two weeks, Physician shall receive a $3,000 payment if Physician maintained a full-time residence in the city limits of either Camden, South Carolina or Hartsville, South Carolina or any future practice

location of the Group other than the greater Columbia Metropolitan area (the "Non-Metropolitan Bonus").

(c) In the event Physician's total production, measured by all professional services personally performed by Physician and services of a physician extender performed under Physician's supervision and all ancillary services generated by Physician for goods or services, excluding designated health services payable by Medicare, Medicaid or other federal program payor, within the meaning of Section 1877 of the Social Security Act, also known as the physician self-referral law or "Stark" law, ("Total Production"), is less than the average Total Production of all other Physician-employees determined at the end of each calendar year based on the Total Production during such calendar year (the "Average Production") by more than twenty eight percent (28%), then Physician's Base Compensation shall be decreased during the succeeding calendar year by the same percentage by which Physician's Total Production is below the Average Production. By way of example, if Physician's Total Production is less than the Average Production by 30% in a calendar year then Physician's Base Compensation would be decreased by 30% in the succeeding year. For purposes of calculating Total Production and the application of the provisions in this Section 4.2(c) either charges for services or actual collections for services may be used as the basis to measure Physician's production (the "Production Dollars"), whichever is more appropriate under the circumstances, as determined by a majority of the Shareholders after the advice of the Managing Partner. For purposes of calculating Total Production, annual leave days shall be credited with an amount of Production Dollars equivalent to Physician's average daily Production Dollars calculated without regard to the annual leave. By way of example, if Physician works 250 days in a calendar year and takes 10 days of annual leave in the same year, then Physician's average daily Production Dollars shall be calculated by dividing the total Production Dollars for the year by 250. The amount of Physician's average daily Production Dollars would then be multiplied by 10 and such amount would be added to Physician's total Production Dollars to calculate Physician's Total Production.

(d) Under special circumstances which require Physician to provide excessive call coverage or spend excessive time in furtherance of the Group's medical practice, Physician may receive a bonus, not the exceed Thirty Thousand & 00/100 Dollars ($30,000) in any calendar year, if such bonus is recommended by the Managing Shareholder and approved by the Group.

All payments of variable compensation made to Physician shall be net of required deductions for federal, state and local wage and employment taxes and any other applicable deductions.

Provided, if Physician fails to comply with the requirements of call coverage pursuant to Section 3.1(a) or such requirements formulated pursuant to Section 3.1(b), then Physician shall not receive the Pay for Call Stipend and Physician's Base Compensation shall be reduced by 30%, with such amount forfeited by Physician, during such period of noncompliance. Provided, however, in extenuating circumstances, the Group may waive a reduction in Physician's Base Compensation required pursuant to Section 4.2(c).

4.3 Fringe Benefits. The Group shall provide such benefits and pay such expenses of Physician as determined consistent with such policies and practices established by the Group as such policies and practices may be amended from time to time. All benefits will be made available to Physician on a nondiscriminatory basis with all other Shareholders of the Group.

4.4 Annual Leave. Physician shall be entitled to twenty-five (25) compensated annual leave days during the first five years of employment as a Shareholder employee as measured by the first day of Physician's service as a Shareholder employee. During the sixth through the tenth years as a Shareholder employee, Physician shall be entitled to forty (40) compensated annual leave days. After the tenth year as a Shareholder employee, Physician shall be entitled to forty (40) compensated annual leave days. Until the eleventh year as a Shareholder employee, Physician may not use more than ten (10) leave days consecutively and no more than ten (10) leave days during any calendar month. After the tenth year as a Shareholder employee, Physician may purchase for Two Hundred Fifty Thousand & 00/100 Dollars ($250,000): (i) twenty (20) additional annual leave days, (ii) the right to use all sixty (60) annual leave days consecutively, or divided as Physician chooses, without any restriction, and (iii) upon expiration of the sixty (60) annual leave days the right to use five (5) additional annual leave days in the event of Physician's legitimate sickness or attendance at CME programs, provided such programs are approved by a majority of the Shareholders ("Sabbatical Leave"). Physician's payment for Sabbatical Leave shall be made by deductions from Physician's Base Compensation. Physician shall receive additional annual leave credit for Sabbatical Leave as described in Section 4.2(c). In the event Physician serves as the Managing Shareholder, then Physician shall receive additional annual leave credit as described in Section 4.2(c) in the amount specified in the Shareholders Agreement.

4.5 Insurance/Tail Coverage. The Group shall ensure that Physician is provided professional and general liability insurance coverage for all occurrences during the period of time Physician is affiliated with the Group. Further, in the event that Physician's employment by the Group is terminated for any reason within the first forty-eight (48) whole calendar months, measured from the Effective Date, and at such time the Group maintains a "claims made" professional liability policy, then Physician shall be required to pay a prorated portion (calculated using a fraction equal to the number of months remaining for Physician's employment to equal forty-eight (48) months divided by forty-eight (48)) of the premium for an extended reporting endorsement ("tail coverage") for the professional liability coverage for the period of time Physician was employed by the Group. Physician's portion shall be calculated by

5.0 CONFIDENTIALITY.

5.1 Confidentiality. Physician shall hold in confidence and not disclose and shall protect and safeguard from disclosure any and all business and other information that has not otherwise been publicly disclosed relating to the business and operation of the Group, the terms of this Agreement, the operation of the practice, patient records, patient lists, and all other information designated by the Group as confidential.

6.0 MISCELLANEOUS.

6.1 Entire Agreement. Except as otherwise provided in the Shareholders Agreement, this Agreement contains the complete, full and exclusive understanding of the parties with respect to Physician's engagement by the Group and supersedes any and all other agreements between the parties with respect to this subject matter. The parties acknowledge and agree that certain provisions in the Shareholders Agreement may modify this Agreement and in the event of a conflict between any terms in this Agreement and the Shareholders Agreement, the terms of the Shareholders Agreement shall control.

6.2 Headings. All headings are for convenience only and shall not be construed to modify the substance of this Agreement.

6.3 Amendments. Any amendments, additions or supplements to this Agreement shall be effective and binding on the Group and Physician only if in writing and signed by each party to this Agreement.

6.4 Notice. Any notice required or permitted under this Agreement shall be in writing and shall be delivered or sent by registered or certified United States mail to the parties at the following addresses:

DYCE/SCENT 314

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Plaintiffs' Ex 0010.011

If to the Group: South Carolina ENT, Allergy & Sleep Medicine, P.A.
1165 Hwy 1 South, Ste. 300
Lugoff, SC 29078
Attn: Managing Shareholder

If to Physician: Orville Dyce, M.D.
1165 Hwy 1 South, Ste. 300
Lugoff, SC 29078

Either of the parties may change the foregoing addresses by written notice to the other party as provided by this paragraph.

6.5 Severability. If any provision of this Agreement is found to be invalid or unenforceable, such provision shall be deemed stricken from this Agreement and the remainder of this Agreement shall remain in full force and effect. The parties shall negotiate in good faith to amend the Agreement to replace any provision found to be invalid or unenforceable with a valid and enforceable provision which, as nearly as possible, accomplishes the original objectives of the parties.

6.6 Waivers. The waiver of a breach of any provision of this Agreement by either party hereto shall not operate or be construed as a waiver of any subsequent breach by such party of such provision or any other provision hereof. No waiver shall be valid unless in writing and signed by Physician and by an authorized officer of the Group.

6.7 Governing Law. This Agreement shall be construed and enforced in accordance with the laws of the United States of America and the State of South Carolina. This Agreement is intended to be, and to the extent possible shall be construed so as to be in compliance with Medicare and Medicaid rules, regulations, principles and interpretations.

6.8 Benefit. This Agreement shall be binding upon and inure to the benefit of and shall be enforceable by and against the Group, its partners and its successors and assigns, and Physician, his heirs, beneficiaries and legal representatives.

6.9 Expenses. If a party hereto brings an action in court for enforcement or relief hereunder alleging a breach or threatened breach by the other party, or brings an arbitration proceeding, the party that substantially prevails shall be reimbursed by the non-prevailing party for all legal costs, including reasonable attorneys' fees and other expenses incurred by the prevailing party in such action or proceeding, including the costs of prosecuting any cross claims or counterclaims of the prevailing party. Except as otherwise expressly provided herein, each party to this Agreement shall pay their own expenses (including, without limitation, the fees and expenses of all its or his or her agents, representatives, counsel, and accountants) incidental to the negotiation, drafting, and performance of this Agreement.

6.10 Assignment. This Agreement may not be assigned except by the Group to a successor corporation or an entity controlled by the Group.

6.11 Survival. Any term or condition of this Agreement which requires or might require performance after the termination of Physician's employment hereunder, including, but not limited to, the covenants contained in Section 3.10, 3.11, and 3.12 herein, shall survive such termination.

(SIGNATURES ARE ON THE FOLLOWING PAGE)

IN WITNESS WHEREOF, the parties hereto have duly executed and delivered this Agreement as of the day and year first above written.

SOUTH CAROLINA ENT, ALLERGY & SLEEP MEDICINE, P.A.

By: _____

Date: 6/1/08

Orville Dyce, M.D.

_____

Date: 6/1/08

EXHIBIT A

COVENANT NOT TO COMPETE

THIS COVENANT NOT TO COMPETE is made as of the 1st day of June, 2008, ("Covenant Not to Compete"), by and between South Carolina ENT, Allergy and Sleep Medicine, P.A., doing business as (the "Group"), and Orville Dyce, M.D. ("Physician").

WHEREAS, the Group is engaged in the business of providing health care and related services;

WHEREAS, the Group and is a party to that certain Amended and Restated Shareholders Agreement by and among South Carolina ENT, Allergy and Sleep Medicine, P.A. and its Shareholders dated June __, 2008 ("Shareholders Agreement");

WHEREAS, Physician has agreed to enter into this Covenant Not to Compete and that certain Employment Agreement of even date herewith by and between the Group and Physician (the "Employment Agreement");

WHEREAS, Physician desires to provide physician services exclusively for and on behalf of patients of the Group through employment with the Group for salary and other benefits;

WHEREAS, both the Group and Physician acknowledge that the Group's business is highly competitive and that the Group has a need to protect the anticipated value created by Physician's exclusive practice for the Group;

WHEREAS, Group's business involves providing services to patients who include but are not limited to (i) persons who are patients of Physician at the time this Covenant Not to Compete is executed; (ii) persons who shall become patients of the Group or Physician during the period this Covenant Not to Compete is in effect; and (iii) any person, corporation, partnership or association whose individual or group contract for health services, at the time this Covenant Not to Compete is executed or during the period this Covenant Not to Compete is in effect, provides for services to be delivered by or through Group (collectively referred to as the "Patient" or the "Patients"); and

WHEREAS, during the course of his employment, Physician will become privy to and knowledgeable about the patients, services, rates, fees, systems, business customs and practices, and other information and trade secrets concerning the Group's business which would be injurious and damaging to the Group if divulged, used or made known to a competitor.

Plaintiffs' Ex 0010.015

NOW THEREFORE, in consideration of good and valuable consideration, including the salary, bonuses and benefits to be paid to Physician during the term of the Employment Agreement, and the mutual promises and covenants as set forth in the Employment Agreement and the Shareholders Agreement, and the mutual promises and covenants contained herein, the parties agree as follows:

1. For a period of eighteen (18) whole calendar months from the date of termination of the Employment Agreement, Physician shall not directly or indirectly practice medicine or provide medical services within a twenty (20) mile radius of any practice site maintained by the Group. Physician further covenants and agrees that during the eighteen (18) whole calendar month period immediately after termination of the Employment Agreement, Physician shall not directly, or indirectly, for himself or for any person, corporation, partnership, professional association, unincorporated association, limited liability company, limited liability partnership, or other entity by which Physician is compensated for performing medical services or in which Physician has an economic interest, call upon, solicit, accept business from, or provide health care or related services to, any Patient, except for any Patient who delivers to the Group a valid consent to release their medical records to Physician. In the event the Employment Agreement is terminated for a material breach by the Group related to the payment of Physician's Base Compensation or Variable Compensation (after the applicable cure periods in Section 2.3(a) of the Employment Agreement) or a change in law as described in Section 2.2(i) of the Employment Agreement, this Covenant Not to Compete shall not apply.

2. Violation of this Covenant Not to Compete by Physician will entitle the Group to injunctive or other relief, including damages, in a court of competent jurisdiction. If the period of time or the scope of noncompetition herein specified is adjudged unreasonable in any court proceeding, then the period of time or scope shall be reduced as is deemed necessary to allow this covenant to be enforced during such period of time as is determined to be reasonable. Furthermore, in the event Physician breaches this Covenant Not to Compete, Physician agrees to pay all reasonable expenses of the Group, including attorney's fees, to enforce this Covenant Not to Compete. The Group shall have these rights in addition to damages and all other remedies available to it at law and in equity.

3. Notice. Any notice required or permitted under this Agreement shall be in writing and shall be delivered or sent by registered or certified United States mail to the parties at the following addresses:

If to the Group:

South Carolina ENT, Allergy & Sleep Medicine, P.A.
1165 Hwy 1 South, Ste. 300
Lugoff, SC 29078
Attn: Managing Shareholder

If to Physician: _____
_____
_____

Either of the parties may change the foregoing addresses by written notice to the other party as provided by this paragraph.

4. This Covenant Not to Compete shall be construed under and be governed in all respects by the internal laws, and not the laws pertaining to choice or conflicts of laws, of the State of South Carolina.

5. No waiver in any instance by any party of any provision of this Covenant Not to Compete shall be deemed a waiver by such party of such provision in any other instance or a waiver of any other provision hereunder in any instance. This Covenant Not to Compete cannot be modified except in writing signed by the party to be charged.

IN WITNESS WHEREOF, the parties hereto have duly executed and delivered this Agreement as of the day and year first above written.

SOUTH CAROLINA ENT, ALLERGY & SLEEP MEDICINE, P.A.

By: [FORM ONLY-NOT FOR EXECUTION]
_____, President

Date: _____

_____, M.D.

[FORM ONLY-NOT FOR EXECUTION]

Date: _____

THIS AGREEMENT IS SUBJECT TO ARBITRATION
PURSUANT TO S.C. CODE ANN. § 15-48-10, et seq.

SHAREHOLDERS AGREEMENT

This Shareholders Agreement ("Agreement"), effective as of _____ __, 2010 ("Effective Date") is entered into by and among South Carolina ENT, Allergy & Sleep Medicine, P.A. (the "Corporation"), and each of the persons listed on Exhibit A hereto (such persons and their respective successors and assigns are hereinafter referred to collectively as the "Shareholders" and individually as a "Shareholder").

RECITALS

1. The authorized capital stock of the Corporation consists of Five Hundred Thousand (500,000) shares of common stock (hereinafter referred to as "Common Stock");

2. As of the Effective Date of this Agreement, the Corporation has issued and outstanding One Hundred Thousand (100,000) shares of Common Stock in the amounts and to the Shareholders identified on Exhibit A;

3. The Corporation was organized as a Statutory Close Corporation; and

4. The Shareholders desire to set forth certain understandings regarding their ownership of the Common Stock and to impose certain restrictions upon the Transfer of their Common Stock in the Corporation.

NOW, THEREFORE, in consideration of the premises and the mutual covenants herein contained, the parties hereto agree as follows:

ARTICLE I

RECITALS

Section 1.1 Recitals. The above recitals are true and correct and incorporated herein.

ARTICLE II

DEFINITIONS

Section 2.1 Definitions. As used in this Agreement, the following terms shall have the following meanings:

"Agreement" means this Agreement (together with Exhibits all of which are incorporated herein by this reference), as amended, supplemented, modified or waived from time to time, in accordance with its provisions.

"Articles of Incorporation" means the Corporation's Articles of Incorporation, as amended from time to time, in accordance with its provisions.

"Bankruptcy" shall mean, with respect to any Person, that such Person has: (i) applied for or consented to the appointment of a receiver, trustee, liquidator or custodian or the like, of his property; (ii) admitted in writing his inability to pay his debts generally as they become due; (iii) made a general assignment for the benefit of his creditors, (iv) been adjudicated a bankrupt or insolvent; (v) commenced a voluntary case under the federal bankruptcy laws of the United States of America; (vi) filed a voluntary petition or answer seeking an arrangement with creditors or an order for relief or seeking to take advantage of any insolvency law; or (vii) filed an answer admitting the material allegation of a petition filed against him in any bankruptcy or insolvency proceeding. For the purpose of any provision contained in this Agreement requiring reference to the date on which a bankruptcy has occurred, a bankruptcy shall be deemed to have occurred upon the commencement of the first to occur of any one of the foregoing enumerated events.

"Base Year Compensation" shall mean $260,000, plus a Shareholder's Bimonthly Distributions and Pay for Call Stipend (as defined in the Shareholder Employment Agreement) in the annual period (consisting of twelve whole calendar months) ended June 30, 2009, but excluding any monthly Sweep Distributions.

"Bimonthly Distribution" shall have the meaning set forth in Section 3.10(a).

"Bylaws" means the Corporation's Bylaws, as in effect on the date hereof, as amended, supplemented or modified from time to time, in accordance with its provisions.

"CEO" shall mean the Chief Executive Officer of the Corporation.

"Chesterfield site" shall have the meaning set forth in Exhibit D.

"Code" shall mean the Federal Internal Revenue Code of 1986, as the same may be amended from time to time.

"Common Stock" shall have the meaning set forth in the recitals.

"Corporation" shall have the meaning set forth in the preamble.

"Departing Shareholder" shall mean a Shareholder who is Transferring Shares in accordance with any provision of this Agreement, including by virtue of a permitted sale, or as a result of death, disqualification, termination of employment or Permanent Disability. Where applicable, Departing Shareholder shall also mean the personal representative of a deceased Shareholder.

"Departure Event" is any event described in Section 4.2, 4.3 and 4.4.

"Disability" is the inability of a Shareholder to perform the usual and customary duties of a physician employed in a full-time medical practice, as such term is defined in

any Disability income insurance policy that the Corporation or Shareholder has obtained with respect to such Shareholder.

"Effective Date" shall have the meaning set forth in the preamble.

"Employment Agreement" is the agreement between a Shareholder and Corporation establishing the employment obligation of the Shareholder.

"Event of Incapacity" shall mean a Shareholder who is deemed "incapacitated" or "not competent" under any one or more of the following circumstances: (i) during any period that the individual is legally incompetent as determined by a court of competent jurisdiction; or (ii) during any period beginning when two physicians licensed to practice medicine certify in writing that, in their opinion, the individual, as a result of illness, age or other cause, no longer has the capacity to act prudently or effectively in financial affairs and continuing until two such physicians (whether or not those making the initial determination) certify in writing that, in their opinion, the individual's capacity is restored. The effective date of an Event of Incapacity shall be the date of the order or decree adjudicating the incapacity, or the date of the certificate of the two physicians described above, whichever first occurs.

"Hartsville site" shall have the meaning set forth in Exhibit D.

"IRS" shall mean the Internal Revenue Service.

"Involuntary Transferee" shall have the meaning set forth in Section 4.2.

"Note" shall have the meaning set forth in Section 4.7.

"Percentage Interest" means, with respect to any Shareholder as of any date, the result (expressed as a percentage) obtained by dividing the number of Shares held by the Shareholder by the number of Shares of Common Stock then issued and outstanding.

"Permanent Disability" occurs when the insurance carrier providing Disability Insurance to the Shareholder has determined that the Shareholder has a total disability.

"Person" shall mean an individual or a corporation, association, partnership, joint venture, organization, business, trust, or any other entity or organization, including a government or any subdivision or agency thereof.

"Physician" shall mean a person with an M.D. or D.O. degree and licensed as a physician in the State of South Carolina.

"Purchase Price" means that amount paid a Departing Shareholder as set forth in Section 4.5 and paid in accordance with Sections 4.6 and 4.7.

"Qualified Person" shall mean an individual who is licensed to practice medicine in the State of South Carolina in the specialty area of Otolaryngology.

"Remaining Shareholders" are those Shareholders retaining Shares in Corporation after the Transfer of Shares, disqualification, termination, Disability or death of a Shareholder.

"Richland site" shall have the meaning set forth in Exhibit E.

"Severance Payment" shall have the meaning set forth in Exhibit C.

"Shareholder" or "Shareholders" shall have the meaning set forth in the preamble.

"Shares" means any Common Stock purchased or otherwise acquired by any Shareholder or any equity securities issued or issuable directly or indirectly with respect to the Common Stock.

"Sweep Distribution" shall have the meaning provided in Section 3.10(b).

"Transfer" shall have the meaning set forth in Section 4.1.

"Transferred Shares" shall have the meaning set forth in Section 4.2.

ARTICLE III

MANAGEMENT AND CONTROL; CAPITAL CONTRIBUTIONS

Section 3.1 General. The business and affairs of the Corporation shall be managed, controlled and operated in accordance with its Articles of Incorporation and this Agreement, as the same may be amended from time to time, except that the Articles of Incorporation shall not be amended in any manner that would conflict with, or be inconsistent with, the provisions of this Agreement.

Section 3.2 Board of Directors.

Section 3.2.1 Election and Number. The affairs of the Corporation shall be managed by a Board of Directors consisting of up to four (4) Directors; provided each Director must be a Shareholder and must be a person licensed to practice medicine in the State of South Carolina or otherwise authorized in South Carolina to provide a professional medical service described in the Corporation's Articles of Incorporation. The initial Directors, as of the Effective Date, are Robert Puchalski and Orville Dyce. The number of Directors may be increased, up to a maximum of four (4) Directors, in the discretion of and by the unanimous vote of the Board of Directors as required by Section 3.3.8. Provided, however, as long as the Corporation has a Shareholder, other than the Shareholder serving as the Chairman, residing in Darlington County, Kershaw County or Northeast Columbia (in the approved metropolitan area consisting of one of the developments on the east side of Spears Creek Church Road and South of Route 1 in Richland County, South Carolina), then at least one (1) Director must be appointed from each of these geographic areas in which a Shareholder resides. Except as provided in Exhibits C, D and E, the Board of Directors shall be elected at each annual meeting of Shareholders, and shall serve until their death, disability, removal, or until their successors shall have been elected and

qualified. Interim vacancies on the Board of Directors may be filled by the Shareholders voting at any special meeting.

Section 3.2.2 Regular Meetings. A regular meeting of the Board of Directors shall be held annually, immediately following the annual meeting of Shareholders at the same place as such meeting of Shareholders is held. Except as provided in Exhibit C or as otherwise provided in this Agreement, at such meeting, the Board of Directors shall elect the officers of the Corporation. In addition to the annual meeting, at least six (6) regular meetings of the Board of Directors shall be held at such time and place as established by the Chairman.

Section 3.2.3 Special Meetings. Special meetings of the Board of Directors shall be held whenever ordered by the Chairman or by a majority of the Directors in office provided the exigencies of the circumstances require that the Board of Directors meet prior to the next scheduled regular meeting. The Chairman shall determine the time and place for a special meeting of the Board of Directors. The Chairman shall provide at least forty-eight (48) hours notice of the time, place and purpose for which a special meeting is to be held.

Section 3.2.4 Quorum and Voting. The presence of a majority of the Directors in office including the presence of the Director who serves as the Chairman, provided, a Director is then serving as the Chairman and is not suffering an Event of Incapacity that prevents him from participating in the meeting, shall constitute a quorum for the transaction of business, and the acts of a majority of the Directors present at a meeting at which a quorum exists shall be the acts of the Board of Directors. The presence of a quorum shall not affect a unanimous voting requirement of the Board of Directors contained in this Agreement. If there is less than a quorum present, the majority of those present may adjourn the meeting from time to time and place to place and shall cause notice of each such adjourned meeting to be given to all absent Directors. With the permission of the Chairman, a Director may attend a meeting via a secure, two-way video or telephone conference which shall constitute presence at a meeting.

Section 3.2.5 Powers. Except as otherwise provided in this Agreement or the Articles of Incorporation, the Board of Directors shall have all the power and authority granted by law to it, including all powers necessary or appropriate to the management of the affairs of the Corporation. The Board of Directors shall be treated in all respects as Directors in regular business corporations, and their rights, duties, responsibilities and powers shall be determined by the laws applicable to regular business corporations, subject only to the provisions of The South Carolina Professional Corporation Supplement, The South Carolina Statutory Close Corporation Supplement, this Agreement, and the Articles of Incorporation of the Corporation.

Section 3.2.6 Removal. Except as provided in Exhibits C, D and E, the entire Board of Directors or any individual Director may be removed from office without assigning any cause, at any meeting of the Shareholders, provided that written notice of the proposed action is given at least five (5) days prior to such meeting. When the Board of Directors or any of them are so removed, new Directors may then be elected to fill the unexpired term of those removed.

Section 3.2.7 Voting Requirements. Except as otherwise provided in this Section, each outstanding Share entitled to vote shall be entitled to one vote upon each matter submitted to a vote at a meeting of the Board of Directors. In the event of a tie in the voting on

any matter requiring a majority vote, the Chairman shall break the tie by casting a second vote in his capacity as an officer to decide the matter.

Section 3.3 Shareholders.

Section 3.3.1 Annual Meeting. The annual meeting of the Shareholders of the Corporation shall be held within the first three months of each calendar year on the date and at such hour and place as determined by the Chairman and designated in the notice thereof.

Section 3.3.2 Special Meetings. Special meetings of Shareholders may be called by the Chairman, a majority of the Board of Directors, or the holders of not less than fifty (50%) percent of the Shares entitled to vote at the meeting if the exigencies of the circumstances require that the Shareholders meet prior to the annual meeting of the Shareholders. The Chairman shall determine the time and place of any special called meeting. Written notice of every special meeting shall be given to each Shareholder at least five (5) days prior to the meeting.

Section 3.3.3 Quorum. Seventy-five percent (75%) of the outstanding Shares of the Corporation entitled to vote, represented in person or by proxy, constitute a quorum at any meeting of Shareholders. However, only a Shareholder licensed to practice medicine in the State of South Carolina or otherwise authorized in South Carolina to provide a professional medical service described in the Corporation's Articles of Incorporation shall be appointed a proxy to vote shares of the Corporation at any meeting of the Shareholders.

Section 3.3.4 Voting of Shares. Each outstanding Share entitled to vote shall be entitled to one (1) vote on each matter submitted to a meeting of Shareholders.

Section 3.3.5 Cumulative Voting. Cumulative voting of Shares shall not be allowed.

Section 3.3.6 Preemptive Rights. No Shareholder shall be entitled to preemptive rights, and no shares of stock of any class issued by the Corporation shall be subject to any preemptive rights. However, the Corporation may grant preemptive rights, or similar rights, by contract.

Section 3.3.7 67% Supermajority Voting Requirements. Notwithstanding any other provision of this Agreement, the following actions of the Corporation must be recommended jointly by the Board of Directors and the Chairman, and then submitted to the Shareholders for approval by the affirmative vote of greater than sixty-seven percent (67%) of the Shares:

(i) Merger, consolidation, joint venture, dissolution or liquidation of the Corporation;

(ii) Establishment of a new practice site for the Corporation's medical practice; and

(iii) Creation of any subsidiary organization or affiliation of the Corporation with any other entity for the purpose of the joint conduct of business or other programs whether in the form of participation in a corporation (either through the holding of capital stock or by membership), partnership, joint venture, co-tenancy, limited liability company, limited liability partnership or other form of ownership or control.

Section 3.3.8 80% Supermajority Voting Requirements. The following actions of the Corporation require unanimous vote of the Board of Directors and an affirmative vote of eighty percent (80%) of the Shares:

(i) Amendments to the Articles of Incorporation or this Agreement;

(ii) Requirement of loans or contributions of capital from Shareholders;

(iii) The admission of a Shareholder in the Corporation or acceptance of an offer of Transfer of Shares, including, but not limited to, preliminary offers or discussions with any person regarding admission as a Shareholder; and

(iv) An increase or decrease in the number of Directors of the Corporation.

Section 3.3.9 Informal Action by Shareholders. Any action required or permitted to be taken at a meeting of the Shareholders may be taken without a meeting if one or more consents in writing, setting forth the action so taken, shall be signed by all of the Shareholders entitled to vote with respect to the subject matter thereof and are delivered to the Corporation for inclusion in the minute book. A consent signed under this section has the effect of a meeting vote and may be described as such in any document.

Section 3.4 Corporate Officers. The officers of the Corporation shall consist of a Chairman, Vice Chairman, Chief Executive Officer, Secretary and Treasurer. The Chief Executive Officer may also be referred to as the "CEO" of the Corporation. No Shareholder shall be eligible to serve as the Chairman until such person has been a Shareholder for three (3) complete years. Such other officers and assistant officers as may be deemed necessary, may be appointed jointly by the Board of Directors and the Chairman. If specifically authorized by the Board of Directors, an officer may appoint one or more assistant officers. The same individual may simultaneously hold more than one office in the Corporation.

Section 3.4.1 Appointment and Term of Office. Except as provided otherwise in this Agreement, the officers of the Corporation shall be appointed by the Board of Directors for a term of one (1) year. (The designation of a specified term grants to the officer no contract rights and the Shareholders can remove the officer at any time prior to the termination of such term). Once elected, an officer shall serve until their successor is appointed or until they resign, die, or until they are removed in the manner provided in Section 3.4.2.

Section 3.4.2 Removal. Except as provided in Exhibit C and as otherwise provided in this Agreement, any officer other than the Chairman may be removed at any time, with or without cause, upon recommendation by the Chairman and the affirmative vote of the

Board of Directors. Except as provided in Exhibit C, the Chairman may be removed by the affirmative vote of the Board of Directors. Such removal shall be without prejudice to the contract rights, if any, of the person so removed. Appointment of an officer shall not of itself create contract rights.

Section 3.4.3 Chairman. The Chairman shall preside at and serve as the chairman of the meetings of the Shareholders and of the Board of Directors. The Chairman (but not the CEO) shall have strategic oversight of the medical management and financial functions of the Corporation. Unless the Chairman delegates this authority to another officer, he shall be the sole officer with authority over employed physician matters, including, but not limited to: physician staffing and call coverage schedules, physician vacation schedules, physician continuing medical education schedules, physician residency requirements, physician compensation, administrative responsibilities and physician discipline. The Chairman shall sign all checks of the Corporation unless he has delegated this authority in writing to another officer. If necessary, the Chairman may sign, with the Vice Chairman or any other proper officer of the Corporation thereunto authorized by the Board of Directors, certificates for Shares and deeds, mortgages, bonds, contracts, or other instruments which the Board of Directors have authorized to be executed. The Chairman shall perform such other duties and have such other authority as may from time to time be delegated by the Board of Directors. If the Chairman incurs an Event of Incapacity, then the Vice Chairman shall perform the duties of the Chairman during the pendency of the Event of Incapacity, and when so acting, shall have all the powers of and be subject to all the restrictions upon the Chairman. Upon the death or resignation of the Chairman or upon an Event of Incapacity lasting for more than one hundred eighty (180) consecutive days, the Vice Chairman shall, without a Board of Directors vote, become the Chairman.

Section 3.4.4 Vice Chairman The Vice Chairman shall be appointed and may be removed from office by the Board of Directors. The Vice Chairman must be a member of the Board of Directors. If the Chairman incurs an Event of Incapacity, then the Vice Chairman shall perform the duties of the Chairman during the pendency of the Event of Incapacity, and when so acting, shall have all the powers of and be subject to all the restrictions upon the Chairman. If necessary, the Vice Chairman may sign, with the Chairman or any other proper officer of the Corporation thereunto authorized by the Board of Directors, certificates for Shares and deeds, mortgages, bonds, contracts, or other instruments which the Board of Directors have authorized to be executed.

Section 3.4.5 Chief Executive Officer. At the Chairman's written request, the CEO shall be the principal executive officer of the Corporation and, subject to the control of the Chairman and the Board of Directors, shall in general supervise and control all of the business and affairs of the Corporation other than the strategic development of the Corporation's business, physician management (including physician compensation), medical management, financial oversight and check signing authority reserved to the Chairman. The CEO shall directly report to the Chairman. He shall, in direct consultation with the Chairman, have responsibility for all employees and shall determine staffing levels, assign work descriptions and duties, set salaries and bonuses and determine promotions and transfers of all employees of the Corporation; provided, however, employee promotions and transfers shall be made with the approval of the Chairman. With the exception of checks, certificates for Shares and deeds, mortgages, or bonds and other cases where the signing and execution thereof shall be expressly delegated by the

Board of Directors to some other officer or agent of the Corporation, or shall be required by law to be otherwise signed or executed, he may sign, with the Chairman or any other proper officer of the Corporation thereunto authorized by the Board of Directors, contracts or other instruments which the Board of Directors have authorized to be executed; and such other duties as may be prescribed by the Board of Directors from time to time. The CEO shall also be responsible for organizing and implementing all customary Corporation sponsored employee events outside of the office setting.

Section 3.4.6 Secretary. The Secretary shall: (a) keep the minutes of the proceedings of the Board of Directors in one or more books provided for that purpose; (b) see that all notices are duly given in accordance with the provisions of this Agreement or as required by law; (c) be custodian of the corporate records; (d) when requested or required, authenticate any records of the Corporation; (e) keep a register of the post office address of each Shareholder which shall be furnished to the Secretary by such Shareholder; (f) have general charge of the stock transfer books of the Corporation; and (g) in general perform all duties incident to the office of Secretary and such other duties as from time to time may be assigned to him by the CEO or by the Board of Directors. The Secretary shall be appointed by the CEO.

Section 3.4.7 Treasurer. The Chairman of the Board shall appoint the Treasurer. The Treasurer, in close consultation with the Corporation's accounting and tax advisor, shall: (a) have charge and custody of and be responsible for all funds and securities of the Corporation; (b) receive and give receipts for moneys due and payable to the Corporation from any source whatsoever and deposit all such moneys in the name of the Corporation in such banks, trust companies or other depositaries as shall be selected by the Board of Directors; and (c) coordinate with the Corporation's accounting and tax advisor at the end of each calendar year quarter to provide financial updates directly to the Board of Directors at such time; and (d) in general perform all of the duties incident to the office of Treasurer and such other duties as from time to time may be assigned to him by the CEO or by the Board of Directors. If required by the Board of Directors, the Treasurer shall give a bond for the faithful discharge of his duties in such sum and with such surety or sureties as the Board shall determine.

Section 3.4.8 Salaries. The salaries of the officers shall be fixed from time to time jointly by the Board of Directors and the Chairman after a recommendation is made by the Chairman.

Section 3.5 Shareholder Guarantee. The Shareholders agree to execute any guarantee necessary to secure the obligations of the Corporation as approved by the Board of Directors.

Section 3.6 Capital Contributions. Additional Capital Contributions must be approved by the unanimous consent of all Shareholders as provided in Section 3.3.8(ii). None of the Shareholders shall at any time be required to contribute a larger sum than the Shareholder's Percentage Interest of the total amount of any capital contribution. This paragraph shall not apply to a Shareholder's initial purchase of stock in the Corporation.

Section 3.7 Confidentiality. The Shareholders shall not disclose any information relating to the Corporation regarding the Corporation's operations, records, contracts, compensation paid by the Corporation to the Shareholders or other employees, patients, or

procedures, to any persons other than employees of the Corporation, federal and state regulatory agencies, third-party reimbursement agencies, the Corporation's accountants, lawyers, consultants and other professional advisors, without the prior written consent of the Corporation or, as the case may be, an enforceable subpoena, or the final order of a court of competent jurisdiction. Each Shareholder shall use information related to the business of the Corporation to advance the Corporation's best interests, and not to benefit their personal interest. All forms, templates, systems (including billing systems) are the property of the Corporation and shall not be used apart from the Corporation by a Shareholder or Departing Shareholder without the written consent of the Corporation. This provision shall survive the termination of this Agreement or the termination of a Shareholder's Employment Agreement. This confidentiality clause is not intended to restrict or limit any confidentiality clause contained in a Shareholder's Employment Agreement. Accordingly, any separate confidentiality clause contained in a Shareholder's Employment Agreement will be separately enforceable in addition to the terms contained in this Agreement.

Section 3.8 Banking. The Corporation's banking arrangements with any banking institution shall provide that deposits may be withdrawn only by check, wire transfer or other similar instruments and valid only when signed by the Chairman or other Person authorized (by appropriate corporate resolutions) by the Corporation.

Section 3.9 Personnel. The CEO, in consultation with the Chairman, shall have the right to hire and terminate any employee of the Corporation except that the hiring or termination of a Physician (other than as provided in Section 3.3.8) or Physician extender, shall require the approval of the Board of Directors. The duties, authority, limitations and compensation of officers and employees shall be determined jointly by the Board of Directors and the Chairman unless otherwise provided in this Agreement. Additional Shareholder provisions are included in Exhibits C, D, E, F and G to this Agreement.

Section 3.10 Distributions. Each year all compensation, including bonuses, shall be paid to the Shareholders in their capacity as employees and all operating expenses of the Corporation shall be paid prior to any distribution of profits of the Corporation. Subject to available cash flow, after the payment of all compensation and operating expenses, the Corporation shall make the following distributions to the Shareholders:

(a) Every two weeks Physician shall receive a distribution in such amount as recommended by the Chairman, based on available cash flow, from time to time and jointly approved by the Board of Directors and the Chairman (the "Bimonthly Distribution"); and

(b) On a monthly basis, Physician shall receive an amount established by the Chairman as a month-end distribution (the "Sweep Distribution").

Section 3.11 Expenditures. Prior to the end of each fiscal year the Chairman shall present an operating budget to the Board of Directors for approval. Except for Sweep Distributions, the Chairman shall not make any disbursements of cash or assets of the Corporation or incur any debt on behalf of the Corporation not provided for in the approved budget in excess of Ten Thousand ($10,000) dollars without consultation and approval of the

Board of Directors. Provided, however, the Chairman shall have the flexibility to apply unexpended budget funds for expenditures of items of a similar nature. In the event the Board of Directors fails to approve a budget in advance of a fiscal year then the Corporation shall operate pursuant to the budget approved in the prior year.

Section 3.12 Loans To and From Shareholders. No Shareholder shall have any obligation to make contributions to the Corporation other than those as mutually agreed upon. Any Shareholder that makes a loan to the Corporation shall do so in writing with such loan not being effective unless authorized in writing by the Chairman.

Section 3.13 Accommodations for On-Call Physicians. To the extent that (i) a Shareholder has moved their full-time residence out of the Coverage Area (as defined in the Shareholder's Employment Agreement) with the permission of the Chairman and the Board of Directors (except to the extent permission may not be required pursuant to another provision of this Agreement) after nine (9) years of employment as a Shareholder, or (ii) the Corporation engages a locum tenens physician to provide call coverage, then the CEO shall arrange for the Corporation to provide a temporary residence in Camden, South Carolina for such Shareholder or locum tenen physician to use while providing call coverage on behalf of the Corporation.

Section 3.14 Part-Time Status. After ten (10) years of continuous employment as a Shareholder employee, a Shareholder may, with 180 days notice, request to change his employment status to part-time status. A request to change to part-time status must be approved by the Chairman and the Board of Directors of the Corporation. If approved, the Shareholder shall be required to sell fifty percent (50%) of his Shares to the Corporation (in accordance with the terms in Section 4.6) as a condition precedent to changing to part-time status. A change to part-time status shall not affect a Shareholder's right to maintain his position as, or become appointed to a position of, an officer of the Corporation. Upon commencement of part-time status, the Shareholder's scheduled clinical hours and operative time shall be the equivalent to five (5) one-half clinical days, (ii) the Shareholder's Base Compensation (as defined in the Shareholder's Employment Agreement) shall be reduced by fifty percent (50%), (iii) the Shareholder's Bi-weekly Distributions, Sweep Distributions, and Non-Metropolitan Bonuses shall be reduced by fifty percent (50%), and (iv) in the event the Shareholder elects Sabbatical Leave (as defined in the Shareholder's Employment Agreement) while on part-time status then the Shareholder's Base Compensation shall by reduced by fifty percent (50%) of the amount specified in Section 4.4 of the Shareholder's Employment Agreement. Upon a change to part-time status, the Shareholder's call coverage responsibilities will be reduced, if at all, at the discretion of the Corporation's Board of Directors provided that any reduction shall also result in a proportionate reduction in the Shareholder's Pay for Call Stipend (as defined in the Shareholder's Employment Agreement). In the event the Corporation elects to admit a part-time physician employee as a shareholder working on a part-time basis, then such physician shall only be permitted to purchase twenty-five percent (25%) of the amount of Shares of a full-time Shareholder and shall have such call coverage responsibilities and transaction terms as determined by the Board of Directors.

ARTICLE IV

RESTRICTIONS ON TRANSFER OF SHARES

Section 4.1 General. No Shareholder may sell, assign, transfer, grant, give away, hypothecate, pledge or in any manner dispose of or encumber ("Transfer") any Common Stock whether presently owned or hereafter acquired, except as specifically set forth in this Article IV. No Transfer of Common Stock shall be valid or recognized in the books and records of the Corporation without first obtaining the written consent of the Corporation and the other Shareholders or, in the absence of such written consent, without first complying with the terms and conditions of this Agreement. No Transfer of any Common stock pursuant to this Agreement shall be valid or recognized on the books and records of the Corporation as a Transfer of the interest in the Corporation unless such transferee is a Qualified Person who first becomes a party to this Agreement and evidences his or her consent to, and approval of, the terms and provisions hereof by execution of this Agreement. If any Common Stock is transferred in accordance with this Article IV, the Employment Agreement of such Shareholder shall terminate effective upon such transfer.

Section 4.2 Involuntary Transfers or Transfers According to Judicial Process. Any Person (the "Involuntary Transferee") who becomes the holder of any Shares or possessor of any certificates representing Shares (the "Transferred Shares") by virtue of any judicial process, attachment, bankruptcy, receivership, execution, insolvency proceeding and competency proceeding, judicial sale or divorce decree (a "Departure Event") shall immediately offer all such Shares to the Corporation whenever requested by the Corporation to do so. The Corporation shall have the obligation to purchase the Transferred Shares, which right shall be exercised by written notice given to the Involuntary Transferee within 30 days after the Shares are presented to the Corporation for registration in the Involuntary Transferee's name. None of such Shares will be entitled to any vote nor will any dividend or other distribution be paid, allowed or made upon any of such Shares for so long as such Involuntary Transferee fails to comply with such request. The Corporation shall pay such holder of any Shares or possessor of such certificates representing Shares pursuant to this Section in accordance with Sections 4.5, 4.6 and 4.7 of this Agreement. The Shareholder's salary and bonus set forth under such Shareholder's Employment Agreement and the distributions due the Shareholder pursuant to this Agreement will be reduced and the reduction applied to the Purchase Price set forth in Section 4.5, by such amounts as determined in the Corporation's sole discretion, until the Purchase Price is paid.

Section 4.2.1 Transfer Upon Shareholder Disqualification. In the event that a Shareholder is no longer authorized to practice medicine in South Carolina in the area of Otolaryngology, other than for a period lasting no longer than five months, (a "Departure Event"), then the Corporation shall have the obligation to purchase the Departing Shareholder's Shares. The Corporation shall pay such holder of any Shares in accordance with Sections 4.5, 4.6 and 4.7 of this Agreement.

Section 4.3 Transfer Upon Death or Permanent Disability of Shareholder. In the event of the death or Permanent Disability (each, a "Departure Event") of a Shareholder, the Corporation or the Remaining Shareholders shall purchase, according to their Percentage

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Interests, and the Departing Shareholder agrees to sell, all Shares owned by the Departing Shareholder in accordance with Sections 4.5, 4.6 and 4.7 of this Agreement.

Section 4.3.1 Simultaneous Death. If all of the Shareholders shall die simultaneously or shall die within thirty (30) days of one another, then there shall be no obligation by any party herein to purchase the Shares of any Shareholder in the Corporation, unless a sale shall have taken place prior to the first death, pursuant to this Agreement. As long as no such prior sale shall have occurred, the Departing Shareholder's interest in the proceeds of the liquidation of the Corporation and the proceeds of any insurance policies owned pursuant to Article V of this Agreement shall be delivered to the estate of such deceased Shareholder.

Section 4.4 Compulsory Redemption of Stock Upon Termination of Employment. If a Shareholder's Employment Agreement is terminated: (i) by the Corporation pursuant to Section 2.2. of the Shareholder's Employment Agreement, (ii) by the Shareholder pursuant to Paragraph 2.3(a) of the Shareholder's Employment Agreement, or (iii) because the Shareholder elects not to renew his Employment Agreement upon the expiration of its term (each a "Departure Event"), the Corporation shall purchase such Departing Shareholder's Shares in the Corporation in exchange for the payment as provided in Sections 4.5, 4.6, and 4.7 of this Agreement. Nothing in this Section shall affect a Shareholder's right to arbitrate a decision of the Corporation to terminate his Employment Agreement.

Section 4.4.1 Modification of Employment Agreement by the Corporation. If the Corporation elects not to extend the term of a Shareholder's Employment Agreement by giving notice to the Shareholder in accordance with such agreements, then the Corporation must offer a new Employment Agreement to all Shareholders on substantially identical terms.

Section 4.5 Purchase Price. The Corporation or the Remaining Shareholders, as the case may be, shall pay the Departing Shareholder a purchase price ("Purchase Price") for the Shares in an amount equal to: (A) one-fourth of the total collected revenue of the Group for the twelve whole calendar months preceding the Departure Event multiplied by the Departing Shareholder's Percentage Interest plus (B) the net operating capital of the Corporation consisting of the sum of the cash (to include cash equivalents and marketable securities, but not to include shares in any SCENT owned joint venture) of the Corporation and one third the accounts receivable of the Corporation, booked in accordance with the Corporation's normal accounting methods, and minus (C) any liabilities of the Corporation accrued up to the date of the Departure Event with such total multiplied (D) by the Departing Shareholder's Percentage Interest plus (E) a Shareholder's original investment ($100,000.00), and minus (F) any amount, if any, owed by the Departing Shareholder as of the effective date of the Termination of Employment under Section 4.6.4 of this Agreement. A Departing Shareholder shall not be entitled to receive any distribution of any interest that the Corporation owns in another entity (whether a corporation, partnership, limited liability company or otherwise). The Purchase Price is expressed as a formula as follows:

Purchase Price = (0.25 x Corporation's trailing 12 month collected revenue x Departing Shareholders Percentage Interest) +((cash + 1/3(Corporation's total A/R) – Corporation's Debt) x Departing Shareholders Percentage Interest) + $100,000 – any amount Departing Shareholder owes the Corporation.

Section 4.5.1 Sale of Affiliates. The Departing Shareholder also agrees that he shall sell any interest he owns in SCENT Land Holdings, LLC; SOMNUS, USA, LLC: and SCENT Equipment Holdings, LLC in accordance with the terms of each entities governing instruments (unless provided otherwise in the governing instruments) at the same time the Shareholder's Shares are redeemed pursuant to this Agreement.

Section 4.5.2 50% Reduction in Purchase Price. Provided, however, the Purchase Price, as calculated above, shall be reduced by fifty percent (50%) if (i) the term of the Shareholder's employment did not consist of at least thirty-six (36) whole calendar months, (ii) the Shareholder fails to renew or elects to terminate the Employment Agreement without cause pursuant to Sections 2.1 or 2.3(d) of the Employment Agreement and the Shareholder fails to give the Group the twelve (12) whole calendar months written notice required by Sections 2.1 or 2.3(d), or (iii) the Shareholder is terminated pursuant to Sections 2.2(b), (c), (d), (e), (f), (h), (i), (j) or (k) or Section 2.3(a). For clarity, except as provided in the preceding sentence or Section 4.5.3 below, any termination pursuant to Section 2.1(nonrenewal with twelve months notice), Section 2.2(a)(disability), Section 2.2(g)(change in law), Section 2.3(a)(a material breach by the Corporation), Section 2.3(b)(mutual agreement), or Section 2.3(c)(death) or Section 2.3(d) (by the Shareholder without cause with twelve months notice) shall be subject to payment for the Shareholder's Shares at the Purchase Price. The Corporation and the Departing Shareholder may agree that such payments may be made in cash or as a distribution of corporate assets in kind to satisfy the Corporation's obligations. Notwithstanding anything in this Agreement to the contrary, a Departing Shareholder shall not be entitled to any distribution from the Corporation nor be entitled to vote the Shares subsequent to the Departure Event.

Section 4.5.3 $100,000 Reduction in Share Purchase Price. Notwithstanding anything in this Agreement to the contrary, in the event a Departing Shareholder's Employment Agreement with the Corporation was terminated due to a violation of the covenants contained in Section 3.1(f) of the Employment Agreement (related to the requirement that the Shareholder maintains a full-time residence in the Coverage Area (as defined in the Shareholder's Employment Agreement), then the Share Purchase Price for the Departing Shareholder shall be reduced by $100,000 (a Shareholder's original investment), unless this provision is overridden in writing by the unanimous vote of the remaining Shareholders. In the event the Chairman makes a determination that a Departing Shareholder violated the confidentiality covenants in Section 3.7 of this Agreement or in Article V of their Employment Agreement and such determination is confirmed by the Board of Directors excluding the Departing Shareholder, then the Departing Shareholder's Share Purchase Price shall be reduced by $100,000 (a Shareholder's original investment).

Section 4.6 Method and Schedule of Payment of Purchase Price.

Section 4.6.1 Payment of Purchase Price. The Corporation or the Remaining Shareholders, as the case may be, shall commence payment of the Purchase Price as defined in Section 4.5 above to the Departing Shareholder, within sixty (60) days after the following applicable date: (i) effective date of the Departing Shareholder's Termination Date; (ii) the effective date that a Shareholder is deemed to have a "Permanent Disability"; (iii) the effective date that a Shareholder is disqualified from being a Shareholder in the Corporation; (iv) the date of receipt of notice of the qualification of the personal representative of the estate of a Departing

Shareholder; or (v) the date of notice to the Involuntary Transferee that the Corporation will purchase the Transferred Shares. To the extent permitted by applicable law, the Purchase Price shall be paid to the Departing Shareholder in sixty (60) equal monthly installments as evidenced by a promissory note. Notwithstanding the above, any life insurance proceeds or any Disability "buy-out" insurance proceeds received from such insurance policies on the Shareholder shall be paid as provided for in Article V of this Agreement.

Section 4.6.2 Closing of Sale of Shares. Upon the payment of the first installment of the Purchase Price as provided above in this Article IV, the Departing Shareholder shall endorse all of the Shares to be sold and deliver such Shares to an escrow agent appointed by the Corporation together with: (i) the appropriate amount of federal and state documentary stamps affixed thereto; and, if applicable; (ii) the appropriate tax waiver from the Estate Tax Division of the South Carolina Department of Revenue; and (iii) a certificate of discharged property from lien of federal estate tax. The Shares shall be held by the escrow agent until such time as the Purchase Price for the Shares has been fully paid. Upon payment in full of the Purchase Price, the escrow agent shall deliver the Shares together with all endorsements to the Remaining Shareholders or the Corporation, as applicable. Title to the Shares shall be deemed to have passed to the Remaining Shareholders upon the payment of the first installment of the Purchase Price.

Section 4.6.3 Shareholder Representations. The Departing Shareholder shall deliver at the closing and as a condition of sale, the following written representations: (i) that he or she is the owner and holder of record of such Shares being sold, that such Shares are free and clear of any and all liens, security interests, pledges, judgments or other encumbrances of any kind, and that the Departing Shareholder has full power to sell the Shares being sold; (ii) that the Departing Shareholder has not entered into on behalf of the Corporation, any agreement, commitment or understanding binding upon the Corporation except for transactions in the normal course of business, in amounts, quantities and nature which are normal and reasonable in relation to the normal and reasonable requirements of the Corporation's businesses as have been previously conducted and which have been fully recorded on the books and records of the Corporation or fully disclosed to the Shareholders of the Corporation; (iii) that the Departing Shareholder has not incurred any debt or other charges for which the Corporation may be liable except for normal and reasonable charges in connection with the business of the Corporation and that Departing Shareholder has surrendered to the Corporation all credit cards issued to the Corporation in the Departing Shareholder's possession.

Section 4.6.4 Setoff. Any damages resulting from the breach of any of the foregoing representations or a breach of Sections 3.7, 4.5.1 or 5.2 shall be applied against the balance of the Purchase Price in the same manner as if there were a prepayment of the Purchase Price. The intent of this provision is to provide for a reduction in the Purchase Price as a result of such a breach. Additionally, any damages owed to the Corporation by the Departing Shareholder under the Employment Agreement between the Corporation and the Departing Shareholder shall be setoff against the Purchase Price. To the extent such adjustment or amount required to be paid shall exceed the balance due on the Purchase Price, the Departing Shareholder shall make prompt payment of such excess to the Corporation or the Remaining Shareholders.

Section 4.7 Promissory Note. The Remaining Shareholders or the Corporation, as the case may be, shall execute a promissory note (hereinafter referred to as "Note") for all payments due pursuant to Article IV of this Agreement. Such Note shall be negotiable and bear interest at the prime rate (as quoted in the Wall Street Journal), as adjusted from time, plus one percent (1%). The Note shall become due and payable at the option of the holder immediately upon the occurrence of the following events:

(i) Default in the payment of any installment. Default shall occur following a thirty (30) day grace period after written notice of nonpayment is given to the defaulting party. If payment is not made within the thirty (30) day grace period, the Payee shall be in Default;

(ii) Sale of substantially all of the Corporation's assets;

(iii) Dissolution and liquidation of the Corporation; or

(iv) Bankruptcy of the Corporation.

Section 4.7.1 Default. If the payor of the Note shall default in paying any installment of the Purchase Price, then all remaining installments shall be accelerated. In the event of the liquidation or dissolution of the Corporation, the Departing Shareholder shall be paid the balance of the Purchase Price remaining unpaid out of the proceeds of such liquidation or dissolution.

Section 4.8 Legend on Shares. The certificates for the Shares shall, in addition to any notice thereon required by the Articles of Incorporation or Bylaws of the Corporation, or the Securities Act and other applicable securities laws, bear the following notice conspicuously marked on the face or back thereof:

> The securities evidenced hereby are subject to the terms of a Shareholders Agreement among the Company and the Shareholders of the Company. A copy of the Shareholders Agreement is on file at the office of the Company and is available upon request. The Shareholders Agreement provides, among other things, for restrictions on the sale, transfer, pledge, hypothecation or other disposition of the securities represented by this Certificate. Any attempted sale, transfer, pledge, hypothecation or other disposition of the securities represented by this Certificate not in compliance with the terms and conditions of the Shareholders Agreement shall be void and of no force and effect.

Section 4.9 Effect of Waiver. Any failure of the Corporation to exercise any option to purchase given under this Agreement and any waiver by the Corporation of any rights hereunder as to any Transfer will not, as to any future Transfer of the Shares (either voluntary or by operation of law), discharge the Shares from any of the restrictions herein contained.

ARTICLE V

COVENANTS REGARDING SUBCHAPTER S

Section 5.1 Revocation. If the Shareholders shall determine to revoke the Corporation's Subchapter S election, each Shareholder agrees that he or she shall execute all documents and take such further action as may be necessary or advisable to effectuate such revocation.

Section 5.2 Maintain S Status. Except as provided in Section 5.1 above, the Corporation and each Shareholder covenant and agree not to do any act or fail to do any act, the commission or omission of which would cause the termination of the Subchapter S election of the Corporation. In the event of the violation of any provision of this Section 5.2 by any Shareholder, the Shareholder who authorizes or causes the violation shall be liable to the Corporation and to the other Shareholder(s) for any damages, liabilities, or costs resulting directly or indirectly therefrom, including, without limitation, any additional federal or state income tax, penalties and interest incurred by the Corporation and the other Shareholder(s); provided, however, that no Shareholder shall be so liable if such Shareholder acted in the good faith belief and upon the advice of tax counsel that termination of the election would not be caused thereby. In the event of an inadvertent termination of the Corporation's Subchapter S election, the Corporation and each Shareholder shall take whatever actions are necessary under Section 1362(f) of the Code and the Regulations thereunder to request a determination of inadvertent termination from the Commissioner of Internal Revenue allowing the Corporation to be treated as continuing to be an S corporation, and if a waiver of the terminating event is not granted, to request consent for an early reelection of Subchapter S status under Section 1362(g) of the Code and the Regulations thereunder.

Section 5.3 Dividend Distributions. Each Shareholder and the Corporation acknowledge that the Corporation shall use its best efforts to make pro rata (based on the total Shares owned by each Shareholder) distributions of money with respect to the Shares in an amount at least sufficient to pay the federal and state income taxes on the income that passes through to the Shareholders from the Corporation under Section 1366 of the Code for each taxable year, net of any tax benefits produced by losses, deductions and credits that pass through under Section 1366 of the Code. The Corporation shall use its best efforts to make such distributions on a quarterly basis during each taxable year and in any event no later than ninety (90) days following the end of each taxable year. Except as provided in Section 3.10, the Chairman, after consultation and reasonable input from the Board of Directors, shall make the final decision as to the amount of each distribution with respect to the Shares. For purposes of this Section 5.3 a distribution shall be treated as made with respect to a particular taxable year of the Corporation if (A) it is made during the taxable year and not designated by the Corporation as made with respect to another taxable year or (B) it is specifically designated by the Corporation as made with respect to that particular taxable year. The foregoing distribution requirement set forth in this Section 5.3 is subject, however, to (Y) the reasonably required needs of the Corporation as determined by the Chairman to maintain sufficient funds for working capital and business needs so as not to impair the ability of the Corporation to continue its business operations, and (Z) any applicable restrictions contained in loan documents with the Corporation's creditors.

Section 5.4 Withholding. The Corporation is authorized to withhold from amounts to be distributed to any Shareholder hereunder any amount required to be withheld by any provision of

the Code, Treasury Regulations or other applicable law, and to pay such amounts to the Internal Revenue Service ("IRS") or other appropriate taxing authority in accordance with the Code, Treasury Regulations or other applicable law. In addition to such withholding from distributions, the Corporation is authorized to remit to the IRS or other appropriate taxing authority any amounts due as a result of the allocation of taxable income to any Shareholder. Any amounts paid over to the IRS or other appropriate taxing authority with respect to this Section to a Shareholder pursuant to this Section shall be treated for all purposes hereunder as a distribution made to the Shareholder with respect to whom such withholding or remittance was made.

Section 5.5 Code Section 1377(a)(2) Election. If a Shareholder makes a Transfer of his or her Shares pursuant to this Agreement while the Corporation is an S corporation, and such Transfer results in the complete termination of the interest in the Corporation of such Shareholder, and if either the selling Shareholder or the purchaser requests, then all of the Shareholders and the Corporation agree to take appropriate action to make an effective election under Section 1377(a)(2) of the Code and the Regulations thereunder to treat the taxable year of the Transfer as if it consisted of two taxable years, the first of which ended on the effective date of the Transfer. For purposes of this election, Shareholders shall mean all Persons who are or were Shareholders of the Corporation at any time during the taxable year in which the Transfer occurs.

Section 5.6 Closing of Corporate Books. In the event the Corporation's Subchapter S status terminates during the course of a taxable year for any reason whatsoever, and if any Shareholder so requests, then all of the Shareholders shall take appropriate action to make an effective election under Section 1362(e)(3) of the Code and the Regulations thereunder to close the Corporation's books on the date immediately preceding the date on which the termination of Subchapter S status occurs. For purposes of this election, the term Shareholders shall mean all Persons who are or were Shareholders of the Corporation at any time during the taxable year ending on the date of termination of the Corporation's Subchapter S status and all Persons who are or were Shareholders in the Corporation on the first day following the termination of the Corporation's Subchapter S status.

Section 5.7 South Carolina S Corporation Status. Each Shareholder agrees to file a South Carolina income tax return and pay South Carolina income tax on his or her proportionate share of the Corporation's taxable income for each taxable year of the Corporation that he or she is a Shareholder and the Corporation is an S corporation, and to execute such consents as are necessary to assure that the Corporation's Subchapter S election will be effective for South Carolina income tax purposes.

Section 5.8 Chairman as Attorney-in-Fact for Elections. If any document evidencing a Shareholder's consent or other action is required for filing or for other purposes under the provisions of the Code or otherwise in order to effectuate the matters set forth in Article V and any Shareholder is unable or otherwise fails to execute such document in a timely manner, then such Shareholder hereby appoints the Chairman of the Corporation, as from time to time elected, as his agent and attorney-in-fact for the purpose of executing any such document and taking all such further action as may be necessary or advisable to effectuate such consent or other action. The Corporation shall indemnify, defend and hold harmless the Chairman of the Corporation from, against and in respect

of any liabilities, damages, losses, costs or expenses (including attorneys' and accountants' fees) incurred by him or her as result of acting under such power of attorney.

Section 5.9 Tax Matters Person. The Chairman is hereby designated as the tax matters person of the Corporation. The tax matters person may resign at any time by giving written notice to the Corporation and each of the other Shareholders, and the tax matters person may be removed at any time by unanimous consent of all of the other Shareholders. Upon the resignation or removal of the tax matters person, a new tax matters person, who must be a Shareholder, shall be elected by holders of a majority of the Shares, which majority shall be determined by excluding the Shares of a removed tax matters person. The Corporation shall indemnify, defend and hold harmless the tax matters person from, against and in respect of any liabilities, damages, losses, costs or expenses (including attorneys' and accountants' fees) incurred by him or her as a result of acting as tax matters person.

ARTICLE VI

INSURANCE

Section 6.1 Life Insurance. The Corporation and each Shareholder shall have the right to purchase and maintain insurance on the life of each of the Shareholders.

Section 6.2 Disability Insurance. The Corporation and each Shareholder shall have the right to purchase and maintain Disability "buy-out" insurance on each of the Shareholders.

Section 6.3 Excess Insurance Proceeds. To the extent any insurance proceeds are in excess of the amount due a Shareholder under Section 4.5, such excess shall not affect the purchase price under Section 4.5. Any excess proceeds from a policy purchased by the Corporation or a Shareholder shall be retained by the Corporation or Shareholder, as the case may be.

Section 6.4 Shareholders' Right to Purchase Insurance Policies. In the event that a Shareholder Transfers his Shares, or upon dissolution or liquidation of the Corporation before the death or Permanent Disability of such Shareholder, the insured Shareholder shall have the right to purchase such life insurance and Disability insurance policies purchased by the Corporation that are subject to this Agreement for a purchase price equal to the amount of:

(i) the cash surrender value thereof, if any, calculated on a prorated basis to the date of the transaction, exclusive of any dividend, dividend accumulations, or policy loans, but inclusive of the cash value of any paid-up insurance additions; plus

(ii) the pro rata portion of any premium paid prior to the date which covers a period extending beyond the date of the transaction; plus

(iii) any dividend or dividend accumulations; and less

(iv) any policy loan plus interest then due.

The rights granted in this Section 6.4 shall lapse and expire unless the Transferring Shareholder notifies the Corporation in writing within thirty (30) days of the effective date of the Transfer of the Departing Shareholder's Shares of his desire to purchase all or some of the Disability or life insurance contracts maintained pursuant to this Article V. Any policy or policies not purchased within such thirty (30) day period may be disposed of by the Corporation in its discretion and the Departing Shareholder agrees to execute and deliver such instruments as may be required by the Corporation to dispose of such policies. If such an insurance policy is transferred to a Departing Shareholder, the Corporation shall execute and deliver to the Departing Shareholder, such instruments as are necessary and proper to transfer full and complete title to such policies.

ARTICLE VII

TERM AND TERMINATION

The term of this Agreement shall begin on the Effective Date and terminate upon the occurrence of any of the following: (i) the bankruptcy of the Corporation or (ii) a written agreement to terminate this Agreement executed by Shareholders of not less than one hundred percent (100%) of the Shares subject to this Agreement.

ARTICLE VIII

MISCELLANEOUS

Section 8.1 Prior Agreements. All other agreements dated prior to the date of this Agreement with respect to the subject matter in this Agreement are hereby superseded in their entirety by the terms and conditions of this Agreement, including any prior agreements between a Shareholder and any predecessor entity of the Corporation with respect to this subject matter; provided however, that this Agreement shall not be deemed to supersede the terms and conditions of the Employment Agreements executed simultaneously with this Agreement. Any inconsistency or ambiguity with the terms of this Agreement and the terms of the Employment Agreements shall be construed and interpreted in accordance with the terms of this Agreement.

Section 8.2 Patient Records. The Corporation owns all patient records and charts. The records of patients of a Departing Shareholder shall remain with the Corporation. In the event of dissolution of the Corporation, the patient records shall be transferred to the Shareholder who primarily treated the patient or shall otherwise be handled in a manner provided that such transfer complies with applicable privacy laws. Notwithstanding the above, upon written authorization of a patient, the patient's records shall be provided to such Departing Shareholder (or former Shareholder if a liquidation or dissolution has occurred) who shall bear the cost of such photocopying.

Section 8.3 Shareholder's Personal Property. Each of the Shareholder's personal property at the Practice location is listed in Exhibit B hereto which shall remain each Shareholder's property and may be removed from the Practice location at any time by the owning Shareholder. Any amendments to the inventory list in this Exhibit B must be approved by all of the Shareholders.

Section 8.4 Notices. All notices and other communications required or permitted hereunder shall be in writing and shall be deemed effectively given upon personal delivery, and in the case where delivery is made by any established and reputable next day delivery service, delivery shall be deemed to occur on the day after delivery to such delivery service, or on the fifth day following mailing by registered or certified mail, return receipt requested, postage prepaid, addressed at such Shareholder's address as set forth on Exhibit A attached hereto or at such other address as such Shareholder shall designate by written notice to the Corporation and the other Shareholders; or if to the Corporation, at 1165 Highway 1 South, Suite 300, Lugoff, South Carolina, or at such other address as the Corporation shall have furnished to the Shareholder in writing.

Section 8.5 Construction. The Shareholders hereby agree and consent to take or cause to be taken all actions necessary to implement the intents and purposes of this Agreement, including, but not limited to, to vote their Common Stock to amend the Articles of Incorporation or the Bylaws in such manner as may be necessary to implement the provisions of this Agreement, and further agree not to vote their Common Stock at any time so as to amend the Articles of Incorporation in a manner inconsistent with or in contravention of this Agreement.

Section 8.6 Counterparts. This Agreement may be executed in several counterparts, each of which when so executed shall be deemed to be an original and such counterparts, taken together, shall constitute and be one and the same instrument.

Section 8.7 Successor and Assigns. This Agreement shall be binding upon the parties hereto, their heirs, legal representatives, successors and permitted assigns.

Section 8.8 Entire Agreement. This Agreement contains the entire agreement of the parties with respect to its subject matter.

Section 8.9 Remedies. The parties acknowledge that remedies at law for breach of the covenants contained in this Agreement may be inadequate and that the Corporation may be entitled to injunctive or to such other equitable relief as a court may deem appropriate for a breach of such covenants. If such covenants are at any time adjudged invalid to any extent by any court of competent jurisdiction, such covenants shall be deemed modified to the extent necessary to render any or all of them enforceable.

Section 8.10 Disputes. Any controversy or claim arising out of or relating to this Agreement, or the breach thereof, shall be settled by binding arbitration, which shall be conducted in Camden, South Carolina, in accordance with the NHLA Alternative Dispute Resolution Service Rules of Procedure for Arbitration, and which to the extent of the subject matter of the arbitration, shall be binding not only on all parties to the Agreement, but on any other entity controlled by, in control of or under common control with the party to the extent that such affiliate joins in the arbitration. Judgment upon the award rendered by the arbitrators may be enforced in any court having jurisdiction thereof and all costs shall be borne by the party against whose interest the arbitration is adversely determined.

Section 8.11 Amendment. This Agreement may not be amended or supplemented except in writing, executed by holders of not less than one hundred (100%) percent of the Common Stock subject to this Agreement.

Section 8.12 Severability. If any provision of this Agreement is held invalid or unenforceable, such invalidity or unenforceability will not affect the validity or enforceability of any other provisions hereof, all of which provisions are hereby declared severable.

Section 8.13 Choice of Law. This Agreement is to be governed by and construed in accordance with the laws of the State of South Carolina.

Section 8.14 Descriptive Headings and Section References. The descriptive headings of this Agreement are inserted for convenience only and do not constitute a part of this Agreement. Provided, however, any reference in this Agreement to a particular Section shall also include all subsections thereto unless explicitly referenced otherwise (e.g., a reference to Section 4.2 shall also include Section 4.2.1, 4.2.2, etc.).

Section 8.15 Gender and Number. Whenever the context hereof requires, the gender of all words shall include the masculine, feminine and neuter, and the number of all words shall include the singular and plural.

Section 8.16 Applicability of Agreement. Unless otherwise provided by this Agreement, each provision of this Agreement shall apply to all of the Shares owned by each Shareholder, whether presently owned or hereafter acquired.

Section 8.17 Additional Shareholders. Additional shareholders of the Corporation may become bound by the terms of this Agreement by signing an Adoption of Shareholders Agreement, substantially in the form of Exhibit H attached hereto, and upon such execution, the Shareholders and the Corporation

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first above written.

SOUTH CAROLINA ENT, ALLERGY & SLEEP MEDICINE, P.A.

By: _____
Robert Puchalski
Its: Chairman

SHAREHOLDERS:

_____
Robert Puchalski

_____
Orville Dyce

EXHIBIT A

SHAREHOLDERS AND NUMBER OF SHARES

Name and Address of Shareholder	Number of Shares
Robert Puchalski	50,000
Orville Dyce	50,000

DYCE/SCENT 290

2385

Plaintiffs' Ex 0011.024

EXHIBIT B

PERSONAL PROPERTY

_____

_____

EXHIBIT C

FOUNDING SHAREHOLDER PROTECTION PROVISIONS

In recognition of the contributions, risks and sacrifices made in establishing the Corporation's business and that continue to be made in developing the Corporation's business, the following provisions shall apply to Robert Puchalski during the term of his employment with the Corporation:

(i) The Shareholders agree that Robert Puchalski shall automatically be appointed as a Director, the Chairman and the CEO without a Shareholder vote for as long as he is an employee or Shareholder of the Corporation or, if sooner, until he resigns from one or both of these positions. Upon Robert Puchalski's resignation as the Chairman, the Vice Chairman shall automatically succeed him as the Chairman without a Shareholder vote. Thereafter, the positions shall be filled in the manner provided in Article III of this Agreement. Except as provided below, Robert Puchalski may only be removed in his role as a Director, the Chairman or the CEO by a unanimous vote of the Shareholders (other than Robert Puchalski) upon a conviction of a crime involving fraud directly against the Corporation or if he has engaged in conduct which is fraudulent with respect to the Corporation. For this purpose, conduct will be "fraudulent with respect to the Corporation" if the fraudulent act involves Robert Puchalski intentionally and knowingly misleading the Board about a material fact for the purpose of deceiving the Board for his own pecuniary gain. For purposes of clarity, an inadvertent miscoding of medical services or any settlement or conviction involving unintentional or unknowing payor billing fraud related to the Corporation or any physician employed by the Corporation would not constitute conduct which is "fraud directly against the Corporation" or "fraudulent with respect to the Corporation."

(ii) After 2015, upon a vote of "non-confidence" of the Board of Directors, Robert Puchalski may be terminated as an employee of the Corporation and in such event he will automatically be removed as the Chairman, CEO and a Director; provided, however, upon his termination of employment upon a vote of non-confidence pursuant to this sentence, the Corporation shall pay him a severance payment in an amount equal to the total of the three most recent years of his total compensation from the Corporation during his employment (the "Severance Payment"). Robert Puchalski's Severance Payment shall be paid by paying the lesser of $500,000 or fifty percent (50%) of the Severance Payment upon termination of employment (as defined below) with the balance paid with interest at the prime rate (as quoted in the Wall Street Journal), as adjusted from time to time in no more than three (3) equal annual installments of principal and interest until paid in full. To the extent the Corporation is able to do so under its applicable benefit plans and

agreements, it will continue to provide benefits (consisting of health insurance, life insurance and dental insurance) to Robert Puchalski during the three (3) year payout period. For purposes of clarification, the Severance Payment is in addition to, and is calculated subsequent to the calculation of, all other compensation due Robert Puchalski pursuant to his Employment Agreement and this Shareholder Agreement. Specifically, the Severance Payment shall not be taken into consideration as a liability or other offset or deduction in the calculation of the Purchase Price in Section 4.5 of this Agreement. For purposes of this provision, "termination of employment" shall have the meaning provided in Exhibit G.

(iii) If Robert Puchalski's Employment Agreement is terminated, as provided above upon a vote of non-confidence, then simultaneously with the termination, the Employment Agreement shall be deemed amended to provide:

(a) Section 3.10 of the Employment Agreement shall not be applicable to prohibit or otherwise restrict Robert Puchalski from discussing hiring, or actually hiring, Stephanie Tetterton, Robert Puchalski's current physician assistant, or any other employee of the Corporation hired prior to March 31, 2005;

(b) Section 3.9 of the Employment Agreement and the Covenant Not to Compete referenced therein shall allow Robert Puchalski to conduct a medical practice at one (1) location in Kershaw or Richland County, South Carolina, with such location determined in his sole discretion, without any restrictions imposed by application of Section 3.9 or the Covenant Not to Compete referenced therein;

(c) Section 3.7 of the Employment Agreement shall be amended to allow Robert Puchalski to retain copies of all medical records of patients treated by him while an owner of the Corporation subject to applicable federal or state privacy laws; and

(d) Section 3.7 of this Agreement shall be deemed amended to provide that Robert Puchalski shall be entitled to use any forms or systems of the Corporation in place prior to March 31, 2005.

(iv) As the pioneer of the Corporation's sleep medicine services, including obtaining the Corporation's first Board Certification in Sleep Medicine, developing the Corporation's affiliate sleep labs (including those that are hospital-based), and developing a standardized process to evaluate and interpret sleep studies, Robert Puchalski shall maintain full purview over the clinical and administrative aspects of the Corporation's sleep medicine services including the assignment of all sleep study interpretations read by the Group on behalf of the Group or any other

referring physician at any sleep facility affiliated with any physician employee of the Corporation. In addition to the two (2) administrative half days each week provided to him as the CEO pursuant to Exhibit F, Robert Puchalski shall receive one (1) additional half day off each week to provide such interpretations at a time and location to be determined by Robert Puchalski for so long as these services continue to be profitable.

(v) Notwithstanding anything in this Agreement or Robert Puchalski's Employment Agreement to the contrary, in the event of a purchase of all of Robert Puchalski's Shares by the Corporation, for any reason, the purchase price shall be 100% of the Purchase Price and the 50% reduction in Section 4.5.2 shall not be applicable.

(vi) In addition to the compensation provided in Robert Puchalski's Employment Agreement, commencing October 1, 2009, he shall receive as his full compensation for his role as the Founding CEO and Chairman a management performance bonus in a gross amount equal to the greater of fifteen percent (15%) of the total distributions paid to all Shareholders in excess of the total of the Base Year Compensation for all Shareholders in the same calendar year or One Hundred Twenty-Five Thousand ($125,000) dollars per annum.

(vii) In recognition of the benefit constraints and tax liabilities incurred by Robert Puchalski when expanding the Corporation's business in a low debt environment, the Corporation shall also provide to Robert Puchalski, for so long as he remains an employee, a car stipend of up to $1,000 per month, recurring membership dues to the Springdale Hall Club and the Camden Country Club (or equivalents), the retention of a physician's assistant (Stephanie Tetterton or her replacement), and a full-time executive assistant.

(viii) In recognition of Robert Puchalski's pioneering full-time residence in a Non-Metropolitan Area (as defined in his Employment Agreement), after nine (9) years of full-time employment as a Shareholder of the Group, Robert Puchalski shall be entitled to reside outside of the Coverage Area (as defined in his Employment Agreement) without the vote of the Chairman and Board of Directors and he shall continue to receive the Non-Metropolitan Bonus, provided he makes his Kershaw County residence available to the Group to satisfy the requirements of Section 3.13 of the Shareholders Agreement. Provided, further, that he can fulfill his call coverage requirements by staying within the Coverage Area when taking emergency room call.

(ix) For purposes of Section 3.1(c) of his Employment Agreement as long a Robert Puchalski is a full-time employee of the Group he shall only need to obtain prior approval to engage in outside work that is exclusively for his own benefit (and not for the benefit of the Group) and he shall not be required to obtain prior approval for any outside work not exclusively for

his own benefit (including work for which he receives personal revenues) that he is providing as of the date of this Agreement or may provide in the future.

(x) As a condition of the grant of the Founding Shareholder protection provision in this Exhibit C, Robert Puchalski agrees that for so long as he is the Chairman and CEO of the Corporation, he shall:

(a) provide at least two (2) years written notice of his resignation from his employment for a departure prior to 2016;

(b) annually provide the Board of Directors, upon its request, with a proposed successor plan for the corporate officers;

(c) cooperate with the Corporation in obtaining, and agrees to maintain at the Corporation's expense, up to Two Million ($2,000,000) dollars of insurance payable to the Corporation upon his death; and

(d) to the best of his ability, continue to personally guarantee the Corporation's loans he has guaranteed as of the date of the Agreement for so long as he remains the Chairman and CEO.

(xi) For purposes of determining the number of years Robert Puchalski has been employed as a Shareholder of the Corporation, the commencement of his employment as a Shareholder shall be deemed to have begun on July 1, 2002.

EXHIBIT D

DR. DYCE PROTECTION PROVISION

In recognition of the challenges that a full-time residence in Hartsville presents with respect to airport and metropolitan accessibility, Dr. Dyce shall be entitled to one (1) hour of administrative time each week that he can take in his discretion, provided he and his family maintain a full-time residence in Hartsville, South Carolina. The extra hour referenced above shall be counted as annual leave and credited to Dr. Dyce's Total Production in the manner described in Section 4.2(c) of his Employment Agreement.

As long as Dr. Dyce maintains his full-time primary residence in the Hartsville Coverage Area (as defined in his Employment Agreement), he shall remain a member of the Board of Directors of the Corporation.

In recognition of his pioneering full-time residence in a Non-Metropolitan Area (as defined in his Employment Agreement), Dr. Dyce shall after nine (9) years of full-time employment as a Shareholder of the Group residing in Hartsville with his family full time, be entitled to reside outside of the Coverage Area (as defined in his Employment Agreement) without the vote of the Chairman and the Board of Directors provided, that he can fulfill his call coverage requirements by staying within the Coverage Area when taking emergency room call.

If Dr. Dyce is practicing primarily at the Hartsville, South Carolina, (the "Hartsville site") and the Cheraw, South Carolina (the "Chesterfield site") practice sites and is terminated for any reason and the Hartsville site is closed either within 18 months prior or 18 months subsequent to the termination, then his Employment Agreement shall be deemed amended upon the later of the date of termination of the Employment Agreement or date of the closing of the Hartsville site to provide:

(a) Section 3.9 of the Employment Agreement and the Covenant Not to Compete referenced therein shall be void as to any restrictions within Darlington or Chesterfield Counties, South Carolina.

(b) Section 3.10 of his Employment Agreement shall be amended to remove any restrictions from hiring Corporation employees whose jobs required they perform a majority of their services at the Hartsville site or the Chesterfield site.

(c) Section 3.7 of his Employment Agreement shall be amended to provide that he shall be entitled to retain copies of medical records of patients treated by him at the Hartsville site or the Chesterfield site.

For purposes of this Exhibit D, an office site will be deemed to be "closed" upon the earlier of the time it: (i) is operating for three (3) consecutive calendar months providing less than fifty percent (50%) of the level of services to patients that it customarily provides, or (ii) when it physically closes it doors for business on a permanent basis.

As a pioneer of the Corporation's speech and swallowing therapy services, Dr. Dyce shall continue to provide physician services for the Corporation's speech and swallowing department (Carolina Speech and Swallowing Center). Dr. Dyce shall continue to be assigned one (1) half day each week to provide such services for as long as the services are profitable.

For purposes of determining the number of years Dr. Dyce has been employed as a Shareholder of the Corporation, the commencement of his employment as a Shareholder shall be deemed to have begun on July 1, 2008.

EXHIBIT E

DR. GUNNLAUGSSON PROTECTION PROVISION

In recognition of his pioneering residence in the approved metropolitan area, in the event Dr. Gunnlaugsson becomes a Shareholder, he shall receive the Non-Metropolitan Bonus after maintaining a full-time residence in the Coverage Area (as defined in his Employment Agreement) with his family for five (5) years as a Shareholder employee, provided, that he continues to reside in a full-time primary residence in the Coverage Area. The parties acknowledge that he resides in the Coverage Area as of the Effective Date of this Agreement by living in the development known as "Green Hill Parish."

As long as Dr. Gunnlaugsson (i) maintains his full-time primary residence in the Coverage Area east of Spears Creek Church Road and South of Route 1 in Richland County, (ii) continues to provide facial plastic surgery and hair restoration services to patients of Carolina Cosmetics Institute (for so long as that department is in existence), and (iii) satisfactorily discharges his responsibilities to Carolina Cosmetics Institute and Carolina Hair Restoration, then he shall remain a member of the Board of Directors of the Corporation.

In the event Dr. Gunnlaugsson becomes a Shareholder and is practicing primarily at the Richland County, South Carolina, practice site (the "Richland site") and is terminated for any reason and the Richland site is closed either within 18 months prior or 18 months subsequent to the termination, then his Employment Agreement shall be deemed amended upon the later of the date of termination of the Employment Agreement or date of the closing of the Richland site to provide:

(a) Section 3.9 of the Employment Agreement and the Covenant Not to Compete referenced therein shall be void as to any restrictions within Richland County, South Carolina.

(b) Section 3.10 of his Employment Agreement shall be amended to remove any restrictions from hiring Corporation employees whose jobs required they perform a majority of their services at the Richland site.

(c) Section 3.7 of his Employment Agreement shall be amended to provide that he shall be entitled to retain copies of medical records of patients treated by him at the Richland site.

For purposes of Exhibit E, an office site will be deemed to be "closed" upon the earlier of the time it: (i) is operating for three (3) consecutive calendar months providing less than fifty percent (50%) of the level of services to patients that it customarily provides, or (ii) when it physically closes it doors for business on a permanent basis.

As a pioneer of the Corporation's hair restoration services, Dr. Gunnlaugsson shall continue to provide physician services for the Corporation's hair restoration services (Carolina Hair Restoration). Dr. Gunnlaugsson shall continue to be assigned up to one (1) half day each week to provide such services for as long as these services are profitable.

In the event he becomes a Shareholder, for purposes of determining the number of years Dr. Gunnlaugsson has been employed as a Shareholder of the Corporation, the commencement of his employment as a Shareholder shall be deemed to have begun on January 1, 2010.

For purposes of Section 4.2(c) of his Employment Agreement, Dr. Gunnlaugsson will be credited with the collected revenues for the services he personally performs for Carolina Cosmetics Institute and Carolina Hair Restoration (including hair transplantation). In the event that the Corporation uses charges for Production Dollars then Dr. Gunnlaugsson shall be credited with 150% of his collected revenues for services he personally performs for Carolina Cosmetics Institute and Carolina Hair Restoration.

EXHIBIT F

CEO PROTECTION PROVISION

For so long as Robert Puchalski is the CEO, he shall have at least two (2) extra half days each week during normal business hours to perform administrative duties of the practice in lieu of providing patient services. For purposes of his Employment Agreement, while serving as the CEO, the extra half days referenced above shall be counted as annual leave and credited to Robert Puchalski's Total Production in the manner described in Section 4.2(c) of his Employment Agreement. This provision shall not extend to any Chairman and CEO other than Robert Puchalski.

For so long as Robert Puchalski is the CEO, he shall keep his same level of administrative staff and both he and his administrative staff shall keep their currently planned or comparable office space.

EXHIBIT G

DEFINITION OF TERMINATION OF EMPLOYMENT

For purposes of Exhibit C, "termination of employment" shall be considered to have occurred only if a "separation from service" (as defined in Treasury Regulation Section 1.409A-1(h)) has occurred with respect to the employment relationship between Robert Puchalski and the Corporation and all of the Corporation's applicable affiliates. Robert Puchalski's right to payment of the Severance Payment shall be no greater than that of a general unsecured creditor of the Corporation. Robert Puchalski shall not be entitled or permitted to assign, sell, transfer, pledge or encumber any right to receive the Severance Payment. Notwithstanding anything in this Agreement to the contrary, the Robert Puchalski's right to the Severance Payment shall be limited consistent with and in accordance with the applicable provisions and restrictions of Code §409A and the regulations thereunder. Robert Puchalski agrees that, if and to the extent any provision of this Agreement, including but not limited to matters involving the severance payment pursuant to this provision, constitute an "employee pension benefit plan" (within the meaning of Employee Retirement Income Security Act of 1974, as amended ("ERISA"), §3(2)) (the "plan"), then Robert Puchalski shall not make any claim or assertion which is contrary to the acknowledged status of the plan as "a plan which is unfunded and is maintained by an employer primarily for the purpose of providing deferred compensation for a select group of management or highly compensated employees" (within the meaning of ERISA §§201, 301 and 401). If Robert Puchalski or his applicable beneficiary believes that he or she is being denied a benefit to which he or she is entitled under the plan, he or she may file a written request for such benefit with the Corporation in accordance with the claims procedure referenced below.

CLAIMS PROCEDURE

If the Physician or his designated beneficiary believes that he is being denied a benefit to which he or she is entitled under the plan, he or she may file a written request for such benefit with the Corporation setting forth his or her claim. Upon receipt of such a claim, the Corporation shall advise the Physician that a reply will be forthcoming within 60 days (45 days, in applicable cases involving Disability) and shall, in fact, deliver such reply within such period. The Corporation may, however, extend the reply period for an additional 60 days for reasonable cause. If the Physician is denied in whole or in part, the Corporation shall adopt a written opinion using language calculated to be understood by the Physician setting forth:

a. the specific reason or reasons for such denial;

b. the specific reference to pertinent provisions of the plan on which such denial is based;

c. a description of any additional material or information necessary for the Physician to perfect his or her claim and an explanation why such material or such information is necessary;

d. appropriate information as to the steps to be taken if the Physician wishes to submit the claim for review; and

e. the time limits for requesting a review under this claims procedure.

Within 60 days after the receipt by the Physician of the written opinion described above, the Physician may request in writing that the Corporation review the determination of the Corporation. Such request must be addressed to the Corporation, at its then principal place of business. The Physician or his duly authorized representative may, but need not, review the pertinent documents and submit issues and comments in writing for consideration by the Corporation. If the Physician does not request a review of the Corporation's determination by the Corporation within such 60 day period, he shall be barred and estopped from challenging the Corporation's determination.

Within 60 days after the Corporation's receipt of a request for review, it will review the Corporation's determination. After considering all materials presented by the Physician, the Corporation will render a written opinion, written in a manner calculated to be understood by the Physician, setting forth the specific reasons for the decision and containing specific references to the pertinent provisions of the plan on which the decision is based. If special circumstances require that the 60 day time period be extended, the Corporation will so notify the Physician and will render the decision as soon as possible, but no later than 120 days after receipt of the request for review.

EXHIBIT H

ADOPTION OF SHAREHOLDERS AGREEMENT

The undersigned is, or is becoming, a shareholder in South Carolina ENT, Allergy & Sleep Medicine, P.A. (the "Corporation").

The undersigned hereby acknowledges that the Corporation shares issued to the undersigned are subject to the terms and conditions of the Shareholders Agreement dated _____, 2010 (the "Shareholders Agreement"), entered into between the Corporation and its Shareholders, a copy of which is attached hereto.

The undersigned agrees to be bound by, and acknowledges and agrees that the stock in the Corporation purchased by the undersigned is subject to, the terms and conditions of the Shareholders Agreement.

_____ _____

Date

Address:

_____

_____

_____

From:	Ed White
Sent:	Wednesday, January 13, 2010 6:48 PM
To:	Armon, Bruce D.
Cc:	Robert Puchalski; orville dyce
Subject:	South Carolina ENT, Allergy & Sleep Medicine, P.A.
Attachments:	Employment Agreement Robert Puchalski.DOC; Redline.doc; COLUMBIA-#5989473-v35-Shareholders_Agreement.DOC; COLUMBIA-#5989473-vdoc-Shareholders_Agreement.DOC; DOC017.PDF; DOC019.PDF; DOC020.PDF; DOC021.PDF; DOC022.PDF; DOC007.PDF; DOC015.PDF; DOC016.PDF

Bruce,

Attached please find a clean and redline version of the Employment Agreement and Shareholders Agreement that Dr. Puchalski has had me prepare for Dr. Dyce's review. Also, enclosed are the corporate records of the corporation.

It is my understanding that the business terms have been agreed to in principal by Dr. Dyce and Dr. Puchalski. As I mentioned to you recently, I represent the corporation. To the extent your role is to help interpret the agreement for Dr. Dyce and to offer refinenments or additional points that the shareholders agree upon, then I do not believe Dr. Puchalski needs to retain separate counsel, unless he chooses to do so. In the event your role involves negotiations between the shareholders relative to their personal interests, then I have advised Dr. Puchalski that he would need to retain separate counsel to negotiate his personal interests and he is prepared to do so, if he needs to. My suggestion is that we encourage Dr. Puchalski and Dr. Dyce to reach agreements on the business terms then you and I discuss whether the written agreements adequately reflect their understandings.

If you have any questions please do not hesitate to contact me.

Thank you,

Ed

Plaintiffs' Ex 0012.001

THIS AGREEMENT IS SUBJECT TO ARBITRATION
PURSUANT TO S.C. CODE ANN. § 15-48-10, et seq.

SHAREHOLDERS' AGREEMENT

BY AND AMONG

SOUTH CAROLINA ENT, ALLERGY & SLEEP MEDICINE, P.A.

AND

ITS

SHAREHOLDERS

DATED

_____, 2010

Plaintiffs' Ex 0012.002

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THIS AGREEMENT IS SUBJECT TO ARBITRATION PURSUANT TO S.C. CODE ANN. § 15-48-10, et seq.

SHAREHOLDERS' AGREEMENT

This Shareholders' Agreement ("Agreement"), effective as of ~~July 16, 2008~~ _____, 2010 ("Effective Date") is entered into by and among South Carolina ENT, Allergy & Sleep Medicine, P.A. (the "Corporation"), and each of the persons listed on ~~Schedule~~Exhibit A hereto (such persons and their respective successors and assigns are hereinafter referred to collectively as the "Shareholders" and individually as a "Shareholder").

RECITALS

1. The authorized capital stock of the Corporation consists of Five Hundred Thousand (500,000) shares of common stock (hereinafter referred to as "Common Stock");

2. As of the Effective Date of this Agreement, the Corporation has issued and outstanding One Hundred Thousand (100,000) shares of Common Stock in the amounts and to the Shareholders identified on ~~Schedule~~Exhibit A;

3. The Corporation was organized as a Statutory Close Corporation; and

4. The Shareholders desire to set forth certain understandings regarding their ownership of the Common Stock and to impose certain restrictions upon the Transfer of their Common Stock in the Corporation.

NOW, THEREFORE, in consideration of the premises and the mutual covenants herein contained, the parties hereto agree as follows:

ARTICLE I

RECITALS

Section 1.1 Recitals. The above recitals are true and correct and incorporated herein.

ARTICLE II

DEFINITIONS

Section 2.1 Definitions. As used in this Agreement, the following terms shall have the following meanings:

"Agreement" means this Agreement (together with Exhibits all of which are incorporated herein by this reference), as amended, supplemented, modified or waived from time to time, in accordance with its provisions.

Plaintiffs' Ex 0012.006

"Articles of Incorporation" means the Corporation's Articles of Incorporation, as amended from time to time, in accordance with its provisions.

"Bankruptcy" shall mean, with respect to any Person, that such Person has: (i) applied for or consented to the appointment of a receiver, trustee, liquidator or custodian or the like, of his property; (ii) admitted in writing his inability to pay his debts generally as they become due; (iii) made a general assignment for the benefit of his creditors, (iv) been adjudicated a bankrupt or insolvent; (v) commenced a voluntary case under the federal bankruptcy laws of the United States of America; (vi) filed a voluntary petition or answer seeking an arrangement with creditors or an order for relief or seeking to take advantage of any insolvency law; or (vii) filed an answer admitting the material allegation of a petition filed against him in any bankruptcy or insolvency proceeding. For the purpose of any provision contained in this Agreement requiring reference to the date on which a bankruptcy has occurred, a bankruptcy shall be deemed to have occurred upon the commencement of the first to occur of any one of the foregoing enumerated events.

"Base Year Compensation" shall mean $260,000, plus a Shareholder's Bimonthly Distributions and Pay for Call Stipend (as defined in the Shareholder Employment Agreement) in the annual period (consisting of twelve whole calendar months) ended June 30, 2009, but excluding any monthly Sweep Distributions.

"Bimonthly Distribution" shall have the meaning set forth in Section 3.10(a).

"Bylaws" means the Corporation's Bylaws, as in effect on the date hereof, as amended, supplemented or modified from time to time, in accordance with its provisions.

"CEO" shall mean the Chief Executive Officer of the Corporation.

"Chesterfield site" shall have the meaning set forth in Exhibit D.

"Code" shall mean the Federal Internal Revenue Code of 1986, as the same may be amended from time to time.

"Common Stock" shall have the meaning set forth in the recitals.

"Corporation" shall have the meaning set forth in the preamble.

"Departing Shareholder" shall mean a Shareholder who is Transferring Shares in accordance with any provision of this Agreement, including by virtue of a permitted sale, or as a result of death, disqualification, termination of employment or Permanent Disability. Where applicable, Departing Shareholder shall also mean the personal representative of a deceased Shareholder.

"Departure Event" is any event described in Section 4.2, 4.3 and 4.4.

"Disability" is the inability of a Shareholder to perform the usual and customary duties of a physician employed in a full-time medical practice, as such term is defined in

Plaintiffs' Ex 0012.007

any Disability income insurance policy that the Corporation or Shareholder has obtained with respect to such Shareholder.

"Effective Date" shall have the meaning set forth in the preamble.

"Employment Agreement" is the agreement between a Shareholder and Corporation establishing the employment obligation of the ~~shareholder~~Shareholder.

"~~Equal~~ Event of Incapacity" shall mean a Shareholder who is deemed "incapacitated" or "not competent" under any one or more of the following circumstances: (i) during any period that the individual is legally incompetent as determined by a court of competent jurisdiction; or (ii) during any period beginning when two physicians licensed to practice medicine certify in writing that, in their opinion, the individual, as a result of illness, age or other cause, no longer has the capacity to act prudently or effectively in financial affairs and continuing until two such physicians (whether or not those making the initial determination) certify in writing that, in their opinion, the individual's capacity is restored. The effective date of an Event of Incapacity shall be the date of the order or decree adjudicating the incapacity, or the date of the certificate of the two physicians described above, whichever first occurs.

"Hartsville site" shall have the meaning set forth in Exhibit D.

"IRS" shall mean the Internal Revenue Service.

"Involuntary Transferee" shall have the meaning set forth in Section 4.2.

"Note" shall have the meaning set forth in Section 4.7.

"Percentage Interest" means, with respect to any Shareholder as of any date, the result (expressed as a percentage) obtained by dividing the number of Shares held by the Shareholder by the number of Shares of Common Stock then issued and outstanding.

~~"Involuntary Transferee" shall have the meaning set forth in Section 4.2.~~

~~"Managing Shareholder" shall mean the President of the Corporation.~~

~~"Note" shall have the meaning set forth in Section 4.7.~~

"Permanent Disability" occurs when the insurance carrier providing Disability Insurance to the Shareholder has determined that the Shareholder has a total disability.

"Person" shall mean an individual or a corporation, association, partnership, joint venture, organization, business, trust, or any other entity or organization, including a government or any subdivision or agency thereof.

"Physician" shall mean a person with an M.D. or D.O. degree and licensed as a physician in the State of South Carolina.

"Purchase Price" means that amount paid a Departing Shareholder as set forth in Section 4.5 and paid in accordance with Sections 4.6 and 4.7.

~~"~~"Qualified Person~~"~~" shall mean an individual who is licensed to practice medicine in the State of South Carolina in the specialty area of ~~Otolarygology surgery~~Otolaryngology.

"Remaining Shareholders" are those Shareholders retaining Shares in Corporation after the Transfer of Shares, disqualification, termination, Disability or death of a Shareholder.

"~~Retirement Notice~~Richland site" shall have the meaning set forth ~~under the term Approved Retirement~~in Exhibit E.

"Severance Payment" shall have the meaning set forth in Exhibit C.

"Shareholder" or "Shareholders" shall have the meaning set forth in the preamble.

"Shares" means any Common Stock purchased or otherwise acquired by any Shareholder or any equity securities issued or issuable directly or indirectly with respect to the Common Stock.

"Sweep Distribution" shall have the meaning provided in Section 3.10(b).

"Transfer" shall have the meaning set forth in Section 4.1.

"Transferred Shares" shall have the meaning set forth in Section 4.2.

ARTICLE III

MANAGEMENT AND CONTROL; CAPITAL CONTRIBUTIONS

Section 3.1 General. The business and affairs of the Corporation shall be managed, controlled and operated in accordance with its Articles of Incorporation and this Agreement, as the same may be amended from time to time, except that the Articles of Incorporation shall not be amended in any manner that would conflict with, or be inconsistent with, the provisions of this Agreement.

Section 3.2 ~~Corporation Shall Have No Board of Directors and the Powers of a Board of Directors Shall be Exercised by the Shareholders. As the Articles of Incorporation have dispensed with the Board of Directors pursuant to S.C. Code Ann. § 33-18-210, all corporate powers shall be exercised by or under the authority of, and the business and affairs of the Corporation shall be managed under the direction of, the Shareholders. The Shareholders shall hold an annual meeting on or around Labor Day each year at which the officers of the Corporation shall be elected for terms that will commence on January 1 of the succeeding year. A special meeting of the Shareholders may be called at any time by any Shareholder upon ten (10) days written notice to each Shareholder. Notice of a meeting may be waived in writing by a Shareholder.~~Board of Directors.

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Section 3.2.1 Election and Number. The affairs of the Corporation shall be managed by a Board of Directors consisting of up to four (4) Directors; provided each Director must be a Shareholder and must be a person licensed to practice medicine in the State of South Carolina or otherwise authorized in South Carolina to provide a professional medical service described in the Corporation's Articles of Incorporation. The initial Directors, as of the Effective Date, are Robert Puchalski and Orville Dyce. The number of Directors may be increased, up to a maximum of four (4) Directors, in the discretion of and by the unanimous vote of the Board of Directors as required by Section 3.3.8. Provided, however, as long as the Corporation has a Shareholder, other than the Shareholder serving as the Chairman, residing in Darlington County, Kershaw County or Northeast Columbia (in the approved metropolitan area consisting of one of the developments on the east side of Spears Creek Church Road and South of Route 1 in Richland County, South Carolina), then at least one (1) Director must be appointed from each of these geographic areas in which a Shareholder resides. Except as provided in Exhibits C, D and E, the Board of Directors shall be elected at each annual meeting of Shareholders, and shall serve until their death, disability, removal, or until their successors shall have been elected and qualified. Interim vacancies on the Board of Directors may be filled by the Shareholders voting at any special meeting.

Section 3.2.2 Regular Meetings. A regular meeting of the Board of Directors shall be held annually, immediately following the annual meeting of Shareholders at the same place as such meeting of Shareholders is held. Except as provided in Exhibit C or as otherwise provided in this Agreement, at such meeting, the Board of Directors shall elect the officers of the Corporation. In addition to the annual meeting, at least six (6) regular meetings of the Board of Directors shall be held at such time and place as established by the Chairman.

Section 3.2.3 Special Meetings. Special meetings of the Board of Directors shall be held whenever ordered by the Chairman or by a majority of the Directors in office provided the exigencies of the circumstances require that the Board of Directors meet prior to the next scheduled regular meeting. The Chairman shall determine the time and place for a special meeting of the Board of Directors. The Chairman shall provide at least forty-eight (48) hours notice of the time, place and purpose for which a special meeting is to be held.

Section 3.2.4 Quorum and Voting. The presence of a majority of the Directors in office including the presence of the Director who serves as the Chairman, provided, a Director is then serving as the Chairman and is not suffering an Event of Incapacity that prevents him from participating in the meeting, shall constitute a quorum for the transaction of business, and the acts of a majority of the Directors present at a meeting at which a quorum exists shall be the acts of the Board of Directors. The presence of a quorum shall not affect a unanimous voting requirement of the Board of Directors contained in this Agreement. If there is less than a quorum present, the majority of those present may adjourn the meeting from time to time and place to place and shall cause notice of each such adjourned meeting to be given to all absent Directors. With the permission of the Chairman, a Director may attend a meeting via a secure, two-way video or telephone conference which shall constitute presence at a meeting.

Section 3.2.5 Powers. Except as otherwise provided in this Agreement or the Articles of Incorporation, the Board of Directors shall have all the power and authority granted by law to it, including all powers necessary or appropriate to the management of the affairs of the

Corporation. The Board of Directors shall be treated in all respects as Directors in regular business corporations, and their rights, duties, responsibilities and powers shall be determined by the laws applicable to regular business corporations, subject only to the provisions of The South Carolina Professional Corporation Supplement, The South Carolina Statutory Close Corporation Supplement, this Agreement, and the Articles of Incorporation of the Corporation.

Section 3.2.6 Removal. Except as provided in Exhibits C, D and E, the entire Board of Directors or any individual Director may be removed from office without assigning any cause, at any meeting of the Shareholders, provided that written notice of the proposed action is given at least five (5) days prior to such meeting. When the Board of Directors or any of them are so removed, new Directors may then be elected to fill the unexpired term of those removed.

Section ~~3.3~~ 3.2.7 Voting Requirements. Except as otherwise provided in this Section, each outstanding Share entitled to vote shall be entitled to one vote upon each matter submitted to a vote at a meeting of the ~~Shareholders~~Board of Directors. In the event of a tie in the voting on any matter requiring a majority vote, the ~~Managing Shareholder~~Chairman shall break the tie by casting a second vote in his capacity as an officer to decide the matter.

Section 3.3 Shareholders.

Section 3.3.1 Annual Meeting. The annual meeting of the Shareholders of the Corporation shall be held within the first three months of each calendar year on the date and at such hour and place as determined by the Chairman and designated in the notice thereof.

Section 3.3.2 Special Meetings. Special meetings of Shareholders may be called by the Chairman, a majority of the Board of Directors, or the holders of not less than fifty (50%) percent of the Shares entitled to vote at the meeting if the exigencies of the circumstances require that the Shareholders meet prior to the annual meeting of the Shareholders. The Chairman shall determine the time and place of any special called meeting. Written notice of every special meeting shall be given to each Shareholder at least five (5) days prior to the meeting.

Section 3.3.3 Quorum. Seventy-five percent (75%) of the outstanding Shares of the Corporation entitled to vote, represented in person or by proxy, constitute a quorum at any meeting of Shareholders. However, only a Shareholder licensed to practice medicine in the State of South Carolina or otherwise authorized in South Carolina to provide a professional medical service described in the Corporation's Articles of Incorporation shall be appointed a proxy to vote shares of the Corporation at any meeting of the Shareholders.

Section 3.3.4 Voting of Shares. Each outstanding Share entitled to vote shall be entitled to one (1) vote on each matter submitted to a meeting of Shareholders.

Section 3.3.5 Cumulative Voting. Cumulative voting of Shares shall not be allowed.

Section 3.3.6 Preemptive Rights. No Shareholder shall be entitled to preemptive rights, and no shares of stock of any class issued by the Corporation shall be subject

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to any preemptive rights. However, the Corporation may grant preemptive rights, or similar rights, by contract.

Section 3.3.7 67% Supermajority Voting Requirements. Notwithstanding any other provision of this Agreement, the ~~Shareholders of the Corporation shall approve the~~ following actions of the Corporation ~~by~~must be recommended jointly by the Board of Directors and the Chairman, and then submitted to the Shareholders for approval by the affirmative vote of greater than ~~a~~ sixty-seven percent (67%) ~~vote of~~ the ~~Shareholders~~Shares:

(i) Merger, consolidation, joint venture, dissolution or liquidation of the Corporation;

(ii) Establishment of a new practice site for the Corporation's medical practice; and

(iii) Creation of any subsidiary organization or affiliation of the Corporation with any other entity for the purpose of the joint conduct of business or other programs whether in the form of participation in a corporation (either through the holding of capital stock or by membership), partnership, joint venture, co-tenancy, limited liability company, limited liability partnership or other form of ownership or control.

Section ~~3.3.2 Unanimous~~3.3.8 80% Supermajority Voting Requirements. The following actions of the Corporation require unanimous ~~consent of the Shareholders of the Corporation~~vote of the Board of Directors and an affirmative vote of eighty percent (80%) of the Shares:

(i) Amendments to the Articles of Incorporation or this Agreement;

(ii) Requirement of loans or ~~contribution~~contributions of capital from Shareholders;

(iii) The admission of a ~~shareholder~~Shareholder in the Corporation or acceptance of an offer of Transfer of Shares, including, but not limited to, preliminary offers or discussions with any person regarding admission as a ~~shareholder~~Shareholder; and

~~(iv) Termination of a Shareholder's Employment Agreement without cause provided that no Shareholder shall be entitled to vote for or against his or her termination and any Shares of a Shareholder who is subject to a vote for termination shall not be counted in determining whether the vote is unanimous. The foregoing sentence shall be construed as express authority to terminate a Shareholder's Employment Agreement in accordance with Section 2.3(c) of the Shareholder's Employment Agreement.~~

(iv) An increase or decrease in the number of Directors of the Corporation.

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Section ~~3.3.3~~3.3.9 Informal Action by Shareholders. Any action required or permitted to be taken at a meeting of the Shareholders may be taken without a meeting if one or more consents in writing, setting forth the action so taken, shall be signed by all of the Shareholders entitled to vote with respect to the subject matter thereof and are delivered to the Corporation for inclusion in the minute book. A consent signed under this section has the effect of a meeting vote and may be described as such in any document.

Section 3.4 Corporate Officers. The officers of the Corporation shall consist of a ~~President~~Chairman, Vice ~~President~~Chairman, Chief Executive Officer, Secretary and Treasurer. The ~~President~~Chief Executive Officer may also be referred to as the "~~Managing Shareholder~~CEO" of the Corporation. No Shareholder shall be eligible to serve as ~~a Managing Shareholder~~the Chairman until such person has been a Shareholder for three (3) complete years. ~~Section 3.4.1 Number. The officers of the Corporation shall be a President, a Vice President, a Secretary, and a Treasurer, each of whom shall be appointed by the Shareholders.~~ Such other officers and assistant officers as may be deemed necessary, ~~including any Vice Presidents,~~ may be appointed jointly by the ~~Shareholders~~Board of Directors and the Chairman. If specifically authorized by the ~~Shareholders~~Board of Directors, an officer may appoint one or more assistant officers. The same individual may simultaneously hold more than one office in the Corporation.

Section ~~3.4.2~~3.4.1 Appointment and Term of Office. Except as provided otherwise in this Agreement, the officers of the Corporation shall be appointed by the ~~Shareholders~~Board of Directors for a term of one (1) year. (The designation of a specified term grants to the officer no contract rights and the Shareholders can remove the officer at any time prior to the termination of such term). Once elected, an officer shall serve until their successor is appointed or until they resign, die, or until they are removed in the manner provided in ~~§3.3 of this Article III.~~Section ~~3.4.3~~3.4.2.

Section 3.4.2 Removal. Except as provided in Exhibit C and as otherwise provided in this Agreement, ~~the President may be removed by the Shareholders at any time, with or without cause, upon the affirmative vote of Shareholders holding at least two-thirds (2/3) of the issued and outstanding Shares. The other officers~~any officer other than the Chairman may be removed at any time, with or without cause, upon recommendation by the ~~President~~Chairman and the affirmative vote of ~~Shareholders holding at least a majority of the issued and outstanding Shares.~~the Board of Directors. Except as provided in Exhibit C, the Chairman may be removed by the affirmative vote of the Board of Directors. Such removal shall be without prejudice to the contract rights, if any, of the person so removed. Appointment of an officer shall not of itself create contract rights.

Section 3.4.3 Chairman. The Chairman shall preside at and serve as the chairman of the meetings of the Shareholders and of the Board of Directors. The Chairman (but not the CEO) shall have strategic oversight of the medical management and financial functions of the Corporation. Unless the Chairman delegates this authority to another officer, he shall be the sole officer with authority over employed physician matters, including, but not limited to: physician staffing and call coverage schedules, physician vacation schedules, physician continuing medical education schedules, physician residency requirements, physician compensation, administrative responsibilities and physician discipline. The Chairman shall sign

all checks of the Corporation unless he has delegated this authority in writing to another officer. If necessary, the Chairman may sign, with the Vice Chairman or any other proper officer of the Corporation thereunto authorized by the Board of Directors, certificates for Shares and deeds, mortgages, bonds, contracts, or other instruments which the Board of Directors have authorized to be executed. The Chairman shall perform such other duties and have such other authority as may from time to time be delegated by the Board of Directors. If the Chairman incurs an Event of Incapacity, then the Vice Chairman shall perform the duties of the Chairman during the pendency of the Event of Incapacity, and when so acting, shall have all the powers of and be subject to all the restrictions upon the Chairman. Upon the death or resignation of the Chairman or upon an Event of Incapacity lasting for more than one hundred eighty (180) consecutive days, the Vice Chairman shall, without a Board of Directors vote, become the Chairman.

Section 3.4.4 ~~President. The President~~Vice Chairman The Vice Chairman shall be appointed and may be removed from office by the Board of Directors. The Vice Chairman must be a member of the Board of Directors. If the Chairman incurs an Event of Incapacity, then the Vice Chairman shall perform the duties of the Chairman during the pendency of the Event of Incapacity, and when so acting, shall have all the powers of and be subject to all the restrictions upon the Chairman. If necessary, the Vice Chairman may sign, with the Chairman or any other proper officer of the Corporation thereunto authorized by the Board of Directors, certificates for Shares and deeds, mortgages, bonds, contracts, or other instruments which the Board of Directors have authorized to be executed.

Section 3.4.5 Chief Executive Officer. At the Chairman's written request, the CEO shall be the principal executive officer of the Corporation and, subject to the control of the ~~Shareholders~~Chairman and the Board of Directors, shall in general supervise and control all of the business and affairs of the Corporation. ~~He shall have~~ other than the strategic development of the Corporation's business, physician management (including physician compensation), medical management, financial oversight and check signing authority reserved to the Chairman. The CEO shall directly report to the Chairman. He shall, in direct consultation with the Chairman, have responsibility for all employees and shall determine staffing levels ~~and~~, assign work descriptions and duties ~~for~~, set salaries and bonuses and determine promotions and transfers of all employees of the Corporation. ~~He shall, when present, preside at all meetings of the Shareholders. He may sign, with the Secretary or any other proper officer of the Corporation thereunto authorized by the Shareholders~~; provided, however, employee promotions and transfers shall be made with the approval of the Chairman. With the exception of checks, certificates for Shares and deeds, mortgages, ~~bonds, contracts, or other instruments which the Shareholders have authorized to be executed, except in~~or bonds and other cases where the signing and execution thereof shall be expressly delegated by the ~~Shareholders or by these Bylaws~~Board of Directors to some other officer or agent of the Corporation, or shall be required by law to be otherwise signed or executed; ~~and in general shall perform all duties incident to the office of President~~, he may sign, with the Chairman or any other proper officer of the Corporation thereunto authorized by the Board of Directors, contracts or other instruments which the Board of Directors have authorized to be executed; and such other duties as may be prescribed by the ~~Shareholders from time to time.Section 3.4.5 Vice President. If appointed, or in the event of the President's death or inability to act, the Vice President (or in the event there be more than one Vice President, the Vice Presidents in the order designated at the time of their election, or in the absence of any designation then in the order of their appointment) shall~~

~~perform the duties of the President, and when so acting, shall have all the powers of and be subject to all the restrictions upon the President. (If there is no Vice President then the Treasurer shall perform such duties of the President.) Any Vice President may sign, with the Secretary or an assistant Secretary, certificates for Shares the issuance of which have been authorized by resolution of the Shareholders; and shall perform such other duties as from time to time may be assigned to him by the President or by the Shareholders~~Board of Directors from time to time. The CEO shall also be responsible for organizing and implementing all customary Corporation sponsored employee events outside of the office setting.

Section 3.4.6 Secretary. The Secretary shall: (a) keep the minutes of the proceedings of the ~~Shareholders~~Board of Directors in one or more books provided for that purpose; (b) see that all notices are duly given in accordance with the provisions of ~~these Bylaws~~this Agreement or as required by law; (c) be custodian of the corporate records ~~and of any seal of the Corporation and if there is a seal of the Corporation see that it is affixed to all documents the execution of which on behalf of the Corporation under its seal is duly authorized~~; (d) when requested or required, authenticate any records of the Corporation; (e) keep a register of the post office address of each Shareholder which shall be furnished to the Secretary by such Shareholder; (f) ~~sign with the President, or a Vice President, certificates for Shares, the issuance of which shall have been authorized by resolution of the Shareholders; (g)~~ have general charge of the stock transfer books of the Corporation; and (~~h~~g) in general perform all duties incident to the office of Secretary and such other duties as from time to time may be assigned to him by the ~~President~~CEO or by the ~~Shareholders~~Board of Directors. The Secretary shall be appointed by the CEO.

Section 3.4.7 Treasurer. The ~~Managing Shareholder~~Chairman of the Board shall ~~also serve as~~appoint the Treasurer. The Treasurer, in close consultation with the Corporation's accounting and tax advisor, shall: (a) have charge and custody of and be responsible for all funds and securities of the Corporation; (b) receive and give receipts for moneys due and payable to the Corporation from any source whatsoever and deposit all such moneys in the name of the Corporation in such banks, trust companies or other depositaries as shall be selected by the ~~Shareholders; and (c~~Board of Directors; and (c) coordinate with the Corporation's accounting and tax advisor at the end of each calendar year quarter to provide financial updates directly to the Board of Directors at such time; and (d) in general perform all of the duties incident to the office of Treasurer and such other duties as from time to time may be assigned to him by the ~~President~~CEO or by the ~~Shareholders~~Board of Directors. If required by the ~~Shareholders~~Board of Directors, the Treasurer shall give a bond for the faithful discharge of his duties in such sum and with such surety or sureties as the ~~Shareholders~~Board shall determine.

Section 3.4.8 ~~Assistant Secretaries and Assistant Treasurers. The assistant secretaries, when authorized by the Shareholders, may sign with the President or a Vice President certificates for Shares the issuance of which shall have been authorized by a resolution of the Shareholders. The assistant Treasurers shall respectively, if required by the Shareholders, give bonds for the faithful discharge of their duties in such sums and with such sureties as the Shareholders shall determine. The assistant secretaries and assistant Treasurers in general, shall perform such duties as shall be assigned to them by the Secretary or the Treasurer, respectively, or by the President or the Shareholders.~~Section 3.4.9 Salaries. The salaries of the officers shall

be fixed from time to time ~~by the Shareholders~~jointly by the Board of Directors and the Chairman after a recommendation is made by the Chairman.

Section 3.5 Shareholder Guarantee. The Shareholders agree to execute any guarantee necessary to secure the obligations of the Corporation as approved by ~~a majority of the Shareholders~~the Board of Directors.

Section 3.6 Capital Contributions. Additional Capital Contributions must be approved by the unanimous consent of all Shareholders as provided in Section ~~3.3.2.~~3.3.8(ii). None of the Shareholders shall at any time be required to contribute a larger sum than the Shareholder's ~~Equal~~ Percentage Interest of the total amount of any capital contribution. This paragraph shall not apply to a Shareholder's initial purchase of stock in the Corporation.

Section 3.7 Confidentiality. The Shareholders shall not disclose any information relating to the Corporation regarding the Corporation's operations, records, contracts, compensation paid by the Corporation to the Shareholders or other employees, patients, or procedures, to any persons other than employees of the Corporation, federal and state regulatory agencies, third-party reimbursement agencies, the Corporation's accountants, lawyers, consultants and other professional advisors, without the prior written consent of the Corporation or, as the case may be, an enforceable subpoena, or the final order of a court of competent jurisdiction. Each Shareholder shall use information related to the business of the Corporation to advance the Corporation's best interests, and not to benefit their personal interest. All forms, templates, systems (including billing systems) are the property of the Corporation and shall not be used apart from the Corporation by a Shareholder or Departing Shareholder without the written consent of the Corporation. This provision shall survive the termination of this Agreement or the termination of a Shareholder's Employment Agreement. This confidentiality clause is not intended to restrict or limit any confidentiality clause contained in a Shareholder's Employment Agreement. Accordingly, any separate confidentiality clause contained in a Shareholder's Employment Agreement will be separately enforceable in addition to the terms contained in this Agreement.

Section 3.8 Banking. The Corporation's banking arrangements with any banking institution shall provide that deposits may be withdrawn only by check, wire transfer or other similar instruments and valid only when signed by the ~~Managing Shareholder~~Chairman or other Person authorized (by appropriate corporate resolutions) by the Corporation.

Section 3.9 ~~Founding Shareholder Protection Provisions. The following provisions shall apply to Robert Puchalski during the term of his employment with the Corporation:~~

~~(i) The Shareholders agree to vote their Shares each year to elect Robert Puchalski as the Managing Shareholder through the end of the calendar year 2014. Thereafter, the Managing Shareholder may only be removed from office "for cause" by the unanimous vote of all Shares excluding the Shares owned by the Managing Shareholder.~~

~~(ii) If Robert Puchalski's Employment Agreement is terminated without cause, as provided in Section 2.3(c) of his Employment Agreement, then~~

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simultaneously with the termination, the Employment Agreement shall be deemed amended to provide:

(a) Section 3.10 of the Employment Agreement shall not be applicable to prohibit or otherwise restrict Robert Puchalski from discussing and hiring Stephanie Tetterton, Robert Puchalski's current physician assistant, or any other employee of the Corporation hired prior to March 31, 2005;

(b) Section 3.9 of the Employment Agreement and the Covenant Not to Compete referenced therein shall allow Robert Puchalski to conduct a medical practice at one (1) location in Kershaw or Richland County, South Carolina, with such location determined in his sole discretion, without any restrictions imposed by application of Section 3.9 or the Covenant Not to Compete referenced therein; and

(c) Section 3.7 of the Employment Agreement shall be amended to allow Robert Puchalski to retain copies of all medical records of patients treated by him while an owner of the Corporation.

(iv) If Robert Puchalski's Employment Agreement is terminated without cause, as provided in Section 2.3(c) of his Employment Agreement, then simultaneously with the termination, Section 3.7 of this Agreement shall be deemed amended to provide that Robert Puchalski shall be entitled to use any forms or systems of the Corporation in place prior to March 31, 2005.

(v) Robert Puchalski shall retain Stephanie Tetterton, or her replacement, as his physician assistant while he is employed by the Group.

(vi) Notwithstanding anything in this Agreement or Robert Puchalski's Employment Agreement to the contrary, in the event of a purchase of all of Robert Puchalski's Shares by the Corporation, for any reason, the purchase price shall be 100% of the Purchase Price and the 50% reduction in Section 4.5 shall not be applicable.

Section 3.10 East Campus Protection Provision. If any Shareholder practicing primarily at the Hartsville, South Carolina, (the "Hartsville site") and the Cheraw, South Carolina (the "Chesterfield site"), practice sites is terminated without cause as provided in Section 2.3(c) of such Physician's Employment Agreement and the Hartsville site is closed either within 18 months prior or 18 months subsequent to the termination, then such Employment Agreement shall be deemed amended upon the later of the date of termination of the Employment Agreement or date of the closing of the Hartsville site to provide:

(a) Section 3.9 of the Employment Agreement and the Covenant Not to Compete referenced therein shall be void as to any restrictions within Darlington or Chesterfield Counties, South Carolina.

(b) Section 3.10 of such Shareholder's Employment Agreement shall be amended to remove any restrictions from hiring Corporation employees whose jobs required they perform a majority of their services at the Hartsville site or the Chesterfield site.

(c) Section 3.7 of such Shareholder's Employment Agreement shall be amended to provide that such Shareholder shall be entitled to retain copies of medical records of patients treated by such Shareholders at the Hartsville site or the Chesterfield site.

For purposes of this Section 3.10, an office site will be deemed to be "closed" upon the earlier of the time it: (i) is operating for three (3) consecutive calendar months providing less than fifty percent (50%) of the level of services to patients that it customarily provides, or (ii) when it physically closes it doors for business on a permanent basis.

Section 3.11 Richland County Campus Protection Services. If any Shareholder practicing primarily at the Richland County, South Carolina, practice site (the "Richland site") is terminated without cause as provided in Section 2.3(c) of such Physician's Employment Agreement and the Richland site is closed either within 18 months prior or 18 months subsequent to the termination, then such Employment Agreement shall be deemed amended upon the later of the date of termination of the Employment Agreement or date of the closing of the Richland site to provide:

(a) Section 3.9 of the Employment Agreement and the Covenant Not to Compete referenced therein shall be void as to any restrictions within Richland County, South Carolina.

(b) Section 3.10 of such Shareholder's Employment Agreement shall be amended to remove any restrictions from hiring Corporation employees whose jobs required they perform a majority of their services at the Richland site.

(c) Section 3.7 of such Shareholder's Employment Agreement shall be amended to provide that such Shareholder shall be entitled to retain copies of medical records of patients treated by such Shareholders at the Richland site.

For purposes of this Section 3.11, an office site will be deemed to be "closed" upon the earlier of the time it: (i) is operating for three (3) consecutive calendar months providing less than fifty percent (50%) of the level of services to patients that it customarily provides, or (ii) when it physically closes it doors for business on a permanent basis.

Section 3.12 Managing Shareholder Protection Provision. The Managing Shareholder shall have at least two (2) extra half days each week during normal business hours to perform administrative duties of the practice in lieu of providing patient services. For purposes of the Managing Shareholder's Employment Agreement, the extra half days referenced above shall be counted as annual leave and credited to the Managing Shareholder's Total Production in the manner described in Section 4.2(c) of the Employment Agreement. Section 3.13 Personnel.

~~The Managing Shareholder~~Personnel. The CEO, in consultation with the Chairman, shall have the right to hire and terminate any employee of the Corporation except that the hiring or termination of a ~~physician, physician~~Physician (other than as provided in Section 3.3.8) or Physician extender, ~~or office manager~~ shall require the ~~vote of a majority of the Shareholders~~approval of the Board of Directors. The duties, authority, limitations and compensation of officers and employees shall be determined ~~by the majority vote of Shareholders~~jointly by the Board of Directors and the Chairman unless otherwise provided in this Agreement. Additional Shareholder provisions are included in Exhibits C, D, E, F and G to this Agreement.

~~Section 3.14~~Section 3.10 Distributions. Each year all compensation, including bonuses, shall be paid to the Shareholders in their capacity as employees and all operating expenses of the Corporation shall be paid prior to any distribution of profits of the Corporation. Subject to available cash flow, after the payment of all compensation and operating expenses, the Corporation shall make the following distributions to the Shareholders:

(a) Every two weeks~~,~~ Physician shall receive a distribution in such amount as recommended by the ~~Managing Shareholder~~Chairman, based on available cash flow, from time to time and jointly approved by ~~a majority~~the Board of Directors and the ~~Shareholders~~Chairman (the "~~Biweekly~~Bimonthly Distribution"); and

(b) On a monthly basis, Physician shall receive an amount established by the ~~Managing Shareholder~~Chairman as a month-end distribution (the "Sweep Distribution").

Section ~~3.15~~3.11 Expenditures. ~~The Managing Shareholder~~Prior to the end of each fiscal year the Chairman shall present an operating budget to the Board of Directors for approval. Except for Sweep Distributions, the Chairman shall not make any disbursements of cash or assets of the Corporation or incur any debt on behalf of the Corporation not provided for in the approved budget in excess of Ten Thousand ~~and 00/100~~ ($10,000) dollars without consultation and ~~agreement by a majority of the Shareholders with the exception of recurring ordinary and necessary expenses of the Corporation which may be disbursed without consultation and agreement by the Shareholders~~approval of the Board of Directors. Provided, however, the Chairman shall have the flexibility to apply unexpended budget funds for expenditures of items of a similar nature. In the event the Board of Directors fails to approve a budget in advance of a fiscal year then the Corporation shall operate pursuant to the budget approved in the prior year.

Section ~~3.16~~3.12 Loans To and From Shareholders. No Shareholder shall have any obligation to make contributions to the Corporation other than those as mutually agreed upon. Any Shareholder that makes a loan to the Corporation shall do so in writing with such loan not being effective unless authorized in writing by the ~~Managing Shareholder~~Chairman.

Section 3.13 Accommodations for On-Call Physicians. To the extent that (i) a Shareholder has moved their full-time residence out of the Coverage Area (as defined in the Shareholder's Employment Agreement) with the permission of the Chairman and the Board of Directors (except to the extent permission may not be required pursuant to another provision of

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this Agreement) after nine (9) years of employment as a Shareholder, or (ii) the Corporation engages a locum tenens physician to provide call coverage, then the CEO shall arrange for the Corporation to provide a temporary residence in Camden, South Carolina for such Shareholder or locum tenen physician to use while providing call coverage on behalf of the Corporation.

Section 3.14 Part-Time Status. After ten (10) years of continuous employment as a Shareholder employee, a Shareholder may, with 180 days notice, request to change his employment status to part-time status. A request to change to part-time status must be approved by the Chairman and the Board of Directors of the Corporation. If approved, the Shareholder shall be required to sell fifty percent (50%) of his Shares to the Corporation (in accordance with the terms in Section 4.6) as a condition precedent to changing to part-time status. A change to part-time status shall not affect a Shareholder's right to maintain his position as, or become appointed to a position of, an officer of the Corporation. Upon commencement of part-time status, the Shareholder's scheduled clinical hours and operative time shall be the equivalent to five (5) one-half clinical days, (ii) the Shareholder's Base Compensation (as defined in the Shareholder's Employment Agreement) shall be reduced by fifty percent (50%), (iii) the Shareholder's Bi-weekly Distributions, Sweep Distributions, and Non-Metropolitan Bonuses shall be reduced by fifty percent (50%), and (iv) in the event the Shareholder elects Sabbatical Leave (as defined in the Shareholder's Employment Agreement) while on part-time status then the Shareholder's Base Compensation shall by reduced by fifty percent (50%) of the amount specified in Section 4.4 of the Shareholder's Employment Agreement. Upon a change to part-time status, the Shareholder's call coverage responsibilities will be reduced, if at all, at the discretion of the Corporation's Board of Directors provided that any reduction shall also result in a proportionate reduction in the Shareholder's Pay for Call Stipend (as defined in the Shareholder's Employment Agreement). In the event the Corporation elects to admit a part-time physician employee as a shareholder working on a part-time basis, then such physician shall only be permitted to purchase twenty-five percent (25%) of the amount of Shares of a full-time Shareholder and shall have such call coverage responsibilities and transaction terms as determined by the Board of Directors.

ARTICLE IV

RESTRICTIONS ON TRANSFER OF SHARES

Section 4.1 General. No Shareholder may sell, assign, transfer, grant, give away, hypothecate, pledge or in any manner dispose of or encumber (""Transfer"") any Common Stock whether presently owned or hereafter acquired, except as specifically set forth in this Article IV. No Transfer of Common Stock shall be valid or recognized in the books and records of the Corporation without first obtaining the written consent of the Corporation and the other Shareholders or, in the absence of such written consent, without first complying with the terms and conditions of this Agreement. No Transfer of any Common stock pursuant to this Agreement shall be valid or recognized on the books and records of the Corporation as a Transfer of the interest in the Corporation unless such transferee is a Qualified Person who first becomes a party to this Agreement and evidences his or her consent to, and approval of, the terms and provisions hereof by execution of this Agreement. If any Common Stock is transferred in accordance with this Article IV, the Employment Agreement of such Shareholder shall terminate effective upon such transfer.

Section 4.2 Involuntary Transfers or Transfers According to Judicial Process. Any Person (the ""Involuntary Transferee"") who becomes the holder of any Shares or possessor of any certificates representing Shares (the ""Transferred Shares"") by virtue of any judicial process, attachment, bankruptcy, receivership, execution, insolvency proceeding and competency proceeding, judicial sale or divorce decree (a "Departure Event") shall immediately offer all such Shares to the Corporation whenever requested by the Corporation to do so. The Corporation shall have the obligation to purchase the Transferred Shares, which right shall be exercised by written notice given to the Involuntary Transferee within 30 days after the Shares are presented to the Corporation for registration in the Involuntary Transferee's name. None of such Shares will be entitled to any vote nor will any dividend or other distribution be paid, allowed or made upon any of such Shares for so long as such Involuntary Transferee fails to comply with such request. The Corporation shall pay such holder of any Shares or possessor of such certificates representing Shares pursuant to this Section in accordance with Sections 4.5, 4.6 and 4.7 of this Agreement. The Shareholder's salary and bonus set forth under such Shareholder's Employment Agreement and the distributions due the Shareholder pursuant to this Agreement will be reduced and the reduction applied to the Purchase Price set forth in Section 4.5, by such amounts as determined in the Corporation's sole discretion, until the Purchase Price is paid.

Section 4.2.1 Transfer Upon Shareholder Disqualification. In the event that a Shareholder is no longer authorized to practice medicine in South Carolina in the area of ~~Otolarygology~~Otolaryngology, other than for a period lasting no longer than five months, (a "Departure Event"), then the Corporation shall have the obligation to purchase the Departing Shareholder's Shares. The Corporation shall pay such holder of any Shares in accordance with Sections 4.5, 4.6 and 4.7 of this Agreement.

Section 4.3 Transfer Upon Death or Permanent Disability of Shareholder. In the event of the death or Permanent Disability (each, a ""Departure Event"") of a Shareholder, the Corporation or the Remaining Shareholders shall purchase, according to their ~~Equal Percentages~~Percentage Interests, and the Departing Shareholder agrees to sell, all Shares owned by the Departing Shareholder in accordance with Sections 4.5, 4.6 and 4.7 of this Agreement.

Section 4.3.1 Simultaneous Death. If all of the Shareholders shall die simultaneously or shall die within thirty (30) days of one another, then there shall be no obligation by any party herein to purchase the Shares of any Shareholder in the Corporation, unless a sale shall have taken place prior to the first death, pursuant to this Agreement. As long as no such prior sale shall have occurred, the Departing Shareholder's interest in the proceeds of the liquidation of the Corporation and the proceeds of any insurance policies owned pursuant to Article V of this Agreement shall be delivered to the estate of such deceased Shareholder.

Section 4.4 Compulsory Redemption of Stock Upon Termination of Employment. If a Shareholder's Employment Agreement is terminated: (i) by the Corporation pursuant to Section 2.2. of the Shareholder's Employment Agreement, (ii) by the Shareholder pursuant to Paragraph 2.3(a) of the Shareholder's Employment Agreement, or (iii) because the Shareholder elects not to renew his Employment Agreement upon the expiration of its term (each a ""Departure Event""), the Corporation shall purchase such Departing Shareholder's Shares in the Corporation in exchange for the payment as provided in Sections 4.5, 4.6, and 4.7 of this Agreement. Nothing

in this Section shall affect a Shareholder's right to arbitrate a decision of the Corporation to terminate his Employment Agreement.

Section 4.4.1 Modification of Employment Agreement by the Corporation. If the Corporation elects not to extend the term of a Shareholder's Employment Agreement by giving notice to the Shareholder in accordance with such agreements, then the Corporation must offer a new Employment Agreement to all Shareholders on substantially identical terms.

Section 4.5 Purchase Price. The Corporation or the Remaining Shareholders, as the case may be, shall pay the Departing Shareholder a purchase price ("Purchase Price") for the Shares in an amount equal to: (A) one-fourth of the total collected revenue of the ~~group~~Group for the twelve whole calendar months preceding the Departure Event ~~divided~~multiplied by the ~~number of Shareholders of the Corporation including the Departing Shareholder plus (B) one-third of the sum of~~Departing Shareholder's Percentage Interest plus (B) the net operating capital of the Corporation consisting of the sum of the cash (to include cash equivalents and marketable securities, but not to include shares in any SCENT owned joint venture) of the Corporation and one third the accounts receivable of the Corporation, booked in accordance with the Corporation's normal accounting methods, and ~~the cash (to include cash equivalents and marketable securities) of the Corporation divided by the number of Shareholders of the Corporation including~~minus (C) any liabilities of the Corporation accrued up to the date of the Departure Event with such total multiplied (D) by the Departing Shareholder~~, and minus (C~~'s Percentage Interest plus (E) a Shareholder's original investment ($100,000.00), and minus (F) any amount, if any, owed by the Departing Shareholder as of the effective date of the Termination of Employment under Section 4.6.4 of this Agreement. A Departing Shareholder shall not be entitled to receive any distribution of any interest that the Corporation owns in another entity (whether a corporation, partnership, limited liability company or otherwise). The Purchase Price is expressed as a formula as follows:

> **Purchase Price** = (0.25 x Corporation's trailing 12 month collected revenue x Departing Shareholders Percentage Interest) +((cash + 1/3(Corporation's total A/R) – Corporation's Debt) x Departing Shareholders Percentage Interest) + $100,000 – any amount Departing Shareholder owes the Corporation.

Section 4.5.1 Sale of Affiliates. The Departing Shareholder also agrees that he shall sell ~~his~~any interest he owns in SCENT Land Holdings, LLC ~~at the price specified in that company's operating agreement~~; SOMNUS, USA, LLC; and SCENT Equipment Holdings, LLC in accordance with the terms of each entities governing instruments (unless provided otherwise in the governing instruments) at the same time the Shareholder's Shares are redeemed pursuant to this Agreement.

Section 4.5.2 50% Reduction in Purchase Price. Provided, however, the Purchase Price, as calculated above, shall be reduced by fifty percent (50%) if (i) the term of ~~Physician~~the Shareholder's employment did not consist of at least thirty-six (36) whole calendar months, (ii) ~~Physician~~the Shareholder fails to renew or elects to terminate the Employment Agreement without cause pursuant to ~~Section~~Sections 2.1 or 2.3(d) of the Employment Agreement and ~~Physician~~the Shareholder fails to give the Group the twelve (12) whole calendar months written notice ~~requested by that provision~~required by Sections 2.1 or 2.3(d), or (iii)

Plaintiffs' Ex 0012.022

~~Physician~~the Shareholder is terminated pursuant to Sections 2.2(~~c~~) (~~hb~~), (c), (d), (e), (f), (h), (i), (j) or (k) or Section 2.3(a). For clarity, except as provided in the preceding sentence or Section 4.5.3 below, any termination pursuant to Section ~~2.2(a)(death~~2.1(nonrenewal with twelve months notice), Section 2.2(~~ba~~)(disability), Section 2.2(~~ig~~)(change in law), Section 2.3(a)(a material breach by the Corporation), Section 2.3(b)(mutual agreement), or Section 2.3(c)(~~by the group without cause~~death) or Section 2.3(d)(~~by Physician~~ (by the Shareholder without cause with twelve months notice) shall be subject to payment for ~~Physician~~the Shareholder's Shares at the Purchase Price. The Corporation and the Departing Shareholder may agree that such payments may be made in cash or as a distribution of corporate assets in kind to satisfy the Corporation's obligations. Notwithstanding anything in this Agreement to the contrary, a Departing Shareholder shall not be entitled to any distribution from the Corporation nor be entitled to vote the Shares subsequent to the ~~Event of~~ Departure Event.

Section 4.5.3 $100,000 Reduction in Share Purchase Price. Notwithstanding anything in this Agreement to the contrary, in the event a Departing Shareholder's Employment Agreement with the Corporation was terminated due to a violation of the covenants contained in Section 3.1(f) of the Employment Agreement (related to the requirement that the Shareholder maintains a full-time residence in the Coverage Area (as defined in the Shareholder's Employment Agreement), then the Share Purchase Price for the Departing Shareholder shall be reduced by $100,000 (a Shareholder's original investment), unless this provision is overridden in writing by the unanimous vote of the remaining Shareholders. In the event the Chairman makes a determination that a Departing Shareholder violated the confidentiality covenants in Section 3.7 of this Agreement or in Article V of their Employment Agreement and such determination is confirmed by the Board of Directors excluding the Departing Shareholder, then the Departing Shareholder's Share Purchase Price shall be reduced by $100,000 (a Shareholder's original investment).

Section 4.6 Method and Schedule of Payment of Purchase Price.

Section 4.6.1 Payment of Purchase Price. The Corporation or the Remaining Shareholders, as the case may be, shall commence payment of the Purchase Price as defined in Section 4.5 above to the Departing Shareholder, within sixty (60) days after the following applicable date: (i) effective date of the Departing Shareholder's Termination Date; (ii) the effective date that a Shareholder is deemed to have a "Permanent Disability"; (iii) the effective date that a Shareholder is disqualified from being a ~~shareholder~~Shareholder in the Corporation; (iv) the date of receipt of notice of the qualification of the personal representative of the estate of a Departing Shareholder; or (v) the date of notice to the Involuntary Transferee that the Corporation will purchase the Transferred Shares. To the extent permitted by applicable law, the Purchase Price shall be paid to the Departing Shareholder in sixty (60) equal monthly installments as evidenced by a promissory note. Notwithstanding the above, any life insurance proceeds or any Disability "buy-out" insurance proceeds received from such insurance policies on the Shareholder shall be paid as provided for in Article V of this Agreement.

Section 4.6.2 Closing of Sale of Shares. Upon the payment of the first installment of the Purchase Price as provided above in this Article IV, the Departing Shareholder shall endorse all of the Shares to be sold and deliver such Shares to an escrow agent appointed by the Corporation together with: (i) the appropriate amount of federal and state documentary

stamps affixed thereto; and, if applicable; (ii) the appropriate tax waiver from the Estate Tax Division of the South Carolina Department of Revenue; and (iii) a certificate of discharged property from lien of federal estate tax. The Shares shall be held by the escrow agent until such time as the Purchase Price for the Shares has been fully paid. Upon payment in full of the Purchase Price, the escrow agent shall deliver the Shares together with all endorsements to the Remaining Shareholders or the Corporation, as applicable. Title to the Shares shall be deemed to have passed to the Remaining Shareholders upon the payment of the first installment of the Purchase Price.

Section 4.6.3 Shareholder Representations. The Departing Shareholder shall deliver at the closing and as a condition of sale, the following written representations: (i) that he or she is the owner and holder of record of such Shares being sold, that such Shares are free and clear of any and all liens, security interests, pledges, judgments or other encumbrances of any kind, and that the Departing Shareholder has full power to sell the Shares being sold; (ii) that the Departing Shareholder has not entered into on behalf of the Corporation, any agreement, commitment or understanding binding upon the Corporation except for transactions in the normal course of business, in amounts, quantities and nature which are normal and reasonable in relation to the normal and reasonable requirements of the Corporation's businesses as have been previously conducted and which have been fully recorded on the books and records of the Corporation or fully disclosed to the Shareholders of the Corporation; (iii) that the Departing Shareholder has not incurred any debt or other charges for which the Corporation may be liable except for normal and reasonable charges in connection with the business of the Corporation and that Departing Shareholder has surrendered to the Corporation all credit cards issued to the Corporation in the Departing Shareholder's possession.

Section 4.6.4 Setoff. Any damages resulting from the breach of any of the foregoing representations or a breach of ~~Section 3.6~~Sections 3.7, 4.5.1 or 5.2 shall be applied against the balance of the Purchase Price in the same manner as if there were a prepayment of the Purchase Price. The intent of this provision is to provide for a reduction in the Purchase Price as a result of such a breach. Additionally, any damages owed to the Corporation by the Departing Shareholder under ~~an~~the Employment Agreement between the Corporation and the Departing Shareholder shall be setoff against the Purchase Price. To the extent such adjustment or amount required to be paid shall exceed the balance due on the Purchase Price, the Departing Shareholder shall make prompt payment of such excess to the Corporation or the Remaining Shareholders.

Section 4.7 Promissory Note. The Remaining Shareholders or the Corporation, as the case may be, shall execute a promissory note (hereinafter referred to as "Note") for all payments due pursuant to Article IV of this Agreement. Such Note shall be negotiable and bear interest at the ~~adjusted~~ prime rate (as quoted in the Wall Street Journal), as adjusted from time, plus one percent (1%). The Note shall become due and payable at the option of the holder immediately upon the occurrence of the following events:

(i) Default in the payment of any installment. Default shall occur following a thirty (30) day grace period after written notice of nonpayment is given to the defaulting party. If payment is not made within the thirty (30) day grace period, the Payee shall be in Default;

(ii) Sale of substantially all of the Corporation's assets;

(iii) Dissolution and liquidation of the Corporation; or

(iv) Bankruptcy of the Corporation.

Section 4.7.1 Default. If the payor of the Note shall default in paying any installment of the Purchase Price, then all remaining installments shall be accelerated. In the event of the liquidation or dissolution of the Corporation, the Departing Shareholder shall be paid the balance of the Purchase Price remaining unpaid out of the proceeds of such liquidation or dissolution.

Section 4.8 Legend on Shares. The certificates for the Shares shall, in addition to any notice thereon required by the Articles of Incorporation or Bylaws of the Corporation, or the Securities Act and other applicable securities laws, bear the following notice conspicuously marked on the face or back thereof:

> The securities evidenced hereby are subject to the terms of a Shareholders' Agreement among the Company and the ~~shareholders~~Shareholders of the Company. A copy of the Shareholders' Agreement is on file at the office of the Company and is available upon request. The Shareholders' Agreement provides, among other things, for restrictions on the sale, transfer, pledge, hypothecation or other disposition of the securities represented by this Certificate. Any attempted sale, transfer, pledge, hypothecation or other disposition of the securities represented by this Certificate not in compliance with the terms and conditions of the Shareholders' Agreement shall be void and of no force and effect.

Section 4.9 Effect of Waiver. Any failure of the Corporation to exercise any option to purchase given under this Agreement and any waiver by the Corporation of any rights hereunder as to any Transfer will not, as to any future Transfer of the Shares (either voluntary or by operation of law), discharge the Shares from any of the restrictions herein contained.

ARTICLE V

COVENANTS REGARDING SUBCHAPTER S

Section 5.1 Revocation. If the Shareholders shall determine to revoke the Corporation's Subchapter S election, each Shareholder agrees that he or she shall execute all documents and take such further action as may be necessary or advisable to effectuate such revocation.

Section 5.2 Maintain S Status. Except as provided in Section 5.1 above, the Corporation and each Shareholder covenant and agree not to do any act or fail to do any act, the commission or omission of which would cause the termination of the Subchapter S election of the Corporation. In the event of the violation of any provision of this Section 5.2 by ~~the Corporation or~~ any Shareholder, the Shareholder who authorizes or causes the violation~~, whether in his or her capacity as a Shareholder, officer, employee or agent for the Corporation or otherwise,~~ shall be liable to the Corporation and to the other Shareholder(s) for any damages, liabilities, or costs resulting directly or indirectly therefrom, including, without limitation, any additional federal or state income tax, penalties and interest incurred by the Corporation and the other Shareholder(s); provided, however, that no Shareholder shall be so liable if such Shareholder acted in the good faith belief and upon the advice of tax counsel that termination of the election would not be caused thereby. In the event of an inadvertent termination of the Corporation's Subchapter S election, the Corporation and each Shareholder shall take whatever actions are necessary under Section 1362(f) of the Code and the Regulations thereunder to request a determination of inadvertent termination from the Commissioner of Internal Revenue allowing the Corporation to be treated as continuing to be an S corporation, and if a waiver of the terminating event is not granted, to request consent for an early reelection of Subchapter S status under Section 1362(g) of the Code and the Regulations thereunder.

Section 5.3 Dividend Distributions. Each Shareholder and the Corporation acknowledge that the Corporation shall use its best efforts to make pro rata (based on the total Shares owned by each Shareholder) distributions of money with respect to the Shares in an amount at least sufficient to pay the federal and state income taxes on the income that passes through to the Shareholders from the Corporation under Section 1366 of the Code for each taxable year, net of any tax benefits produced by losses, deductions and credits that pass through under Section 1366 of the Code. The Corporation shall use its best efforts to make such distributions on a quarterly basis during each taxable year and in any event no later than ninety (90) days following the end of each taxable year. ~~The Managing Shareholder~~Except as provided in Section 3.10, the Chairman, after consultation and reasonable input from the ~~Shareholders'~~Board of Directors, shall make the final decision as to the amount of each distribution with respect to the Shares. For purposes of this Section 5.3 a distribution shall be treated as made with respect to a particular taxable year of the Corporation if (A) it is made during the taxable year and not designated by the Corporation as made with respect to another taxable year or (B) it is specifically designated by the Corporation as made with respect to that particular taxable year. The foregoing distribution requirement set forth in this Section 5.3 is subject, however, to (Y) the reasonably required needs of the Corporation as determined by the ~~Managing Shareholder~~Chairman to maintain sufficient funds for working capital and business needs so as not to impair the ability of the Corporation to continue its business operations, and (Z) any applicable restrictions contained in loan documents with the Corporation's creditors.

Section 5.4 Withholding. The Corporation is authorized to withhold from amounts to be distributed to any Shareholder hereunder any amount required to be withheld by any provision of the Code, Treasury Regulations or other applicable law, and to pay such amounts to the Internal Revenue Service ("IRS") or other appropriate taxing authority in accordance with the Code, Treasury Regulations or other applicable law. In addition to such withholding from distributions, the Corporation is authorized to remit to the IRS or other appropriate taxing

authority any amounts due as a result of the allocation of taxable income to any Shareholder. Any amounts paid over to the IRS or other appropriate taxing authority with respect to this Section to a Shareholder pursuant to this Section shall be treated for all purposes hereunder as a distribution made to the Shareholder with respect to whom such withholding or remittance was made.

Section 5.5 Code Section 1377(a)(2) Election. If a Shareholder makes a Transfer of his or her Shares pursuant to this Agreement while the Corporation is an S corporation, and such Transfer results in the complete termination of the interest in the Corporation of such Shareholder, and if either the selling Shareholder or the purchaser requests, then all of the Shareholders and the Corporation agree to take appropriate action to make an effective election under Section 1377(a)(2) of the Code and the Regulations thereunder to treat the taxable year of the Transfer as if it consisted of two taxable years, the first of which ended on the effective date of the Transfer. For purposes of this election, Shareholders shall mean all Persons who are or were Shareholders of the Corporation at any time during the taxable year in which the Transfer occurs.

Section 5.6 Closing of Corporate Books. In the event the Corporation's Subchapter S status terminates during the course of a taxable year for any reason whatsoever, and if any Shareholder so requests, then all of the Shareholders shall take appropriate action to make an effective election under Section 1362(e)(3) of the Code and the Regulations thereunder to close the Corporation's books on the date immediately preceding the date on which the termination of Subchapter S status occurs. For purposes of this election, the term Shareholders shall mean all Persons who are or were Shareholders of the Corporation at any time during the taxable year ending on the date of termination of the Corporation's Subchapter S status and all Persons who are or were Shareholders in the Corporation on the first day following the termination of the Corporation's Subchapter S status.

Section 5.7 South Carolina S Corporation Status. Each Shareholder agrees to file a South Carolina income tax return and pay South Carolina income tax on his or her proportionate share of the Corporation's taxable income for each taxable year of the Corporation that he or she is a Shareholder and the Corporation is an S corporation, and to execute such consents as are necessary to assure that the Corporation's Subchapter S election will be effective for South Carolina income tax purposes.

Section 5.8 ~~President~~Chairman as Attorney-in-Fact for Elections. If any document evidencing a Shareholder's consent or other action is required for filing or for other purposes under the provisions of the Code or otherwise in order to effectuate the matters set forth in Article V and any Shareholder is unable or otherwise fails to execute such document in a timely manner, then such Shareholder hereby appoints the ~~President~~Chairman of the Corporation, as from time to time elected, as his agent and attorney-in-fact for the purpose of executing any such document and taking all such further action as may be necessary or advisable to effectuate such consent or other action. The Corporation shall indemnify, defend and hold harmless the ~~President~~Chairman of the Corporation from, against and in respect of any liabilities, damages, losses, costs or expenses (including attorneys' and accountants' fees) incurred by him or her as result of acting under such power of attorney.

Section 5.9 Tax Matters Person. The ~~Managing Shareholder~~Chairman is hereby designated as the tax matters person of the Corporation. The tax matters person may resign at any time by giving written notice to the Corporation and each of the other Shareholders, and the tax matters person may be removed at any time by unanimous consent of all of the other Shareholders. Upon the resignation or removal of the tax matters person, a new tax matters person, who must be a Shareholder, shall be elected by holders of a majority of the Shares, which majority shall be determined by excluding the Shares of a removed tax matters person. The Corporation shall indemnify, defend and hold harmless the tax matters person from, against and in respect of any liabilities, damages, losses, costs or expenses (including attorneys' and accountants' fees) incurred by him or her as a result of acting as tax matters person.

ARTICLE VII

INSURANCE

Section 6.1 Life Insurance. The Corporation and each Shareholder shall have the right to purchase and maintain insurance on the life of each of the Shareholders.

Section 6.2 Disability Insurance. The Corporation and each Shareholder shall have the right to purchase and maintain Disability "buy-out" insurance on each of the Shareholders.

Section 6.3 Excess Insurance Proceeds. To the extent any insurance proceeds are in excess of the amount due a Shareholder under Section 4.5, such excess shall not affect the purchase price under Section 4.5. Any excess proceeds from a policy purchased by the Corporation or a Shareholder shall be retained by the Corporation or Shareholder, as the case may be.

Section 6.4 Shareholders' Right to Purchase Insurance Policies. In the event that a Shareholder Transfers his Shares, or upon dissolution or liquidation of the Corporation before the death or Permanent Disability of such Shareholder, the insured Shareholder shall have the right to purchase such life insurance and Disability insurance policies purchased by the Corporation that are subject to this Agreement for a purchase price equal to the amount of:

(i) the cash surrender value thereof, if any, calculated on a prorated basis to the date of the transaction, exclusive of any dividend, dividend accumulations, or policy loans, but inclusive of the cash value of any paid-up insurance additions; plus

(ii) the pro rata portion of any premium paid prior to the date which covers a period extending beyond the date of the transaction; plus

(iii) any dividend or dividend accumulations; and less

(iv) any policy loan plus interest then due.

Plaintiffs' Ex 0012.028

The rights granted in this Section 6.4 shall lapse and expire unless the Transferring Shareholder notifies the Corporation in writing within thirty (30) days of the effective date of the Transfer of the Departing Shareholder's Shares of his desire to purchase all or some of the Disability or life insurance contracts maintained pursuant to this Article V. Any policy or policies not purchased within such thirty (30) day period may be disposed of by the Corporation in its discretion and the Departing Shareholder agrees to execute and deliver such instruments as may be required by the Corporation to dispose of such policies. If such an insurance policy is transferred to a Departing Shareholder, the Corporation shall execute and deliver to the Departing Shareholder, such instruments as are necessary and proper to transfer full and complete title to such policies.

ARTICLE VII

TERM AND TERMINATION

The term of this Agreement shall begin on the Effective Date and terminate upon the occurrence of any of the following: (i) the bankruptcy of the Corporation or (ii) a written agreement to terminate this Agreement executed by Shareholders of not less than one hundred percent (100%) of the ~~Common Stock~~Shares subject to this Agreement.

ARTICLE VIII

MISCELLANEOUS

Section 8.1 Prior Agreements. All other agreements dated prior to the date of this Agreement with respect to the subject matter in this Agreement are hereby superseded in their entirety by the terms and conditions of this Agreement, including any prior agreements between a Shareholder and any predecessor entity of the Corporation with respect to this subject matter; provided however, that this Agreement shall not be deemed to supersede the terms and conditions of the Employment Agreements executed simultaneously with this Agreement. Any inconsistency or ambiguity with the terms of this Agreement and the terms of the Employment Agreements shall be construed and interpreted in accordance with the terms of this Agreement.

Section 8.2 Patient Records. The Corporation owns all patient records and charts. The records of patients of a Departing Shareholder shall remain with the Corporation. In the event of dissolution of the Corporation, the patient records shall be ~~provided~~transferred to the Shareholder who primarily treated the patient or shall otherwise be handled in a manner provided that such transfer complies with applicable privacy laws. Notwithstanding the above, upon written authorization of a patient, the patient's records shall be provided to such Departing Shareholder (or former Shareholder if a liquidation or dissolution has occurred) who shall bear the cost of such photocopying.

Section 8.3 Shareholder's Personal Property. Each of the Shareholder's personal property at the Practice location is listed in ~~Schedule~~Exhibit B hereto which shall remain each Shareholder's property and may be removed from the Practice location at any time by the owning Shareholder. Any amendments to the inventory list in this ~~Schedule~~Exhibit B must be approved by all of the Shareholders.

Plaintiffs' Ex 0012.029

Section 8.4 Notices. All notices and other communications required or permitted hereunder shall be in writing and shall be deemed effectively given upon personal delivery, and in the case where delivery is made by any established and reputable next day delivery service, delivery shall be deemed to occur on the day after delivery to such delivery service, or on the fifth day following mailing by registered or certified mail, return receipt requested, postage prepaid, addressed at such Shareholder's address as set forth on ~~Schedule~~Exhibit A attached hereto or at such other address as such Shareholder shall designate by written notice to the Corporation and the other Shareholders; or if to the Corporation, at 1165 Highway 1 South, Suite 300, Lugoff, South Carolina, or at such other address as the Corporation shall have furnished to the Shareholder in writing.

Section 8.5 Construction. The Shareholders hereby agree and consent to take or cause to be taken all actions necessary to implement the intents and purposes of this Agreement, including, but not limited to, to vote their Common Stock to amend the Articles of Incorporation or the Bylaws in such manner as may be necessary to implement the provisions of this Agreement, and further agree not to vote their Common Stock at any time so as to amend the Articles of Incorporation in a manner inconsistent with or in contravention of this Agreement.

Section 8.6 Counterparts. This Agreement may be executed in several counterparts, each of which when so executed shall be deemed to be an original and such counterparts, taken together, shall constitute and be one and the same instrument.

Section 8.7 Successor and Assigns. This Agreement shall be binding upon the parties hereto, their heirs, legal representatives, successors and permitted assigns.

Section 8.8 Entire Agreement. This Agreement contains the entire agreement of the parties with respect to its subject matter.

Section 8.9 Remedies. The parties acknowledge that remedies at law for breach of the covenants contained in this Agreement may be inadequate and that the Corporation may be entitled to injunctive or to such other equitable relief as a court may deem appropriate for a breach of such covenants. If such covenants are at any time adjudged invalid to any extent by any court of competent jurisdiction, such covenants shall be deemed modified to the extent necessary to render any or all of them enforceable.

Section 8.10 Disputes. Any controversy or claim arising out of or relating to this Agreement, or the breach thereof, shall be settled by binding arbitration, which shall be conducted in Camden, South Carolina, in accordance with the NHLA Alternative Dispute Resolution Service Rules of Procedure for Arbitration, and which to the extent of the subject matter of the arbitration, shall be binding not only on all parties to the Agreement, but on any other entity controlled by, in control of or under common control with the party to the extent that such affiliate joins in the arbitration. Judgment upon the award rendered by the arbitrators may be enforced in any court having jurisdiction thereof and all costs shall be borne by the party against whose interest the arbitration is adversely determined.

Plaintiffs' Ex 0012.030

Section 8.11 Amendment. This Agreement may not be amended or supplemented except in writing, executed by holders of not less than one hundred (100%) percent of the Common Stock subject to this Agreement.

Section 8.12 Severability. If any provision of this Agreement is held invalid or unenforceable, such invalidity or unenforceability will not affect the validity or enforceability of any other provisions hereof, all of which provisions are hereby declared severable.

Section 8.13 Choice of Law. This Agreement is to be governed by and construed in accordance with the laws of the State of South Carolina.

Section 8.14 Descriptive Headings and Section References. The descriptive headings of this Agreement are inserted for convenience only and do not constitute a part of this Agreement. Provided, however, any reference in this Agreement to a particular Section shall also include all subsections thereto unless explicitly referenced otherwise (e.g., a reference to Section 4.2 shall also include Section 4.2.1, 4.2.2, etc.).

Section 8.15 Gender and Number. Whenever the context hereof requires, the gender of all words shall include the masculine, feminine and neuter, and the number of all words shall include the singular and plural.

Section 8.16 Applicability of Agreement. Unless otherwise provided by this Agreement, each provision of this Agreement shall apply to all of the Shares owned by each Shareholder, whether presently owned or hereafter acquired.

Section 8.17 Additional Shareholders. Additional shareholders of the Corporation may become bound by the terms of this Agreement by signing an Adoption of Shareholders Agreement, substantially in the form of Exhibit H attached hereto, and upon such execution, the Shareholders and the Corporation

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first above written.

SOUTH CAROLINA ENT, ALLERGY & SLEEP MEDICINE, P.A.

By: _____
Robert Puchalski
Its: ~~President~~Chairman

SHAREHOLDERS:

_____
Robert Puchalski

_____
Orville Dyce

~~SCHEDULE~~EXHIBIT A

SHAREHOLDERS AND NUMBER OF SHARES

Name and Address of Shareholder	Number of Shares
Robert Puchalski	50,000
Orville Dyce	50,000

Plaintiffs' Ex 0012.033

~~SCHEDULE B~~

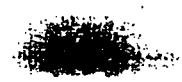


EXHIBIT B

PERSONAL PROPERTY

_____

_____

Plaintiffs' Ex 0012.035

EXHIBIT C

FOUNDING SHAREHOLDER PROTECTION PROVISIONS

In recognition of the contributions, risks and sacrifices made in establishing the Corporation's business and that continue to be made in developing the Corporation's business, the following provisions shall apply to Robert Puchalski during the term of his employment with the Corporation:

(i) The Shareholders agree that Robert Puchalski shall automatically be appointed as a Director, the Chairman and the CEO without a Shareholder vote for as long as he is an employee or Shareholder of the Corporation or, if sooner, until he resigns from one or both of these positions. Upon Robert Puchalski's resignation as the Chairman, the Vice Chairman shall automatically succeed him as the Chairman without a Shareholder vote. Thereafter, the positions shall be filled in the manner provided in Article III of this Agreement. Except as provided below, Robert Puchalski may only be removed in his role as a Director, the Chairman or the CEO by a unanimous vote of the Shareholders (other than Robert Puchalski) upon a conviction of a crime involving fraud directly against the Corporation or if he has engaged in conduct which is fraudulent with respect to the Corporation. For this purpose, conduct will be "fraudulent with respect to the Corporation" if the fraudulent act involves Robert Puchalski intentionally and knowingly misleading the Board about a material fact for the purpose of deceiving the Board for his own pecuniary gain. For purposes of clarity, an inadvertent miscoding of medical services or any settlement or conviction involving unintentional or unknowing payor billing fraud related to the Corporation or any physician employed by the Corporation would not constitute conduct which is "fraud directly against the Corporation" or "fraudulent with respect to the Corporation."

(ii) After 2015, upon a vote of "non-confidence" of the Board of Directors, Robert Puchalski may be terminated as an employee of the Corporation and in such event he will automatically be removed as the Chairman, CEO and a Director; provided, however, upon his termination of employment upon a vote of non-confidence pursuant to this sentence, the Corporation shall pay him a severance payment in an amount equal to the total of the three most recent years of his total compensation from the Corporation during his employment (the "Severance Payment"). Robert Puchalski's Severance Payment shall be paid by paying the lesser of $500,000 or fifty percent (50%) of the Severance Payment upon termination of employment (as defined below) with the balance paid with interest at the prime rate (as quoted in the Wall Street Journal), as adjusted from time to time in no more than three (3) equal annual

Plaintiffs' Ex 0012.036

installments of principal and interest until paid in full. To the extent the Corporation is able to do so under its applicable benefit plans and agreements, it will continue to provide benefits (consisting of health insurance, life insurance and dental insurance) to Robert Puchalski during the three (3) year payout period. For purposes of clarification, the Severance Payment is in addition to, and is calculated subsequent to the calculation of, all other compensation due Robert Puchalski pursuant to his Employment Agreement and this Shareholder Agreement. Specifically, the Severance Payment shall not be taken into consideration as a liability or other offset or deduction in the calculation of the Purchase Price in Section 4.5 of this Agreement. For purposes of this provision, "termination of employment" shall have the meaning provided in Exhibit G.

(iii) If Robert Puchalski's Employment Agreement is terminated, as provided above upon a vote of non-confidence, then simultaneously with the termination, the Employment Agreement shall be deemed amended to provide:

(a) Section 3.10 of the Employment Agreement shall not be applicable to prohibit or otherwise restrict Robert Puchalski from discussing hiring, or actually hiring, Stephanie Tetterton, Robert Puchalski's current physician assistant, or any other employee of the Corporation hired prior to March 31, 2005;

(b) Section 3.9 of the Employment Agreement and the Covenant Not to Compete referenced therein shall allow Robert Puchalski to conduct a medical practice at one (1) location in Kershaw or Richland County, South Carolina, with such location determined in his sole discretion, without any restrictions imposed by application of Section 3.9 or the Covenant Not to Compete referenced therein;

(c) Section 3.7 of the Employment Agreement shall be amended to allow Robert Puchalski to retain copies of all medical records of patients treated by him while an owner of the Corporation subject to applicable federal or state privacy laws; and

(d) Section 3.7 of this Agreement shall be deemed amended to provide that Robert Puchalski shall be entitled to use any forms or systems of the Corporation in place prior to March 31, 2005.

(iv) As the pioneer of the Corporation's sleep medicine services, including obtaining the Corporation's first Board Certification in Sleep Medicine, developing the Corporation's affiliate sleep labs (including those that are hospital-based), and developing a standardized process to evaluate and

Plaintiffs' Ex 0012.037

interpret sleep studies, Robert Puchalski shall maintain full purview over the clinical and administrative aspects of the Corporation's sleep medicine services including the assignment of all sleep study interpretations read by the Group on behalf of the Group or any other referring physician at any sleep facility affiliated with any physician employee of the Corporation. In addition to the two (2) administrative half days each week provided to him as the CEO pursuant to Exhibit F, Robert Puchalski shall receive one (1) additional half day off each week to provide such interpretations at a time and location to be determined by Robert Puchalski for so long as these services continue to be profitable.

(v) Notwithstanding anything in this Agreement or Robert Puchalski's Employment Agreement to the contrary, in the event of a purchase of all of Robert Puchalski's Shares by the Corporation, for any reason, the purchase price shall be 100% of the Purchase Price and the 50% reduction in Section 4.5.2 shall not be applicable.

(vi) In addition to the compensation provided in Robert Puchalski's Employment Agreement, commencing October 1, 2009, he shall receive as his full compensation for his role as the Founding CEO and Chairman a management performance bonus in a gross amount equal to the greater of fifteen percent (15%) of the total distributions paid to all Shareholders in excess of the total of the Base Year Compensation for all Shareholders in the same calendar year or One Hundred Twenty-Five Thousand ($125,000) dollars per annum.

(vii) In recognition of the benefit constraints and tax liabilities incurred by Robert Puchalski when expanding the Corporation's business in a low debt environment, the Corporation shall also provide to Robert Puchalski, for so long as he remains an employee, a car stipend of up to $1,000 per month, recurring membership dues to the Springdale Hall Club and the Camden Country Club (or equivalents), the retention of a physician's assistant (Stephanie Tetterton or her replacement), and a full-time executive assistant.

(viii) In recognition of Robert Puchalski's pioneering full-time residence in a Non-Metropolitan Area (as defined in his Employment Agreement), after nine (9) years of full-time employment as a Shareholder of the Group, Robert Puchalski shall be entitled to reside outside of the Coverage Area (as defined in his Employment Agreement) without the vote of the Chairman and Board of Directors and he shall continue to receive the Non-Metropolitan Bonus, provided he makes his Kershaw County residence available to the Group to satisfy the requirements of Section 3.13 of the Shareholders Agreement. Provided, further, that he can fulfill his call coverage requirements by staying within the Coverage Area when taking emergency room call.

Plaintiffs' Ex 0012.038

(ix) For purposes of Section 3.1(c) of his Employment Agreement as long a Robert Puchalski is a full-time employee of the Group he shall only need to obtain prior approval to engage in outside work that is exclusively for his own benefit (and not for the benefit of the Group) and he shall not be required to obtain prior approval for any outside work not exclusively for his own benefit (including work for which he receives personal revenues) that he is providing as of the date of this Agreement or may provide in the future.

(x) As a condition of the grant of the Founding Shareholder protection provision in this Exhibit C, Robert Puchalski agrees that for so long as he is the Chairman and CEO of the Corporation, he shall:

(a) provide at least two (2) years written notice of his resignation from his employment for a departure prior to 2016;

(b) annually provide the Board of Directors, upon its request, with a proposed successor plan for the corporate officers;

(c) cooperate with the Corporation in obtaining, and agrees to maintain at the Corporation's expense, up to Two Million ($2,000,000) dollars of insurance payable to the Corporation upon his death; and

(d) to the best of his ability, continue to personally guarantee the Corporation's loans he has guaranteed as of the date of the Agreement for so long as he remains the Chairman and CEO.

(xi) For purposes of determining the number of years Robert Puchalski has been employed as a Shareholder of the Corporation, the commencement of his employment as a Shareholder shall be deemed to have begun on July 1, 2002.

Plaintiffs' Ex 0012.039

EXHIBIT D

DR. DYCE PROTECTION PROVISION

In recognition of the challenges that a full-time residence in Hartsville presents with respect to airport and metropolitan accessibility, Dr. Dyce shall be entitled to one (1) hour of administrative time each week that he can take in his discretion, provided he and his family maintain a full-time residence in Hartsville, South Carolina. The extra hour referenced above shall be counted as annual leave and credited to Dr. Dyce's Total Production in the manner described in Section 4.2(c) of his Employment Agreement.

As long as Dr. Dyce maintains his full-time primary residence in the Hartsville Coverage Area (as defined in his Employment Agreement), he shall remain a member of the Board of Directors of the Corporation.

In recognition of his pioneering full-time residence in a Non-Metropolitan Area (as defined in his Employment Agreement), Dr. Dyce shall after nine (9) years of full-time employment as a Shareholder of the Group residing in Hartsville with his family full time, be entitled to reside outside of the Coverage Area (as defined in his Employment Agreement) without the vote of the Chairman and the Board of Directors provided, that he can fulfill his call coverage requirements by staying within the Coverage Area when taking emergency room call.

If Dr. Dyce is practicing primarily at the Hartsville, South Carolina, (the "Hartsville site") and the Cheraw, South Carolina (the "Chesterfield site") practice sites and is terminated for any reason and the Hartsville site is closed either within 18 months prior or 18 months subsequent to the termination, then his Employment Agreement shall be deemed amended upon the later of the date of termination of the Employment Agreement or date of the closing of the Hartsville site to provide:

(a) Section 3.9 of the Employment Agreement and the Covenant Not to Compete referenced therein shall be void as to any restrictions within Darlington or Chesterfield Counties, South Carolina.

(b) Section 3.10 of his Employment Agreement shall be amended to remove any restrictions from hiring Corporation employees whose jobs required they perform a majority of their services at the Hartsville site or the Chesterfield site.

(c) Section 3.7 of his Employment Agreement shall be amended to provide that he shall be entitled to retain copies of medical records of patients treated by him at the Hartsville site or the Chesterfield site.

For purposes of this Exhibit D, an office site will be deemed to be "closed" upon the earlier of the time it: (i) is operating for three (3) consecutive calendar months providing less than fifty percent (50%) of the level of services to patients that it customarily provides, or (ii) when it physically closes it doors for business on a permanent basis.

Plaintiffs' Ex 0012.040

As a pioneer of the Corporation's speech and swallowing therapy services, Dr. Dyce shall continue to provide physician services for the Corporation's speech and swallowing department (Carolina Speech and Swallowing Center). Dr. Dyce shall continue to be assigned one (1) half day each week to provide such services for as long as the services are profitable.

For purposes of determining the number of years Dr. Dyce has been employed as a Shareholder of the Corporation, the commencement of his employment as a Shareholder shall be deemed to have begun on July 1, 2008.

EXHIBIT E

DR. GUNNLAUGSSON PROTECTION PROVISION

In recognition of his pioneering residence in the approved metropolitan area, in the event Dr. Gunnlaugsson becomes a Shareholder, he shall receive the Non-Metropolitan Bonus after maintaining a full-time residence in the Coverage Area (as defined in his Employment Agreement) with his family for five (5) years as a Shareholder employee, provided, that he continues to reside in a full-time primary residence in the Coverage Area. The parties acknowledge that he resides in the Coverage Area as of the Effective Date of this Agreement by living in the development known as "Green Hill Parish."

As long as Dr. Gunnlaugsson (i) maintains his full-time primary residence in the Coverage Area east of Spears Creek Church Road and South of Route 1 in Richland County, (ii) continues to provide facial plastic surgery and hair restoration services to patients of Carolina Cosmetics Institute (for so long as that department is in existence), and (iii) satisfactorily discharges his responsibilities to Carolina Cosmetics Institute and Carolina Hair Restoration, then he shall remain a member of the Board of Directors of the Corporation.

In the event Dr. Gunnlaugsson becomes a Shareholder and is practicing primarily at the Richland County, South Carolina, practice site (the "Richland site") and is terminated for any reason and the Richland site is closed either within 18 months prior or 18 months subsequent to the termination, then his Employment Agreement shall be deemed amended upon the later of the date of termination of the Employment Agreement or date of the closing of the Richland site to provide:

(a) Section 3.9 of the Employment Agreement and the Covenant Not to Compete referenced therein shall be void as to any restrictions within Richland County, South Carolina.

(b) Section 3.10 of his Employment Agreement shall be amended to remove any restrictions from hiring Corporation employees whose jobs required they perform a majority of their services at the Richland site.

(c) Section 3.7 of his Employment Agreement shall be amended to provide that he shall be entitled to retain copies of medical records of patients treated by him at the Richland site.

For purposes of Exhibit E, an office site will be deemed to be "closed" upon the earlier of the time it: (i) is operating for three (3) consecutive calendar months providing less than fifty percent (50%) of the level of services to patients that it customarily provides, or (ii) when it physically closes it doors for business on a permanent basis.

Plaintiffs' Ex 0012.042

As a pioneer of the Corporation's hair restoration services, Dr. Gunnlaugsson shall continue to provide physician services for the Corporation's hair restoration services (Carolina Hair Restoration). Dr. Gunnlaugsson shall continue to be assigned up to one (1) half day each week to provide such services for as long as these services are profitable.

In the event he becomes a Shareholder, for purposes of determining the number of years Dr. Gunnlaugsson has been employed as a Shareholder of the Corporation, the commencement of his employment as a Shareholder shall be deemed to have begun on January 1, 2010.

For purposes of Section 4.2(c) of his Employment Agreement, Dr. Gunnlaugsson will be credited with the collected revenues for the services he personally performs for Carolina Cosmetics Institute and Carolina Hair Restoration (including hair transplantation). In the event that the Corporation uses charges for Production Dollars then Dr. Gunnlaugsson shall be credited with 150% of his collected revenues for services he personally performs for Carolina Cosmetics Institute and Carolina Hair Restoration.

Plaintiffs' Ex 0012.043

EXHIBIT F

CEO PROTECTION PROVISION

For so long as Robert Puchalski is the CEO, he shall have at least two (2) extra half days each week during normal business hours to perform administrative duties of the practice in lieu of providing patient services. For purposes of his Employment Agreement, while serving as the CEO, the extra half days referenced above shall be counted as annual leave and credited to Robert Puchalski's Total Production in the manner described in Section 4.2(c) of his Employment Agreement. This provision shall not extend to any Chairman and CEO other than Robert Puchalski.

For so long as Robert Puchalski is the CEO, he shall keep his same level of administrative staff and both he and his administrative staff shall keep their currently planned or comparable office space.

Plaintiffs' Ex 0012.044

EXHIBIT G

DEFINITION OF TERMINATION OF EMPLOYMENT

For purposes of Exhibit C, "termination of employment" shall be considered to have occurred only if a "separation from service" (as defined in Treasury Regulation Section 1.409A-1(h)) has occurred with respect to the employment relationship between Robert Puchalski and the Corporation and all of the Corporation's applicable affiliates. Robert Puchalski's right to payment of the Severance Payment shall be no greater than that of a general unsecured creditor of the Corporation. Robert Puchalski shall not be entitled or permitted to assign, sell, transfer, pledge or encumber any right to receive the Severance Payment. Notwithstanding anything in this Agreement to the contrary, the Robert Puchalski's right to the Severance Payment shall be limited consistent with and in accordance with the applicable provisions and restrictions of Code §409A and the regulations thereunder. Robert Puchalski agrees that, if and to the extent any provision of this Agreement, including but not limited to matters involving the severance payment pursuant to this provision, constitute an "employee pension benefit plan" (within the meaning of Employee Retirement Income Security Act of 1974, as amended ("ERISA"), §3(2)) (the "plan"), then Robert Puchalski shall not make any claim or assertion which is contrary to the acknowledged status of the plan as "a plan which is unfunded and is maintained by an employer primarily for the purpose of providing deferred compensation for a select group of management or highly compensated employees" (within the meaning of ERISA §§201, 301 and 401). If Robert Puchalski or his applicable beneficiary believes that he or she is being denied a benefit to which he or she is entitled under the plan, he or she may file a written request for such benefit with the Corporation in accordance with the claims procedure referenced below.

CLAIMS PROCEDURE

If the Physician or his designated beneficiary believes that he is being denied a benefit to which he or she is entitled under the plan, he or she may file a written request for such benefit with the Corporation setting forth his or her claim. Upon receipt of such a claim, the Corporation shall advise the Physician that a reply will be forthcoming within 60 days (45 days, in applicable cases involving Disability) and shall, in fact, deliver such reply within such period. The Corporation may, however, extend the reply period for an additional 60 days for reasonable cause. If the Physician is denied in whole or in part, the Corporation shall adopt a written opinion using language calculated to be understood by the Physician setting forth:

a. the specific reason or reasons for such denial;

b. the specific reference to pertinent provisions of the plan on which such denial is based;

Plaintiffs' Ex 0012.045

c. a description of any additional material or information necessary for the Physician to perfect his or her claim and an explanation why such material or such information is necessary;

d. appropriate information as to the steps to be taken if the Physician wishes to submit the claim for review; and

e. the time limits for requesting a review under this claims procedure.

Within 60 days after the receipt by the Physician of the written opinion described above, the Physician may request in writing that the Corporation review the determination of the Corporation. Such request must be addressed to the Corporation, at its then principal place of business. The Physician or his duly authorized representative may, but need not, review the pertinent documents and submit issues and comments in writing for consideration by the Corporation. If the Physician does not request a review of the Corporation's determination by the Corporation within such 60 day period, he shall be barred and estopped from challenging the Corporation's determination.

Within 60 days after the Corporation's receipt of a request for review, it will review the Corporation's determination. After considering all materials presented by the Physician, the Corporation will render a written opinion, written in a manner calculated to be understood by the Physician, setting forth the specific reasons for the decision and containing specific references to the pertinent provisions of the plan on which the decision is based. If special circumstances require that the 60 day time period be extended, the Corporation will so notify the Physician and will render the decision as soon as possible, but no later than 120 days after receipt of the request for review.

Plaintiffs' Ex 0012.046

EXHIBIT H

ADOPTION OF SHAREHOLDERS AGREEMENT

The undersigned is, or is becoming, a shareholder in South Carolina ENT, Allergy & Sleep Medicine, P.A. (the "Corporation").

The undersigned hereby acknowledges that the Corporation shares issued to the undersigned are subject to the terms and conditions of the Shareholders Agreement dated _____, 2010 (the "Shareholders Agreement"), entered into between the Corporation and its Shareholders, a copy of which is attached hereto.

The undersigned agrees to be bound by, and acknowledges and agrees that the stock in the Corporation purchased by the undersigned is subject to, the terms and conditions of the Shareholders Agreement.

_____

Date _____

_____ Address: _____

_____

_____

_____

Plaintiffs' Ex 0012.047

Document comparison done by DeltaView on Wednesday, January 13, 2010 5:05:13 PM

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Statistics	
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Deletions	294
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Moved to	24
Style change	0
Format changed	0
Total changes	787

CONFIDENTIALITY AGREEMENT

THIS CONFIDENTIALITY AGREEMENT (this "**Agreement**") dated May ___, 2010, is between South Carolina ENT, Allergy & Sleep Medicine, P.A., a South Carolina corporation (the "**Company**"), and Robert Puchalski and Orville Dyce (collectively, the "**Shareholders**" and each a "**Shareholder**").

Nondisclosure Obligation. The undersigned Shareholders acknowledge that they are reviewing and may request copies of confidential financial and business information of the Company, including, without limitation, the information set forth in **Schedule 1** attached hereto and incorporated herein by reference ("**Information**"). The Shareholders shall keep all Information strictly confidential and shall not, directly or indirectly, disclose any Information to any person other than such Shareholder's accountant, professional representatives actively engaged in a profession that are engaged by a Shareholder in the professional representatives' capacity as a professional to assist with the Evaluation (including, without limitation, a computer forensic expert) and a Shareholder's attorney for review (collectively, "**Representatives**") who are actively and directly participating in the evaluation of the information (the "**Evaluation**") and who reasonably need to know such Information in connection with the Evaluation or any currently pending litigation. It is specifically understood and agreed that the term "Representatives" does not include, employees of the Company including physician employees of the Company, or their spouses or family members. Each such Representative shall be informed by the Shareholders of the confidential nature of the Information and shall be provided with a copy of this Agreement. The Information shall be used by the Shareholders and their Representatives for purposes of the Evaluation. Except for a Shareholder duplicating the Information to give to its Representative, neither the Shareholders nor their Representatives shall copy, duplicate or recreate any Information provided by the Company hereunder. Neither the Shareholders nor their Representatives shall disseminate or share the Information with anyone other than the Representatives, including, without limitation, other employees of the Company, including physician employees. The Shareholders shall be responsible for any actions by any of their Representatives which are not in accordance with the terms and conditions hereof.

Compliance with Legal Process. In the event that the Shareholders, their Representatives or anyone else with whom the Shareholders or their Representatives communicate, receives a request or demand (a "**Request**") to disclose any Information, the Shareholders agree to notify the Company immediately of the existence, terms and circumstances surrounding such Request.

Ownership; Return of Information. No license to the Shareholders or any other person is either granted or implied hereunder. All Information shall remain the property of the Company. The Shareholders agree that, upon the completion of the Evaluation or the conclusion of any pending litigation, the Information shall be promptly returned to the Company and any materials prepared by the Shareholders or at their direction containing or

Plaintiffs' Ex 0015.001

otherwise reflecting any Information shall be destroyed (or deleted, if stored in a computer or electronic information retrieval system). Upon such destruction or deletion, the Shareholders agree to represent and warrant that all such Information has been returned, destroyed or deleted.

Governing Law; Venue. This Agreement shall be governed by the laws of the State of South Carolina, without regard to principles of choice of laws thereof.

Nothing in this Confidentiality Agreement shall prevent any party from using any such information obtained pursuant to this Agreement in any litigation involving the parties hereto. The parties agree that prior to any party attaching copies of this information as exhibits to any pleadings, the moving party wishing to use such information shall provide five (5) business days written notice to the other party of the intent to use such information in order to allow the responding party the opportunity to file a motion seeking a protective order with the court. The motion will affirmatively set forth the terms under which some information may be used and the moving party shall not provide such information to the court until after the parties have reached an agreement on the use of the information or court has resolved any motion seeking protection. Both parties agree to waive any procedural requirements to attach such information to any motion such as South Carolina Rule of Civil Procedure 56(e). If the responding party does not serve a motion for protection within such five (5) day period, the moving party shall be free to provide such information to the court. While any motion seeking protection is pending, the parties agree to meet and confer to discuss possible appropriate safeguards for all parties' use of confidential information. In addition, nothing contained herein shall prevent any party from seeking a protective order with regard to any such information.

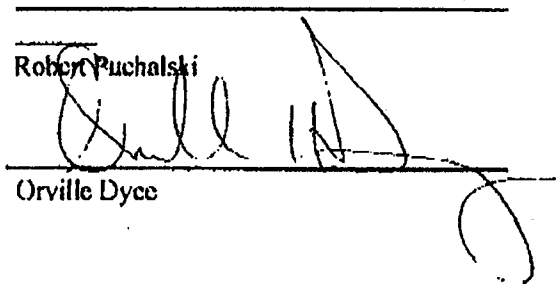
IN WITNESS WHEREOF, the parties have executed and delivered this Confidentiality Agreement effective as of the date first written above.

SOUTH CAROLINA ENT, ALLERGY & SLEEP MEDICINE, P.A.

By:_____
Robert Puchalski
Its: President and CEO

The undersigned, being all of the Shareholders of the Company, acknowledge that this Agreement constitutes an exception to the general policy of the Company not to disclose certain financial information to anyone other that the officers of the Company.

SHAREHOLDERS:


Robert Puchalski
Orville Dyce

Schedule 1

To the extent they exist, the following documents will be available for inspection and copying at the Company's principal office:

1. Articles of incorporation and all amendments to them currently in effect.
2. Bylaws or Shareholders Agreement.
3. Minutes of all shareholders' meetings, and records of all action taken by shareholders without a meeting since January 1, 2008.
4. All written communications to shareholders as a group, including yearly and monthly financial statements since January 1, 2008.
5. A list of the names and business addresses of the current directors and officers.
6. The Company's most recent annual report delivered to the Department of Revenue.
7. Supporting documentation relating to disbursements.

To the extent they exist, the following documents from January 1, 2008, forward will be sent to Buist, Moore, attorneys for Dr. Dyce:

Copies of bank statements and cancelled checks in paper format.
The Company's check register in electronic format.
The Company's general ledger in electronic format.
Company credit card statements in paper format.
The Company's federal and state income tax returns since January 1, 2008.

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Plaintiffs' Ex 0015.004

OPERATING AGREEMENT
OF
SCENT LAND HOLDINGS, LLC

PARTIES

This Agreement, dated as of September 30, 2009, is among the following parties (the "Initial Members"):

1.	Amy Puchalski- Founding Member	3 Puddle Lane Camden, SC 29020
2.	Jamie Curley-Member	401 Woodland Drive Hartsville, SC 29550
3.	Robert Puchalski- Founding Manager	3 Puddle Lane Camden, SC 29020

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Plaintiffs' Ex 0016.001

BACKGROUND

The Initial Members have formed the Company under the Limited Liability Company Act of the State of South Carolina (the "LLC Act"), [§33-44-101 et seq.] for the principal purpose of owning real estate in any Counties in South Carolina in which they may transact business, and any other endeavors authorized by this Agreement. This Agreement sets forth the agreement among the parties as to the internal affairs of the Company and the conduct of its business.

TERMS AND CONDITIONS

The parties, intending to be legally bound, agree as follows:

SECTION 1 PRELIMINARY PROVISIONS AND DEFINITIONS

1.1 EFFECTIVE DATE OF AGREEMENT

The effective date of this Agreement (the "Effective Date") shall be Sept 30th, 2009.

1.2 ENFORCEABILITY OF AGREEMENT

On the Effective Date and thereafter until the parties amend or terminate the Agreement, all rights, duties and liabilities of the Company and of the Members as Members shall be enforceable against the Company and the Members in accordance with the terms of the Agreement.

1.3 COMPANY FORMATION

A copy of the Articles of Organization (the "Articles") for the Company is attached to this Agreement as Exhibit A.

The Company shall be a legal entity separate and distinct from its Members.

1.4 COMPANY

The name of the Company shall be SCENT Land Holdings, LLC but shall be referred to in this document as the "Company".

1.5 PRINCIPAL PLACE OF BUSINESS OF COMPANY

Upon its formation, the Company's principal place of business shall be 1165 Highway 1 South, Lugoff, South Carolina 29078. The Manager may change the Company's principal place of business from time to time upon reasonable notice to the Members.

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Plaintiffs' Ex 0016.002

1.6 COMPANY DURATION

The duration of the Company shall be indefinite.

1.7 COMPANY PURPOSE

The Company's principal purpose shall be owning real estate in any Counties in South Carolina in which they may transact business, and any other endeavors authorized under this Agreement.

1.8 COMPANY POWERS

Except as expressly otherwise provided in this Agreement, the Company shall have all powers provided to Companies under the LLC Act.

1.9 COMPANY REGISTERED AGENT AND REGISTERED OFFICE

The Company's registered agent and registered office shall be as set forth in the Articles.

1.10 MEMBERS

A. On the date of formation of the Company, the Initial Members shall be the only Members of the Company. Additional Members shall be admitted to the Company in accordance with Section 5. "Members" are individuals who are either physicians employed by or in partnership with South Carolina ENT, Allergy and Sleep Medicine, P.A. or their spouse.

B. Disinterested Members are those Members claiming to have been harmed or injured in some fashion by and act or omission of the Manager acting on behalf of the Company.

1.11 LIMITED LIABILITY OF MEMBERS

No Member shall be personally obligated to any third party for any debt, obligation or liability of the Company solely by reason of being a Member. Members shall be liable for their conduct other than as Members as provided by law.

1.12 FIDUCIARY DUTIES AND LIABILITIES OF MEMBERS

Except as otherwise expressly provided in this Agreement, no Member in the Member's capacity as a Member shall have any fiduciary duties or liabilities to the Company or to the

Plaintiffs' Ex 0016.003

other Members under this Agreement except to the extent of their participation in the management of the Company. For purposes of this Section 1.12:

(a) A Member's voting on Member Matters (as defined in Section 3.1) shall not constitute participation in the management of the Company;

(b) A Member's obtaining and using Company information shall constitute participation in the management of the Company as determined under applicable case law and under the relevant facts and circumstances.

1.13 RESERVATION OF COMPANY MANAGEMENT TO A MANAGER OR MANAGERS; APPOINTMENT OF INITIAL MANAGER

Except as otherwise expressly provided in this Agreement, the management of the business and internal affairs of the Company shall be reserved to one or more managers (the "Manager"). The initial Manager of the Company shall be Robert Puchalski.

1.14 TAXATION OF COMPANY AND MEMBERS

Under federal tax law and to the maximum extent possible under the tax laws of each state and the District of Columbia, the Company and its Members shall be taxable as a partnership and as partners.

The provisions of this Agreement shall be construed and applied in such a manner as to ensure full compliance with the provisions of the Internal Revenue Code applicable to partnerships and with the regulations thereunder.

1.15 ANNUAL ACCOUNTING PERIOD OF COMPANY

The Company's annual accounting period for financial and tax purposes shall be the calendar year.

1.16 COMPANY METHOD OF ACCOUNTING

The Company shall use the cash method of accounting to compute its taxable income.

1.17 ADDITION OF COMPANY AS PARTY TO AGREEMENT

Promptly after the formation of the Company, the Members and Manager shall sign this Agreement on behalf of the Company, and the Company shall become a party to the Agreement.

Plaintiffs' Ex 0016.004

1.18 EFFECT OF LLC ACT

Except as otherwise provided in this Agreement or by law, the business and internal affairs of the Company shall be governed by the Company Act as in effect on the Effective Date.

1.19 RELATION OF AGREEMENT TO ARTICLES

If there is any conflict between the provisions of this Agreement and those of the Articles, then, in any dispute among the Members, the provisions of this Agreement shall prevail.

1.20 AMENDMENT OF AGREEMENT AND ARTICLES

No amendment of this Agreement or of the Articles shall be valid except upon the affirmative vote of all Members.

1.21 QUALIFICATION OF COMPANY IN OTHER JURISDICTIONS

Before conducting business in any jurisdiction other than South Carolina, the Company shall file all forms and shall do all other things required under the laws, including the tax laws, of that jurisdiction in order to conduct that business.

1.22 FOUNDING MEMBER AND MANAGER

Amy Puchalski shall be deemed Founding Member and Robert Puchalski shall be deemed Founding Manager for as long as they shall be associated with the Company in any way. As such, the Founding Member and Manager are vested with certain authorities and powers as set forth herein.

1.23 VOTING

Until the Company has more than four (4) Members, the vote of a majority of the Members shall control any vote taken. In the event of a tie vote, the Founding Member's vote shall break the tie. Once there are five (5) Members, the language referenced in this document requiring a majority vote shall be interpreted in accordance with this provision of section 1.22 and the vote of Seventy-five (75%) percent of the Members shall control any vote taken.

1.24 APPLICABILITY OF NAME

References in this agreement to South Carolina ENT, Allergy and Sleep Medicine, P.A., shall include references to it's predecessors, Kershaw ENT, South Carolina ENT & Facial Plastic Surgery, Inc. and any subsequently re-named physician practice containing all, or substantially all, of the existing shareholders of South Carolina ENT, Allergy and Sleep Medicine, P.A..

Plaintiffs' Ex 0016.005

SECTION 2 MEMBERS' CONTRIBUTIONS TO COMPANY, ETC.

2.1 CLASSES OF MEMBERS

The Company shall have a single class of Members.

2.2 CONTRIBUTIONS TO BE MADE BY MEMBERS IN EXCHANGE FOR THEIR MEMBERSHIPS

Promptly after the Company's formation, the Initial Members shall, in exchange for their Memberships, make contributions to the Company of the cash, non-cash property and services and the promises of cash, non-cash property and services as provided in the attached Exhibit A.

Members admitted to the Company after its formation shall make contributions in exchange for their Memberships as set forth in amendments to that exhibit.

2.3 VALUATION OF NON-CASH CONTRIBUTIONS

Before any Member makes a contribution to the Company in a form other than money, the manager shall determine the value of that contribution in dollars. In the absence of fraud and after consultation with the Company's Tax Advisor, the Founding Manager's determination shall be conclusive as to that value.

2.4 ENFORCEABILITY OF PROMISES TO MAKE CONTRIBUTIONS

No promise by a Member to make a contribution to the Company shall be enforceable unless set forth in this Agreement or in another writing signed by the Member.

2.5 DUTY OF DISABLED MEMBERS TO MAKE CONTRIBUTIONS, ETC.; COMPROMISES

Members or their representatives shall be obligated to perform enforceable promises to make contributions to the Company even if the Members are unable to do so because of their disability, death or otherwise. No such promise shall be compromised except by vote of a majority of the Members.

2.6 PENALTIES FOR FAILURE TO CONTRIBUTE

If any Member fails to make a contribution required or agreed to under 2.4, the other Members by vote of Members holding a majority of Member votes (exclusive of the votes

Plaintiffs' Ex 0016.006

of the Member failing to make the contribution) may impose upon the Member any penalty that the other Members agree is reasonable in the circumstances, including:

(a) Reduction or elimination of the Member's proportionate interest in the Company;

(b) Forfeiture of all or a portion of the Member's Membership rights; or

(c) Sale of all or a portion of the Member's Membership rights.

In determining which penalty to apply under this Section 2.6, the Members shall consult with the Company's accountant under Section 15.

2.7 NO INTEREST ON CONTRIBUTIONS

The Members shall earn no interest on their contributions under this Section 2.

SECTION 3 MEMBERS' NON-ECONOMIC RIGHTS

3.1 MATTERS ON WHICH MEMBERS MAY VOTE

Members in their capacity as Members shall have the right to vote on the following types of matters ("Member Matters"):

(a) All matters on which this Agreement expressly provides them with a right to vote.

3.2 NUMBER OF VOTES THAT MEMBERS MAY CAST

Except as otherwise expressly provided in this Agreement, each Member shall have one vote on each Member Matter for:

(a) Each percentage of ownership the Member has in the company; and

3.3 NUMBER OF VOTES NECESSARY TO DECIDE MEMBER MATTERS

Except as otherwise expressly provided in this Agreement, each Member Matter shall be decided by the affirmative vote of Members holding a majority of Member votes. In the event of a tie by the Members, the Founding Member shall vote to break the tie.

3.4 PROCEDURAL RULES GOVERNING MEMBER VOTING

In the absence of fraud or bad faith, no vote by the Members on any Member Matter shall be

Plaintiffs' Ex 0016.007

deemed to be invalid on any procedural or similar ground, including any ground relating to lack of notice, lack of meeting, lack of quorum, or failure to record votes;

PROVIDED, that the Manager shall use his reasonable best efforts to make a written record of each significant vote by the Members and to circulate these records on a timely basis among the Members.

In the event a Member cannot be present at a properly called meeting for any reason, the Member may submit a proxy to the Theresa Williams, or the then acting Office Manager, indicating to whom the proxy is given. The proxy may, but is not required to, dictate a certain vote to the proxy recipient.

No vote on a matter requiring Member vote, including but not limited to the purchase or sale of real estate, can be called to question by anyone other than the Manager.

For purposes of this Section 3.4, the terms "procedural or similar ground" shall be construed broadly. Members may vote on Member Matters in person, by phone, by fax or by any other reasonable means.

3.5 MEMBERS HAVE NO AGENCY RIGHT OR POWER

No Member as a Member shall have the right or power to bind the Company in dealings with third parties, in statements about the Company or in any other manner.

3.6 RIGHT OF MEMBERS TO OBTAIN COMPANY INFORMATION

During normal business hours and after reasonable notice, each Member shall be entitled for any purpose reasonably related to the Member's Membership:

To view any financial information in the Company's possession or control; and

To inspect and, at the Member's expense, to copy any documents and other media in the Company's possession or control;

PROVIDED, that all information thus acquired by the Member shall be subject to the provisions of Section 11 (relating to the confidentiality of certain Company information).

3.7 RIGHT OF MEMBERS TO BRING ACTIONS AGAINST, IN THE NAME OF OR ON BEHALF OF THE COMPANY OR AGAINST OTHER MEMBERS

3.7.1 GENERAL PROHIBITION OF SUITS

No Member in the Member's capacity as a Member may bring an action in law or equity

Plaintiffs' Ex 0016.008

against the Company or against any other Member in the other Member's capacity as a Member in any court for any reason except to enforce an arbitration order under Section 19.

3.7.2 VOTING REQUIREMENT FOR SUITS

No Member may bring a suit or action against any person in the name of or on behalf of the Company except with the affirmative vote of other Members holding a majority of Member votes (exclusive of the votes of the Member seeking to bring suit).

3.7.3 ARBITRATION

Any Member may assert in arbitration under Section 19 any claim that could be asserted in any suit or action against, in the right of or in the name of the Company.

SECTION 4 INTERIM ALLOCATIONS AND DISTRIBUTIONS TO MEMBERS; GUARANTEED PAYMENTS, ETC.

4.1 INTERIM ALLOCATIONS OF COMPANY PROFITS AND LOSSES

The Company shall make interim allocations of its profits and losses (as defined in Section 4.3) among the Members in proportion to their respective shares of aggregate contributions to the Company;

PROVIDED, that the Company shall allocate its income, gains, deductions and other tax items to Members in respect of contributed non-cash property in accordance with Internal Revenue Code section 704 (c) (1) (A) and the regulations thereunder.

For purposes of this Section 4, contributions shall (except as otherwise expressly provided in this Agreement) include only the value of contributions which the Company has actually received from the Members and has not returned.

4.2 ALLOCATIONS OF INTERIM DISTRIBUTIONS

The Company shall allocate to the Members Interim Distributions (as defined in Section 4.3) on the same basis on which it allocates its profits and losses.

4.3 DEFINITION OF INTERIM ALLOCATION AND INTERIM DISTRIBUTION

For purposes of this Section 4, the term "Interim Allocation" and "Interim Distribution" shall mean, respectively, any allocation of profits or losses among the Members and any

Plaintiffs' Ex 0016.009

distribution of profits or other assets by the Company to the Members as their share of Company assets except allocations and distributions in connection with:

(a) The liquidation of a Member's Company interest (as the term "Company interest" is defined in Section 4.4); and

(b) The liquidation of the Company.

4.4 DEFINITION OF COMPANY INTEREST

For purposes of this Agreement, a Member's Company interest shall mean

(a) The Member's share of the Company's profits and losses; and

(b) The Member's right to receive distributions of the Company's assets.

4.5 DISTRIBUTIONS IN KIND

If this Agreement or applicable law requires the Company to make an Interim Distribution to any Member, the Member may not require the Company to make this distribution except in the form of cash. The Company may not compel a Member to accept an Interim Distribution except in the form of cash.

4.6 NO COMPANY DUTY TO MAKE INTERIM DISTRIBUTIONS

The Company shall have no duty to make Interim Distributions except as expressly provided in this Agreement or as determined from time to time by the Founding Manager, or his successor.

4.7 TAX DISTRIBUTIONS

In the event sufficient cash exists and the Founding Manager or his successor deems it prudent to do so, the Company shall make Interim Distributions to the Members to enable them to pay taxes on allocations to them of Company profits.

4.8 LIQUIDATING DISTRIBUTIONS

The Company shall make distributions to Members in connection with the liquidation of their Company interests in accordance with Section 5. The Company shall make distributions to Members in connection with the liquidation of the Company in accordance with Section 16.

4.9 UNLAWFUL DISTRIBUTIONS

The Company shall make no Unlawful Distribution of its assets to any Member. For purposes of this Section 4.9, a distribution is an Unlawful Distribution:

(a) If, as a result of the distribution, the Company would be unable to pay its reasonably foreseeable obligations as they become due; or

(b) If the distribution is unlawful under the Company Act as in effect from time to time.

4.10 LIABILITY FOR AUTHORIZING OR RECEIVING UNLAWFUL DISTRIBUTIONS

Members who vote to authorize Unlawful Distributions or who receive these distributions shall be liable as provided in the Company Act.

4.11 REIMBURSEMENT OF EXPENSES

If any Member or manager incurs a reasonable expense on behalf of the Company and reasonably documents this expense to the Company, the Company shall reimburse the Member for this expense as promptly as reasonably possible after receiving this documentation. A Reasonable Expense shall be deemed to be reasonable and reimbursable upon agreement by the Founding Manager, or his successor, after consultation with the Company Tax Advisor.

SECTION 5 TRANSFERS AND PLEDGES OF MEMBERSHIP RIGHTS, ETC.

5.1 RESTRICTIONS ON RIGHT OF MEMBERS TO TRANSFER AND PLEDGE THEIR MEMBERSHIP RIGHTS

Except as may be provided herein, any transfer or sale of economic or non-economic Member rights shall be directly to the Company, a physician member of South Carolina ENT, Allergy and Sleep Medicine, P.A., or the current spouse of a physician member of South Carolina ENT, Allergy and Sleep Medicine, P.A.. Upon the purchase by the Company of a Member's rights hereunder, the ownership percentages of the remaining Members shall be automatically adjusted so that each remaining Member shares equally in the profits and losses of the Company. The intent of this provision is that every Member shall be just as vested in the Company as any other Member.

Plaintiffs' Ex 0016.011

ANY PURCHASE OF NEW MEMBERSHIP OR SURRENDER (BUY-IN OR BUY-OUT) OF EXISTING MEMBERSHIP, FOR ANY REASON DESCRIBED HEREIN, SHALL BE BASED UPON THE VALUATION AND PROCEDURE IDENTIFIED IN SECTION 5.5. BUYOUT DUE TO DEATH, DISABILITY, RETIREMENT OR DISSOCIATION WILL BE VALUED AND PAID ACCORDING TO THE TERMS IDENTIFIED HEREIN.

5.2 DEFINITION OF TRANSFER

For purposes of this Section 5, "transfer" shall include:

(a) Transfers by sale;

(b) Transfers by gift;

(c) Transfers (whether by will, trust or otherwise) taking effect on the death of the transferor; and

(d) Involuntary transfers, including transfers by operation of law and pursuant to divorce and bankruptcy decrees.

Transfers and pledges in breach of the terms of this Section 5 shall be void and of no effect.

5.3 ADMISSIONS OF ADDITIONAL MEMBERS BY THE COMPANY

The Company shall admit no person as a Member of the Company after the Company's formation except upon the affirmative vote of Members holding 75% of Member votes.

5.4 ELECTION UNDER INTERNAL REVENUE CODE SECTION 754

Before any Member transfers any of the Member's rights as a Member to any person, the Members shall negotiate in good faith and shall agree whether to file an election under Internal Revenue Code section 754 to adjust the basis of Company property in connection with that transfer.

5.5 VALUATION OF MEMBERSHIP INTEREST AND BUYOUT

Subject to (C) herein, the value of the Member's equity shall be determined as follows:

The determination of value for a Member either a) buying in to, at any time, or b) dissociating out of the Company after the first five (5) years of the member obtaining shares of SCENT Land Holdings, LLC and after the first seven and one-half (7.5) years of the member obtaining shareholder status in South Carolina ENT, Allergy and Sleep Medicine, P.A., shall be based on the appraised value of the assets of the property less any outstanding

Plaintiffs' Ex 0016.012

mortgage indebtedness and the Member's ownership percentage thereof (in the event the appraised value is less than the mortgage balance, use the mortgage balance to determine value); or,

(B) For a Member dissociating from the Company prior to the 5th anniversary of the Member obtaining their Membership shares in SCENT Land Holdings, LLC and the seven and on-half (7.5) year anniversary of obtaining shareholder status in South Carolina ENT, Allergy and Sleep Medicine, P.A., the value of the Member's interest shall be the Member's ownership percentage multiplied by the difference between the cost of land acquisition and the construction of the improvements/buildings on the property, as computed by the Founding Manager, after consultation with the Company Tax Advisor, less any outstanding mortgage indebtedness.

(C) In the event a Member withdraws from the Company prior to the previously stated anniversaries of obtaining Membership interest and the properties appraised value is below the actual cost of actual acquisition and construction of the improvements, the withdrawing Member shall be entitled only to the lower value of the Company as computed by processes A and B above.

(D) The Member withdrawing or dissociating from the Company, after five (5) years of the Member obtaining shares of SCENT Land Holdings, LLC and after seven and one-half (7.5) years of obtaining shareholder status with South Carolina ENT, Allergy and Sleep Medicine, P.A., shall pay for an MAI certified, market based appraisal of the property and if the Company and the Member disagree on the value shown on the appraisal, the Company will pay for an additional appraisal and the two figures shall be averaged to determine the value of the property

(E) For any Buy-out of Membership shares of the Company, the majority vote of the non-withdrawing Members of the Company shall vote to make buyout payments in either one payment or in equal payments spread out over no more than 5 years.

(F) For purposes of establishing dates of joining the company for the initial Members or Manager, Amy and Robert Puchalski's relative date is July, 2004 and Jamie Curley and Orville Dyce's relative date is July, 2007.

(G) Upon determination of the Buyout amount owed to the withdrawing Member, the Interim Distributions normally made to that Member shall cease and the withdrawing Member shall only be entitled to the funds due for buyout of that Member's interest in the Company.

Plaintiffs' Ex 0016.013

SECTION 6 MEMBER DISSOCIATIONS

6.1 DEFINITION OF MEMBER DISSOCIATION

The dissociation of a Member means the termination of the Member's right to participate in the Company's business and internal affairs by voting on matters relating to the business, rights to Interim Distributions and internal affairs of the Company, by acting as an agent for the Company or otherwise.

6.2 EVENTS OF DISSOCIATION

The Company may require a Member to promptly sell all or any part of the Member's Company interest to the Company or to the other Members for the value set forth in 5.5 herein if a Member is dissociated. Under certain circumstances, a shareholder shall be required to transfer Membership interest, or proxy vote, to a physician spouse who is a shareholder of South Carolina ENT, Allergy and Sleep Medicine, PA.. In no event can the Founding Member or Founding Manager ever be forcefully Dissociated.

A Member shall be dissociated only upon the occurrence of one of the following events:

(a) The Member dies, unless the Member is a sponse of the practicing South Carolina ENT, Allergy & Sleep Medicine, P.A. physician, in which case the Member's interest shall vest only in the South Carolina ENT, Allergy & Sleep Medicine, P.A. physician;

Notwithstanding anything to the contrary, any Member who is the surviving spouse (with no legal separation or divorce proceedings having been commenced) of a physician who has been a shareholder of South Carolina ENT, Allergy & Sleep Medicine, P.A. seven and one-half (7,5) years and also a Member of this Company for at least 5 years prior to the death of the physician shall be entitled to continued Membership privileges for the duration of his or her life. However, these privileges shall be of a personal nature to the surviving spouse and not transferrable to the surviving spouse's children or a subsequent non-South Carolina ENT, Allergy & Sleep Medicine, P.A. member physician spouse upon her remarriage.

(b) The physician or physician spouse incurs a Total Disability (as defined in Section 6.6), unless the physician has been a shareholder of South Carolina ENT, Allergy & Sleep Medicine, P.A. for at least seven and one-half (7.5) years;

(c) The Member resigns in accordance with Section 6.9;

(d) The Member transfers the Member's entire Company interest to another person, who is not the South Carolina ENT, Allergy & Sleep Medicine, P.A. physician

Plaintiffs' Ex 0016.014

spouse of the Member;

(e) The South Carolina ENT, Allergy & Sleep Medicine, P.A. physician and Member spouse divorce. In this event, the shares owned by the Member spouse shall be transferred to the physician in any settlement proceedings. Until a determination is made by a Court of competent jurisdiction, the non-physician spouse will lose the non-economic rights vested in this agreement with proxy vote transferring to the physician spouse.

(f) The Member, or Member's spouse, is no longer employed by or a shareholder of South Carolina ENT, Allergy & Sleep Medicine, P.A. This will not apply in the event the Member or physician spouse has been a shareholder of South Carolina ENT, Allergy & Sleep Medicine, P.A. for a period of at least seven and one-half (7.5) years.

(g) In the event the Member (who is not a physician with South Carolina ENT, Allergy & Sleep Medicine, P.A.,) becomes incapacitated or incompetent and therefore unable to participate in Company business, the Member's non-economic right to participate in any Company business shall vest in the physician spouse for the duration of the disability.

6.3 LOSS OF VOTING RIGHTS, ETC., UPON DISSOCIATION

Except as otherwise expressly provided in this Agreement, a Member upon the Member's dissociation shall immediately lose any right of the Member to participate in the business and affairs of the Company by voting on Member Matters, by acting as an agent for the Company, by initiating a dispute in the Member's capacity as a Member, by having access to Company information in the Member's capacity as a Member or by any other means.

6.4 NO DISTRIBUTIONS, ETC., TO DISSOCIATED MEMBERS

A Member's dissociation shall not entitle the Member to receive any distribution of Company profits or other assets or to receive any payment for the Member's Company interest, unless said profits, assets or payment for the Member's interest are owed to the Member from a date which precedes the Member's date of dissociation.

6.5 DEFINITION OF TOTAL DISABILITY

A Member, if a physician or Member's physician spouse, shall be deemed to have incurred a Total Disability within the meaning of Section 6.2 (b) as defined by the shareholder's agreement with South Carolina ENT, Allergy and Sleep Medicine, P.A.

6.6 DETERMINATION OF TOTAL DISABILITY

Whether a Member, or Member's physician spouse, has incurred a Total Disability and the date on which the Member, or Member's physician spouse, has incurred a Total Disability

Plaintiffs' Ex 0016.015

shall be determined by the vote of other Members holding a majority of Member votes (except the votes of the Member about whose disability they are voting). All such determinations shall be subject to review in arbitration under Section 19.

6.7 DEFINITION AND EFFECTIVE DATE OF RESIGNATION

For purposes of this Section 6, the resignation of a Member means the Member's voluntary written renunciation of the Member's right to participate in the business and internal affairs of the Company. A Member shall be deemed to have resigned from the Company within the meaning of this Section 6 on the effective date of the notice of resignation described in Section 6.9.

6.8 RIGHT OF MEMBERS TO RESIGN FROM COMPANY; NOTICE OF RESIGNATION

A Member may without liability resign as a Member of the Company by giving written notice of resignation to the other Members. The resignation shall be effective 60 days after all of the other Members have received the notice.

6.9 EXPULSION OF MEMBER

A Member may only be expelled by the Company and forced to accept a buy-out of his or her interest as valued in Section 5 herein if the Member:

(a) is a physician owning an interest in the Company and the physician withdraws from practice with South Carolina ENT, Allergy & Sleep Medicine, P.A. prior his or her seven and one-half (7.5) year anniversary of Membership in South Carolina ENT, Allergy & Sleep Medicine, P.A.; or,

(b) is the spouse member of a South Carolina ENT, Allergy & Sleep Medicine, P.A. physician who leaves the practice prior to the 7.5th anniversary of the Member spouse's Membership in South Carolina ENT, Allergy & Sleep Medicine, P.A.; or,

(c) fails to make a mandatory capital contribution to the Company, within six (6) weeks of written notice given thereof, for a project that is approved by the Membership for such contribution to be made.

SECTION 7 MANAGER'S DUTY OF CARE; RELATED MATTERS

7.1 DUTY OF CARE - GENERAL RULE

In participating in or handling any matter (an "Company matter") relating to the business and

Plaintiffs' Ex 0016.016

internal affairs of the Company, the Manager shall use his reasonable best efforts to further the interests of the Company;

PROVIDED, that the Manager shall be liable for violations of their duty of care as Manager only as provided in Section 7.2.

7.2 PERSONAL LIABILITY OF MANAGERS FOR FAILURE TO USE ORDINARY PRUDENCE

The Manager shall be personally liable to the Company for money damages and other relief if, in participating in or handling any Company matter as Manager:

They fail to exercise the care that an ordinarily prudent person would exercise under similar circumstances; and

They are unable to rely on the defenses to liability set forth in Sections 7.4 and 7.5.

7.3 *DUTY TO OBTAIN INFORMATION*

Before making any decision or taking any action in an Company matter, the Manager in his capacity as Manager shall use their best efforts to obtain all relevant information.

7.4 NO MANAGER LIABILITY IF A MANAGER RELIES ON COMPANY INFORMATION, ON OTHER COMPANY MANAGERS, ETC.

No manager as a manager shall be personally liable to the Company or to the Members for any claim of violation of the manager's duties under this Section 7 to the extent that, with respect to the matter in question, the manager has acted in reasonable reliance on:

(a) Company records;

(b) Other Company managers, employees or officers of the Company;

(c) Other persons whom, at the time of the action, the manager reasonably believed to be competent in the matter in question; or

(d) Any provision of this Agreement.

7.5 NO MEMBER LIABILITY FOR ACTIONS TAKEN IN GOOD FAITH, ETC.

No Manager in the Manager's capacity as a manager shall be personally liable for a breach of any duty of the Manager under this Section 7 if, with respect to the matter in question, the Manager has acted:

Plaintiffs' Ex 0016.017

(a) In good faith; and,

(b) In the reasonable belief that the action was in the best interest of the Company; and,

(c) With reasonable diligence.

7.6 WHO MAY CLAIM BREACH OF THIS SECTION; MEMBER VOTE NECESSARY TO MAKE CLAIM

Only the Company may make a claim against a Manager for a breach of a duty of the Manager under this Section 7. The Company shall make no such claim except upon the unanimous vote of Members entitled to vote (exclusive of the votes, if any, of the Manager potentially subject to the claim). Regardless of the claim made by the Membership, no such claim for breach of a Managerial duty shall be maintained against Robert Puchalski or Amy Puchalski.

7.7 STANDARD OF PROOF

Any claim of breach of this Section 7 shall be deemed to be proven if supported by a preponderance of the evidence.

7.8 INDEMNIFICATION OF MANAGERS FOR CLAIMS UNDER THIS SECTION

If any person makes a claim against a Manager for a violation of a duty of the Manager under this Section 7, the Company shall indemnify the Manager for reasonable expenses and for damages or settlement amounts reasonably incurred by the Manager in respect of the claim if Disinterested Members holding a majority of Member votes (exclusive of the Member votes, if any, of the Manager who is the subject of the claim) determine that in respect of the *matter in question*:

The Manager has exercised the care that an ordinarily prudent person would exercise under similar circumstances; or

The Manager is protected from liability under Sections 7.4 or 7.5.

7.9 ADVANCEMENT OF ARBITRATION AND LITIGATION EXPENSES

The Company shall advance arbitration and litigation expenses to a Manager for the defense of claims against the Manager for breaches of the Member's duty under this Section 7:

If Disinterested Members holding a majority of Member votes (excluding the Member votes,

Plaintiffs' Ex 0016.018

if any, of the Manager who is the subject of the claim) determine that in respect of the relevant matter, it is probable that the Manager has exercised the care that an ordinarily prudent person would exercise under similar circumstances or that the Manager is protected from liability under Sections 7.4 or 7.5; and

If the Manager promises to return all such advances to the Company if the court, arbitrator or other tribunal deciding the claim finds otherwise.

7.10 LIABILITY INSURANCE FOR MANAGERS

Whether the Company shall maintain an insurance policy to cover Manager liabilities arising under this Section 7 shall be determined by the affirmative vote of Members holding a majority of Member votes.

SECTION 8 MANAGERS' DUTY OF LOYALTY; RELATED MATTERS

8.1 DUTY OF LOYALTY-GENERAL RULE

In matters relating to the business and affairs of the Company, Manager in his capacity as Manager shall act solely for the benefit of the Company and not for their personal benefit.

8.2 DUTY NOT TO COMPETE AGAINST THE COMPANY

In any geographical area where the Company is engaged in business or has definite plans (as evidenced by Company documents) to engage in business, a Manager shall not directly or indirectly compete against the Company while the Manager is a Manager and until the second anniversary of the date on which the Manager ceases to be a Manager; PROVIDED, that the Manager may compete against the Company with the advance consent of Disinterested Members holding a majority of Member votes (exclusive of the Member votes, if any, of the Manager who wishes to compete against the Company).

8.3 DUTIES IN DOING BUSINESS WITH COMPANY

No Manager shall engage directly or indirectly in any business arrangement or transaction with the Company on the Manager's own behalf or on behalf of a disclosed or undisclosed third party except:
After making full disclosure to the Company; and After receiving the advance consent of Disinterested Members holding a majority of Member votes (exclusive of the Member votes, if any, of the Manager wishing to engage in business with the Company).

Plaintiffs' Ex 0016.019

The terms of any business engagement permitted under this Section 8.4 shall be arm's-length terms.

8.4 DUTIES WITH RESPECT TO COMPANY BUSINESS OPPORTUNITIES

If a Manager or Member learns (whether in the course of Company business or otherwise) of a business opportunity potentially valuable to the Company, the Manager or Member shall promptly disclose the opportunity to the Company and shall not exploit the opportunity for the Manager's or Member's personal benefit unless:

(a) *Within 10 business days* after receiving written, faxed or emailed notice of the opportunity, the Company fails to provide either an acceptance or rejection to the Member or Manager disclosing the opportunity; or

(b) After accepting it, the Company fails to exploit it with reasonable promptness and diligence.

Whether the Company shall accept the opportunity shall be decided in each case by the affirmative vote of Disinterested Members holding a majority of Member votes (exclusive of the Member votes, if any, of the Manager who wishes to exploit the opportunity).

8.5 DUTY TO AVOID IMPROPER PERSONAL BENEFITS

If any Manager directly or indirectly receives from any person a monetarily significant benefit, including cash, in connection with the Manager's activities as a Manager of the Company, the Manager shall promptly transfer this benefit to the Company; PROVIDED, that the Manager may retain the benefit if authorized to do so:

(a) By this Agreement; or

(b) By the advance consent of Disinterested Members holding a majority of Member votes (exclusive of the Member votes, if any, of the Manager in question).

8.6 DUTIES OF GOOD FAITH AND FAIR DEALING

In all Company matters, Manager in their capacity as Manager shall act in good faith and shall deal fairly with the Company and with the Members.

Plaintiffs' Ex 0016.020

8.7 WHO MAY CLAIM BREACH OF THIS SECTION; MEMBER VOTE NECESSARY TO MAKE CLAIM

Only the Company may make a claim against a Manager for a breach of the Manager's duty under this Section 8. The Company shall make no such claim except upon the affirmative vote of Members holding a majority of Member votes (exclusive of the Member votes, if any, of the Manager potentially subject to the claim).

8.8 STANDARD OF PROOF

Any claim of breach of this Section 8 shall be deemed to be proven if supported by a preponderance of the evidence.

8.9 ADVANCEMENT OF LITIGATION EXPENSES

The Company shall advance arbitration and litigation expenses to a Manager for the defense of claims against the Manager for breaches of the Member's duty under this Section 8;

If Disinterested Members holding a majority of Member votes (excluding the Member votes, if any, of the Manager who is the subject of the claim) determine that in respect of the relevant matter, it is probable that the Manager has complied with the provisions of this Section 8; and

If the Manager promises to return all such advances to the Company if the court, arbitrator or other tribunal deciding the claim finds otherwise.

SECTION 9 MANAGER'S DUTY OF OBEDIENCE

The Manager shall promptly comply with all reasonable instructions approved by Members holding a majority of Member votes.

SECTION 10 MANAGER'S DUTY OF CANDOR

The Manager shall deal honestly with the Company and, promptly after learning of any information (including information about their own health and personal affairs) that is material to the business and affairs of the Company, they shall disclose this information to the Company to the other Managers (or, if there is only one Manager, to the Members).

Plaintiffs' Ex 0016.021

SECTION 11 MEMBERS' AND MANAGER'S DUTY OF CONFIDENTIALITY

11.1 MEMBERS' AND MANAGER'S DUTY TO MAINTAIN CONFIDENTIALITY OF COMPANY INFORMATION

The Members and Managers:

(a) Shall maintain the confidentiality of Confidential Information (as defined in Section 11.2);

(b) Except as required in conducting the business and internal affairs of the Company, shall not disclose Confidential Information to any third party;

(c) Shall make copies of documents and other media containing Confidential Information only for the benefit of the Company;

(d) Shall use Confidential Information only for the benefit of the Company; and

(e) Promptly after ceasing to be Members and Managers (as the case may be), shall return to the Company all documents and other media containing Confidential Information.

11.2 DEFINITION OF CONFIDENTIAL INFORMATION

For purposes of this Agreement, Confidential Information means:

(a) The terms of this Agreement; PROVIDED, that a Member may disclose these terms on a confidential basis to his or her spouse and professional advisers;

(b) Information that the Company maintains in confidence;

(c) Information that the Member or Manager knows to be proprietary to the Company.

(d) Financial information relating to the Company and to the Members;

(e) Information relating to Company marketing and business plans and strategies;

(f) Information concerning the design and manufacture of Company products and concerning methods of providing Company services;

(g) Information in Company personnel files and similar files relating to Company Members and employees;

Plaintiffs' Ex 0016.022

(h) Information entrusted to the Company in confidence by third parties;

(i) Information reasonably designated by the Managers as Confidential Information; and

(j) Information disclosed by Managers under Sections 11 and 12.

11.3 EXCEPTIONS TO DUTY OF CONFIDENTIALITY

Section 11.1 shall not apply to information:

(a) Which the Member or Manager in question (the "Recipient") already lawfully possess at the time of its disclosure to the Member or Manager by the Company or which the Recipient lawfully obtains thereafter;

(b)Which is already in the public domain at the time of its disclosure to the Recipient or which thereafter enters the public domain through no fault of the Member;

(c) The disclosure of which is required by final order of a court of competent jurisdiction;

(d) The disclosure of which is made on a confidential basis to an arbitrator in an arbitration under Section 19; and

(e) Which the Company discloses without restriction to any person other than the Recipient.

11.4 BINDING EFFECT; TERMINATION

This Section 11 shall bind each Recipient even after the Recipient ceases to be a Member or Manager. Subject to any contrary arrangement with a third party, this Section 11 shall terminate upon the termination of the legal existence of the Company.

SECTION 12 MANAGER QUALIFICATIONS, RESPONSIBILITIES, ETC.

12.1 MANAGER QUALIFICATIONS

The Manager shall be a natural person and shall be a shareholder of South Carolina ENT, Allergy and Sleep Medicine, P.A.

12.2 MANAGER TITLES

In performing management functions for the Company, Managers may use the title "Manager" or such other title or titles (including, without limitation, the title "President" or "Chief Executive Officer") as the Members may determine from time to time by affirmative vote of Members holding a majority of Member votes.

Plaintiffs' Ex 0016.023

12.3 MANAGER RESPONSIBILITIES

The Manager shall have general responsibility for managing the day to day business and internal affairs of the Company. The Manager shall have any additional responsibilities that are set forth in this Agreement or that the Members may determine from time to time by affirmative vote of Members holding a majority of Member votes. If the Managers responsibilities are expanded pursuant to this section, the Manager may request a reasonable management fee to be determined by the Members based upon a fair market valuation of the services performed.

12.4 MULTIPLE MANAGER VOTING- N/A

12.5 METHOD OF APPOINTING MANAGERS AFTER INITIAL MANAGER

Subsequent to the terms of 12.6 herein, after the formation of the Company, Managers shall be appointed by the affirmative vote of Members holding seventy-five (75%) percent of Member votes.

12.6 MANAGER'S TERMS OF OFFICE

The term of office of each Manager shall be indefinite, but shall terminate upon the earliest of the date of the Manager's (a) death, (b) resignation, (c) disability (as determined by vote of Members holding a majority of votes) or (d) removal as a Manager. Regardless of any information contained in this document to the contrary, Robert Puchalski, as Founding Manager, shall remain as Manager for the duration of his association with the company, even if he is no longer a shareholder with South Carolina ENT, Allergy & Sleep Medicine, P.A.

12.7 MANAGER RESIGNATIONS

A Manager may resign as a Manager upon giving 60 days' written notice to each Member. Except as otherwise provided in this Agreement, the Manager shall have no liability to the Company or to the other Members for any such resignation; PROVIDED, that the resignation shall not absolve the Manager from any liabilities arising before the resignation.

12.8 MANAGER REMOVALS

The Members may, without liability, remove a Manager, except Robert Puchalski if he is serving as Manager, at any time with or without cause by affirmative vote of Members holding seventy-five (75%) percent of Member votes. Robert Puchalski may only be removed by the Members if a unanimous vote is taken to remove them and only as a result of an intentionally illegal action by or on behalf of the Company or he attempts to secure or sign a contract or any other document purporting to sell any real property asset of the Company or

Plaintiffs' Ex 0016.024

obligate the Company to purchase additional real property without obtaining prior approval of the Members.

12.9 NO MANAGER LIABILITY AS MANAGER FOR CLAIMS AGAINST COMPANY BY THIRD PARTIES

No Manager as such shall have personal liability for a claim against the Company by any third party. Managers shall be personally liable for their personal misconduct as provided by this Agreement and by applicable law.

12.10 MANAGERS' EXCLUSIVE RIGHT TO BIND COMPANY, ETC.
Only the Manager shall have the following rights:

12.10.1 CONTRACTS
The Manager shall have the right to bind the Company in dealings with third parties.

12.10.2 BUSINESS DECISIONS
The Manager shall have the exclusive right to decide all Company matters relating to the business of the Company.

12.10.3 CONDUCT OF BUSINESS AND AFFAIRS OF COMPANY
The Manager shall have the right to conduct the day to day business and internal affairs of the Company. The Manager shall have the right to employ accountants, attorneys, property or construction managers and other persons whose employ would benefit the Company. The Manager shall also have the exclusive right to determine appropriate distributions to Members based on their Membership interest and the cash position of the Company at the time of the anticipated distribution. Matters outside the normal operations of Company business, such as selling, buying or mortgaging of any Company real property asset, shall be handled by the Manager but upon written approval and direction of Members holding seventy-five (75%) percent of the Member votes.

12.11 DUTY OF MANAGER TO INFORM MEMBERS

The Managers shall use reasonable efforts to inform the Members on an annual basis, or as requested by the Members, concerning the internal affairs of the Company and the condition of its business.

12.12 MANAGER VALUATION OF CONTRIBUTIONS, ETC.

Whenever, after the formation of the Company, the Company admits a person as a new Member of the Company, the Manager (and not the Members):

Shall promptly determine in dollars a value for the contribution of that person in exchange for the person's Membership or that there was no contribution;

Plaintiffs' Ex 0016.025

Shall record this determination in the records of the Company; and

Shall promptly notify all Members concerning the determination. Thereafter, in the absence of fraud, the determination shall be conclusive as to the value of the contribution or as to whether there was a contribution.

12.12 INITIAL MANAGER

The Company shall be managed by Robert Puchalski as the initial Manager of the Company.

12.13 APPOINTMENT OF SUBSTITUTE MANAGER(S)

The Members shall have the right to appoint a substitute "Manager" or "Managers" to operate the Company and to conduct its business in the event of illness, disability, or death of the primary Manager, and his stated successor. The Members shall also have the right to nominate or elect an additional Manager for the purposes set forth herein. The "Manager" shall have the rights, powers, and obligations granted or created herein to the initial Managers, except as the Members shall otherwise restrict or limit in the document appointing the "Manager".

SECTION 13 MEMBERS' REPRESENTATIONS AND WARRANTIES

13.1 REPRESENTATIONS AND WARRANTIES BY INDIVIDUAL MEMBERS

Each Member represents and warrants in the Member's capacity as a Member as follows:

13.1.1 FREEDOM OF MEMBER TO ENTER INTO AGREEMENT, ETC.

The Member:

(a) Is legally free to enter into this Agreement and to perform the Member's obligations under the Agreement in accordance with its terms; and

(b) Is not prevented from doing so by order of any court or other governmental authority, by any agreement with a third party (including an employment agreement, non-competition agreement or non-disclosure agreement) or by any other cause.

Plaintiffs' Ex 0016.026

13.1.2 GOODFAITH,DISCLOSURE,ETC. IN NEGOTIATING TERMS OF AGREEMENT

In negotiating and entering into this Agreement, the Member has acted fairly and in good faith and has disclosed to the other Members all information reasonably likely to be relevant to them in determining whether to enter into it.

13.1.3 ACCESS TO LEGAL ADVICE, ETC.

Before accepting the terms of this Agreement, the Member has had every reasonable opportunity to consider these terms and to review them with the Member's personal attorney.

13.1.4 FREE ACCEPTANCE OF TERMS, ETC.

Each Member has accepted the terms of this Agreement knowingly and freely.

13.2 DUTY TO UPDATE.

If, after a Member signs this Agreement, the Member discovers that any of the above representations were erroneous when made or have become erroneous, the Member shall immediately so advise the other Members.

SECTION 14 COMPANY RECORDS, BOOKS OF ACCOUNT, REPORTS TO MEMBERS, ETC.

14.1 RECORDS TO BE MAINTAINED BY Company

The Company shall maintain at its principal place of business:

(a) A copy of its Articles and operating agreement and all amendments of these documents;

(b) Copies of all of its federal and state tax returns;

(c) A current list of the name and last known business, residence or mailing address of each of its Members;

(d) True and complete information concerning:

The amount of cash and a description and statement of the value of any other property or services which each Member has contributed to the Company or which any Member has

Plaintiffs' Ex 0016.027

agreed to contribute to it;

Any return by the Company to a Member of cash or other property contributed by the Member; and

(e) A record stating the date on which each Member became a Member (unless this date is evident from the content of the Agreement).

14.2 BOOKS OF ACCOUNT

The Company shall maintain books of account concerning the business and affairs of the Company that shall be:

(a) Accurate;

(b) Reasonably current; and

(c) In compliance with financial and other standards normally applicable to the records of business organizations generally similar to the Company in size and business activities,

14.3 REPORTS TO MEMBERS, ETC.

Through the provision of written financial reports or through other appropriate measures, the Company shall advise the Members on a regular basis concerning the financial and business condition of the Company.

SECTION 15 TAX PLANNING AND COMPLIANCE

15.1 IMPORTANCE TO COMPANY OF TAX MANAGEMENT AND COMPLIANCE

The parties acknowledge the importance to the Company and the Members of:

Competent tax planning for the Company and for the Members as Members; and

Full compliance by the Company and by the Members with federal and state tax requirements applicable to the Company and the Members in their capacity as such.

15.2 APPOINTMENT OF COMPANY TAX ADVISER

In connection with its formation and on a continuing basis thereafter, the Members hereby appoint as the Company's tax adviser the individual or firm of Sheheen, Hancock & Godwin.

Plaintiffs' Ex 0016.028

The Manager may change the Company's tax adviser from time to time..

15.3 COOPERATION WITH COMPANY TAX ADVISER

The parties shall cooperate with the Company's tax adviser to the maximum reasonable extent to ensure adequate Company tax planning and compliance.

15.4 COMPANY TAX RETURNS

On a timely basis each year, the Company shall accurately complete and file its federal tax return and all applicable state returns.

15.5 COMPANY PROVISION OF TAX INFORMATION TO MEMBERS

As soon as reasonably possible after the close of each of its taxable years, the Company shall provide each Member with completed federal and state tax forms and with all other documents and information relevant to the federal and state tax liabilities of the Member as a Member of the Company; PROVIDED, that each Member shall have sole responsibility for preparing and timely filing the Member's federal and state tax returns and for paying the Member's taxes, and the Company shall have no responsibility or liability with respect to these matters.

15.6 COMPANY COMPUTATION AND RECORDING OF MEMBERS' CONTRIBUTIONS, CAPITAL ACCOUNTS AND ADJUSTED TAX BASES

The Company shall compute on a current basis and in accordance with applicable U.S. Treasury Department regulations the contributions and capital accounts of the Members and their adjusted tax bases in their Company interests.

The Company shall maintain current and accurate records concerning Members' contributions, capital accounts and adjusted tax bases and, promptly after the request of any Member, shall make these records available to the Member.

15.7 PLANNING OF INDIVIDUAL TRANSACTIONS

Before undertaking any major transaction involving the Company or any Member in the Member's capacity as a Member:

(a) The Company and each affected Member shall consult with one or more partnership tax experts concerning the tax implications of the transaction; and

(b) The Company and affected Members shall make any tax elections and shall take any other actions necessary or appropriate in the circumstances to ensure tax compliance and maximum lawful tax avoidance.

Plaintiffs' Ex 0016.029

The issue of the fairness of the transaction to the Company and to the Members shall be subject to arbitration under Section 19.

15.8 TAX DISTRIBUTIONS

If any Member requires a distribution of all or any portion of the Member's share of Company profits in order to pay the Member's federal or other taxes on the Member's share of these profits for any taxable year, the Company shall, to the extent that its financial condition reasonably permits, make this distribution to the Member on a timely basis; PROVIDED, that as a condition for the distribution, the Company may, under reasonable conditions of confidentiality, require the Member to disclose to the Company's tax adviser relevant information concerning the Member's tax and financial affairs.

15.9 TAX MATTERS PARTNER

Robert Puchalski shall serve as the Company's tax matters partner for purposes of unified administrative and judicial federal tax proceedings under Internal Revenue Code section 6231 (a) (1).

SECTION 16 COMPANY DISSOLUTION, WINDING-UP AND LIQUIDATION; LIQUIDATION DISTRIBUTIONS

16.1 DEFINITION OF COMPANY DISSOLUTION, ETC.

For purposes of this Agreement, the following terms shall have the following meanings:

16.1.1 DISSOLUTION

The dissolution of the Company shall mean the cessation of its normal business activities and the beginning of the process of winding up its business and internal affairs and of liquidating it.

16.1.2 WINDING-UP

The winding-up of the Company shall mean the process of concluding its existing business activities and preparing for its liquidation.

16.1.3 LIQUIDATION

The liquidation of the Company shall mean the sale or other disposition of its assets and the distribution of its assets (or the distribution of the proceeds of the sale or other disposition of its assets) to its creditors and to the Members.

Plaintiffs' Ex 0016.030

16.2 EVENTS CAUSING DISSOLUTION

The Company shall be dissolved:

(a) Upon the affirmative vote of Members holding seventy-five (75%) percent of Member votes; PROVIDED, that upon any such dissolution, Members holding less than the required number of votes may seek damages and other relief in arbitration under Section 19 for any injury unfairly resulting to them or likely to result from the dissolution;

(b) Upon the issuance of an order of dissolution by a court or by the Secretary of State; or

(c) Upon the issuance of an order of dissolution by an arbitrator under Section 19.

16.3 EFFECTIVE DATE OF DISSOLUTION OF COMPANY BY VOTE OF MEMBERS

The dissolution of an Company by vote of the Members shall be effective on the date specified in that vote or, if the Members do not specify a date, then on the date of completion of the vote.

16.4 DETERMINATION OF DATE FOR DELIVERY OF CERTIFICATE OF CANCELLATION AND FOR EFFECTIVE DATE OF CERTIFICATE

The date on which the Company shall deliver a certificate of cancellation to the Secretary of State for filing and the effective date of this certificate shall be determined by the affirmative vote of Members holding seventy-five (75%) percent of the Member votes.

16.5 CESSATION OF COMPANY'S LEGAL EXISTENCE

Unless a court or administrative authority duly and finally determines otherwise, the Company shall cease to exist as a legal entity on the effective date set forth in the certificate of cancellation.

16.6 WINDING-UP OF COMPANY

After the Company is dissolved, the person or persons responsible for winding it up shall as expeditiously as reasonably possible:

Plaintiffs' Ex 0016.031

(a) Wind up its business and internal affairs; and

(b) Cause its liquidation.

During the wind-up period, the Company shall accept no new business except to the extent necessary to dispose of existing inventory.

16.7 COMPLIANCE WITH THE LAWS OF THIS STATE APPLICABLE TO ENTITY DISSOLUTIONS AND LIQUIDATION

The Company shall make no distribution to Members or others in connection with its liquidation until it has complied with all applicable laws and regulations of this State (including tax laws and regulations) relating to its dissolution and liquidation.

16.8 DISPOSITION OF KNOWN AND UNKNOWN CLAIMS AGAINST COMPANY

Promptly after the dissolution of the Company, the Company shall take all reasonable measures under the laws of this State to dispose of (and, to the extent reasonable, to bar) known and unknown claims against the Company.

16.9 DISTRIBUTIONS UPON COMPANY LIQUIDATION

Upon completion of the Company's winding-up but, if reasonably possible, on or before the date of termination of the Company's legal existence, the Company shall (subject to any applicable provisions of section 704 (b) of the Internal Revenue Code and other applicable federal and state law) distribute its assets as follows:

First, the Company shall pay (or shall make adequate provision to pay) its creditors.

Second, the Company shall distribute its assets to Members in satisfaction of its liabilities for distributions to them under Section 4.

Third, the Company shall distribute its assets to Members for the return of their contributions.

Fourth, the Company shall distribute its assets to Members in accordance with their right to share in distributions of its assets under Section 4.

Plaintiffs' Ex 0016.032

16.10 DUTY TO CONSULT TAX ADVISER IN CONNECTION WITH COMPANY DISSOLUTIONS, ETC.

Before the Members begin the wind-up and liquidation of the Company, the Company and the Members shall consult with their respective tax advisers and shall structure and implement the liquidation in a manner that is as fair as possible to each Member from a tax viewpoint.

SECTION 17 ASSIGNMENTS OF COMPANY INTERESTS

Except as otherwise provided in this Agreement:

17.1 DEFINITION OF ASSIGNMENT

For purposes of this Agreement, an assignment means a transfer by a Member of all or any portion of the Member's Company interest to another person.

17.2 NO ASSIGNEE *RIGHT* TO PARTICIPATE IN THE MANAGEMENT OF THE COMPANY

No person receiving an Assignment shall, solely by reason of the Assignment, have any right to participate in the business and affairs of the Company by any means, including participation by voting, by access to Company information, or by initiating lawsuits or arbitrations; PROVIDED, that, to the extent permissible under the Company Act, an assignee may initiate an arbitration on behalf of the Company in accordance with the provisions of the Company Act.

17.3 NO ASSIGNEE LIABILITY FOR CERTAIN OBLIGATIONS OF ASSIGNOR

No assignee shall be liable for obligations of an assignor of which the assignee was unaware and which the assignee could not ascertain from this Agreement.

17.4 CONTINUING LIABILITY OF ASSIGNOR FOR CERTAIN OBLIGATIONS

Notwithstanding an assignor's making an Assignment, the assignor shall remain liable for the assignor's obligations to make contribution to the Company and to return Unlawful Distributions received by the assignor.

Plaintiffs' Ex 0016.033

17.5 NO ASSIGNEE LIABILITY FOR COMPANY OBLIGATIONS

No assignee as such shall be liable for any obligations of the Company solely by reason of the Assignment.

SECTION 18 TERM OF AGREEMENT; TERMINATION; SURVIVAL OF CERTAIN RIGHTS AND DUTIES, ETC.

18.1 TERM

Subject to the provision of Sections 18.2 through 18.4, the term of this Agreement shall begin on the Effective Date (as defined in Section 1.1) and, unless earlier terminated by the parties, shall terminate:

(a) If the Company is terminated by vote of the Members on the effective date of the certificate of cancellation of the Company's articles of organization;

(b) If the Company is terminated by decree of a duly authorized judicial or administrative authority, on the date of termination of the Company's existence as determined by that authority; or,

(c) If no clear date is established under Sections 18.1 (a) or (b) and if the Members can agree on no such date, by determination of an arbitrator under Section 19.

18.2 SURVIVAL OF ACCRUED RIGHTS, ETC.

Rights, duties and liabilities accrued by the parties under this Agreement before its termination shall continue in full force and effect after its termination.

18.3 ARBITRATION OF MATTERS RELATING TO COMPANY'S WINDING-UP, ETC.

Notwithstanding the termination of this Agreement, any party may, after that termination, initiate an arbitration under Article 19 to determine and enforce rights and duties of the party relating to:

(a) Matter arising before and during the Company's winding up;

(b) The Company's liquidation; and

(c) Matters arising after the cancellation of the Company's Articles.

Plaintiffs' Ex 0016.034

SECTION 19 ARBITRATION OF COMPANY DISPUTES

19.1 MANDATORY ARBITRATION OF CERTAIN DISPUTED MATTERS

Any dispute between or among the parties relating to Arbitrable Matters (as defined in Section 19.2) shall be exclusively and finally resolved by arbitration by a single arbitrator (the "Arbitrator") without recourse to any court.

19.2 DEFINITION OF ARBITRABLE MATTER

Arbitrable Matters shall include only the following types of matters:

How to construe and enforce the provisions of this Section (including any matter concerning the scope of these provisions);

Whether the purchase price or the other terms of purchase of a Member's Company interest pursuant to the terms of this Agreement are fair to the Company and to the Members;

Any claim by a Member in the Member's capacity as a Member against any other Member in that other Member's capacity as a Member;

Whether any action by the Company or by the Members is (a) contrary to this Agreement or (b) seriously unfair to any Member;

Whether the expulsion of a Member under Section 6.9 is fair;

Whether a vote by majority Members concerning the Company's dissolution is fair to minority Members; and

Any other matter that, in the Arbitrator's view, is appropriate for decision under this Section.

19.3 EXCLUSIONS FROM DEFINITION OF ARBITRABLE MATTER

Arbitrable Matters shall not include:

(a) Routine business matters of the Company;

Plaintiffs' Ex 0016.035

(b) Matters requiring urgent judicial relief; or

(c) Matters involving the enforcement of orders under this Section 19.

19.4 RULES GOVERNING ARBITRATION

Except as otherwise provided in this Section, any arbitration (an "Arbitration") under this section shall be governed by the Rules of Commercial Arbitration of the American Arbitration Association ("AAA").

19.5 NOTICE OF ARBITRATION

Any Member may initiate an Arbitration of any Arbitrable Matter. The initiating Member shall do so by providing written notice of the Arbitration to the other Members. The notice shall bear a current date, shall state the name of the initiating Member and shall briefly state the matter to be arbitrated.

19.6 SELECTION OF ARBITRATOR

If, within 15 business days after all the parties entitle to notice of an Arbitration have received that notice, the Members have not agreed among themselves as to the identity of the Arbitrator or the site of the Arbitration, the Company shall immediately refer these matters for resolution by the AAA office located in the city of Camden, South Carolina, or the AAA office nearest thereto. That office may resolve these matters without liability and in its sole discretion.

19.7 NO APPEAL, ETC.

No Member shall appeal to any court an order of an Arbitrator under this Section 19. The Company or any Member may enter any such order in any court of competent jurisdiction.

19.8 ALLOCATIONS OF COSTS, FEES, ETC.

The Arbitrator may allocate among the Members the costs, fees and other expenses relating to an Arbitration in any manner that the Arbitrator shall determine to be appropriate in his or her absolute discretion; PROVIDED, that if the Arbitrator determines that a party has initiated an Arbitration without a reasonable basis for doing so, the Arbitrator shall assess against that party the costs of the other parties relating to the Arbitration, including the reasonable attorneys' fees.

19.9 AWARDING OF LITIGATION COSTS TO PREVAILING PARTY

If, in a suit in law or equity, any party seeks judicial review of any issue arising in an Arbitration under this Section, an Arbitrator under this Section may allocate to the losing party in that suit all costs reasonably incurred by the prevailing party.

SECTION 20 GENERAL PROVISIONS

20.1 ENTIRE AGREEMENT

This Agreement contains the entire agreement among the parties concerning its subject matter and replaces all other agreements among them, whether written or oral, concerning this subject matter.

20.2 AMENDMENTS

No amendment of this Agreement shall be valid unless set forth in a writing signed by all parties.

20.3 INCORPORATION OF EXHIBITS

All exhibits identified in the Agreement as exhibits to the Agreement are hereby incorporated into the Agreement and made integral parts of it.

20.4 GOVERNING LAW

This Agreement shall be governed by and construed in accordance with the domestic laws of the State of South Carolina without giving effect to any choice-of-law or conflict-of-law provision or rule (whether of the State of South Carolina or of any other jurisdiction) that would cause the application of the laws of any jurisdiction other than the State of South Carolina.

20.5 FORUM FOR LITIGATION; ACCEPTANCE OF PERSONAL JURISDICTION

If any party sues another party in a suit under or relating to this Agreement, the party bringing the suit shall do so in the courts of the State of South Carolina. The parties hereby irrevocably accept the personal jurisdiction of those courts in any such suit.

Plaintiffs' Ex 0016.037

20.6 ASSIGNMENTS AND DELEGATIONS

Excepting powers previously granted to the Manager herein, no party shall assign any of its rights or delegate any of its duties under this Agreement to any third party except with the consent of the other parties to the Agreement, which consent these other parties shall not unreasonably withhold.

20.7 CAPTIONS

All captions in this Agreement are for convenience only and shall be deemed irrelevant in construing any provision of the Agreement.

20.8 NOTICES

All notices under this Agreement shall be in writing and shall be delivered to a party at the party's address as stated on the first page of this Agreement. A party may change this address upon reasonable notice to the other parties. Notices provided under this Agreement shall be deemed to be received when actually received.

20.9 MEANING AND CONSTRUCTION OF "INCLUDING" AND "PERSON

The terms "including" and "includes" as used in this Agreement shall denote partial definitions. The tern "person" as used in this Agreement shall mean a natural person or an entity as the context shall require.

20.10 NUMBER AND GENDER

As the context shall require:
The use of the singular in this Agreement shall denote the plural and vice versa; and
The use of a particular gender shall denote another gender.

20.11 WAIVERS

No delay of or omission by a party in the exercise of any right, power or remedy accruing to the party as a result of any breach or default by another party under this Agreement:

(a) Shall impair any such right, power or remedy accruing to the party;

(b) Shall be construed as a waiver of or acquiescence by the party in any such breach or default or of any similar breach or default occurring later.

No waiver by a party of any single breach or default under this Agreement shall be

Plaintiffs' Ex 0016.038

construed as a waiver by the party of any other breach or default occurring before or after that waiver.

20.12 SEPARABILITY OF PROVISIONS

Each provision of this Agreement (a "Provision") shall be deemed separable. If any (a) Provision or (b) the application of any Provision to any person or circumstance shall be held invalid or unenforceable in any jurisdiction, the Provision shall be ineffective:

(a) Only in that jurisdiction;

(b) Only to the extent that it has been expressly held to be invalid or unenforceable in that jurisdiction; and

(c) Without invalidating any other provision of the Agreement or the application of the Provision itself to persons or circumstances other than those to which it was held invalid or unenforceable in the jurisdiction in question.

20.13 COUNTERPARTS

This Agreement may be executed in any number of counterparts and by different parties to this Agreement in separate counterparts. Each of these counterparts when so executed shall be deemed to be an original and all such counterparts taken together shall constitute one and the same agreement.

In witness of their acceptance of the above terms and conditions, the parties, in their capacities as Members and Manager, by themselves or by their duly authorized representatives, have duly signed and dated this Agreement as follows:

Oct. 9, 2009
Amy Puchalski, Member

09/30/09, 2009
Jamie Curley, Member

10/8/09, 2009
Robert Puchalski, Manager of SCENT Land Holdings, LLC

Plaintiffs' Ex 0016.039

EXHIBIT "A"

Member	Contribution	Fair Market Value
Amy Puchalski	Building lots in Darlington/Richland Co.	$110,000.00
Jamie Cudley		

Plaintiffs' Ex 0016.040

CAROLINA PINES

REGIONAL MEDICAL CENTER

Health Information Management
1304 W. Bobo Newsom Hwy.
Hartsville, SC 29550
Phone # (843) 339-4579
Fax # (843) 339-4580

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To: Ms Bruce Anderson — Fax:

Fax: 215 972 4155 — Date:

From: Danielle Dyer — Pages:

Phone #: — CC:

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Plaintiffs' Ex 0016.041

CERTIFIED TO BE A TRUE AND CORRECT COPY AS TAKEN FROM AND COMPARED WITH THE ORIGINAL ON FILE IN THIS OFFICE

SEP 5 2008

SECRETARY OF STATE OF SOUTH CAROLINA

STATE OF SOUTH CAROLINA
SECRETARY OF STATE
MARK HAMMOND
ARTICLES OF ORGANIZATION
LIMITED LIABILITY COMPANY

SCENT LAND HOLDINGS, L.L.C.

The undersigned deliver the following articles of organization to form a South Carolina limited liability company pursuant to §33-44-202 and §33-44-203 of the 1976 south Carolina Code, as amended.

1. Name. The name of the limited liability company which complies with § 33-43-105 of the South Carolina Code of 1976 as amended is SCENT Land Holdings, L.L.C.

2. Designated Office. The office of the initial designated office of the limited liability company in South Carolina is 1165 Highway 1 South, Lugoff, South Carolina 29078.

3. Registered Agent and Office. The initial registered agent for service of process of the limited liability company is Robert Puchalski, and the street address for service of process is 1165 Highway 1 South, Lugoff, South Carolina 29078. The undersigned hereby consents to the appointment as registered agent of the Limited Liability Company.

Robert Puchalski, Registered Agent

4. Organizer. The name and address of the sole organizer is Robert Puchalski, 3 Puddle Lane, Camden, South Carolina 29020.

5. Term. This company is to be a term company expiring on December 31, 2038, or as otherwise extended or terminated.

6. Management. The management of the L.L.C. is vested in a Manager or Managers and the names and addresses of the Managers are Robert Puchalski and Orville Dyce, 1165 Highway 1 South, Lugoff, South Carolina 29078.

7. No Personal Liability. The members of the company are not liable for its debts and obligations under Section 33-44-303(c) of the South Carolina Code, as

080916-0398 FILED: 09/16/2008
SCENT LAND HOLDINGS, L.L.C.
Filing Fee: $110.00 ORIG

Mark Hammond South Carolina Secretary of State

Plaintiffs' Ex 0017.001

amended.

8. Effective Date. These Articles of Organization will be effective when endorsed for filing by the Secretary of State.

9. Optional Provisions. Set forth any other provisions not inconsistent with law which the organizers determine to include, including any provisions that are required or are permitted to be set forth in the limited liability operating agreement.

A: Pursuant to S.C. Code Ann. §33-44-301(c), in order to bind the limited liability company, all documents relating to real property, including without limitation all leases, deeds, mortgages, assignments, security agreements, and other documents of security, conveyance, transfer, or liens, must be signed on behalf of the limited liability company by Robert Puchalski and Orville Dyce, to bind the company to any agreement set forth herein.

10. Signature of organizer.

Robert Puchalski

Date: September 10, 2008.

Plaintiffs' Ex 0017.002

Robert Puchalski

From: orville dyce [odyce@yahoo.com]
Sent: Wednesday, March 03, 2010 3:18 PM
To: robert puchalski
Cc: Bruce Armon; Jamie Dyce
Subject: Fw: Closing Scheduled

Bob:

Neither Jamie nor I will attend a closing until after our information request has been satisfied and the business points arising from the loan have been resolved. You will not see either of us at 4:00. Please see comments in green below.

----- Forwarded Message ----
From: Robert Puchalski <rpuchalski@southcarolinaent.com>
To: orville dyce <odyce@yahoo.com>; Jamie <curleyjamie@hotmail.com>; alpuchalski@gmail.com
Cc: Bruce Armon <barmon@saul.com>; Ed White <ed.white@nelsonmullins.com>; gus.dixon@nellsonmullins.com; Theresa Williams <twilliams@southcarolinaent.com>
Sent: Wed, March 3, 2010 2:46:04 PM
Subject: RE: Closing Scheduled

Just opened your email this PM. Thank you for engaging us and giving SCENT Land Holdings the individual attention it deserves in this critical time. Please see comments in red.

1. Neither Jamie nor I have been furnished with a proposed or executed lease of the building between the Practice and the Company. Please provide a copy to me. We will have a lease once the building is complete, since payments on the construction loan will be "rolled in" to the final loan payment. SCENT Land Holdings will not make a payment on the loan until SCENT moves in. Just like the Hartsville deal.

Regardless of what may have happened in the past, I am advised that it would be imprudent to sign a construction loan until a lease has been executed.

2. You have not been provided us with a proposed budget for the project. The estimated construction cost per the construction contract is $1,471,316. Why is the loan for $1,796,316? The land loan has been graciously rolled into the construction loan. Just like the Hartsville deal.

We need to see a budget and see precisely how the money is to be spent.

3. I don't understand why there appear to be two notes for the same amount, $1,796,316. One of the notes calls for an explained initial advance of $325,000. What is the purpose of this advance? I suspect it is a pay-off of the land note. The land was purchased in two increments ($200K and $125). We will ask the real estate attorney for SCENT Land Holdings, William Cox, this at closing.

We need to know prior to any proposed closing.

4. We will not permit the automatic transfer authorization of $10,810.27 to the Company as proposed in the loan documentation. We will consider advances by joint check to the Company and Pyramid Contracting in the amount of any draw request which you and I both approve. We can discuss this at closing.

If there is to be a discussion, we can discuss prior to any closing. The proposed disbursement in the authorization is not acceptable. I don't think it is fair to anyone to wait on documents to be redone at a closing.

5. I don't see a proposed closing statement and would like to review one. Theresa has already sent it, but we just received another version from William Cox's office today. Theresa will forward this to you.

Still not seen.

6. You apparently forgot to tell me in all of your email correspondence that the Bank wants my personal guaranty. I am not prepared to provide it at the present time. I did indeed discuss this with you. This is just like the Hartsville deal. It is my understanding that you have personal guarantees on the Hartsville property and the Columbia land currently. If you recall, this is why the bank requested your personal tax returns..

I don't recall any discussion and am not prepared to guaranty the debt.

7. The authorization incorrectly states that you and I are the members of the Company. As you know, we are not members of the Company. We can review this at closing and make changes.

This is a pretty easy document to fix.

CONSENT

The undersigned shareholder of South Carolina ENT, Allergy & Sleep Medicine, P.A. (the "Company") hereby adopts this consent as of the 3rd day of March:

WHEREAS, the undersigned Shareholder is the Managing Shareholder of the Company;

WHEREAS, in contemplation of another Shareholder possibly joining the Company, the Managing Shareholder proposed certain corporate governance changes to be discussed with Dr. Orville Dyce (the "Other Shareholder");

WHEREAS, since that time, instead of discussing these proposed changes in a constructive fashion, the Managing Shareholder believes that the Other Shareholder has acted against the best interests of the Company and has made it clear both personally and through counsel that he will make the operating of the Company more difficult in order to exert leverage regarding his personal negotiations with the Company;

WHEREAS, the Managing Shareholder is concerned about the damage that these actions will have on the Company;

WHEREAS, the Managing Shareholder believes that the Other Shareholder is also preventing the closing of the loan regarding the partially constructed building for the Company by SCENT Land Holdings, LLC (the "Landholding Company") in order to exert leverage regarding his personal negotiations with the Company;

WHEREAS, this has resulted in the filing of a mechanic's lien regarding the building and is damaging the Company's ability to obtain the building and is impacting the Company's reputation;

WHEREAS, the Managing Shareholder is becoming increasingly concerned that the actions of the Other Shareholder will damage the Company;

NOW, THEREFORE, BE IT RESOLVED, that in accordance with Section 3.3.2 of the Shareholders Agreement by and among the Company, the Managing Shareholder and the Other Shareholder and Section 2.3(c) of the Other Shareholder's Employment Agreement dated as of June 1, 2008, the Managing Shareholder hereby terminates the employment of the Other Shareholder without cause, with such termination being effective in sixty (60) days (i.e., May 2, 2010);

FURTHER RESOLVED, that this termination constitutes as the date hereof an Event of Departure as contemplated in Section 4.5 of the Shareholders Agreement;

FURTHER RESOLVED, that the Company, the Managing Shareholder and the Other Shareholder shall work closely together to ensure that the termination is as smooth as possible to all parties involved and to ensure that patient care is not impacted;

FURTHER RESOLVED, the Company shall honor its obligations to the Other Shareholder to purchase his shares in accordance with the Shareholders Agreement and to otherwise honor its other obligations under the Shareholders Agreement;

FURTHER RESOLVED, that if the Other Shareholder would like to do so, the Company and the Managing Shareholder are willing to engage in mediation to discuss the details surrounding the termination or a possible rescission of this termination on mutually agreeable terms;

FURTHER RESOLVED, that the Managing Shareholder deeply regrets this decision as the Managing Shareholder greatly values his personal and professional relationship with the Other Shareholder but believes that this action is required for the best interests of the Company in light of the Other Shareholder's sudden and unusual behavior that the Managing Shareholder believes is damaging the Company and the Landholding Company.

IN WITNESS WHEREOF, the undersigned shareholder has executed this Consent as of the 3rd day of March, 2010.

By: _____
Dr. Robert Puchalski

Acknowledgement of Receipt

The undersigned hereby acknowledge receipt of this Consent as of the 3rd day of March, 2010.

_____ _____
Witness Theresa Williams

_____ _____
Witness Tammy Szymanski

_____ _____
Witness Kieley Taylor

Subscribed and sworn to me this
3rd day of Mar, 2010.

_____
Notary Public for South Carolina
My Commission Expires on 7-10-2013

-Doc# 6152564.1-

WRITTEN CONSENT IN LIEU OF
THE SOLE SHAREHOLDER ENTITLED TO VOTE OF
SOUTH CAROLINA ENT, ALLERGY AND SLEEP MEDICINE, P.A.

March 23, 2010

The undersigned, being the sole shareholder of South Carolina ENT, Allergy and Sleep Medicine, P.A., a South Carolina corporation (the "Corporation") entitled to vote, by execution hereof does hereby adopt this consent as of the 23rd day of March, 2010.

RESOLVED, that Robert Puchalski, as the President, shall be completely vested with all authority to transact business of any kind on behalf of the Corporation, including but not limited to, authorizing and executing any and all loan documents, leases, contracts, tax returns, purchasing orders, bills of sale, and any and all other documents incident to the operation of the Corporation's business on a day to day basis.

IN WITNESS WHEREOF, the undersigned, being the only voting shareholder, has executed this writing as of the day and year first above written.

Robert Puchalski, MD

CONSENT OF
THE SOLE SHAREHOLDER ENTITLED TO VOTE OF
SOUTH CAROLINA ENT, ALLERGY, & SLEEP MEDICINE, P.A.

The undersigned, being the sole shareholder entitled to vote of South Carolina ENT, Allergy, & Sleep Medicine, P.A. a South Carolina professional corporation ("SCENT"), by execution hereof does hereby adopt this consent as of the 31st day of March, 2010.

WHEREAS, on or about November 1, 2009, Robert Puchalski made a certain loan to SCENT in the amount of $496,800.00 (the "Loan") in order to enable SCENT to purchase 48 Units of Hartsville HMA, LLC;

WHEREAS, a promissory note dated on or about November 1, 2009 was produced which incorrectly stated the amount of the Loan as $500,000 and may not have been duly executed;

WHERAS, a security agreement dated on or about November 1, 2009 was produced which incorrectly stated the amount of the Loan as $500,000 and may not have been duly executed; and

WHEREAS, SCENT desires to correct the amount of the Loan and replace the promissory note and security agreement issued on or about November 1, 2009.

NOW, THEREFORE, BE IT RESOLVED, that attached hereto as **Exhibit A** is a true, accurate, and complete copy of the promissory note between SCENT and Robert Puchalski executed effective November 1, 2009 in the amount of $496,800 which replaces the promissory note between the parties issued on or about November ~~1, 2009 in the~~ amount of $500,000.

FURTHER RESOLVED, that attached hereto as **Exhibit B** is a true, accurate, and complete copy of the security agreement between the SCENT and Robert Puchalski executed effective November 1, 2009 in the amount of $496,800 which replaces any other security agreements between the parties issued on or about November 1, 2009 in the amount of $500,000.

IN WITNESS WHEREOF, the undersigned, being the sole shareholder entitled to vote of SCENT has executed this writing as of the day and year first above written.

Robert Puchalski

EXHIBIT A

PROMISSORY NOTE

SECURED PROMISSORY NOTE

$496,800.00 November 1, 2009

FOR VALUE RECEIVED, South Carolina ENT, Allergy & Sleep Medicine, P.A., a South Carolina corporation, ("Maker") promises to pay to the order of Robert Puchalski ("Holder") the principal sum of $496,800.00 ("Principal") together with 10% interest on the outstanding Principal amount. Principal and accrued interest on this Secured Promissory Note (this "Promissory Note") shall be due and payable in 240 equal monthly installments commencing on the first day of the month following the date of advance ("Advance Date") and the first day of each subsequent month and one final payment simultaneously with the 240th payment of any and all unpaid principal and interest outstanding at that time.

This Promissory Note is the Promissory Note referenced in that certain Security Agreement between Maker and Holder dated as of the date hereof (the "Security Agreement").

Payment of Principal on this Promissory Note together with accrued interest, if any, shall be made to Holder at 1165 Hwy. 1 South, Ste. 300, Lugoff, SC 29078, or at such other place as Holder may from time to time designate in writing.

If Maker shall (i) default on a payment required on the date when due, and shall fail to cure such default within five (5) business days after receipt of written demand for cure by Holder, or (ii) file a voluntary petition in bankruptcy, be adjudicated as a bankrupt or insolvent, file any petition or answer seeking or acquiescing in any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief for Maker under any United States, state or other statute relating to bankruptcy, insolvency or other similar relief for debtors, or shall seek, consent to or acquiesce in the appointment of any trustee, receiver or liquidator of Maker or of all or any substantial part of the assets of Maker, or shall make a general assignment for the benefit of creditors, or shall admit in writing the inability to pay debts generally as they become due, and Maker shall fail to negate the effect of any such action or proceeding not initiated by Maker (whether by dismissal of proceedings, discharge of trustees or receiver or otherwise) within thirty (30) days from and after the occurrence thereof (in the case of (i) or (ii), an "Event of Default"), then Holder, at Holder's option, shall be entitled to accelerate any and all of the indebtedness evidenced by this Promissory Note by providing written notice to Maker of such acceleration, and the same shall become immediately due and payable, and to exercise cumulatively all other rights and privileges provided by law and the Security Agreement.

Time is of the essence with respect to this Promissory Note. Should this Promissory Note be collected by or through an attorney-at-law, Holder shall be entitled to collect reasonable attorneys' fees and all other reasonable costs and expenses of collection from Maker.

If delivered personally, the date on which a notice or demand is delivered shall be the date of receipt or delivery, and if delivered by mail, such notice or demand shall be sent by registered or certified mail, return receipt requested, postage prepaid, and the date on which such notice or

demand is received (as evidenced by the registered or certified mail receipt) shall be the date of delivery. In the event any notice or demand is mailed to a party in accordance with this paragraph and is returned to the sender as undeliverable, then such notice or demand shall be deemed to have been delivered or received on the fifth day following the deposit of such notice or demand in the United States mail. Notices and demands made shall be addressed to Holder at its address set forth hereinabove (or at such other address as Holder may from time to time designate in writing) and to Maker at 1165 Hwy. 1 South, Ste. 300, Lugoff, SC 29078 (or at such other address as Maker may from time to time designate in writing).

This Promissory Note shall be governed by and construed in accordance with the laws of South Carolina.

IN WITNESS WHEREOF, Maker has executed this Promissory Note effective on the 1st day of November, 2009.

South Carolina ENT, Allergy & Sleep Medicine, P.A.

By: _____
Name: Robert Poehalski
Its: Managing Shareholder

EXHIBIT B

SECURITY AGREEMENT

SECURITY AGREEMENT

For value received and to secure its obligations to repay the Loan, South Carolina ENT, Allergy & Sleep Medicine, P.A., having an address at 1165 Hwy. 1 South, Ste. 300, Lugoff, SC 29078 (the "Debtor") hereby grants to Robert Puchalski, having an address at 1165 Hwy. 1 South, Ste. 300, Lugoff, SC 29078 (the "Lender") a security interest in the personal property attached to this Security Agreement as Schedule A ("Collateral"). The definition of terms provided in Schedule A shall also apply in the body of this Agreement. The Lender shall perfect its lien in the units of Hartsville HMA, LLC (the "Units") by possession of the Units.

1. Loan. A $496,800.00 term loan, evidenced by a note executed of even date by Debtor payable to Lender (the "Promissory Note," and together with this Security Agreement and all other instruments executed in connection therewith, the "Loan Documents").

2. Debtor's Warranties. Debtor hereby represents and warrants to Lender as follows:

a. Financing Statements. No financing statement covering the Collateral is or will be on file in any public office, except the financing statements relating to this security interest, and no security interest, other than the one herein created, has attached or been perfected in the Collateral or any part thereof.

b. Ownership. Debtor owns, or will use the proceeds of any loans by Lender to become the owner of, the Units free from any setoff, claim, restriction, lien, security interest or encumbrance except liens for purchase money security interests, taxes not yet due and the security interest hereunder.

c. Power and Authority. Debtor has full power and authority to make this Agreement, and all necessary consents and approvals of any persons, entities, governmental or regulatory authorities and securities exchanges have been obtained to effectuate the validity of this Agreement.

3. Debtor's Covenants. Until full payment and performance of all of the Loan and termination or expiration of any obligation or commitment of Lender to make advances or loans to Debtor, unless Lender otherwise consents in writing:

a. Loan and This Agreement. Debtor shall perform all of its agreements herein and in any other agreements between it and Lender.

b. Ownership and Maintenance of the Collateral. Debtor shall keep all tangible Collateral in good condition. Debtor shall defend the Collateral against all claims and demands of all persons at any time claiming any interest therein adverse to Lender. Debtor shall keep the Collateral free from all liens and security interests except those for taxes not yet due and the security interest hereby created.

c. Lender's Costs. Debtor shall pay all costs necessary to obtain, preserve, perfect, defend and enforce the security interest created by this Agreement, collect the Loan, and preserve, defend, enforce and collect the Collateral, including but not limited to taxes, assessments, insurance premiums, repairs, rent, storage costs and expenses of sales, legal expenses, reasonable attorney's fees and other fees or expenses for which Debtor is obligated to reimburse Lender in accordance with the terms of the Note. Whether the Collateral is or is not in Lender's possession, and without any obligation to do so and without waiving Debtor's default for failure to make any such payment, Lender at its option may pay any such costs and expenses, discharge encumbrances on the Collateral, and pay for insurance of the Collateral, and such payments shall be a part of the Loan and bear interest at the rate set out in the Loan. Debtor agrees to reimburse Lender on demand for any costs so incurred.

d. Information and Inspection. Debtor shall (i) promptly furnish Lender any information with respect to the Collateral requested by Lender; (ii) allow Lender or its representatives to inspect the Collateral, at any time and wherever located, and to inspect and copy, or furnish Lender or its representatives with copies of, all records relating to the Collateral and the Loan; (iii) promptly furnish Lender or its representatives such information as Lender may request to identify the Collateral, at the time and in the form requested by Lender; and (iv) deliver upon request to Lender shipping and delivery receipts evidencing the shipment of goods and invoices evidencing the receipt of, and the payment for, the Collateral.

e. Additional Documents. Debtor shall sign and deliver any papers deemed necessary or desirable in the judgment of Lender to obtain, maintain, and perfect the security interest hereunder and to enable Lender to comply with any federal or state law in order to obtain or perfect Lender's interest in the Collateral or to obtain proceeds of the Collateral.

f. Records of the Collateral. Debtor at all times shall maintain accurate books and records covering the Collateral. Debtor immediately will mark all books and records with an entry showing the absolute assignment of all Collateral to Lender, and upon reasonable notice to Debtor, Lender is hereby given the right to audit the books and records of Debtor relating to the Collateral during normal business hours from time to time. The amounts shown as owed to Debtor on Debtor's books and on any assignment schedule will be the undisputed amounts owing and unpaid.

g. Disposition of the Collateral. If disposition of any Collateral gives rise to the payment of any accounts receivable comprising the Collateral, the Debtor shall use the funds received to pay the Loan.

h. Notice/Location of the Collateral. Debtor shall give Lender written notice of each office of Debtor in which records of Debtor pertaining to accounts held as Collateral are kept, and each location at which the Collateral is or will be kept, and of any change of any such location. If no such notice is given, all records of Debtor pertaining to the Collateral and all Collateral of Debtor are and shall be kept at the address marked by Debtor above.

i. Power of Attorney. Subsequent to an Event of Default (as defined in the Promissory Note), Debtor appoints Lender and any officer thereof as Debtor's attorney-in-fact with

full power in Debtor's name and behalf to do every act which Debtor is obligated to do or may be required to do hereunder; however, nothing in this paragraph shall be construed to obligate Lender to take any action hereunder nor shall Lender be liable to Debtor for failure to take any action hereunder. This appointment shall be deemed a power coupled with an interest and shall not be terminable as long as the Loan is outstanding and shall not terminate on the disability or incompetence of Debtor.

j. Waivers by Debtor. Except as expressly provided in any agreement evidencing the Loan, Debtor waives notice of the creation, advance, increase, existence, extension or renewal of, and of any indulgence with respect to, the Loan; waives presentment, demand, notice of dishonor, and protest; waives notice of the amount of the Loan outstanding at any time, notice of any Event of Default; and agrees that maturity of the Loan and any part thereof may be accelerated, extended or renewed one or more times by Lender in its reasonable discretion, without notice to Debtor. Debtor waives any right to require that any action be brought against any other person or to require that resort be had to any other security or to any balance of any deposit account.

k. Other Parties and Other Collateral. No renewal or extension of or any other indulgence with respect to the Loan or any part thereof, no release of any security, no release of any person (including any maker, endorser, guarantor or surety) liable on the Loan, no delay in enforcement of payment, and no delay or omission or lack of diligence or care in exercising any right or power with respect to the Loan or any security therefor or guaranty thereof or under this Agreement shall in any manner impair or affect the rights of Lender under the law, hereunder, or under any other agreement pertaining to the Collateral. Lender need not file suit or assert a claim for personal judgment against any person for any part of the Loan or seek to realize upon any other security for the Loan, before foreclosing or otherwise realizing upon the Collateral. Debtor waives any right to the benefit of or to require or control application of any other security or proceeds thereof, and agrees that Lender shall have no duty or obligation to Debtor to apply to the Loan any such other security or proceeds thereof.

l. Collection and Segregation of Accounts and Right to Notify. Lender hereby authorizes Debtor to collect the Collateral, subject to the direction and control of Lender, but Lender may, during a continuing Event of Default, with notice, curtail or terminate said authority at any time. During a continuing Event of Default and notice by Lender, in writing, to Debtor, Debtor shall forthwith upon receipt of all checks, drafts, cash, and other remittances in payment of or on account of the Collateral, deposit the same in one or more special accounts maintained with a depository of Lender's choosing over which Lender alone shall have the power of withdrawal. The remittance of the proceeds of such Collateral shall not, however, constitute payment or liquidation of such Collateral until Lender shall receive good funds for such proceeds. Funds placed in such special accounts shall be held by Lender as security for all Loan secured hereunder. These proceeds shall be deposited in precisely the form received, except for the endorsement of Debtor where necessary to permit collection of items, which endorsement Debtor agrees to make but without recourse, and which endorsement Lender is also hereby authorized, as attorney-in-fact, to make on behalf of Debtor. In the event Lender has notified Debtor to make deposits to a special account, pending such deposit, Debtor agrees that it will not commingle any such checks, drafts, cash or other remittances with any funds or other property of Debtor, but will hold them separate

and apart therefrom, and upon an express trust for Lender until deposit thereof is made in the special account. During a continuing Event of Default Lender will, from time to time, apply the whole or any part of the Collateral funds on deposit in this special account against such Loan as are secured hereby as Lender may in its sole discretion elect. At the sole election of Lender, any portion of said funds on deposit in the special account which Lender shall elect not to apply to the Loan, may be paid over by Lender to Debtor. At any time during a continuing Event of Default, Lender may notify persons obligated on any Collateral to make payments directly to Lender and Lender may take control of all proceeds of any Collateral. Until Lender is entitled and elects to exercise such rights, Debtor, as agent of Lender, shall collect and enforce all payments owed on the Collateral.

4. Rights and Powers of Lender.

a. General. Lender, before or after default, without liability to Debtor may: obtain from any personal information regarding Debtor, its members, or Debtor's business, which information any such person also may furnish without liability to Debtor; during a continuing Event of Default the Lender may require Debtor to give possession or control of any Collateral to Lender; endorse as Debtor's agent any instruments, documents or chattel paper in the Collateral or representing proceeds of the Collateral; contact account debtors directly to verify information furnished by Debtor; take control of proceeds, including stock received as dividends or by reason of stock splits; release the Collateral in its possession to any Debtor, temporarily or otherwise; require additional Collateral; reject as unsatisfactory any property hereafter offered by Debtor as Collateral; set standards from time to time by written notice to Debtor to govern what may be used as after acquired Collateral; after notice to Debtor take control of funds generated by the Collateral, such as cash dividends, payments on accounts, interest and proceeds or refunds from insurance, and use same to reduce any part of the Loan and exercise all other rights which an owner of such Collateral may exercise, except the right to vote or dispose of the Collateral before an Event of Default after notice to Debtor; and demand, collect, convert, redeem, receipt for, settle, compromise, adjust, sue for, foreclose or realize upon the Collateral, in its own name or in the name of Debtor, as Lender may determine. Lender shall not be liable for failure to collect any account or instruments, or for any act or omission on the part of Lender, its officers, agents or employees, except for its or their own willful misconduct or gross negligence. The foregoing rights and powers of Lender will be in addition to, and not a limitation upon, any rights and powers of Lender given by law, elsewhere in this Agreement, or otherwise. If Debtor fails to maintain any required insurance, to the extent permitted by applicable law and after notice to Debtor, Lender may (but is not obligated to) purchase single interest insurance coverage for the Collateral which insurance may at Lender's option (i) protect only Lender and not provide any remuneration or protection for Debtor directly and (ii) provide coverage only after the Loan have been declared due as herein provided. The premiums for any such insurance purchased by Lender shall be a part of the Loan and shall bear interest as provided herein.

5. Default.

a. Rights and Remedies. Except for any notice required herein or by any applicable laws, if Debtor defaults on any obligation to the Lender, then, in each and every such case, Lender may, without presentment, demand, or protest; dishonor, demand, non-payment, or protest; notice of intent to accelerate all or any part of the Loan; or notice of acceleration of all or any part of the Loan; or notice of any other kind, all of which Debtor hereby expressly waives, (except for any notice required under this Agreement, any other loan document or applicable law); at any time thereafter exercise and/or enforce any of the following rights and remedies at Lender's option:

i. Acceleration. The Loan shall, at Lender's option and after written notice to Debtor, become immediately due and payable.

ii. Possession and Collection of the Collateral. At its option and after five days written notice to Debtor: (a) take possession or control of, store, lease, operate, manage, sell, or instruct any Agent or Broker to sell or otherwise dispose of, all or any part of the Collateral; (b) notify all parties under any account or contract right forming all or any part of the Collateral to make any payments otherwise due to Debtor directly to Lender; (c) in Lender's own name, or in the name of Debtor, demand, collect, receive, sue for, and give receipts and releases for, any and all amounts due under such accounts and contract rights; (d) endorse as the agent of Debtor any check, note, chattel paper, documents, or instruments forming all or any part of the Collateral; (e) make formal application for transfer to Lender (or to any assignee of Lender or to any purchaser of any of the Collateral) of all of Debtor's permits, licenses, approvals, agreements, and the like relating to the Collateral or to Debtor's business; (f) take any other action which Lender deems reasonably necessary or desirable to protect and realize upon its security interest in the Collateral; and (g) in addition to the foregoing, and not in substitution therefor, exercise any one or more of the rights and remedies exercisable by Lender under any other provision of this Agreement, under any of the other Loan Documents, or as provided by applicable law (including, without limitation, the Uniform Commercial Code as in effect in South Carolina (hereinafter referred to as the "UCC")). In taking possession of the Collateral, Lender may enter Debtor's premises and otherwise proceed without legal process, if this can be done without breach of the peace. Debtor shall, upon Lender's demand, promptly make the Collateral or other security available to Lender at a place designated by Lender, which place shall be reasonably convenient to both parties.

Lender shall not be liable for, nor be prejudiced by, any loss, depreciation or other damages to the Collateral, unless caused by Lender's willful and malicious act. Lender shall have no duty to take any action to preserve or collect the Collateral.

6. General.

a. Parties Bound. Each party's rights hereunder shall inure to the benefit of its successors and assigns. In the event of any assignment or transfer by Lender of the Loan or the Collateral, Lender thereafter shall be fully discharged from any responsibility with respect to the Collateral so assigned or transferred, but Lender shall retain all rights and powers hereby given with respect to the Loan or the Collateral not so assigned or transferred. All representations,

warranties and agreements of Debtor if more than one are joint and several and all shall be binding upon the personal representatives, heirs, successors and assigns of Debtor.

b. Waiver. No delay of either party in exercising any power or right shall operate as a waiver thereof; nor shall any single or partial exercise of any power or right preclude other or further exercise thereof or the exercise of any other power or right. No waiver by Lender of any right hereunder or of any default by Debtor shall be binding upon Lender unless in writing, and no failure by Lender to exercise any power or right hereunder or waiver of any default by Debtor shall operate as a waiver of any other or further exercise of such right or power or of any further default. Each right, power and remedy of Lender as provided for herein or in any of the loan documents, or which shall now or hereafter exist at law or in equity or by statute or otherwise, shall be cumulative and concurrent and shall be in addition to every other such right, power or remedy. The exercise or beginning of the exercise by Lender of any one or more of such rights, powers or remedies shall not preclude the simultaneous or later exercise by Lender of any or all other such rights, powers or remedies.

c. Agreement Continuing. This Agreement shall constitute a continuing agreement, applying to all future as well as existing transactions, whether or not of the character contemplated at the date of this Agreement, and if all transactions between Lender and Debtor shall be closed at any time, shall be equally applicable to any new transactions thereafter. Provisions of this Agreement, unless by their terms exclusive, shall be in addition to other agreements between the parties. Time is of the essence of this Agreement.

d. Definitions. Unless the context indicates otherwise, definitions in the UCC apply to words and phrases in this Agreement; if UCC definitions conflict, Article 9 definitions apply.

e. Notices. Unless otherwise provided herein, notice shall be deemed reasonable if mailed postage prepaid at least five (5) business days before the related action (or if the UCC elsewhere specifies a longer period, such longer period) to the address of Debtor given above, or to such other address as any party may designate by written notice to the other party. Each notice, request and demand shall be deemed given or made, if sent by mail, upon the earlier of the date of receipt or five (5) business days after deposit in the U.S. Mail, first class postage prepaid, or if sent by any other means, upon delivery on any business day.

f. Modifications. No provision hereof shall be modified or limited except by a written agreement expressly referring hereto and to the provisions so modified or limited and signed by Debtor and Lender. The provisions of this Agreement shall not be modified or limited by course of conduct or usage of trade.

g. Applicable Law and Partial Invalidity. This Agreement has been delivered in the State of South Carolina and shall be construed in accordance with the laws of that State. Wherever possible each provision of this Agreement shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Agreement shall be prohibited by or invalid under applicable law, such provision shall be ineffective to the extent of such prohibition or invalidity, without invalidating the remainder of such provisions or the remaining

provisions of this Agreement. The invalidity or unenforceability of any provision of any Loan Document to any person or circumstance shall not affect the enforceability or validity of such provision as it may apply to other persons or circumstances.

h. Financing Statement. To further evidence the security interest in the Collateral, the Lender shall have the right to file and/or record, and the Debtor agrees to sign and deliver to the Lender for filing and/or recording, with all appropriate state and local government agencies, a financing statement indicating the Lender's security interest in the Collateral. The Debtor further agrees that from time to time, the Debtor will promptly execute and deliver all further instruments and documents, and take all further action, that may be necessary or desirable, or that the Lender may reasonably request, in order to perfect and protect any security interest granted or purported to be granted hereby or to enable the Lender to exercise and enforce its rights and remedies hereunder with respect to any Collateral. To the extent permitted by applicable law, a carbon, photographic or other reproduction of this Agreement or any financing statement covering the Collateral shall be sufficient as a financing statement.

7. Counterparts. This Agreement may be executed in counterparts, each of which, when taken together, shall be deemed one fully executed original.

IN WITNESS WHEREOF, this Agreement is given under the hand and seal of each of the undersigned effective as of the 1st day of November, 2009.

WITNESS:

DEBTOR:

By:
Its: Managing Shareholder

LENDER:

Robert Puchalski

Schedule A

1. All of Debtors interest in the 48 Units of Hartsville HMA, LLC evidenced by certificate number 34 and held in Debtors name (the "Units").

2. All accounts receivable of Debtor (the "Accounts").

Collectively, the Units and Accounts may be referred to as the Collateral.

Management Directive

Dr. Dyce, as you know, your last day with the practice will be May 9, 2010.

In order to make the transition as smooth as possible, the Company has developed the attached transition plan.

In accordance with Section 2.2(c) of your Employment Agreement, this is a management directive that you comply with your obligations under this directive as well as the provisions of the Shareholders Agreement and your Employment Agreement.

During the transition period you are required to cooperate with the Company's efforts to interview and recruit new physician and PA applicants and not disrupt or interfere with such efforts.

You are also expected to refrain from making any disparaging remarks about the Company or its personnel during this transition period.

Your Employment Agreement and Covenant Not to Compete provide that upon your departure the patients' records are the property of the Company and you are to refrain from soliciting the patients. Any correspondence or other communication to patients concerning your departure needs to be pre-approved by the Company and explain to the patients that another Company health care provider will assume their care.

You have not yet told me where you intend to practice after May 9, 2010. I would appreciate your letting me know that as soon as possible as that would also facilitate the transition.

In accordance with Section 2.2(c) of your Employment Agreement, failure to comply with this directive may be grounds for your immediate termination for cause.

3/30/10

Robert Puchalski, M.D.
Managing Shareholder and President
South Carolina ENT, Allergy
& Sleep Medicine, P.A.

-44811-0651-7509 v.2-

From: Armon, Bruce D. [mailto:BArmon@saul.com]
Sent: Wednesday, December 23, 2009 4:45 PM
To: Ed White
Cc: orville dyce
Subject: contact information

Ed, I appreciate your time. I have cc'd Dr. Dyce. Please forward to me and Dr. Dyce copies of the executed agreements and Articles for the medical practice, and any drafts of the respective agreements that are ready for review as I understand from you that Dr. Puchalski is working on some prospective revisions.

All of my contact information is below. Thanks, and happy holidays.

Regards, Bruce

Bruce D. Armon
Saul Ewing LLP
1500 Market Street, 38th Floor
Centre Square West
Philadelphia, PA 19102
barmon@saul.com
(215) 972-7985 or 1-800-355-7777, x7985
(215) 972-4155 (fax)

Saul Ewing

"Saul Ewing LLP <saul.com>" made the following annotations:

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Jane Heinzelman

From: Ed White
Sent: Wednesday, January 06, 2010 8:08 AM
To: Armon, Bruce D.
Subject: RE: contact information

Bruce,

Dr. Puchalski has been giving me comments since last week and I think he is close to being finished. As soon as he indicates the agreements are finished I will let you. I think it may be as soon as today or tomorrow.

Thanks,

Ed

From: Armon, Bruce D. [mailto:BArmon@saul.com]
Sent: Tuesday, January 05, 2010 9:01 PM
To: Ed White
Subject: RE: contact information

Ed, please let me know when I can expect to receive the draft documents. Regards, Bruce

Bruce D. Armon
Saul Ewing LLP
1500 Market Street, 38th Floor
Centre Square West
Philadelphia, PA 19102
barmon@saul.com
(215) 972-7985 or 1-800-355-7777, x7985
(215) 972-4155 (fax)

From: Ed White [mailto:ed.white@nelsonmullins.com]
Sent: Wednesday, December 30, 2009 10:17 AM
To: Armon, Bruce D.
Subject: RE: contact information

Bruce,

I sent Dr. Puchalski revised documents last night and he has returned some comments. I am going to input and proof and they should be going out today and Dr. Puchalski signs off.

Thank you,

Ed

From: Armon, Bruce D. [mailto:BArmon@saul.com]
Sent: Tuesday, December 29, 2009 9:10 PM

SCENT 3966

Plaintiffs' Ex 0025.001

To: Ed White
Subject: RE: contact information

Ed, I thought I would check in and see where things stand with regard to the proposed revised documents and the underlying documents from your email below. Regards, Bruce

Bruce D. Armon
Saul Ewing LLP
1500 Market Street, 38th Floor
Centre Square West
Philadelphia, PA 19102
barmon@saul.com
(215) 972-7985 or 1-800-355-7777, x7985
(215) 972-4155 (fax)

From: Ed White [mailto:ed.white@nelsonmullins.com]
Sent: Wednesday, December 23, 2009 6:39 PM
To: Armon, Bruce D.
Cc: orville dyce; Robert Puchalski; Jane Heinzelman
Subject: RE: contact information

Bruce,

I just spoke with Bob Puchalski and he is going to get me his final comments on the Employment Agreement and Shareholders Agreement by Monday morning and I am going get the inputs in that day with the hope that the documents are ready to circulate that day as well.

I am without staff at the moment and I am leaving the office in a few minutes for the holidays and I don't have the means to get the executed documents scanned and emailed to you at the moment. Dr. Puchalski did indicate that he recently scanned and sent the executed Employment Agreement and Shareholders Agreement to Dr. Dyce so you may want to get those from him if you want to review them in advance of Monday. Otherwise, I can have my assistant send them to you with a copy of the Articles of Incorporation on Monday.

Happy Holidays,

Ed

From: Armon, Bruce D. [mailto:BArmon@saul.com]
Sent: Wednesday, December 23, 2009 4:45 PM
To: Ed White
Cc: orville dyce
Subject: contact information

Ed, I appreciate your time. I have cc'd Dr. Dyce. Please forward to me and Dr. Dyce copies of the executed agreements and Articles for the medical practice, and any drafts of the respective agreements that are ready for review as I understand from you that Dr. Puchalski is working on some prospective revisions.

All of my contact information is below. Thanks, and happy holidays.

Regards, Bruce

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(215) 972-4155 (fax)

Saul Ewing

"Saul Ewing LLP <saul.com>" made the following annotations:

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To ensure compliance with the requirements imposed by the IRS, we inform you that any U.S. federal tax advice contained in this communication (including the attachments) is not intended or written to be used, for the purpose of (a) avoiding penalties under the Internal Revenue Code or (b) promoting, marketing or recommending to another party any transaction or tax-related matter[s]. To provide you with a communication that could be used to avoid penalties under the Internal Revenue Code will necessarily entail additional investigations, analysis and conclusions on our part.

==========

Jane Heinzelman

From: Armon, Bruce D. [BArmon@saul.com]
Sent: Sunday, February 14, 2010 7:03 PM
To: Ed White
Subject: SCENT/Dr. Dyce

Ed, thank you for your e-mail from 2.13, and I am glad we could speak earlier in the week. As of today, I do not recall receiving any of the Somnus documents you had mentioned to me during our previous conversations. Please e-mail the documents to me, as well as a status on all outstanding Somnus documents/transactions.

As you know, Orville is entitled to ask questions and receive timely and complete answers to any issue. As a 50% shareholder in SCENT, Orville is exercising his fiduciary duty by waiting for answers. If Orville is not involved in a decision before it is made nor provided any documents and then told he must immediately act, this is not fair to Orville or to SCENT. Respectfully, I would suggest he would not be exercising his fiduciary duty if he did not ask questions.

Orville has not seen any of the "new" professional liability documents. It is one thing to suggest that there is a savings in the annual premium. As you know, cost alone can not justify any decision. Except for the apparent premium reduction, Orville has no idea how, if at all, the new professional liability policy is different from the existing policy. Surely, you must agree that he is entitled to this information before he can make a decision that affects SCENT and him. Perhaps you can forward to Orville the current policy and the new policy and explain the differences in the two policies -- besides the cost premium.

Similarly, Orville has not received a sweep distribution for many months. He has not been given any explanation for this absence of payments. Orville has financial obligations and must ensure he is liquid to make these payments. Orville is being told there is an outstanding payment due by SCENT for some new construction and that it must be paid immediately. Again, it is entirely appropriate for Orville to ask why SCENT has no money to pay this construction note, and Orville has received no sweep distribution, and Orville continues to work very hard and in a productive manner for SCENT. Where is the money if it is not in SCENT's bank account? Is there a problem with collections? Is there a large A/R balance? Are the receivables being spent elsewhere? These are each appropriate questions.

As you and I discussed during our most recent phone call, Orville was asked to approve a note from Dr. Puchalski to SCENT where Dr. Puchalski would receive 10% interest. I shared my concern that this was not at market rate. You agreed that this was a legitimate question for Orville to raise. I am not aware that this issue has been addressed.

Please let me know how I can be of further assistance so that Drs. Puchalski and Dyce can both work towards the best interests of SCENT. If it would be helpful for me to communicate directly with you and Dr. Puchalski and Dr. Dyce to resolve the outstanding contract issues we discussed, please let me know. Thank you, in advance, for forwarding the outstanding documents.

Regards, Bruce

Bruce D. Armon
Saul Ewing LLP
1500 Market Street, 38th Floor
Centre Square West
Philadelphia, PA 19102
barmon@saul.com
(215) 972-7985 or 1-800-355-7777, x7985
(215) 972-4155 (fax)

"Saul Ewing LLP <saul.com>" made the following annotations:

Robert Puchalski

From: Robert Puchalski
Sent: Saturday, February 27, 2010 3:18 PM
To: Dr Dyce
Cc: Theresa Williams; 'jamiedyce@me.com'; 'Amy Puchalski'; 'Ed White'; BArmon@saul.com
Subject: Olive Branch
Attachments: DOC006.PDF; COLUMBIA-#6151263-v2-Confidentiality_Agreement_-_SCENT.DOC

Please see comments in red below.

Bob,

I simply do not understand why you continuously refuse to give me access to financial documents for our medical practice and the land holding company. I have known you for 13 years and consider you to be one of the most truthful and honest individuals I know, but I do have to say this statement is a bit disingenuous. You have had access to financial data for the practice through at least four meetings over the last six months. Two of these meetings were in the presence of Barbara Myers from Austin's office. All four of the meetings were in the presence of Theresa. In all of these meetings, you have declined open ended offers to ask questions or see specific financial data. Even in our most recent meeting with Ed, you could not articulate what you would like to see, much less why you would like to see it. You continue to say that Bruce "just wants to see a couple of things".

I have made the request for the land company's records because you and I have the most interactions regarding this company and our respective spouses are the only members. Section 3.6 of the land holding company's operating agreement clearly gives Jamie the right to obtain company information. I have been asking for this information for weeks. Please consider this Jamie's formal request as the member of the LLC to view all of its financial and business records. Jamie has the right to copy any information that she wants pursuant to that same section of the agreement. We would like to review this information within the next week. Please let me know when we can access the complete information. Please schedule an appointment with Theresa to have Jamie review the financial records for SCENT Land Holdings, LLC. I am OK with Jamie leaving with the data, but she will have to sign for it, just like Amy would. I have attached a very short form to make this easier for her. Jamie will need to return the data when she is done - this is not a policy but a requirement in Section 11 of the Operating Agreement, which I have attached as well. I do request that you view this data as quickly as possible, since SCENT Land Holdings' failure to meet its obligations and pay its creditors is not only negatively affecting our spouse's company, but also SCENT's reputation and credit worthiness, as well as my personal and professional reputation in this small town. We have rescheduled the closing three times already and it is my hope that you and Jamie will be able to review the data and feel comfortable enough to close on the building by Wednesday, March 3rd. If there is other data you need, let us know. A stagnant, half-constructed 10,200 sq ft building deserves our immediate attention. The local subcontractors who have completed work on the building, as well as their families, also deserve our prompt attention, particularly in this economy.

Our current shareholders agreement for the practice provides no justification for your continued refusal to give me full access to the practice's records. Again, I am asking to review the information and make copies of the information I choose. I understand that the South Carolina statutes give me this same right. I have asked Theresa to prepare a packet and to Fed Ex it to you or Bruce once you have signed the same confidentiality agreement that I have signed. I have attached it for your review and have copied Bruce on this email in anticipation that you would want him to review it. It is an extremely large amount of data, and presents unprecedented risk exposure for our practice. Please be very careful with it.

If I ask Austin to return my call or to see information, there is no reason why he should not return my call or refuse my request. This is the first I have heard of any access issue to Austin. I have no issue with you talking to Austin about financial data. We have had issues in the past where you have not been fully satisfied with your visits to Austin because of a lack of background (non-financial) data. Consequently, we had agreed to meet in my presence in the future. It is up to you if you still wish to do this.

Some members of our staff have more access to the business and financial records than I do. I echo that comment. Theresa, Tammy, and Barbara have far more access to financial data for the practice than I do. This is appropriate and very consistent with the practices of other corporations our size. I do schedule a monthly meeting with all three to review financial data. In the future, you are welcome to attend. I would be happy to schedule these for Wednesday afternoon to coincide with your administrative half day. I do, however, plan to include a review of this meeting in future Board meetings, hopefully with Barbara present. If you recall, the January P/L statement was reviewed during this month's inaugural board meeting. Only Theresa and Tammy have access to the SCENT Quickbooks account in our practice.

I also remain concerned that Ed is not looking out for the interests of both of these entities, unless it is also consistent with your objectives. Ed is not looking out for my interests as a shareholder in the medical practice, nor in Jamie's as a member of the land holding entity. As such, he is representing you and not the companies. I can understand why you may feel that way since both Ed and I are responding to the needs of the practice and fulfilling our obligations as corporate officer and corporate counsel, respectively. On several issues, such as the loan closing and the malpractice, we are jointly advocating for the good of the practice. I don't think it is fair for you to perceive our shared position as a bias towards me just because you personal interests as a shareholder are not being advocated for. Ed has not advocated for my personal interests as a shareholder and has always gone to great lengths to preserve his role as corporate counsel.

It is precisely for this reason that I am in the process of selecting separate legal counsel for myself. I believe that we are heading into a very turbulent time in our business relationship and I feel that I will likely need legal counsel to advocate on behalf of me as a founder, a shareholder, and a manager. It appears that I have been unsuccessful in my long-standing and repeated cordial attempts to make you aware of the unique risks, sacrifices, and contributions that I continue to make on behalf of the practice I love so much. My complete dedication to the practice is being taken for granted, and I am quite clearly being taken advantage of. I am also very concerned that we no longer share the same vision and philosophy for the practice. Although you have not shared your own plan, it is very clear that you no longer agree with my vision of governance and direction for the practice. I'm quite sure you retained Bruce because you sense this same divergence, and not because you wanted him to "review the contract language."

Until I have the opportunity to review the records of both the medical practice and land holding company, I can't approve any transactions affecting the practice. Jamie feels the same as it relates to SCENT land holdings. Given that you have unfettered access to these documents, I am sure you can understand that it is reasonable for me to have the same access that you (and some members of our staff) have. You can make an appointment with Theresa to view the financial records of both the medical practice and the land holding company. This is the same "unfettered" access that I have. To take anything out, you will have to sign the same confidentiality agreement (attached) that I have signed. I can't imagine you would have any issue signing this if your intentions are to review the data with Bruce and an accountant. If you have other plans for this data that you are not disclosing, then I would urge you to share them.

Robert Puchalski

From: orville dyce [odyce@yahoo.com]
Sent: Wednesday, March 03, 2010 3:18 PM
To: robert puchalski
Cc: Bruce Armon; Jamie Dyce
Subject: Fw: Closing Scheduled

Bob:

Neither Jamie nor I will attend a closing until after our information request has been satisfied and the business points arising from the loan have been resolved. You will not see either of us at 4:00. Please see comments in green below.

----- Forwarded Message ----
From: Robert Puchalski <rpuchalski@southcarolinaent.com>
To: orville dyce <odyce@yahoo.com>; Jamie <curleyjamie@hotmail.com>; alpuchalski@gmail.com
Cc: Bruce Armon <barmon@saul.com>; Ed White <ed.white@nelsonmullins.com>; gus.dixon@nellsonmullins.com; Theresa Williams <twilliams@southcarolinaent.com>
Sent: Wed, March 3, 2010 2:46:04 PM
Subject: RE: Closing Scheduled

Just opened your email this PM. Thank you for engaging us and giving SCENT Land Holdings the individual attention it deserves in this critical time. Please see comments in red.

1. Neither Jamie nor I have been furnished with a proposed or executed lease of the building between the Practice and the Company. Please provide a copy to me. We will have a lease once the building is complete, since payments on the construction loan will be "rolled in" to the final loan payment. SCENT Land Holdings will not make a payment on the loan until SCENT moves in. Just like the Hartsville deal.

Regardless of what may have happened in the past, I am advised that it would be imprudent to sign a construction loan until a lease has been executed.

2. You have not been provided us with a proposed budget for the project. The estimated construction cost per the construction contract is $1,471,316. Why is the loan for $1,796,316? The land loan has been graciously rolled into the construction loan. Just like the Hartsville deal.

2520

Plaintiffs' Ex 0031.001

We need to see a budget and see precisely how the money is to be spent.

3. I don't understand why there appear to be two notes for the same amount, $1,796,316. One of the notes calls for an explained initial advance of $325,000. What is the purpose of this advance? I suspect it is a pay-off of the land note. The land was purchased in two increments ($200K and $125). We will ask the real estate attorney for SCENT Land Holdings, William Cox, this at closing.

We need to know prior to any proposed closing.

4. We will not permit the automatic transfer authorization of $10,810.27 to the Company as proposed in the loan documentation. We will consider advances by joint check to the Company and Pyramid Contracting in the amount of any draw request which you and I both approve. We can discuss this at closing.

If there is to be a discussion, we can discuss prior to any closing. The proposed disbursement in the authorization is not acceptable. I don't think it is fair to anyone to wait on documents to be redone at a closing.

5. I don't see a proposed closing statement and would like to review one. Theresa has already sent it, but we just received another version from William Cox's office today. Theresa will forward this to you.

Still not seen.

6. You apparently forgot to tell me in all of your email correspondence that the Bank wants my personal guaranty. I am not prepared to provide it at the present time. I did indeed discuss this with you. This is just like the Hartsville deal. It is my understanding that you have personal guarantees on the Hartsville property and the Columbia land currently. If you recall, this is why the bank requested your personal tax returns..

I don't recall any discussion and am not prepared to guaranty the debt.

7. The authorization incorrectly states that you and I are the members of the Company. As you know, we are not members of the Company. We can review this at closing and make changes.

This is a pretty easy document to fix.

2522

From: Dr Dyce
Sent: Wednesday, March 03, 2010 6:30 AM
To: Theresa Williams
Subject: Re: Meeting

Thanks for the email Theresa but as Dr. Pulchaski knows, I would like copies of documents which I have requested. A meeting is insufficient but copies would be great.

Sent from my iPhone

Orville Dyce MD
SCENT, Allergy & Sleep Medicinr

On Mar 1, 2010, at 12:57 PM, "Theresa Williams" <twilliams@southcarolinaent.com> wrote:

Hello Jamie-

Dr. Puchalski asked me to follow up with you about scheduling a meeting to review the financial documents for SCENT Landholdings. I will be happy to schedule any time that you need between now and the Wednesday closing.

Please let me know what works for you.

Thanks,

Theresa

Plaintiffs' Ex 0032.001

From: Theresa Williams [twilliams@southcarolinaent.com]
Sent: Wednesday, March 03, 2010 4:11 PM
To: 'odyce@yahoo.com'
Cc: 'Bruce Armon'
Subject: FW: SCENT refi/const loan
Attachments: Preliminary HUD.pdf

From: Theresa Williams [mailto:twilliams@southcarolinaent.com]
Sent: Wednesday, March 03, 2010 2:32 PM
To: Dr Dyce
Cc: Robert Puchalski
Subject: FW: SCENT refi/const loan

Dr. Dyce-
Please find the attached loan documents that I received today from our attorney.
Thanks, Theresa

From: Christine Peebles [mailto:CPeebles@thesavagefirm.com]
Sent: Wednesday, March 03, 2010 9:49 AM
To: 'Kieley Taylor'; 'Theresa Williams'
Cc: 'RPuchalski@southcarolinaent.com'
Subject: SCENT refi/const loan

Attached is the HUD-1 Settlement Statement as approved by Walter Long of First Palmetto. The amount needed for closing is $6751.16 and this must be a cashier's check/certified funds payable to Savage Law Firm.
I have closing set for 4:00 this afternoon. If this changes for any reason, please contact me via email directly.
Thank you!

Christine Peebles
Savage, Royall & Sheheen, LLP
1111 Church Street
Camden, SC 29020
(803)432-4391
(803)425-4816 FAX

2523

Plaintiffs' Ex 0033.001

Fw: understanding

From: **orville dyce** (odyce@yahoo.com)
Sent: Sun 4/24/11 8:37 PM
To: orvilledyce@hotmail.com

----- Forwarded Message ----
From: Robert Puchalski <rpuchalski@southcarolinaent.com>
To: orville dyce <odyce@yahoo.com>; Theresa Williams <twilliams@southcarolinaent.com>; Jamie <curleyjamie@hotmail.com>; Jamie Dyce <jamiedyce@me.com>; alpuchalski@gmail.com
Cc: Bruce Armon <barmon@saul.com>
Sent: Wed, March 3, 2010 3:31:22 PM
Subject: RE: understanding

Orville,

You are welcome to review this information and I will answer any questions you have. We have to move forward with the financing of the building and we can deal with any questions at your convenience. SCENT Land Holdings cannot wait for you to accept an offer to come in and review information in another company any longer. The building is 55% complete and the details of the this building have previously been discussed and the information has been available for your review. This is no different than the way we handled the Hartville building. Let's get this done!! Please, please.

From: orville dyce [mailto:odyce@yahoo.com]
Sent: Wednesday, March 03, 2010 3:02 PM
To: Theresa Williams; robert puchalski
Cc: Bruce Armon; Jamie Dyce
Subject: understanding

Theresa, am I to understand Jamie is to come to closing, in 10 minutes review the following while there:

1-Copies of all bank statements and cancelled checks since Jan 1, 2008
2-Electronic copy, preferably in excel format, of the check register exported from the accounting system since Jan 1, 2008 through present
3-Electronic copy of the general ledger for each year (by year) since inception through present
4-Copies of all credit card statements held in the name of the practice or practice employees that were paid from SCENT accounts since inception through present.
5-Complete copy of SCENT IRS Form 1120S for tax years 2004-2008
6-Access to all supporting documentation on file at or at a location controlled by SCENT related to disbursements made since inception through present. (Invoices, check stubs etc.)

and then sign for the loan?

Robert Puchalski

From: Robert Puchalski [rpuchalski@southcarolinaent.com]
Sent: Friday, March 05, 2010 4:46 PM
To: Dr Dyce
Subject: RE: requests

Orville,

Amy and I are heading out of town for the weekend. I will have the staff gather the additional information you requested for SCENT Landholdings, LLC as soon as possible next week.

With respect to SCENT, have you signed the requested confidentiality agreement? If you have, please bring it to our meeting next week. Kieley is trying to coordinate everyone's schedule for Wednesday.

Have a good weekend.

Bob

From: orville dyce [mailto:odyce@yahoo.com]
Sent: Friday, March 05, 2010 7:31 AM
To: Robert Puchalski
Cc: Bruce Armon; me MYSELF
Subject: requests

Bob

Despite MY REPEATED REQUESTS AND numerous promises BY YOU over the past several days, I still have not received the following documents which I requested.

1-Copies of all bank statements and cancelled checks since Jan 1, 2008
2-Electronic copy, preferably in excel format, of the check register exported from the accounting system since Jan 1, 2008 through present
3-Electronic copy of the general ledger for each year (by year) since inception through present
4-Copies of all credit card statements held in the name of the practice or practice employees that were paid from SCENT accounts since inception through present.
5-Complete copy of SCENT IRS Form 1120S for tax years 2004-2008
6-Access to all supporting documentation on file at or at a location controlled by SCENT related to disbursements made since inception through present. (Invoices, check stubs etc.)

I also have not received a copy of the contractor's draw request.

I need some more information on the two loans to First Palmetto which are being satisfied. I need copies of the original notes and mortgages and need to know how the money from these loans was spent. I would like to match this up with some of the financial documents which I have requested which have not yet been provided.

I did receive a list titled SCENT Landholdings Check Detail 3/3/2010.

My patience is wearing thin.

Orville

Plaintiffs' Ex 0035.002

Nelson Mullins

Nelson Mullins Riley & Scarborough LLP
Attorneys and Counselors at Law
1320 Main Street / 17th Floor / Columbia, SC 29201
Tel: 803.799.2000 Fax: 803.255.9050
www.nelsonmullins.com

James K. Lehman
Tel: 803.255.5564
Fax: 803.255.9050
jim.lehman@nelsonmullins.com

March 25, 2010

Morris A. Ellison, Esquire
Buist Moore Smythe McGee, P.A.
5 Exchange Street
Post Office Box 999
Charleston, SC 29402-0999

Dear Morris:

Thank you for your e-mail on Friday, March 19.

As we discussed, our firm represents South Carolina ENT, Allergy & Sleep Medicine, P.A. (the "Company") and SCENT Landholdings, LLC (the "Landholding Company").

We do not represent Dr. Puchalski, individually. It is our understanding that Dr. Puchalski is represented individually by Roy Laney. Roy's contact information is as follows: Riley Pope & Laney, LLC, Post Office Box 11412, Columbia, SC 29211, telephone number (803) 799-9993.

In this regard, thank you for sharing your concerns regarding a possible conflict. We believe that your concerns were based on your misunderstanding of the facts in that you believed we were representing both Dr. Puchalski individually as well as the Company and the Landholding Company. As indicated above, we do not represent Dr. Puchalski individually but rather Roy Laney does. We plan to continue to represent the Company and the Landholding Company as we have done in the past.

We have had a chance to review the pleadings that you filed and candidly do not understand why these issues could not be quickly addressed in a mediation (if not resolved expeditiously among counsel).

As the Company has consistently stated it is open to providing Dr. Dyce appropriate information so long as adequate protections are in place to protect the confidential nature of the information. As we have consistently stated, the Company has a stringent confidentiality policy that it consistently adheres to with respect to its financial (and other) information.

Section 3.7 of the Shareholders Agreement that Dr. Dyce has agreed to specifically states:

> Section 3.7 Confidentiality. The Shareholders shall not disclose any information relating to the Corporation regarding the Corporation's operations, records, patients, or procedures, to any persons other than employees of the Corporation, federal and state regulatory agencies, third-party reimbursement agencies, the Corporation's accountants, lawyers, consultants and other professional advisors, without the prior written consent of the Corporation or, as the case may be, an enforceable subpoena, or the final order of a court of competent jurisdiction. Each Shareholder shall use information related to the business of the Corporation to advance the Corporation's best interests, and not to benefit their personal interest.

Section 5.1 of Dr. Dyce's Employment Agreement that Dr. Dyce has also agreed to specifically states:

> 5.1 Confidentiality. Physician shall hold in confidence and not disclose and shall protect and safeguard from disclosure any and all business and other information that has not otherwise been publicly disclosed relating to the business and operation of the Group, the terms of this Agreement, the operation of the practice, patient records, patient lists, and all other information designated by the Group as confidential.

As you note in your e-mail "Dr. Dyce and his wife have repeatedly asked that [the requested information] be produced without precondition." This demand makes no sense in that Dr. Dyce (and as subsequently discussed) Dr. Dyce's wife have already agreed to confidentiality provisions.

Notably, these confidentiality provisions would not permit Dr. Dyce to share this information with his advisors. Accordingly, the Company had proposed that Dr. Dyce enter into a short, simple Confidentiality Agreement (a copy of which we will be glad to send to you) that would permit him to share the information received with his advisors. Candidly, the Company thought it was facilitating matters by enabling Dr. Dyce to share the information with his advisors through the use of the Confidentiality Agreement. Dr. Dyce's insistence that he not be governed by confidentiality requirements despite his already having agreed to them is of great concern to the Company, particularly in light of its stringent confidentiality policy.

In this regard, it has come to the Company's attention that Dr. Dyce recently requested and obtained ,in a questionable fashion, copies of Company contracts with insurance companies concerning reimbursement of physician services including rates of reimbursement negotiated by the Company. This information is proprietary and constitutes confidential information of the Company. Pursuant to his confidentiality obligations, Dr. Dyce is not authorized to use the information for any purpose other than in furtherance of the Company's business and is not

authorized to distribute it. Any authorized use, distribution or utilization of the information will be in breach of Dr. Dyce's confidentiality obligations.

In addition, your complaint regarding the Company does not appropriately reflect the structure of the statutes regarding a South Carolina corporation's records.

South Carolina Code Section 33-16-102(a) states:

> (a) A shareholder of a corporation is entitled to inspect and copy, during regular business hours at the corporation's principal office, any of the records of the corporation described in Section 33-16-101(e) if he gives the corporation written notice of his demand at least five business days before the date on which he wishes to inspect and copy. Shareholders holding at least one percent of any class of shares are entitled to conduct an inspection of the tax returns described in Section 33-16-101(e)(8) under the same conditions.

The records referenced in Section 33-16-101(e) are the following:

> (e) A corporation shall keep a copy of the following records at its principal office:
>
> (1) its articles or restated articles of incorporation and all amendments to them currently in effect;
>
> (2) its bylaws or restated bylaws and all amendments to them currently in effect;
>
> (3) resolutions adopted by its board of directors creating one or more classes or series of shares, and fixing their relative rights, preferences, and limitations, if shares issued pursuant to those resolutions are outstanding;
>
> (4) the minutes of all shareholders' meetings, and records of all action taken by shareholders without a meeting, for the past ten years;
>
> (5) all written communications to shareholders as a group within the past three years, including the financial statements furnished for the past three years under Section 33-16-200;
>
> (6) a list of the names and business addresses of its current directors and officers;
>
> (7) its most recent annual report delivered to the Department of Revenue under Section 12-19-20;
>
> (8) its federal and state income tax returns for the last ten years.

Dr. Dyce is welcome to inspect these records at any time subject to the confidentiality provisions contained in Section 3.7 of the Shareholders Agreement and Section 5.1 of his Employment Agreement. The Company is fine with him sharing these with his advisors so long as he executes the requested Confidentiality Agreement. In addition, it is important to

note that Dr. Dyce has regularly been provided financial information in provider meetings and has had the opportunity on numerous occasions to meet with the Company's accountants.

With respect to other records, Section 33-16-102(b) provides that:

> (b) A shareholder of a corporation is entitled to inspect and copy, during regular business hours at a reasonable location specified by the corporation, any of the following records of the corporation, if the shareholder meets the requirements of subsection (c) and gives the corporation written notice of his demand at least five business days before the date on which he wishes to inspect and copy:
>
> (1) excerpts from minutes of any meeting of the board of directors, records of any action of a committee of the board of directors while acting in place of the board of directors on behalf of the corporation, minutes of any meeting of the shareholders, and records of action taken by the shareholders or board of directors without a meeting, to the extent not subject to inspection under Section 33-16-102(a);
>
> (2) accounting records of the corporation; and
>
> (3) the record of shareholders.

Subsection (c) provides that:

> (c) A shareholder may inspect and copy the records described in subsection (b) only if:
>
> (1) his demand is made in good faith and for a proper purpose;
>
> (2) he describes with reasonable particularity his purpose and the records he desires to inspect; and
>
> (3) the records are directly connected with his purpose.

Accordingly, not only does the Shareholders Agreement and Dr. Dyce's Employment Agreement place conditions on Dr. Dyce's right to obtain and use the requested information but so does the South Carolina Code Section that Dr. Dyce has filed a complaint under. Accordingly, the demand that the records be produced "without precondition" does not make any sense. In this regard, at no point has Dr. Dyce made a demand that complies with South Carolina Code Section 33-16-102(b).

Finally, South Carolina Code Section 33-16-104(d) provides that:

> (d) If the court orders inspection and copying of the records demanded, it may impose reasonable restrictions on the use or distribution of the records by the demanding shareholder.

Accordingly, if the court does determine that certain records should be produced, the Company, in order to protect its proprietary information, will seek "reasonable restrictions" on

the use and distribution of the information, which is what the Company is currently requesting from Dr. Dyce.

With respect to the Landholding Company, the complaint is even more confusing. First, there is a stringent confidentiality provision contained in Section 11 of the Operating Agreement. Secondly, various requested information was provided to Dr. Dyce's wife as shown by the attached Acknowledgement of Receipt of Confidential Information. Third, when she was asked in the members meeting that was held on Friday, March 12, 2010, if she needed any other information, she said she did not.

The bottom line is the Company has been willing all along to providing appropriate information so long as appropriate safeguards are in place. It makes no sense to litigate this when it should be able to be easily resolved. We have already previously discussed certain of these issues in our letter to Bruce Armon dated March 17, 2010 (a copy of which is attached hereto), and we have now lost valuable time. However, if Dr. Dyce insists on receiving the information "without precondition" then he is asking for an impossible result because that demand contradicts his contractual arrangements, the applicable South Carolina statutes and the Company's policy.

With respect to the causes of action for an accounting, the Company has consistently stated that it is open to discussing the idea of engaging an independent accounting firm to perform special procedures to address specific questions and concerns Dr. Dyce may have. It is our understanding that Dr. Puchalski reiterated this to Dr. Dyce when they met on Sunday. Despite this offer from Dr. Puchalski on Sunday, Dr. Dyce chose to have Dr. Puchalski served at home right after that meeting. Again, it doesn't make sense to litigate this as this seems like something that could easily be addressed in mediation (if not resolved expeditiously among counsel).

In summary, the Company has presented a variety of straightforward and expeditious paths to provide Dr. Dyce appropriate information and to have special procedures conducted to address whatever concerns he may have. Despite this, for some reason, Dr. Dyce seems to be intent on litigation. This is of great concern to the Company.

As Dr. Dyce knows, there are many pressing issues forcing the Company and the Landholding Company including, without limitation, (1) the admission of Dr. Gunnlaugsson as a shareholder; (2) the ambulatory surgery center; (3) construction on the new building; and (4) ongoing practice issues. Certain of these issues require Drs. Dyce and Puchalski to reach resolution one way or another shortly.

The Company asks one more time that Dr. Dyce consider an expeditious mediation of the above and related matters. Time is clearly of the essence, and we believe that a mediation would greatly expedite the needed decisions regardless of the ultimate outcome.

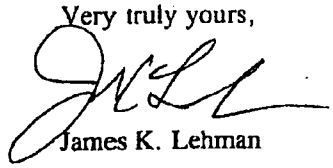
As you have asked of us, we would ask that your firm, Mr. Armon's firm and Dr. Dyce and his wife hold and preserve information in a similar fashion to your request to our firm and clients. Due to Dr. Dyce's apparent unwillingness to recognize his confidentiality obligations, and his recently obtaining copies of the Company's contracts in a questionable fashion, we may need to conduct certain discovery of your and Mr. Armon's firm with respect to this and related matters.

We are quickly running out of time which is unfortunate given that these doctors have apparently had a long professional and personal relationship. Dr. Puchalski, the President of the Company and the Managing Member of the Landholding Company, is working hard to try and find a balance between protecting the Company's confidential information and addressing Dr. Dyce's requests but he needs Dr. Dyce to work with him and not make impossible demands.

The Company and the Landholding Company are suffering greatly because of all of this and if all of this cannot be resolved very shortly, then Dr. Puchalski, as President and Managing Member, despite his long standing relationship with Dr. Dyce, will need to do what he believes is best for the Company and the Landholding Company.

Please call me to discuss further.

Very truly yours,



James K. Lehman

JKL:dch
Enclosures

~Doc# 6156536.1~

From: Robert Puchalski (RPuchalski@southcarolinaent.com)
To: odyce@yahoo.com; Odyce@southcarolinaent.com;
Date: Fri, March 26, 2010 5:38:44 PM
Cc:
Subject: RE: last pm meeting

OD:

Please see comments in red.
Bob,
I appreciated you meeting with me last pm and wanted to confirm what we discussed and the actions you informed me that you were unilaterally taking. I think meeting together casually is always a good thing. I regret that we don't interact socially more often. I had an enjoyable time with you and Jamie last night at the ball. First, I understand that despite teh fact that I remain both a shareholder and an employee you have unilaterally deactivated my credit card which I use to pay for the gas that I use in driving between practice locations and prohibited any employee at SCENT from sharing any information with me. The credit card was a high limit card that you could have used to obligate the corporation. Given the adverse position your attorneys have taken with the practice and your recent behavior, I'm sure you understand why this was the responsible thing to do as the managing shareholder. SCENT will, however, be happy to reimburse you for your expenses. Please keep receipts for any approved travel expenses until May 9th and I will expedite your reimbursement. Just fill out the reimbursement form, which is available on the SCENT intranet homepage. Employees are certainly not prohibited from giving you information, particularly clinical information that you need to care for SCENT patients. As I mentioned to you in our meeting, it came to my attention that you recently requested and obtained copies of Company contracts with insurance companies concerning reimbursement of physician services including the rates of reimbursement negotiated by the Company. SCENT's reimbursement contracts and negotiated rates of reimbursement are proprietary information and constitutes confidential trade secrets of the company and SCENT has taken steps to protect itself from what seems to be a clandestine effort to remove valuable files from the practice. As I mentioned in our meeting, you are not authorized to use or distribute the information for any purpose other than in furtherance of the Company's business. Any unauthorized use, distribution or utilization of the information will be in breach of the Shareholders' Agreement and your Employment Agreement. In the future, please refrain from requesting, accepting or inspecting Company information except through the proper Company channels to receive the information.

I continue not to understand why you will not let me have copies of the information to which I am clearly entitled.

I have explained SCENT's position on this more times than I can count, while you continue to lack any justification for why you will not pursue any one of the proposed avenues I have offered to get you the financial peace of mind you desire. I am attaching a letter from SCENT's Corporate Law Firm on the issue, in case your attorneys have not shared it with you.

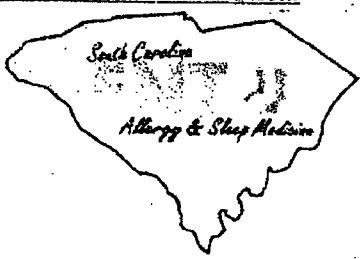
I remain willing to consider mediation and dismiss the existing lawsuits without prejudice so long as you provide me with the information to which I am entitled without precondition and rescind your effort to have me terminated from SCENT.
Your actions are leaving me no choice. I cannot mediate without reviewing and studying the information to which we are clearly entitled.

I realize that saying you "have no choice" might help you justify your recent adverse actions against SCENT, but

stating it over and over in emails and words doesn't make it a true statement. You have serially rejected several options, including mediation, a confidentiality agreement, independent audit, and a meeting with Austin in the past. I even brought Austin into our Meeting Tuesday to certify that you and I received the same salary and distributions of over 1.5 million dollars last year. Instead, you have chosen to litigate and make SCENT the talk of Camden during its most social weekend of the year. For some reason, you continue to reject any choice other than the litigious one . As I said at Sam Kendall's, I am always available to you at any hour if you have any questions about SCENT's position or if you decide to reconcile. The choice is yours, as it has always been. I continue to hope for a reconciliation.
O

P.S. Bummer about Cornell. I am really proud of those kids. They held their ground against a fantastic Kentucky team. Wish we had a team like that to cheer for when we were there!
Bob

Robert Puchalski, MD
Managing Shareholder
South Carolina ENT, Allergy & Sleep Medicine, PA
www.SouthCarolinaENT.com



Confidentiality and Disclosure Notice

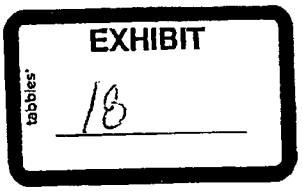
This message is intended exclusively for the individual or entity to which it is addressed. This communication may contain information that is proprietary, privileged, confidential or otherwise legally exempt from disclosure. All comments made are strictly those of Robert Puchalski, MD and not necessarily those of South Carolina ENT, Allergy, and Sleep Medicine, PA.

If you are not the named addressee, you are not authorized to read, print, retain, copy or disseminate this message or any part of it. If you have received this message in error, please notify the sender immediately by replying to this e-mail and delete all copies of this message.

From: orville dyce [mailto:odyce@yahoo.com]
Sent: Thursday, March 25, 2010 11:57 AM
To: Robert Puchalski
Cc: me MYSELF
Subject: RE: last pm meeting

Sorry about prior email title

----- Forwarded Message ----
From: orville dyce <odyce@yahoo.com>



Robert Puchalski

From: Robert Puchalski
Sent: Sunday, March 21, 2010 1:23 PM
To: 'Jamie'; 'Jamie Dyce'; 'Amy Puchalski'
Subject: FW: SCENT Land Holdings

Please see the email below. I look forward to paying off the debt we owe this week. Please let me know if there are any questions regarding fund transfer or if there are any problems in meeting the capital call.

Robert Puchalski, MD
Manager
SCENT Land Holdings, LLC

From: Catch All
Sent: Saturday, March 20, 2010 4:01 AM
To: Robert Puchalski
Subject: FW: SCENT Land Holdings

From: Charlie Lucas [mailto:LucasBuilt@sc.rr.com]
Sent: Wednesday, March 17, 2010 1:37 PM
To: Robert Puchalski
Subject: Re: SCENT Land Holdings

Dr. Puchalski I appreciate the email and will forward to our subcontractors/suppliers. We do hope that we can receive some payment soon to help them with their's/our cash flow.

Thanks,
Charlie

----- Original Message -----
From: Robert Puchalski
To: Charlie Lucas
Cc: Theresa Williams ; Ed White
Sent: Tuesday, March 16, 2010 7:21 PM
Subject: SCENT Land Holdings

Charlie:

SCENT Land Holdings, LLC has approved a mandatory capital call from its members to complete the construction of the building. We hope the money to complete the project will be available in approximately six weeks. The Company is still going to push for a closing on permanent financing prior to that time, but we cannot guarantee the closing will occur prior to the six week period. In the meantime, SCENT Land Holdings , LLC will attempt to secure short term financing from non-bank sources to meet the financial commitment we currently have with you .

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We have not had any issues with your work and appreciate all your patience over the last few months. SCENT Land Holdings, LLC intends to honor its financial commitments to you and, on behalf of the Company, I want to apologize for the delays in the closing of the permanent loan. SCENT Land Holdings is not experiencing any difficulty getting a loan due to financial reasons. Quite the contrary, First Palmetto Bank has been prepared to

close on the property on multiple occasions.. The holdup is that SCENT Landholdings, LLC is working through some internal issues that have hindered the closing.

Robert Puchalski, MD
Manager
SCENT Land Holdings, LLC

CONFIDENTIAL

P1732
Plaintiffs' Ex 0053.002

To: William Cox
Cc: BArmon@saul.com
Subject: Re: Documents -- South Carolina ENT, Allergy & Sleep Medicine, P.A.

William, I give Bruce Armon permission to obtain the documents

---

From: William Cox <WCox@thesavagefirm.com>
To: "Armon, Bruce D." <BArmon@saul.com>
Cc: orville dyce <odyce@yahoo.com>
Sent: Tue, December 22, 2009 10:35:51 AM
Subject: RE: Documents -- South Carolina ENT, Allergy & Sleep Medicine, P.A.

Certainly. To be clear, do you want just the medical practice documents or the land holdings documents as well?

William B. Cox, Jr.
Savage, Royall & Sheheen, LLP
1111 Church Street (29020)
P.O. Drawer 10 (29021)
Camden, South Carolina
(803) 432-4391
(803) 425-4816-fax

From: Armon, Bruce D. [mailto:BArmon@saul.com]
Sent: Tuesday, December 22, 2009 10:34 AM
To: William Cox
Cc: orville dyce
Subject: RE: Documents -- South Carolina ENT, Allergy & Sleep Medicine, P.A.

William, I have cc'd Dr. Dyce on this email. Thank you for forwarding whatever documents you currently have via email, and for coordinating with Drs. Puchalski and Dyce so I can receive all documents.

Regards, Bruce

Bruce D. Armon
Saul Ewing LLP
1500 Market Street, 38th Floor
Centre Square West
Philadelphia, PA 19102
barmon@saul.com
(215) 972-7985 or 1-800-355-7777, x7985
(215) 972-4155 (fax)

Saul Ewing

From: William Cox [mailto:WCox@thesavagefirm.com]
Sent: Tuesday, December 22, 2009 10:10 AM
To: Armon, Bruce D.

Subject: RE: Documents -- South Carolina ENT, Allergy & Sleep Medicine, P.A.

Bruce, I will have to contact Orville and the managing shareholder for authority and have them look for documents that I may not have. Our office has not been exclusive over the years and I may have to consolidate the documents from the practice itself so that I can send to you.

Keep warm.

William B. Cox, Jr.
Savage, Royall & Shehcen, LLP
1111 Church Street (29020)
P.O. Drawer 10 (29021)
Camden, South Carolina
(803) 432-4391
(803) 425-4816-fax

From: Armon, Bruce D. [mailto:BArmon@saul.com]
Sent: Tuesday, December 22, 2009 9:38 AM
To: William Cox
Subject: Documents -- South Carolina ENT, Allergy & Sleep Medicine, P.A.

William, I appreciate your time a few minutes ago. All of my contact information is below. Dr. Dyce asked that I reach out to your office, as counsel for the practice, to get copies of each of the current executed documents (presumably, an employment agreement, shareholders agreement, stock purchase agreement and perhaps others) for South Carolina ENT, Allergy & Sleep Medicine, P.A. I understand there are may be some recent drafts of new agreements that have been discussed with Dr. Dyce and I would appreciate if you would forward those to me as well. Please forward each of the documents to me via email. I am hopeful you can send the documents to me in the next day or so.

Regards, Bruce

Bruce D. Armon
Saul Ewing LLP
1500 Market Street, 38th Floor
Centre Square West
Philadelphia, PA 19102
barmon@saul.com
(215) 972-7985 or 1-800-355-7777, x7985
(215) 972-4155 (fax)

Saul Ewing

"Saul Ewing LLP <saul.com>" made the following annotations:

IRS CIRCULAR 230 DISCLOSURE: TO ENSURE COMPLIANCE WITH REQUIREMENTS IMPOSED BY THE IRS, WE INFORM YOU THAT ANY U.S. FEDERAL TAX ADVICE CONTAINED IN THIS COMMUNICATION (INCLUDING ANY ATTACHMENTS) IS NOT INTENDED OR WRITTEN TO BE USED, AND CANNOT BE USED, FOR THE PURPOSE OF (I) AVOIDING PENALTIES UNDER THE INTERNAL REVENUE CODE OR (II) PROMOTING, MARKETING OR RECOMMENDING TO ANOTHER PARTY ANY TRANSACTION OR MATTER ADDRESSED HEREIN.

Sent: Thu, February 4, 2010 9:58:57 PM
Subject: Re: Shareholders Agreement

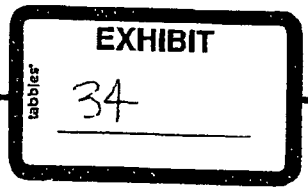
This weekend or Monday night after 7 for the first meeting. We need at least 2 hours.

Sent from my iPhone
Robert Puchalski, MD

On Feb 4, 2010, at 9:31 PM, "orville dyce" <odycc@yahoo.com> wrote:

> Could you please send by email the dates that you would be available. The little paper they were on last night is missing.
>
> ----- Forwarded Message ----
> **From:** Ed White <ed.white@nelsonmullins.com>
> **To:** Robert Puchalski <RPuchalski@southcarolinaent.com>; orville dyce <odyce@yahoo.com>
> **Cc:** "Armon, Bruce D." <BArmon@saul.com>
> **Sent:** Thu, February 4, 2010 5:43:00 PM
> **Subject:** Shareholders Agreement
>
> Bob and Orville,
>
> I had a good conversation with Bruce Armon today concerning the Shareholders Agreement and Employment Agreement. While I gave him a lot of insight into the objectives that Bob was trying to address with the modifications to both documents, we did not come to any specific conclusions about the documents.
>
> The recommendation that both of us agree upon is that the two of you need to go through both documents paragraph by paragraph and discuss the issues and objectives and any concerns that Orville may have and decide upon any modifcations that may be needed. It may be helpful if the two of you go through the documents first to discuss the provisions and then have another meeting where I attend to craft language to address the concerns or modifications that each of you want to address. Bruce is welcome to attend (in person or by conference call) but he and I agree that it may be more efficient for me to help with any revisions and then circulate another draft for everyone to review and and from there, hopefully, we can expeditiously iron out any remaining issues and conclude with documents that both of you are comfortable with.
>
> If you have any questions please do not hesitate to contact me.
>
> Thank you,
>
> Ed

Confidentiality Notice



Robert Puchalski

From: Robert Puchalski [rpuchalski@southcarolinaent.com]
Sent: Friday, March 05, 2010 3:30 PM
To: 'ed.white@nelsonmullins.com'
Subject: FW: Meeting

Importance: High

From: Theresa Williams [mailto:twilliams@southcarolinaent.com]
Sent: Wednesday, March 03, 2010 12:03 PM
To: 'jamie curley'; Dr Dyce
Cc: Robert Puchalski; alpuchalski@gmail.com
Subject: RE: Meeting
Importance: High

Jamie-Please let me know where you are and I can courier the form over to you.Thanks, Theresa

From: jamie curley [mailto:curleyjamie@hotmail.com]
Sent: Wednesday, March 03, 2010 11:46 AM
To: twilliams@southcarolinaent.com; odyce@southcarolinaent.com
Cc: rpuchalski@southcarolinaent.com; alpuchalski@gmail.com
Subject: RE: Meeting

Hi Theresa,

I've tried to open & print the "sign out form", but the page is blank. It says the document is 2.9 MB, but appears to be blank...? I've also reopened the various attachments that have come in from SCENT over the past 3 days, to see if any of them were this form, to no avail.

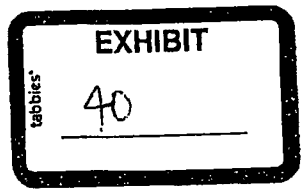
Please confirm that the form is not accidentally blank on your end and resend. Thank you!!
Jamie

Subject: RE: Meeting
Date: Wed, 3 Mar 2010 10:36:48 -0500
From: twilliams@southcarolinaent.com
To: Odyce@southcarolinaent.com
CC: curleyjamie@hotmail.com; RPuchalski@southcarolinaent.com; alpuchalski@gmail.com

Dr. Dyce-
I have the SCENT Land Holdings financial documents for your review and have them prepared for you to take once Jamie has signed the "sign out form" (1 sentence long). I will attach another copy of the " sign out form" that was also sent out last Monday and Saturday.
If you can get this signed and returned , I will be happy to courier these documents over to you or have them at the closing today at 4:00.

The reports consist of a list of checks and deposits (12 pages), but they are simple entries and should take no more than 10 minutes to review.

If you cannot have Jamie sign these out and you do not wish to have us courier the documents over to you, we will have these available at closing.



Charlie
----- Original Message -----
From: Robert Puchalski
To: 'Charlie Lucas'
Cc: 'Dr Dyce' ; 'Jamie' ; alpuchalski@gmail.com ; 'Theresa Williams'
Sent: Wednesday, March 03, 2010 1:22 PM
Subject: RE: SC ENT Lugoff invoices

Charlie:

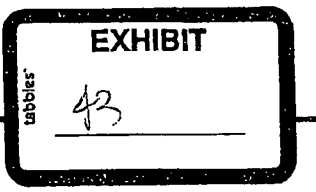
I assure you that we are doing everything in our power to facilitate the closing today. Your workmanship has been exceptional and I appreciate all of your patience with us.

From: Charlie Lucas [mailto:LucasBuilt@sc.rr.com]
Sent: Wednesday, March 03, 2010 9:58 AM
To: Robert Puchalski
Subject: SC ENT Lugoff invoices

Dr. Puchalski we are hopeful that the closing will be completed today as scheduled. We have had and hope to continue a very good working relationship. We are just giving you our concerns over the delays on the last two invoices which can (and has on some accounts) caused burdens on our vendors and subcontractors. Our vendors and subcontractors rely on timely payment in order to serve our customers with the best pricing and scheduling that we can offer.
I hope that you are pleased with our workmanship, our strive for a quality product, and meeting your occupancy requirements.

If for any reason you are not fully satisfied with our efforts please let us know.

Thank you,
Charlie Lucas



Robert Puchalski

[redacted]

redacted by client

[redacted]

Begin forwarded message:

From: "Tammy Szymanski" <TSzymanski@southcarolinaent.com>
Date: February 16, 2010 11:04:28 AM EST
To: "Dr Dyce" <Odyce@southcarolinaent.com>
Cc: "Robert Puchalski" <RPuchalski@southcarolinaent.com>, "Theresa Williams" <twilliams@southcarolinaent.com>
Subject: Malpractice Insurance

Good morning:

Below I have outlined the benefits of switching to Medical Protective from JUA and PCF which I presented during the Board meeting.

Suits cannot be settled without the consent of the physician.

First year 50% discount for physician (Dr. Paul)

Entity limit is not shared with physician's limits (more coverage overall-1M, 3M for each doc and practice) Currently those limits are shared with the entity, so the 1M, 3M would be split between the doctor and practice if a judgment is entered.

Medical Protective is an A++ rated insurance company (highest rating).

Savings: 28,739 for the year.

I apologize if my presentation was not clear during the Board meeting. Was there any other information outside of the above that you were looking for? Please let me know if you have any questions.

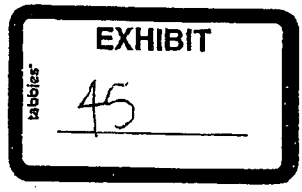
Thank you.

Tammy Szymanski

South Carolina ENT, Allergy & Sleep Medicine, PA

803-424-2210 (direct)

Plaintiffs' Ex 0062.002



Jane Heinzelman

From: Ed White
Sent: Wednesday, February 17, 2010 11:03 AM
To: Armon, Bruce D.
Subject: FW: SCENT Matters
Attachments: COLUMBIA-#6074578-v3-Personal_Svcs_&_Management_Agr_Carolina_Pines_Regional_Medical_Center.DOC

Bruce,

I meant to copy you on this email.

Ed

From: Ed White
Sent: Wednesday, February 17, 2010 10:54 AM
To: 'orville dyce'
Subject: SCENT Matters

Orville,

I spoke at length yesterday with Bob and relayed many of your concerns. I suggested that the in your meeting today the two of you work on (i) the building issue, (ii) the sweep issue, (iii) the malpractice issue and that he explain his thinking behind the changes to the Shareholder Agreement and then in a separate session he let you present your concerns and objectives. I also suggested that I attend the next session in order to help indenfity ways to address both of your objectives or suggest alternatives. Bruce could attend or participate in a third session to try to bring the issues to closure.

I also suggested that the two of you discuss a protocol for you having access to company information. That can be simple as a policy or something that is added to the shareholders agreement. I believe Bob wants to try to get someone from Austin Sheehen's office to go over the sweep information to make sure you are comfortable with the explanations about the company's cash flow.

Attached is a copy of the proposed Management Agreement with Carolina Pines. I am not aware of anything having been done with the agreement yet. The one for PNE is identical except for the name.

As far as your questions on the contracts, I will try to get you (i) my assessment of what happens if new agreements are not signed and (ii) what provisions in the current agreements would offer protections for your interest in the next couple of days. I have another set of contracts to turn out today for another client but I will expedite that request for you as soon as I get those done.

In reference to your question about fiduciary duties, each of you owe the corporation as well as the other as a shareholder a duty of loyalty and care which means you are required to act (1) in good faith; (2) with the care an ordinarily prudent person would exercise under similar circumstances; (3) and in a manner you reasonably believe to be in the best interests of the corporation and its shareholders. This standard allows directors and officers to apply their own business judgement to their decisions but would preclude, as an example, actions which are arbitrary or malicious towards the company or its shareholders. The duty of loyalty also requires full disclosure and complete fairness by directors to the corporation and its shareholders. The disclosure obligation can be managed, however, with safeguards to protect confidential company information (such as restricting access to to reviewing information at the company's offices or requiring a shareholder's advisor to sign a confidentiality agreement for information transferred to the advisor). This latter point is related to my earlier suggestion that the two of you agree upon the protocol for you having access to the information you need.

I will come back to you shortly with the rest of the information you requested. In the meantime, if you have any questions please do not hesitate to contact me.

CONFIDENTIAL

Thank you,

Ed

CONFIDENTIAL

EXHIBIT
tabbies
4U

Robert Puchalski

From: Robert Puchalski
Sent: Wednesday, February 17, 2010 12:12 PM
To: Theresa Williams
Cc: Dr Dyce; 'Ed White'
Subject: RE: financial information

Let's make all these available to him tonight and answer any and all of his questions. I would not feel comfortable sending anything out of the practice without adequate confidentiality protections.

Robert Puchalski, MD
Managing Shareholder
South Carolina ENT, Allergy & Sleep Medicine, PA
www.SouthCarolinaENT.com



Confidentiality and Disclosure Notice

This message is intended exclusively for the individual or entity to which it is addressed. This communication may contain information that is proprietary, privileged, confidential or otherwise legally exempt from disclosure. All comments made are strictly those of Robert Puchalski, MD and not necessarily those of South Carolina ENT, Allergy, and Sleep Medicine, PA.

If you are not the named addressee, you are not authorized to read, print, retain, copy or disseminate this message or any part of it. If you have received this message in error, please notify the sender immediately by replying to this e-mail and delete all copies of this message.

From: Theresa Williams
Sent: Tuesday, February 16, 2010 11:33 AM
To: Robert Puchalski
Cc: Dr Dyce
Subject: financial information

Dr. Dyce has requested the following financial information for January of this year:

- Bank statements

The following items I will need to request from Austin Sheheen's office:

- Check register
- Balance Statement

CONFIDENTIAL

- P&L

Thanks, Theresa

CONFIDENTIAL

Plaintiffs' Ex 0064.002

EXHIBIT
tabbies
47

----- Forwarded Message ----
From: "Armon, Bruce D." <BArmon@saul.com>
To: orville dyce <odyce@yahoo.com>
Sent: Mon, February 22, 2010 5:50:29 PM
Subject: FW: Medical Malpractice

fyi

Bruce D. Armon
Saul Ewing LLP
1500 Market Street, 38th Floor
Centre Square West
Philadelphia, PA 19102
barmon@saul.com
(215) 972-7985 or 1-800-355-7777, x7985
(215) 972-4155 (fax)

Saul Ewing

Ed I do not have copies of my own policy. All my documents are at the office. I dont receive these at my home address.

From: Ed White [mailto:ed.white@nelsonmullins.com]
Sent: Monday, February 22, 2010 5:33 PM
To: Armon, Bruce D.
Subject: FW: Medical Malpractice

Bruce,

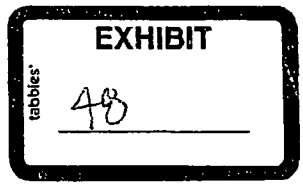
I emailed Dr. Puchalski after our call and he followed up with me that everything had been provided to Dr. Dyce except his own present policy. Those are mailed directly to the physician's home by the insurer and he would have already had a copy of that policy. Today the practice had to get authorizations to the insurer to release his policy so the practice could send him the policy. Other than that it is my understanding the rest of the information, and the representatives of the insurance companies, was provided to him last week.

Thank you,

Ed

From:
To:
Cc:
Subject:

CONFIDENTIAL



Robert Puchalski

From: Robert Puchalski [rpuchalski@southcarolinaent.com]
Sent: Tuesday, February 23, 2010 5:43 PM
To: Dr Dyce
Cc: 'Ed White'; BArmon@saul.com
Subject: FW: documents
Attachments: scent lugoff.pdf; amortization for scent (2).pdf

Attached are the loan documents for the closing tomorrow.

From: Walter Long [mailto:wlong@fpsb.com]
Sent: Tuesday, February 23, 2010 5:39 PM
To: Robert Puchalski
Subject: documents

Bob,

I notices an error on the note and it will be corrected. The note will not be "open ended". It will be a closed end note.

Walter

CONFIDENTIAL

Report of All ICD-9 Procedures Done - By Procedure

Carolina Pines RMC

Patients Discharged between 10/1/2010 and 2/4/2011

Orville Dyer, MD

Procedure	
9250 4 EAR MICROSCOPY EXAMINATIO	
92504	1
9308 ELECTROMYOGRAPHY	
9308	1
9354 APPLICATION OF SPLINT	
9354	1
95874 Guide nerv destr, needle emg	
95874	1
9652 IRRIGATION OF EAR	
9652	1
9721 REPLACE NASAL PACKING	
9721	1
9811 REMOV INTRALUM EAR FB	
9811	2
9929 INJECT/INFUSE NEC	
9929	4
Grand Total:	488

EXHIBIT
tabbies
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Report of All ICD-9 Procedures Done - By Procedure

Carolina Pines RMC

Patients Discharged Between 10/1/2010 and 2/4/2011

Orville Dyce, MD

Procedure	
7678	CL REDUCT FACIAL FX NEC
7678	1
7692	SYN IMPLANT TO FACE BONE
7692	1
8319	SOFT TISSUE DIVISION NEC
8319	1
8604	OTHER SKIN & SUBQ I & D
8604	2
863	OTHER LOCAL DESTRUC SKIN
863	1
864	RADICAL EXCIS SKIN LES
864	1
8674	ATTACH PEDICLE GRAFT NEC
8674	1
8871	DX ULTRASOUND-HEAD/NECK
8871	1
8897	OTH AND UNSPECIFIED MRI
8897	1

Plaintiffs' Ex 0067.002

2552

Report of All ICD-9 Procedures Done - By Procedure

Carolina Pines RMC

Patients Discharged between 10/1/2010 and 2/4/2011

Orville Dyce, MD

Procedure	
43450 DILATE ESOPHAGUS	
43450	3
61782 Scan proc cranial extra	
61782	2
64613 Destroy nerve, neck muscle	
64613	1
69000 DRAIN EXTERNAL EAR LESION	
69000	1
69145 REMOVE EAR CANAL LESION(S)	
69145	1
69205 CLEAR OUTER EAR CANAL	
69205	2
69424 REMOVE VENTILATING TUBE	
69424	1
69436 CREATE EARDRUM OPENING	
69436	34
69610 REPAIR OF EARDRUM	
69610	2

Plaintiffs' Ex 0067.003

Report of All ICD-9 Procedures Done - By Procedure

Carolina Pines RMC

Patients Discharged between 10/1/2010 and 2/4/2011

Orville Dyce, MD

Procedure	
42820 REMOVE TONSILS AND ADENO	
42820	14
42821 REMOVE TONSILS AND ADENO	
42821	11
42825 REMOVAL OF TONSILS	
42825	2
42830 REMOVAL OF ADENOIDS	
42830	20
42831 REMOVAL OF ADENOIDS	
42831	1
42835 REMOVAL OF ADENOIDS	
42835	1
4292 ESOPHAGEAL DILATION	
4292	4
43200 ESOPHAGUS ENDOSCOPY	
43200	5
43202 ESOPHAGUS ENDOSCOPY, BIOP	
43202	1

Plaintiffs' Ex 0067.004

Report of All ICD-9 Procedures Done - By Procedure

Carolina Pines RMC

Patients Discharged between 10/1/2010 and 2/4/2011

Orville Dyce, MD

Procedure	
4019 LYMPHATIC DIAG PROC NEC	
4019	1
41010 INCISION OF TONGUE FOLD	
41010	1
41110 EXCISION OF TONGUE LESION	
41110	1
41114 EXCISION OF TONGUE LESION	
41114	1
41115 EXCISION OF TONGUE FOLD	
41115	1
4222 ESOPHAGOSCOPY THRU STOMA	
4222	1
4223 ESOPHAGOSCOPY NEC	
4223	5
4224 CLOSED ESOPHAGEAL BIOPSY	
4224	4
42810 EXCISION OF NECK CYST	
42810	1

2554

Plaintiffs' Ex 0067.005

00609

Report of All ICD-9 Procedures Done - By Procedure

Carolina Pires PMG

Patients Discharged between 10/1/2010 and 2/4/2011
Orville Dyer, MD

Procedure	
31536 Laryngoscopy w/bx & op scope	
31536	3
31575 DIAGNOSTIC LARYNGOSCOPY	
31575	1
31622 DX BRONCHOSCOPE/WASH	
31622	2
31625 BRONCHOSCOPY W/BIOPSY(S)	
31625	1
3173 TRACHEA FISTULA CLOS NEC	
3173	1
3321 BRONCHOSCOPY THRU STOMA	
3321	4
3322 FIBER-OPTIC BRONCHOSCOPY	
3322	1
3323 OTHER BRONCHOSCOPY	
3323	2
3324 ENDOSCOPIC BRONCHUS BX	
3324	1

Report of All ICD-9 Procedures Done - By Procedure

Carolina Pines RMC

Patients Discharged between 10/1/2010 and 2/4/2011

Orville Dyce, MD

Procedure	
31231 NASAL ENDOSCOPY, DX	
31231	29
31255 REMOVAL OF ETHMOID SINUS	
31255	3
31267 ENDOSCOPY MAXILLARY SINU	
31267	2
31276 SINUS ENDOSCOPY, SURGICAL	
31276	1
31288 NASAL/SINUS ENDOSCOPY, SUR	
31288	2
3142 LARYNGOSCOPY/TRACHEOSCO	
3142	12
3143 CLOSED LARYNGEAL BIOPSY	
3143	3
31525 Dx laryngoscopy, excl ult	
31525	5
31526 Dx laryngoscopy w/oper scope	
31526	1

Plaintiffs' Ex 0067.007

Report of All ICD-9 Procedures Done - By Procedure

Carolina Pines RMC

Patients Discharged between 10/1/2010 and 2/4/2011

Orville Dyce, MD

Procedure	
30000 DRAINAGE OF NOSE LESION	
30900	1
30140 Resect inferior turbinate	
30140	17
30465 REPAIR NASAL STENOSIS	
30465	2
30520 REPAIR OF NASAL SEPTUM	
30520	4
30802 Ablate inf turbinate submuc	
30802	1
30901 CONTROL OF NOSEBLEED	
30901	1
30930 Ther fx, nasal inf turbinate	
30930	2
30999 NASAL SURGERY PROCEDURE	
30999	1
311 TEMPORARY TRACHEOSTOMY	
311	4

2557

Plaintiffs' Ex 0067.008

00606

2558

Report of All ICD-9 Procedures Done - By Procedure

Carolina Pines RMC

Patients Discharged between 10/1/2010 and 2/4/2011

Orville Dyce, MD

Procedure	
2559 REPAIR OF TONGUE NEC	
2559	1
2591 LINGUAL FRENOTOMY	
2591	1
2592 LINGUAL FRENECTOMY	
2592	1
270 DRAIN FACE & MOUTH FLOOR	
270	1
280 PERITONSILLAR I & D	
280	1
282 TONSILLECTOMY	
282	3
283 TONSILLECTOMY/ADENOIDEC	
283	27
286 ADENOIDECTOMY	
286	23
292 EXC BRANCHIAL CLEFT CYST	
292	1

Plaintiffs' Ex 0067.009

00605

Report of All ICD-9 Procedures Done - By Procedure

Carolina Pines RMC

Patients Discharged between 10/1/2010 and 9/4/2011

Orville Dyce, MD

Procedure		
2189	NASAL REPAIR NEC	
2189		2
2219	NASAL SINUS DX PROC NEC	
2219		1
2241	FRONTAL SINUSOTOMY	
2241		1
2262	EXC MAX SINUS LESION NEC	
2262		2
2263	ETHMOIDECTOMY	
2263		3
2264	SPHENOIDECTOMY	
2264		2
2319	SURG TOOTH EXTRACT NEC	
2319		1
2501	NEEDLE BIOPSY OF TONGUE	
2501		1
251	DESTRUCTION TONGUE LES	
251		2

Plaintiffs' Ex 0067.010

Report of All ICD-9 Procedures Done - By Procedure

Carolina Pines RMC

Patients Discharged between 10/1/2010 and 2/4/2011

Orville Dyce, MD

Procedure	
2103 CAUTERY TO STOP EPISTAX	
2103	1
211 INCISION OF NOSE	
211	1
2121 RHINOSCOPY	
2121	31
215 SUBMUC NASAL SEPT RESECT	
215	4
2161 DIATHER/CRYO TURBINECTOM	
2161	2
2162 TURBINATE FRACTURE	
2162	3
2169 TURBINECTOMY NEC	
2169	20
2171 CLOS REDUCTION NASAL FX	
2171	3
2188 SEPTOPLASTY NEC	
2188	2

2560

Plaintiffs' Ex 0067.011

00603

Report of All ICD-9 Procedures Done - By Procedure

Carolina Pines RMC

Patients Discharged between 10/1/2010 and 2/4/2011

Orville Dyce, MD

Procedure	
11420 EXC H-F-NK-SP B9+MARG 0.5<	
11420	1
14020 Skin tissue rearrangement	
14020	1
14060 SKIN TISSUE REARRANGEMENT	
14060	1
1809 EXTERNAL EAR INCIS NEC	
1809	1
1811 OTOSCOPY	
1811	2
1829 DESTRUCT EXT EAR LES NEC	
1829	1
194 MYRINGOPLASTY	
194	3
2001 MYRINGOTOMY W/INTUBATION	
2001	66
201 TYMPANOSTOMY TUBE REMOV	
201	7

2561

00602

Plaintiffs' Ex 0067.012

Report of All ICD-9 Procedures Done - By Procedure

Carolina Pines RMC

Patients Discharged between 10/1/2010 and 2/4/2011

Orville Dyce, MD

Procedure	
0039	OTHER CAS
0039	2
0602	REOPEN THYROID FIELD WND
0602	1
0611	THYROID NEEDLE BIOPSY
0611	1
062	UNILAT THYROID LOBECTOMY
062	2
064	COMPLETE THYROIDECTOMY
064	3
0652	TOT SUBST FRN THYROIDECT
0652	1
0822	EXCISE MINOR LES LID NEC
0822	1
0861	LID RECONST W SKIN GRAFT
0861	1
10061	DRAINAGE OF SKIN ABSCESS
10061	1

Plaintiffs' Ex 0067.013

EXHIBIT
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CAROLINA PINES REGIONAL MEDICAL CENTER
ENT (Otorhinolaryngology)

				25th %ile	35th %ile	55th %ile			
	Hospital			Clinic			Consolidated		
	Year One	Year Two	Year Three	Year One	Year Two	Year Three	Year One	Year Two	Year Three
Inpatient Revenue	46,606	48,936	51,383	0	0	0	46,606	48,936	51,383
Outpatient Revenue	2,283,702	2,397,887	2,517,781	1,516,844	1,592,686	1,672,321	3,800,546	3,990,573	4,190,102
Gross Revenue	2,330,308	2,446,823	2,569,165	1,516,844	1,592,686	1,672,321	3,847,152	4,039,510	4,241,485
Contractual Adjustments	1,710,328	1,795,844	1,885,637	879,770	923,758	969,946	2,590,098	2,719,602	2,855,583
Net Revenue	619,980	650,979	683,528	637,074	668,928	702,375	1,257,054	1,319,907	1,385,903
	26.6%	26.6%	26.6%	42%	42%	42%	33%	33%	33%
Salaries	74,398	79,419	83,390	653,600	569,600	576,435	727,998	649,019	659,826
Benes	16,367	17,472	18,346	36,592	40,983	45,901	52,959	58,455	64,247
Supplies	123,996	130,196	136,706	20,000	21,000	22,050	143,996	151,196	158,756
Pro Fees	0	0	0	0	0	0	0	0	0
Outside Services	6,200	6,510	6,835	47,781	50,170	52,678	53,980	56,679	59,513
Prov for Bad Debt	12,400	13,020	13,671	12,741	13,379	14,047	25,141	26,398	27,718
Rent	0	0	0	42,000	44,100	46,305	42,000	44,100	46,305
Other Operating	7,440	7,812	8,202	17,850	18,743	19,680	25,290	26,554	27,882
Total Operating Expenses	240,800	254,429	267,150	830,564	757,974	777,096	1,071,364	1,012,402	1,044,247
Operating Profit	379,180	396,550	416,378	(193,490)	(89,046)	(74,722)	185,690	307,505	341,656
	61.2%	60.9%	60.9%	-30.4%	-13.3%	-10.6%	14.8%	23.3%	24.7%

** Though physician would most likely be paid Call-pay (Pro-fees), did not recognize here as he would just assume amounts currently paid to others
*** SC ENT currently sees a very low percentage of Self-pay business
**** Hospital number based on Dyce ramp up of April through Oct 2009 (used time period for paid claims data) plus Aug, Sept & Oct multiplied by 2 and added again for 12 month history
***** Clinic salary dollars for the 1st year include sign-on bonus

Plaintiffs' Ex 0068.001



Administrator

From: orville dyce [odyce@yahoo.com]
Sent: Saturday, October 09, 2010 1:27 PM
To: Cogley, Phyllis
Cc: Lamkin, Jon
Subject: issues

I am having a bit of a problem scheduling pickup and delivery of my equipment. Moving from Maryland to Hartsville
What day will the office be ready for me to move in?
If I move the equipment myself is there any one available to help me move and arrange the office? Possibly on Sunday?

Does HMA have an account with any moving companies?
Orville Dyce MD

CERTIFIED TO BE A TRUE AND CORRECT COPY AS TAKEN FROM AND COMPARED WITH THE ORIGINAL ON FILE IN THIS OFFICE

AUG 17 2010

Mark Hammond
SECRETARY OF STATE OF SOUTH CAROLINA

STATE OF SOUTH CAROLINA
SECRETARY OF STATE

ARTICLES OF ORGANIZATION
Limited Liability Company – Domestic
Filing Fee - $110.00

TYPE OR PRINT CLEARLY IN BLACK INK

The undersigned delivers the following articles of organization to form a South Carolina limited liability company pursuant to S.C. Code of Laws §33-44-202 and §33-44-203.

1. The name of the limited liability company **(Company ending must be included in name*)**

Dyce Medical Enterprises, LLC

***NOTE: The name of the limited liability company must contain one of the following endings: "limited liability company" or "limited company" or the abbreviation "L.L.C.", "LLC", L.C." or "LC". "Limited" may be abbreviated as "Ltd.", and "company" may be abbreviated as "Co."**

2. The address of the initial designated office of the limited liability company in South Carolina is

401 Woodland Drive
Street Address

Hartsville SC 29550
City Zip Code

3. The initial agent for service of process is

Orville H. Dyce
Name

Signature of Agent

and the street address in South Carolina for this initial agent for service of process is

401 Woodland Drive
Street Address

Hartsville SC. 29550
City Zip Code

4. List the name and address of each organizer. Only one organizer is required, but you may have more than one.

(a) Orville H. Dyce MD
Name

401 Woodland Drive Hartsville
Street Address

Hartsville SC 29550
City State Zip Code

(b)
Name

Street Address

City

100823-0049 FILED: 08/17/2010
DYCE MEDICAL ENTERPRISES, LLC
Filing Fee: $110.00 ORIG

Mark Hammond South Carolina Secretary of State

2565

Plaintiffs' Ex 0070.001

Name of Limited Liability Company Dyce Medical Enterprises, LLC

5. [ ] Check this box only if the company is to be a term company. If the company is a term company, provide the term specified. _____

6. [X] Check this box only if management of the limited liability company is vested in a manager or managers. If this company is to be managed by managers, include the name and address of each initial manager.

(a) Orville H. Dyce
Name
401 Woodland Drive
Street Address
Hartsville SC 29550
City State Zip Code

(b) _____
Name
_____
Street Address
_____
City State Zip Code

7. [ ] Check this box only if one or more of the members of the company are to be liable for its debts and obligations under §33-44-303(c). If one or more members are so liable, specify which members, and for which debts, obligations or liabilities such members are liable in their capacity as members. This provision is optional and does not have to be completed.

8. Unless a delayed effective date is specified, these articles will be effective when endorsed for filing by the Secretary of State. Specify any delayed effective date and time.

_____

9. Any other provisions not inconsistent with law which the organizers determine to include, including any provisions that are required or are permitted to be set forth in the limited liability company operating agreement may be included on a separate attachment. Please make reference to this section if you include a separate attachment.

10. Each organizer listed under number 4 must sign.

Signature of Organizer — Date 9/15/2010

Signature of Organizer — Date

Form Revised by South Carolina Secretary of State, December 2009

Plaintiffs' Ex 0070.002

Form 1040 U.S. Individual Income Tax Return 2007

IRS Use Only - Do not write or staple in this space.

OMB No. 1545-0074

For the year Jan. 1-Dec. 31, 2007, or other tax year beginning , 2007, ending , 20

Label (See instructions on page 12.) Use the IRS label. Otherwise, please print or type.

Your first name and initial: ORVILLE H	Last name: DYCE
If a joint return, spouse's first name and initial: JAMIE C	Last name: CURLEY
Home address (number and street). If you have a P.O. box, see page 12.: 401 WOODLAND DRIVE	Apt. no.
City, town or post office, state, and ZIP code. If you have a foreign address, see page 12.: HARTSVILLE, SC 29550	

Your social security number: 083 64 2427

Spouse's social security number: 573 73 4698

You must enter your SSN(s) above.

Checking a box below will not change your tax or refund.

Presidential Election Campaign ▶ Check here if you, or your spouse if filing jointly, want $3 to go to this fund (see page 12) ▶ ☐ You ☐ Spouse

TAXPAYER'S COPY

Filing Status Check only one box.

1 ☐ Single
2 ☒ Married filing jointly (even if only one had income)
3 ☐ Married filing separately. Enter spouse's SSN above and full name here. ▶
4 ☐ Head of household (with qualifying person). If the qualifying person is a child but not your dependent, enter this child's name here. ▶
5 ☐ Qualifying widow(er) with dependent child (see page 14)

Exemptions

6a ☒ Yourself. If someone can claim you as a dependent, do not check box 6a
b ☒ Spouse

Boxes checked on 6a and 6b: 2

c Dependents:

(1) First name / Last name	(2) Dependent's social security number	(3) Dependent's relationship to you	(4) ✓ if qualifying child for child tax credit (see page 15)
RAINN A DYCE	654 26 7737	DAUGHTER	X

If more than four dependents, see page 15.

No. of children on 6c who:
- lived with you: 1
- did not live with you due to divorce or separation (see page 16):

Dependents on 6c not entered above:

d Total number of exemptions claimed. Add numbers on lines above ▶: 3

Income Attach Form(s) W-2 here. Also attach Forms W-2G and 1099-R if tax was withheld.

If you did not get a W-2, see page 19.

Enclose, but do not attach, any payment. Also, please use Form 1040-V.

7	Wages, salaries, tips, etc. Attach Form(s) W-2			7	269,037.
8a	Taxable interest. Attach Schedule B if required			8a	1,121.
b	Tax-exempt interest. Do not include on line 8a	8b			
9a	Ordinary dividends. Attach Schedule B if required			9a	5,969.
b	Qualified dividends (see page 19)	9b	2,162.		
10	Taxable refunds, credits, or offsets of state and local income taxes			10	59.
11	Alimony received			11	
12	Business income or (loss). Attach Schedule C or C-EZ			12	106,928.
13	Capital gain or (loss). Attach Schedule D if required. If not required, check here ▶ ☐			13	15,691.
14	Other gains or (losses). Attach Form 4797			14	
15a	IRA distributions	15a		b Taxable amount 15b	
16a	Pensions and annuities	16a	4,298.	b Taxable amount 16b	0.
17	Rental real estate, royalties, partnerships, S corporations, trusts, etc. Attach Schedule E			17	0.
18	Farm income or (loss). Attach Schedule F			18	
19	Unemployment compensation			19	
20a	Social security benefits	20a		b Taxable amount (see page 24) 20b	
21	Other income. List type and amount (see page 24)			21	
22	Add the amounts in the far right column for lines 7 through 21. This is your total income ▶			22	398,805.

Adjusted Gross Income

TAXPAYER'S COPY

23	Educator expenses (see page 26)	23		
24	Certain business expenses of reservists, performing artists, and fee-basis government officials. Attach Form 2106 or 2106-EZ	24		
25	Health savings account deduction. Attach Form 8889	25		
26	Moving expenses. Attach Form 3903	26		
27	One-half of self-employment tax. Attach Schedule SE	27	1,432.	
28	Self-employed SEP, SIMPLE, and qualified plans	28	21,099.	
29	Self-employed health insurance deduction (see page 26)	29		
30	Penalty on early withdrawal of savings	30		
31a	Alimony paid b Recipient's SSN ▶	31a		
32	IRA deduction (see page 27)	32		
33	Student loan interest deduction (see page 30) STMT 3	33		
34	Tuition and fees deduction. Attach Form 8917	34		
35	Domestic production activities deduction. Attach Form 8903	35		
36	Add lines 23 through 31a and 32 through 35			36 22,531.
37	Subtract line 36 from line 22. This is your adjusted gross income ▶			37 376,274.

Tax and Credits	38	Amount from line 37 (adjusted gross income)	38	376,274.
Standard Deduction for - • People who checked any box on line 39a or 39b or who can be claimed as a dependent. • All others: Single or Married filing separately, $5,350 Married filing jointly or Qualifying widow(er), $10,700 Head of household, $7,850	39a	Check if: ☐ You were born before January 2, 1943, ☐ Blind. ☐ Spouse was born before January 2, 1943, ☐ Blind. Total boxes checked ▶ 39a		
	b	If your spouse itemizes on a separate return or you were a dual-status alien, see page 31 and check here ▶ 39b ☐		
	40	Itemized deductions (from Schedule A) or your standard deduction (see left margin)	40	46,532.
	41	Subtract line 40 from line 38	41	329,742.
	42	If line 38 is $117,300 or less, multiply $3,400 by the total number of exemptions claimed on line 6d. If line 38 is over $117,300, see the worksheet on page 33	42	3,399.
	43	Taxable income. Subtract line 42 from line 41. If line 42 is more than line 41, enter -0-	43	326,343.
	44	Tax. Check if any tax is from: a ☐ Form(s) 8814 b ☐ Form 4972 c ☐ Form(s) 8889	44	83,680.
	45	Alternative minimum tax. Attach Form 6251	45	5,108.
	46	Add lines 44 and 45 ▶	46	88,788.
	47	Credit for child and dependent care expenses. Attach Form 2441 — 47		
	48	Credit for the elderly or the disabled. Attach Schedule R — 48		
	49	Education credits. Attach Form 8863 — 49		
	50	Residential energy credits. Attach Form 5695 — 50		
	51	Foreign tax credit. Attach Form 1116 if required — 51		
	52	Child tax credit (see page 39). Attach Form 8901 if required — 52		
	53	Retirement savings contributions credit. Attach Form 8880 — 53		
	54	Credits from: a ☐ Form 8396 b ☐ Form 8859 c ☐ Form 8839 — 54		
	55	Other credits: a ☐ Form 3800 b ☐ Form 8801 c ☐ Form ____ — 55		
	56	Add lines 47 through 55. These are your total credits	56	
	57	Subtract line 56 from line 46. If line 56 is more than line 46, enter -0- ▶	57	88,788.
Other Taxes	58	Self-employment tax. Attach Schedule SE	58	2,864.
	59	Unreported social security and Medicare tax from: a ☐ Form 4137 b ☐ Form 8919	59	
	60	Additional tax on IRAs, other qualified retirement plans, etc. Attach Form 5329 if required	60	
	61	Advance earned income credit payments from Form(s) W-2, box 9	61	
	62	Household employment taxes. Attach Schedule H	62	
	63	Add lines 57 through 62. This is your total tax ▶	63	91,652.
Payments	64	Federal income tax withheld from Forms W-2 and 1099 — 64		60,299.
	65	2007 estimated tax payments and amount applied from 2006 return — 65		27,240.
If you have a qualifying child, attach Schedule EIC.	66a	Earned income credit (EIC) — 66a		
	b	Nontaxable combat pay election ▶ 66b		
	67	Excess social security and tier 1 RRTA tax withheld (see page 59) — 67		
	68	Additional child tax credit. Attach Form 8812 — 68		
	69	Amount paid with request for extension to file (see page 59) — 69		
	70	Payments from: a ☐ Form 2439 b ☐ Form 4136 c ☐ Form 8885 — 70		
	71	Refundable credit for prior year minimum tax from Form 8801, line 27 — 71		
	72	Add lines 64, 65, 66a, and 67 through 71. These are your total payments ▶	72	87,539.
Refund	73	If line 72 is more than line 63, subtract line 63 from line 72. This is the amount you overpaid	73	
Direct deposit? See page 59 and fill in 74b, 74c, and 74d, or Form 8888.	74a	Amount of line 73 you want refunded to you. If Form 8888 is attached, check here ▶ ☐	74a	
	b	Routing number ▶ c Type: ☐ Checking ☐ Savings d Account number		
	75	Amount of line 73 you want applied to your 2008 estimated tax ▶ 75		
Amount You Owe	76	Amount you owe. Subtract line 72 from line 63. For details on how to pay, see page 60 ▶	76	4,113.
	77	Estimated tax penalty (see page 61) — 77		

Third Party Designee Do you want to allow another person to discuss this return with the IRS (see page 61)? ☒ Yes. Complete the following. ☐ No

Designee's name ▶ PREPARER Phone no. ▶ Personal identification number (PIN) ▶

Sign Here Joint return? See page 13. Keep a copy for your records.

Under penalties of perjury, I declare that I have examined this return and accompanying schedules and statements, and to the best of my knowledge and belief, they are true, correct, and complete. Declaration of preparer (other than taxpayer) is based on all information of which preparer has any knowledge.

Your signature	Date	Your occupation	Daytime phone number
		PHYSICIAN	
Spouse's signature. If a joint return, both must sign.	Date	Spouse's occupation	

Paid Preparer's Use Only

Preparer's signature	Date	Check if self-employed	Preparer's SSN or PTIN
AUSTIN M. SHEHEEN	07/15/08	☐	P00186164

Firm's name (or yours if self-employed), address, and ZIP code: SHEHEEN HANCOCK & GODWIN LLP CPAS, PO DRAWER 428, CAMDEN, SC 29021 — EIN 57-0522539 — Phone no. 803-432-1424

710002 11-05-07

** INTEREST NOT INCLUDED 70.

**** TOTAL DUE 4.183.

2568

Plaintiffs' Ex 0075.002

SCHEDULES A&B (Form 1040)

Department of the Treasury Internal Revenue Service

Name(s) shown on Form 1040

Schedule A - Itemized Deductions

(Schedule B is on page 2)

▶ Attach to Form 1040. ▶ See Instructions for Schedules A&B (Form 1040).

OMB No. 1545-0074

2007

Attachment Sequence No. 07

Your social security number

ORVILLE H DYCE & JAMIE C CURLEY — 083 64 2427

Medical and Dental Expenses		Caution. Do not include expenses reimbursed or paid by others.			
	1	Medical and dental expenses (see page A-1)	1		
	2	Enter amount from Form 1040, line 38 [2]			
	3	Multiply line 2 by 7.5% (.075)	3		
	4	Subtract line 3 from line 1. If line 3 is more than line 1, enter -0-		4	
Taxes You Paid (See page A-2.)	5	State and local (check only one box): a [X] Income taxes, or b [ ] General sales taxes — SEE STATEMENT 7	5	24,857.	
	6	Real estate taxes (see page A-5)	6	1,931.	
	7	Personal property taxes	7	1,160.	
	8	Other taxes. List type and amount ▶FOREIGN TAXES 76.	8	76.	
	9	Add lines 5 through 8		9	28,024.
Interest You Paid (See page A-5.) **Note.** Personal interest is not deductible.	10	Home mortgage interest and points reported to you on Form 1098	10	16,433.	
	11	Home mortgage interest not reported to you on Form 1098. If paid to the person from whom you bought the home, see page A-6 and show that person's name, identifying no., and address ▶	11		
	12	Points not reported to you on Form 1098.	12		
	13	Qualified mortgage insurance premiums (See page A-7)	13		
	14	Investment interest. Attach Form 4952 if required. (See page A-7.)	14		
	15	Add lines 10 through 14		15	16,433.
Gifts to Charity If you made a gift and got a benefit for it, see page A-8.	16	Gifts by cash or check.	16	6,472.	
	17	Other than by cash or check. If any gift of $250 or more, see page A-8. You must attach Form 8283 if over $500	17		
	18	Carryover from prior year	18		
	19	Add lines 16 through 18		19	6,472.
Casualty and Theft Losses	20	Casualty or theft loss(es). Attach Form 4684. (See page A-9.)		20	
Job Expenses and Certain Miscellaneous Deductions (See page A-9.)	21	Unreimbursed employee expenses - job travel, union dues, job education, etc. Attach Form 2106 or 2106-EZ if required. (See page A-9.) ▶	21		
	22	Tax preparation fees	22		
	23	Other expenses - investment, safe deposit box, etc. List type and amount ▶	23		
	24	Add lines 21 through 23	24		
	25	Enter amount from Form 1040, line 38 [25]			
	26	Multiply line 25 by 2% (.02)	26		
	27	Subtract line 26 from line 24. If line 26 is more than line 24, enter -0-		27	
Other Miscellaneous Deductions	28	Other - from list on page A-10. List type and amount ▶		28	
Total Itemized Deductions	29	Is Form 1040, line 38, over $156,400 (over $78,200 if married filing separately)? [ ] No. Your deduction is not limited. Add the amounts in the far right column for lines 4 through 28. Also, enter this amount on Form 1040, line 40. [X] Yes. Your deduction may be limited. See page A-10 for the amount to enter. STMT 8 ▶		29	46,532.
	30	If you elect to itemize deductions even though they are less than your standard deduction, check here ▶ [ ]			

Name(s) shown on Form 1040. Do not enter name and social security number if shown on page 1.

Your social security number

ORVILLE H DYCE & JAMIE C CURLEY 083 64 2427

Schedule B - Interest and Ordinary Dividends

Attachment Sequence No. 08

Part I Interest

1 List name of payer. If any interest is from a seller-financed mortgage and the buyer used the property as a personal residence, see page B-1 and list this interest first. Also, show that buyer's social security number and address ▶

Note. If you received a Form 1099-INT, Form 1099-OID, or substitute statement from a brokerage firm, list the firm's name as the payer and enter the total interest shown on that form.

		Amount
HSBC BANK	1	1,121.
2 Add the amounts on line 1	2	1,121.
3 Excludable interest on series EE and I U.S. savings bonds issued after 1989. Attach Form 8815	3	
4 Subtract line 3 from line 2. Enter the result here and on Form 1040, line 8a ▶	4	1,121.

Note. If line 4 is over $1,500, you must complete Part III.

Part II Ordinary Dividends

5 List name of payer ▶

Note: If you received a Form 1099-DIV or substitute statement from a brokerage firm, list the firm's name as the payer and enter the ordinary dividends shown on that form.

		Amount
AMERITRADE	5	31.
AMERITRADE		116.
CGM REALTY FD		500.
DODGE & COX FUNDS		565.
CGM FOCUS FUND		1,735.
JANUS CONTRARIAN		103.
JANUS ORION		48.
JANUS GROWTH		31.
T ROWE PRICE EMERG. & MED		129.
T ROWE PRICE NEW ASIA		229.
T ROWE PRICE NEW ERA		181.
T ROWE PRICE CAPITAL APP.		299.
T ROWE PRICE MEDIA AND TEL.		283.
VANGUARD FUNDS		1,562.
FIDELITY NEW MARKETS INC.FUND		127.
FIDELITY SELECT ENERGY		8.
FIDELITY VALUE FUND		22.
6 Add the amounts on line 5. Enter the total here and on Form 1040, line 9a ▶	6	5,969.

Note. If line 6 is over $1,500, you must complete Part III.

Part III Foreign Accounts and Trusts

You must complete this part if you (a) had over $1,500 of taxable interest or ordinary dividends; or (b) had a foreign account; or (c) received a distribution from, or were a grantor of, or a transferor to, a foreign trust.

		Yes	No
7a	At any time during 2007, did you have an interest in or a signature or other authority over a financial account in a foreign country, such as a bank account, securities account, or other financial account? See page B-2 for exceptions and filing requirements for Form TD F 90-22.1		X
b	If "Yes," enter the name of the foreign country ▶		
8	During 2007, did you receive a distribution from, or were you the grantor of, or transferor to, a foreign trust? If "Yes," you may have to file Form 3520. See page B-2		X

727501 11-08-07

Plaintiffs' Ex 0075.004

SCHEDULE C (Form 1040)
Department of the Treasury
Internal Revenue Service (99)

Profit or Loss From Business
(Sole Proprietorship)
▶ Partnerships, joint ventures, etc., must file Form 1065 or 1065-B.
▶ Attach to Form 1040, 1040NR, or 1041. ▶ See Instructions for Schedule C (Form 1040).

OMB No. 1545-0074
2007
Attachment Sequence No. 09

Name of proprietor: ORVILLE H DYCE
Social security number (SSN): 083-64-2427

A Principal business or profession, including product or service (see page C-2): PHYSICIAN
B Enter code from pages C-8, 9, & 10: ▶ 999999
C Business name. If no separate business name, leave blank.
D Employer ID number (EIN), if any

E Business address (including suite or room no.) ▶
City, town or post office, state, and ZIP code

F Accounting method: (1) [X] Cash (2) [ ] Accrual (3) [ ] Other (specify) ▶

G Did you "materially participate" in the operation of this business during 2007? If "No," see page C-3 for limit on losses ... [X] Yes [ ] No

H If you started or acquired this business during 2007, check here ▶ [ ]

Part I Income

1	Gross receipts or sales. **Caution.** If this income was reported to you on Form W-2 and the "Statutory employee" box on that form was checked, see page C-3 and check here ▶ [ ]	1	127,152.
2	Returns and allowances	2	
3	Subtract line 2 from line 1	3	127,152.
4	Cost of goods sold (from line 42 on page 2)	4	
5	**Gross profit.** Subtract line 4 from line 3	5	127,152.
6	Other income, including federal and state gasoline or fuel tax credit or refund (see page C-3)	6	
7	**Gross income.** Add lines 5 and 6 ▶	7	127,152.

Part II Expenses. Enter expenses for business use of your home only on line 30.

8	Advertising	8		18	Office expense	18	
9	Car and truck expenses (see page C-4) STMT 9	9	16,975.	19	Pension and profit-sharing plans	19	
10	Commissions and fees	10		20	Rent or lease (see page C-5):		
11	Contract labor (see page C-4)	11		a	Vehicles, machinery, and equipment	20a	
12	Depletion	12		b	Other business property	20b	
13	Depreciation and section 179 expense deduction (not included in Part III) (see page C-4)	13		21	Repairs and maintenance	21	
14	Employee benefit programs (other than on line 19)	14		22	Supplies (not included in Part III)	22	
15	Insurance (other than health)	15		23	Taxes and licenses	23	
16	Interest:			24	Travel, meals, and entertainment:		
a	Mortgage (paid to banks, etc.)	16a		a	Travel	24a	756.
b	Other	16b		b	Deductible meals and entertainment (see page C-6)	24b	
17	Legal and professional services	17	1,031.	25	Utilities	25	
				26	Wages (less employment credits)	26	
				27	Other expenses (from line 48 on page 2)	27	1,462.
28	**Total expenses** before expenses for business use of home. Add lines 8 through 27 in columns ▶					28	20,224.
29	Tentative profit (loss). Subtract line 28 from line 7					29	106,928.
30	Expenses for business use of your home. Attach **Form 8829**					30	
31	**Net profit or (loss).** Subtract line 30 from line 29. • If a profit, enter on both **Form 1040, line 12, and Schedule SE, line 2** or on **Form 1040NR, line 13** (statutory employees, see page C-7). Estates and trusts, enter on Form 1041, line 3. • If a loss, you **must** go to line 32.					31	106,928.
32	If you have a loss, check the box that describes your investment in this activity (see page C-7). • If you checked 32a, enter the loss on both **Form 1040, line 12, and Schedule SE, line 2** or on **Form 1040NR, line 13** (statutory employees, see page C-7). Estates and trusts, enter on Form 1041, line 3. • If you checked 32b, you **must** attach **Form 6198**. Your loss may be limited.					32a [ ] All investment is at risk. 32b [ ] Some investment is not at risk.	

LHA **For Paperwork Reduction Act Notice, see page C-8 of the instructions.** **Schedule C (Form 1040) 2007**

720001 11-05-07

Plaintiffs' Ex 0075.005

Part III Cost of Goods Sold (see page C-7)

33 Method(s) used to value closing inventory: a ☐ Cost b ☐ Lower of cost or market c ☐ Other (attach explanation)

34 Was there any change in determining quantities, costs, or valuations between opening and closing inventory? If "Yes," attach explanation ☐ Yes ☐ No

35	Inventory at beginning of year. If different from last year's closing inventory, attach explanation	35	
36	Purchases less cost of items withdrawn for personal use	36	
37	Cost of labor. Do not include any amounts paid to yourself	37	
38	Materials and supplies	38	
39	Other costs	39	
40	Add lines 35 through 39	40	
41	Inventory at end of year	41	
42	**Cost of goods sold.** Subtract line 41 from line 40. Enter the result here and on page 1, line 4	42	

Part IV Information on Your Vehicle. Complete this part only if you are claiming car or truck expenses on line 9 and are not required to file Form 4562 for this business. See the instructions for line 13 on page C-4 to find out if you must file Form 4562.

43 When did you place your vehicle in service for business purposes? (month, day, year) ▶ 03/01/05.

44 Of the total number of miles you drove your vehicle during 2007, enter the number of miles you used your vehicle for:
a Business 35,000 b Commuting _____ c Other _____

45 Do you (or your spouse) have another vehicle available for personal use? ☒ Yes ☐ No

46 Was your vehicle available for personal use during off-duty hours? ☒ Yes ☐ No

47 a Do you have evidence to support your deduction? ☒ Yes ☐ No
b If "Yes," is the evidence written? ☒ Yes ☐ No

Part V Other Expenses. List below business expenses not included on lines 8-26 or line 30.

WORK GLASSES	526.
STUDY COURSE	76.
PROMOTIONAL EXPENSE	860.

48 Total other expenses. Enter here and on page 1, line 27 48 1,462.

SCHEDULE D (Form 1040)

Department of the Treasury Internal Revenue Service (99)

Name(s) shown on return

Capital Gains and Losses

▶ Attach to Form 1040 or Form 1040NR. ▶ See Instructions for Schedule D (Form 1040).

▶ Use Schedule D-1 to list additional transactions for lines 1 and 8.

OMB No. 1545-0074

2007

Attachment Sequence No. 12

Your social security number

ORVILLE H DYCE & JAMIE C CURLEY — 083 64 2427

Part I Short-Term Capital Gains and Losses - Assets Held One Year or Less

(a) Description of property (Example: 100 sh. XYZ Co.)	(b) Date acquired (Mo., day, yr.)	(c) Date sold (Mo., day, yr.)	(d) Sales price	(e) Cost or other basis	(f) Gain or (loss) Subtract (e) from (d)
1 FIDELITY NEW MARKET FUND			255.	246.	9.
FIDELITY SELECT MEDICAL DELIVERY FUND			3,707.	3,714.	-7.

2	Enter your short-term totals, if any, from Schedule D-1, line 2	2		
3	**Total short-term sales price amounts.** Add lines 1 and 2 in column (d)	3	3,962.	
4	Short-term gain from Form 6252 and short-term gain or (loss) from Forms 4684, 6781, and 8824	4		
5	Net short-term gain or (loss) from partnerships, S corporations, estates, and trusts from Schedule(s) K-1	5		
6	Short-term capital loss carryover. Enter the amount, if any, from line 10 of your **Capital Loss Carryover Worksheet** in the instructions	6	( )	
7	Net short-term capital gain or (loss). Combine lines 1 through 6 in column (f)	7		2.

Part II Long-Term Capital Gains and Losses - Assets Held More Than One Year

(a) Description of property (Example: 100 sh. XYZ Co.)	(b) Date acquired (Mo., day, yr.)	(c) Date sold (Mo., day, yr.)	(d) Sales price	(e) Cost or other basis	(f) Gain or (loss) Subtract (e) from (d)
8 AMERITRADE			1,599.	0.	1,599.
MUHLENKAMP FUND			2,985.	3,027.	-42.
FIDELITY NEW MARKET FUND			2,895.	2,801.	94.
FIDELITY SELECT MEDICAL DELIVERY FUND			1,667.	1,672.	-5.
JANUS GROWTH AND INCOME FUND			8,365.	8,137.	228.

9	Enter your long-term totals, if any, from Schedule D-1, line 9	9	53,483.	5,301.
10	**Total long-term sales price amounts.** Add lines 8 and 9 in column (d)	10	70,994.	
11	Gain from Form 4797, Part I; long-term gain from Forms 2439 and 6252; and long-term gain or (loss) from Forms 4684, 6781, and 8824	11		
12	Net long-term gain or (loss) from partnerships, S corporations, estates, and trusts from Schedule(s) K-1	12		
13	Capital gain distributions SEE STATEMENT 10	13		8,514.
14	Long-term capital loss carryover. Enter the amount, if any, from line 15 of your **Capital Loss Carryover Worksheet** in the instructions	14	( )	
15	**Net long-term capital gain or (loss).** Combine lines 8 through 14 in column (f). Then go to Part III on page 2	15		15,689.

Part III Summary

16	Combine lines 7 and 15 and enter the result.	16	15,691.
	If line 16 is: • A gain, enter the amount from line 16 on Form 1040, line 13, or Form 1040NR, line 14. Then go to line 17 below. • A loss, skip lines 17 through 20 below. Then go to line 21. Also be sure to complete line 22. • Zero, skip lines 17 through 21 below and enter -0- on Form 1040, line 13, or Form 1040NR, line 14. Then go to line 22.		
17	Are lines 15 and 16 **both** gains? [X] **Yes.** Go to line 18. [ ] **No.** Skip lines 18 through 21, and go to line 22.		
18	Enter the amount, if any, from line 7 of the **28% Rate Gain Worksheet** on page D-8 of the instructions ▶	18	
19	Enter the amount, if any, from line 18 of the **Unrecaptured Section 1250 Gain Worksheet** on page D-9 of the instructions ▶	19	
20	Are lines 18 and 19 **both** zero or blank? [X] **Yes.** Complete Form 1040 through line 43, or Form 1040NR through line 40. Then complete the **Qualified Dividends and Capital Gain Tax Worksheet** on page 35 of the instructions for Form 1040 (or in the Instructions for Form 1040NR). **Do not** complete lines 21 and 22 below. [ ] **No.** Complete Form 1040 through line 43, or Form 1040NR through line 40. Then complete the **Schedule D Tax Worksheet** on page D-10 of the instructions. **Do not** complete lines 21 and 22 below.		
21	If line 16 is a loss, enter here and on Form 1040, line 13, or Form 1040NR, line 14, the **smaller** of: • The loss on line 16 or • ($3,000), or if married filing separately, ($1,500) **Note.** When figuring which amount is smaller, treat both amounts as positive numbers.	21	( )
22	Do you have qualified dividends on Form 1040, line 9b, or Form 1040NR, line 10b? [ ] **Yes.** Complete Form 1040 through line 43, or Form 1040NR through line 40. Then complete the **Qualified Dividends and Capital Gain Tax Worksheet** on page 35 of the Instructions for Form 1040 (or in the Instructions for Form 1040NR). [ ] **No.** Complete the rest of Form 1040 or Form 1040NR.		

Name(s) shown on return. Do not enter name and social security number if shown on page 1. | Your social security number

ORVILLE H DYCE & JAMIE C CURLEY | 083 64 2427

Part II Long-Term Capital Gains and Losses - Assets Held More Than One Year

(a) Description of property (Example: 100 sh. XYZ Co.)	(b) Date acquired (Mo., day, yr.)	(c) Date sold (Mo., day, yr.)	(d) Sales price	(e) Cost or other basis	(f) Gain or (loss) Subtract (e) from (d)
JANUS MID CAP FUND			10,353.	9,188.	1,165.
T ROWE PRICE FUNDS			16,318.	13,254.	3,064.
VANGUARD FUNDS			26,812.	25,740.	1,072.
9 Totals. Add the amounts in column (d). Also, combine the amounts in column (f). Enter here and on Schedule D, line 9. ▶ 9			53,483.		5,301.

SCHEDULE E
(Form 1040)
Department of the Treasury
Internal Revenue Service

Supplemental Income and Loss

(From rental real estate, royalties, partnerships, S corporations, estates, trusts, REMICs, etc.)

▶ Attach to Form 1040, 1040NR, or Form 1041. ▶ See Instructions for Schedule E (Form 1040).

OMB No. 1545-0074

2007

Attachment Sequence No. 13

Name(s) shown on return

ORVILLE H DYCE & JAMIE C CURLEY

Your social security number

083-64-2427

Part I **Income or Loss From Rental Real Estate and Royalties** Note. If you are in the business of renting personal property, use Schedule C or C-EZ (see page E-3). If you are an individual, report farm rental income or loss from Form 4835 on page 2, line 40.

	1 List the type and location of each rental real estate property:	2 For each rental real estate property listed on line 1, did you or your family use it during the tax year for personal purposes for more than the greater of: • 14 days or • 10% of the total days rented at fair rental value? (See page E-3.)	Yes	No
A	RENTAL DANIEL ISLAND DRIVE	A		X
B		B		
C		C		

Income:		Properties A	Properties B	Properties C	Totals (Add columns A, B, and C.)
3 Rents received	3	27,106.			27,106.
4 Royalties received	4				
Expenses:					
5 Advertising	5				
6 Auto and travel (see page E-4)	6				
7 Cleaning and maintenance	7				
8 Commissions	8				
9 Insurance	9	325.			
10 Legal and other professional fees	10				
11 Management fees	11				
12 Mortgage interest paid to banks, etc. (see page E-4)	12	20,585.			20,585.
13 Other interest	13				
14 Repairs	14				
15 Supplies	15				
16 Taxes	16	4,046.			
17 Utilities	17	3,098.			
18 Other (list) ▶ SEE STATEMENT 11	18	3,457.			
19 Add lines 5 through 18	19	31,511.			31,511.
20 Depreciation expense or depletion (see page E-5)	20	16,192.			16,192.
21 Total expenses. Add lines 19 and 20	21	47,703.			
22 Income or (loss) from rental real estate or royalty properties. Subtract line 21 from line 3 (rents) or line 4 (royalties). If the result is a (loss), see page E-5 to find out if you must file Form 6198	22	-20,597.			
23 Deductible rental real estate loss. Caution. Your rental real estate loss on line 22 may be limited. See page E-5 to find out if you must file Form 8582. Real estate professionals must complete line 43 on page 2	23	(0.)	( )	( )	
24 Income. Add positive amounts shown on line 22. Do not include any losses	24				0.
25 Losses. Add royalty losses from line 22 and rental real estate losses from line 23. Enter total losses here	25				(0.)
26 Total rental real estate and royalty income or (loss). Combine lines 24 and 25. Enter the result here. If Parts II, III, IV, and line 40 on page 2 do not apply to you; also enter this amount on Form 1040, line 17, or Form 1040NR, line 18. Otherwise, include this amount in the total on line 41 on page 2	26				0.

Plaintiffs' Ex 0075.010

Name of person with self-employment income (as shown on Form 1040)	Social security number of person with self-employment income ▶
ORVILLE H DYCE	083 64 2427

Section B - Long Schedule SE

Part I Self-Employment Tax

Note. If your only income subject to self-employment tax is **church employee income,** skip lines 1 through 4b. Enter -0- on line 4c and go to line 5a. Income from services you performed as a minister or a member of a religious order is **not** church employee income. See page SE-1.

A If you are a minister, member of a religious order, or Christian Science practitioner and you filed Form 4361, but you had $400 or more of other net earnings from self-employment, check here and continue with Part I ▶ ☐

1	Net farm profit or (loss) from Schedule F, line 36, and farm partnerships, Schedule K-1 (Form 1065), box 14, code A. **Note.** Skip this line if you use the farm optional method (see page SE-4)		1	
2	Net profit or (loss) from Schedule C, line 31; Schedule C-EZ, line 3; Schedule K-1 (Form 1065), box 14, code A (other than farming); and Schedule K-1 (Form 1065-B), box 9, code J1. Ministers and members of religious orders, see page SE-1 for amounts to report on this line. See page SE-3 for other income to report. **Note.** Skip this line if you use the nonfarm optional method (see page SE-4) SEE STATEMENT 12		2	106,928.
3	Combine lines 1 and 2		3	106,928.
4a	If line 3 is more than zero, multiply line 3 by 92.35% (.9235). Otherwise, enter amount from line 3		4a	98,748.
b	If you elect one or both of the optional methods, enter the total of lines 15 and 17 here		4b	
c	Combine lines 4a and 4b. If less than $400, **stop;** you do not owe self-employment tax. **Exception.** If less than $400 and you had **church employee income,** enter -0- and continue ▶		4c	98,748.
5a	Enter your **church employee income** from Form W-2. See page SE-1 for definition of church employee income	5a		
b	Multiply line 5a by 92.35% (.9235). If less than $100, enter -0-		5b	
6	**Net earnings from self-employment.** Add lines 4c and 5b		6	98,748.
7	Maximum amount of combined wages and self-employment earnings subject to social security tax or the 6.2% portion of the 7.65% railroad retirement (tier 1) tax for 2007		7	97,500.00
8a	Total social security wages and tips (total of boxes 3 and 7 on Form(s) W-2) and railroad retirement (tier 1) compensation. If $97,500 or more, skip lines 8b through 10, and go to line 11	8a 97,500.		
b	Unreported tips subject to social security tax (from Form 4137, line 10)	8b		
c	Wages subject to social security tax (from Form 8919, line 10)	8c		
d	Add lines 8a, 8b, and 8c		8d	
9	Subtract line 8d from line 7. If zero or less, enter -0- here and on line 10 and go to line 11 ▶		9	
10	Multiply the smaller of line 6 or line 9 by 12.4% (.124)		10	
11	Multiply line 6 by 2.9% (.029)		11	2,864.
12	**Self-employment tax.** Add lines 10 and 11. Enter here and on **Form 1040, line 58**		12	2,864.
13	**Deduction for one-half of self-employment tax.** Multiply line 12 by 50% (.5). Enter the result here and on **Form 1040, line 27**	13 1,432.		

Part II Optional Methods To Figure Net Earnings (see page SE-4)

Farm Optional Method. You may use this method **only** if **(a)** your gross farm income [1] was not more than $2,400, or **(b)** your net farm profits [2] were less than $1,733.

14	Maximum income for optional methods	14	1,600.00
15	Enter the **smaller** of: two-thirds (2/3) of gross farm income [1] (not less than zero) or $1,600. Also include this amount on line 4b above	15	

Nonfarm Optional Method. You may use this method **only** if **(a)** your net nonfarm profits [3] were less than $1,733 and also less than 72.189% of your gross nonfarm income [4] **and (b)** you had net earnings from self-employment of at least $400 in 2 of the prior 3 years.

Caution. You may use this method no more than five times.

16	Subtract line 15 from line 14	16	
17	Enter the **smaller** of: two-thirds (2/3) of gross nonfarm income [4] (not less than zero) or the amount on line 16. Also include this amount on line 4b above	17	

[1] From Sch. F, line 11, and Sch. K-1 (Form 1065), box 14, code B.
[2] From Sch. F, line 36, and Sch. K-1 (Form 1065), box 14, code A.
[3] From Sch. C, line 31; Sch. C-EZ, line 3; Sch. K-1 (Form 1065), box 14, code A; and Sch. K-1 (Form 1065-B), box 9, code J1.
[4] From Sch. C, line 7; Sch. C-EZ, line 1; Sch. K-1 (Form 1065), box 14, code C; and Sch. K-1 (Form 1065-B), box 9, code J2.

Form **6251**

Department of the Treasury
Internal Revenue Service (99)

Alternative Minimum Tax - Individuals

▶ Attach to Form 1040 or Form 1040NR.

OMB No. 1545-0074

2007

Attachment Sequence No. 32

Name(s) shown on Form 1040 or Form 1040NR

ORVILLE H DYCE & JAMIE C CURLEY

Your social security number

083 64 2427

Part I Alternative Minimum Taxable Income

1	If filing Schedule A (Form 1040), enter the amount from Form 1040, line 41, and go to line 2. Otherwise, enter the amount from Form 1040, line 38, and go to line 7. (If less than zero, enter as a negative amount.)	1	329,742.
2	Medical and dental. Enter the **smaller** of Schedule A (Form 1040), line 4, **or** 2.5% (.025) of Form 1040, line 38. If zero or less, enter -0-	2	
3	Taxes from Schedule A (Form 1040), line 9	3	28,024.
4	Enter the home mortgage interest adjustment, if any, from line 6 of the worksheet on page 2 of the instructions	4	
5	Miscellaneous deductions from Schedule A (Form 1040), line 27	5	
6	If Form 1040, line 38, is over $156,400 (over $78,200 if married filing separately), enter the amount from line 11 of the **Itemized Deductions Worksheet** on page A-10 of the instructions for Schedule A (Form 1040)	6	-4,397.
7	Tax refund from Form 1040, line 10 or line 21	7	-59.
8	Investment interest expense (difference between regular tax and AMT)	8	
9	Depletion (difference between regular tax and AMT)	9	
10	Net operating loss deduction from Form 1040, line 21. Enter as a positive amount	10	
11	Interest from specified private activity bonds exempt from the regular tax	11	
12	Qualified small business stock (7% of gain excluded under section 1202)	12	
13	Exercise of incentive stock options (excess of AMT income over regular tax income)	13	
14	Estates and trusts (amount from Schedule K-1 (Form 1041), box 12, code A)	14	
15	Electing large partnerships (amount from Schedule K-1 (Form 1065-B), box 6)	15	
16	Disposition of property (difference between AMT and regular tax gain or loss)	16	
17	Depreciation on assets placed in service after 1986 (difference between regular tax and AMT)	17	
18	Passive activities (difference between AMT and regular tax income or loss)	18	0.
19	Loss limitations (difference between AMT and regular tax income or loss)	19	
20	Circulation costs (difference between regular tax and AMT)	20	
21	Long-term contracts (difference between AMT and regular tax income)	21	
22	Mining costs (difference between regular tax and AMT)	22	
23	Research and experimental costs (difference between regular tax and AMT)	23	
24	Income from certain installment sales before January 1, 1987	24	
25	Intangible drilling costs preference	25	
26	Other adjustments, including income-based related adjustments	26	
27	Alternative tax net operating loss deduction	27	
28	**Alternative minimum taxable income.** Combine lines 1 through 27. (If married filing separately and line 28 is more than $207,500, see instructions)	28	353,310.

Part II Alternative Minimum Tax

29 Exemption. (If this form is for a child under age 18, see instructions.)

IF your filing status is...	AND line 28 is not over...	THEN enter on line 29...
Single or head of household	$112,500	$44,350
Married filing jointly or qualifying widow(er)	150,000	66,250
Married filing separately	75,000	33,125

STMT 13

If line 28 is over the amount shown above for your filing status, see instructions.

29		29	15,422.
30	Subtract line 29 from line 28. If more than zero, go to line 31. If zero or less, enter -0- here and on lines 33 and 35 and skip the rest of Part II	30	337,888.
31	• If you are filing Form 2555 or 2555-EZ, see page 8 of the instructions for the amount to enter. • If you reported capital gain distributions directly on Form 1040, line 13; you reported qualified dividends on Form 1040, line 9b; or you had a gain on both lines 15 and 16 of Schedule D (Form 1040) (as refigured for the AMT, if necessary), complete Part III on page 2 and enter the amount from line 55 here. • **All others:** If line 30 is $175,000 or less ($87,500 or less if married filing separately), multiply line 30 by 26% (.26). Otherwise, multiply line 30 by 28% (.28) and subtract $3,500 ($1,750 if married filing separately) from the result.	31	88,788.
32	Alternative minimum tax foreign tax credit (see instructions)	32	
33	Tentative minimum tax. Subtract line 32 from line 31	33	88,788.
34	Tax from Form 1040, line 44 (minus any tax from Form 4972 and any foreign tax credit from Form 1040, line 51). If you used Sch J to figure your tax, the amount from line 44 of Form 1040 must be refigured without using Sch J	34	83,680.
35	**Alternative minimum tax.** Subtract line 34 from line 33. If zero or less, enter -0-. Enter here and on Form 1040, line 45	35	5,108.

Part III Tax Computation Using Maximum Capital Gains Rates

36	Enter the amount from Form 6251, line 30. If you are filing Form 2555 or 2555-EZ, enter the amount from line 3 of the worksheet in the instructions		36	337,888.
37	Enter the amount from line 6 of the Qualified Dividends and Capital Gain Tax Worksheet in the instructions for Form 1040, line 44, or the amount from line 13 of the Schedule D Tax Worksheet on page D-10 of the instructions for Schedule D (Form 1040), whichever applies (as refigured for the AMT, if necessary) (see the instructions). If you are filing Form 2555 or 2555-EZ, see instructions for the amount to enter	37 17,851.		
38	Enter the amount from Schedule D (Form 1040), line 19 (as refigured for the AMT, if necessary) (see instructions). If you are filing Form 2555 or 2555-EZ, see instructions for the amount to enter	38		
39	If you did not complete a Schedule D Tax Worksheet for the regular tax or the AMT, enter the amount from line 37. Otherwise, add lines 37 and 38, and enter the smaller of that result or the amount from line 10 of the Schedule D Tax Worksheet (as refigured for the AMT, if necessary). If you are filing Form 2555 or 2555-EZ, see instructions for the amount to enter	39 17,851.		
40	Enter the smaller of line 36 or line 39		40	17,851.
41	Subtract line 40 from line 36		41	320,037.
42	If line 41 is $175,000 or less ($87,500 or less if married filing separately), multiply line 41 by 26% (.26). Otherwise, multiply line 41 by 28% (.28) and subtract $3,500 ($1,750 if married filing separately) from the result ▶		42	86,110.
43	Enter: • $63,700 if married filing jointly or qualifying widow(er), • $31,850 if single or married filing separately, or • $42,650 if head of household.	43 63,700.		
44	Enter the amount from line 7 of the Qualified Dividends and Capital Gain Tax Worksheet in the instructions for Form 1040, line 44, or the amount from line 14 of the Schedule D Tax Worksheet on page D-10 of the instructions for Schedule D (Form 1040), whichever applies (as figured for the regular tax). If you did not complete either worksheet for the regular tax, enter -0-	44 308,492.		
45	Subtract line 44 from line 43. If zero or less, enter -0-	45 0.		
46	Enter the smaller of line 36 or line 37	46 17,851.		
47	Enter the smaller of line 45 or line 46	47		
48	Multiply line 47 by 5% (.05) ▶		48	
49	Subtract line 47 from line 46	49 17,851.		
50	Multiply line 49 by 15% (.15) ▶		50	2,678.
	If line 38 is zero or blank, skip lines 51 and 52 and go to line 53. Otherwise, go to line 51.			
51	Subtract line 46 from line 40	51		
52	Multiply line 51 by 25% (.25) ▶		52	
53	Add lines 42, 48, 50, and 52		53	88,788.
54	If line 36 is $175,000 or less ($87,500 or less if married filing separately), multiply line 36 by 26% (.26). Otherwise, multiply line 36 by 28% (.28) and subtract $3,500 ($1,750 if married filing separately) from the result		54	91,109.
55	Enter the smaller of line 53 or line 54 here and on line 31. If you are filing Form 2555 or 2555-EZ, do not enter this amount on line 31. Instead, enter it on line 4 of the worksheet in the instructions		55	88,788.

Form **8606**

Department of the Treasury
Internal Revenue Service

Nondeductible IRAs

▶ See separate instructions.

▶ Attach to Form 1040, Form 1040A, or Form 1040NR.

OMB No. 1545-0074

2007

Attachment Sequence No. 48

Name. If married, file a separate form for each spouse required to file Form 8606. See page 5 of the instructions.

JAMIE C CURLEY

Your social security number: 573 73 4698

Fill in Your Address Only If You Are Filing This Form by Itself and Not With Your Tax Return

Home address (number and street, or P.O. box if mail is not delivered to your home) | Apt. no.

City, town or post office, state, and ZIP code

Part I Nondeductible Contributions to Traditional IRAs and Distributions From Traditional, SEP, and SIMPLE IRAs

Complete this part only if one or more of the following apply.

- You made nondeductible contributions to a traditional IRA for 2007.
- You took distributions from a traditional, SEP, or SIMPLE IRA in 2007 and you made nondeductible contributions to a traditional IRA in 2007 or an earlier year. For this purpose, a distribution does not include a rollover, qualified charitable distribution, one-time distribution to fund an HSA, conversion, recharacterization, or return of certain contributions.
- You converted part, but not all, of your traditional, SEP, and SIMPLE IRAs to Roth IRAs in 2007 (excluding any portion you recharacterized) and you made nondeductible contributions to a traditional IRA in 2007 or an earlier year.

1	Enter your nondeductible contributions to traditional IRAs for 2007, including those made for 2007 from January 1, 2008, through April 15, 2008 (see page 5 of the instructions)		1	
2	Enter your total basis in traditional IRAs (see page 5 of the instructions)		2	3,250.
3	Add lines 1 and 2		3	3,250.
	In 2007, did you take a distribution from traditional, SEP, or SIMPLE IRAs, or make a Roth IRA conversion? — No → Enter the amount from line 3 on line 14. Do not complete the rest of Part I. — Yes → Go to line 4.			
4	Enter those contributions included on line 1 that were made from January 1, 2008, through April 15, 2008		4	
5	Subtract line 4 from line 3		5	
6	Enter the value of all your traditional, SEP, and SIMPLE IRAs as of December 31, 2007, plus any outstanding rollovers (see page 6 of the instructions)	6		
7	Enter your distributions from traditional, SEP, and SIMPLE IRAs in 2007. **Do not** include rollovers, qualified charitable distributions, a one-time distribution to fund an HSA, conversions to a Roth IRA, certain returned contributions, or recharacterizations of traditional IRA contributions (see page 6 of the instructions)	7		
8	Enter the net amount you converted from traditional, SEP, and SIMPLE IRAs to Roth IRAs in 2007. **Do not** include amounts converted that you later recharacterized (see page 6 of the instructions). Also enter this amount on line 16	8		
9	Add lines 6, 7, and 8	9		
10	Divide line 5 by line 9. Enter the result as a decimal rounded to at least 3 places. If the result is 1.000 or more, enter "1.000"	10	x	
11	Multiply line 8 by line 10. This is the nontaxable portion of the amount you converted to Roth IRAs. Also enter this amount on line 17	11		
12	Multiply line 7 by line 10. This is the nontaxable portion of your distributions that you did not convert to a Roth IRA	12		
13	Add lines 11 and 12. This is the nontaxable portion of all your distributions		13	
14	Subtract line 13 from line 3. This is your total basis in traditional IRAs for 2007 and earlier years		14	3,250.
15	**Taxable amount.** Subtract line 12 from line 7. Also include this amount on Form 1040, line 15b; Form 1040A, line 11b; or Form 1040NR, line 16b		15	

Note: *You may be subject to an additional 10% tax on the amount on line 15 if you were under age 59 1/2 at the time of the distribution (see page 6 of the instructions).*

Part II 2007 Conversions From Traditional, SEP, or SIMPLE IRAs to Roth IRAs

Complete this part if you converted part or all of your traditional, SEP, and SIMPLE IRAs to a Roth IRA in 2007 (excluding any portion you recharacterized).

Caution: *If your modified adjusted gross income is over $100,000 or you are married filing separately and you lived with your spouse at any time in 2007, you cannot convert any amount from traditional, SEP, or SIMPLE IRAs to Roth IRAs for 2007. If you erroneously made a conversion, you must recharacterize (correct) it (see page 6 of the instructions).*

16	If you completed Part I, enter the amount from line 8. Otherwise, enter the net amount you converted from traditional, SEP, and SIMPLE IRAs to Roth IRAs in 2007. **Do not** include amounts you later recharacterized back to traditional, SEP, or SIMPLE IRAs in 2007 or 2008 (see page 6 of the instructions)	16	
17	If you completed Part I, enter the amount from line 11. Otherwise, enter your basis in the amount on line 16 (see page 6 of the instructions)	17	
18	**Taxable amount.** Subtract line 17 from line 16. Also include this amount on Form 1040, line 15b; Form 1040A, line 11b; or Form 1040NR, line 16b	18	

Part III Distributions From Roth IRAs

Complete this part only if you took a distribution from a Roth IRA in 2007. For this purpose, a distribution does not include a rollover, qualified charitable distribution, one-time distribution to fund an HSA, recharacterization, or return of certain contributions (see page 6 of the instructions).

19	Enter your total nonqualified distributions from Roth IRAs in 2007 including any qualified first-time homebuyer distributions (see page 6 of the instructions)	19	
20	Qualified first-time homebuyer expenses (see page 7 of the instructions). **Do not** enter more than $10,000	20	
21	Subtract line 20 from line 19. If zero or less, enter -0- and skip lines 22 through 25	21	
22	Enter your basis in Roth IRA contributions (see page 7 of the instructions)	22	
23	Subtract line 22 from line 21. If zero or less, enter -0- and skip lines 24 and 25. If more than zero, you may be subject to an additional tax (see page 7 of the instructions)	23	
24	Enter your basis in Roth IRA conversions (see page 7 of the instructions)	24	
25	**Taxable amount.** Subtract line 24 from line 23. If zero or less, enter -0-. Also include this amount on Form 1040, line 15b; Form 1040A, line 11b; or Form 1040NR, line 16b	25	

Sign Here Only If You Are Filing This Form by Itself and Not With Your Tax Return

Under penalties of perjury, I declare that I have examined this form, including accompanying attachments, and to the best of my knowledge and belief, it is true, correct, and complete.

▶ _____ Your signature ▶ _____ Date

Paid Preparer's Use Only

Preparer's signature ▶		Date	Check if self-employed ☐
Preparer's SSN or PTIN			
Firm's name (or yours if self-employed), address, and ZIP code ▶		EIN	
		Phone no.	

Form 8606 (2007)

719802
10-02-07

Plaintiffs' Ex 0075.015

Form **8582**

Department of the Treasury
Internal Revenue Service (99)

Passive Activity Loss Limitations

▶ See separate instructions.
▶ Attach to Form 1040 or Form 1041.

OMB No. 1545-1008

2007

Attachment Sequence No. 88

Name(s) shown on return

ORVILLE H DYCE & JAMIE C CURLEY

Identifying number

083-64-2427

Part I 2007 Passive Activity Loss Caution: *Complete Worksheets 1, 2, and 3 on page 2 before completing Part I.*

Rental Real Estate Activities With Active Participation (For the definition of active participation, see **Special Allowance for Rental Real Estate Activities** on page 3 of the instructions.)

1a	Activities with net income (enter the amount from Worksheet 1, column (a))	1a		
b	Activities with net loss (enter the amount from Worksheet 1, column (b))	1b	-20,597.	
c	Prior years unallowed losses (enter the amount from Worksheet 1, column (c))	1c	-5,296.	
d	Combine lines 1a, 1b, and 1c			1d -25,893.

Commercial Revitalization Deductions From Rental Real Estate Activities

2a	Commercial revitalization deductions from Worksheet 2, column (a)	2a		
b	Prior year unallowed commercial revitalization deductions from Worksheet 2, column (b)	2b		
c	Add lines 2a and 2b			2c

All Other Passive Activities

3a	Activities with net income (enter the amount from Worksheet 3, column (a))	3a		
b	Activities with net loss (enter the amount from Worksheet 3, column (b))	3b		
c	Prior years unallowed losses (enter the amount from Worksheet 3, column (c))	3c		
d	Combine lines 3a, 3b, and 3c			3d

4 Combine lines 1d, 2c, and 3d. If the result is net income or zero, all losses are allowed, including any prior year unallowed losses entered on line 1c, 2b, or 3c. Do not complete Form 8582. Report the losses on the forms and schedules normally used ..... 4 -25,893.

If line 4 is a loss and:
- Line 1d is a loss, go to Part II.
- Line 2c is a loss (and line 1d is zero or more), skip Part II and go to Part III.
- Line 3d is a loss (and lines 1d and 2c are zero or more), skip Parts II and III and go to line 15.

Caution: *If your filing status is married filing separately and you lived with your spouse at any time during the year,* **do not** *complete Part II or Part III. Instead, go to line 15.*

Part II Special Allowance for Rental Real Estate Activities With Active Participation

Note: *Enter all numbers in Part II as positive amounts. See page 8 of the instructions for an example.*

5	Enter the smaller of the loss on line 1d or the loss on line 4			5 25,893.
6	Enter $150,000. If married filing separately, see the instructions	6	150,000.	
7	Enter modified adjusted gross income, but not less than zero (see the instr.)	7	377,706.	STATEMENT 18
	Note: *If line 7 is greater than or equal to line 6, skip lines 8 and 9, enter -0- on line 10. Otherwise, go to line 8.*			
8	Subtract line 7 from line 6	8		
9	Multiply line 8 by 50% (.5). **Do not** enter more than $25,000. If married filing separately, see the instructions			9
10	Enter the smaller of line 5 or line 9			10 0.

If line 2c is a loss, go to Part III. Otherwise, go to line 15.

Part III Special Allowance for Commercial Revitalization Deductions From Rental Real Estate Activities

Note: *Enter all numbers in Part III as positive amounts. See the example for Part II on page 8 of the instructions.*

11	Enter $25,000 reduced by the amount, if any, on line 10. If married filing separately, see instructions	11	
12	Enter the loss from line 4	12	
13	Reduce line 12 by the amount on line 10	13	
14	Enter the smallest of line 2c (treated as a positive amount), line 11, or line 13	14	

Part IV Total Losses Allowed

15	Add the income, if any, on lines 1a and 3a and enter the total	15	
16	**Total losses allowed from all passive activities for 2007.** Add lines 10, 14, and 15. See the instructions to find out how to report the losses on your tax return SEE STATEMENT 17	16	0.

Caution: *The worksheets must be filed with your tax return. Keep a copy for your records.*

Worksheet 1 - For Form 8582, Lines 1a, 1b, and 1c (See instructions.)

Name of activity	Current year		Prior years	Overall gain or loss	
	(a) Net income (line 1a)	(b) Net loss (line 1b)	(c) Unallowed loss (line 1c)	(d) Gain	(e) Loss
	SEE ATTACHED STATEMENT FOR WORKSHEET 1				
Total. Enter on Form 8582, lines 1a, 1b, and 1c ▶		-20,597.	-5,296.		

Worksheet 2 - For Form 8582, Lines 2a and 2b (See instructions.)

Name of activity	(a) Current year deductions (line 2a)	(b) Prior year unallowed deductions (line 2b)	(c) Overall loss
Total. Enter on Form 8582, lines 2a and 2b ▶			

Worksheet 3 - For Form 8582, Lines 3a, 3b, and 3c (See instructions.)

Name of activity	Current year		Prior years	Overall gain or loss	
	(a) Net income (line 3a)	(b) Net loss (line 3b)	(c) Unallowed loss (line 3c)	(d) Gain	(e) Loss
Total. Enter on Form 8582, lines 3a, 3b, and 3c ▶					

Worksheet 4 - Use this worksheet if an amount is shown on Form 8582, line 10 or 14 (See instructions.)

Name of activity	Form or schedule and line number to be reported on (see instructions)	(a) Loss	(b) Ratio	(c) Special allowance	(d) Subtract column (c) from column (a)
Total ▶					

Worksheet 5 - Allocation of Unallowed Losses (See instructions.)

Name of activity	Form or schedule and line number to be reported on (see instructions)	(a) Loss	(b) Ratio	(c) Unallowed loss
	SEE ATTACHED STATEMENT FOR WORKSHEET 5			
Total ▶		25,893.	1.000000000	25,893.

Worksheet 6 - Allowed Losses (See instructions.)

Name of activity	Form or schedule and line number to be reported on (see instructions)	(a) Loss	(b) Unallowed loss	(c) Allowed loss
	SEE ATTACHED	STATEMENT FOR WORKSHEET	6	
Total ▶		25,893.	25,893.	

Worksheet 7 - Activities With Losses Reported on Two or More Forms or Schedules (See instructions.)

Name of Activity:	(a)	(b)	(c) Ratio	(d) Unallowed loss	(e) Allowed loss
Form or schedule and line number to be reported on (see instructions):					
1a Net loss plus prior year unallowed loss from form or schedule ▶					
b Net income from form or schedule ▶					
c Subtract line 1b from line 1a. If zero or less, enter -0- ▶					
Form or schedule and line number to be reported on (see instructions):					
1a Net loss plus prior year unallowed loss from form or schedule ▶					
b Net income from form or schedule ▶					
c Subtract line 1b from line 1a. If zero or less, enter -0- ▶					
Form or schedule and line number to be reported on (see instructions):					
1a Net loss plus prior year unallowed loss from form or schedule ▶					
b Net income from form or schedule ▶					
c Subtract line 1b from line 1a. If zero or less, enter -0- ▶					
Total ▶					

ALTERNATIVE MINIMUM TAX

Form **8582**

Department of the Treasury
Internal Revenue Service (99)

Passive Activity Loss Limitations

▶ See separate instructions.
▶ Attach to Form 1040 or Form 1041.

OMB No. 1545-1008

2007

Attachment Sequence No. **88**

Name(s) shown on return

ORVILLE H DYCE & JAMIE C CURLEY

Identifying number

083-64-2427

Part I 2007 Passive Activity Loss Caution: *Complete Worksheets 1, 2, and 3 on page 2 before completing Part I.*

Rental Real Estate Activities With Active Participation (For the definition of active participation, see **Special Allowance for Rental Real Estate Activities** on page 3 of the instructions.)

1a	Activities with net income (enter the amount from Worksheet 1, column (a))	1a		
b	Activities with net loss (enter the amount from Worksheet 1, column (b))	1b	-20,597.	
c	Prior years unallowed losses (enter the amount from Worksheet 1, column (c))	1c	-5,296.	
d	Combine lines 1a, 1b, and 1c			1d -25,893.

Commercial Revitalization Deductions From Rental Real Estate Activities

2a	Commercial revitalization deductions from Worksheet 2, column (a)	2a		
b	Prior year unallowed commercial revitalization deductions from Worksheet 2, column (b)	2b		
c	Add lines 2a and 2b			2c

All Other Passive Activities

3a	Activities with net income (enter the amount from Worksheet 3, column (a))	3a		
b	Activities with net loss (enter the amount from Worksheet 3, column (b))	3b		
c	Prior years unallowed losses (enter the amount from Worksheet 3, column (c))	3c		
d	Combine lines 3a, 3b, and 3c			3d

4 Combine lines 1d, 2c, and 3d. If the result is net income or zero, all losses are allowed, including any prior year unallowed losses entered on line 1c, 2b, or 3c. **Do not** complete Form 8582. Report the losses on the forms and schedules normally used ..... 4 -25,893.

If line 4 is a loss and:
- Line 1d is a loss, go to Part II.
- Line 2c is a loss (and line 1d is zero or more), skip Part II and go to Part III.
- Line 3d is a loss (and lines 1d and 2c are zero or more), skip Parts II and III and go to line 15.

Caution: *If your filing status is married filing separately and you lived with your spouse at any time during the year,* **do not** *complete Part II or Part III. Instead, go to line 15.*

Part II Special Allowance for Rental Real Estate Activities With Active Participation

Note: *Enter all numbers in Part II as positive amounts. See page 8 of the instructions for an example.*

5	Enter the **smaller** of the loss on line 1d or the loss on line 4			5 25,893.
6	Enter $150,000. If married filing separately, see the instructions	6	150,000.	
7	Enter modified adjusted gross income, but not less than zero (see the instr.)	7	377,706.	
	Note: *If line 7 is greater than or equal to line 6, skip lines 8 and 9, enter -0- on line 10. Otherwise, go to line 8.*			
8	Subtract line 7 from line 6	8		
9	Multiply line 8 by 50% (.5). **Do not** enter more than $25,000. If married filing separately, see the instructions			9
10	Enter the **smaller** of line 5 or line 9			10 0.

If line 2c is a loss, go to Part III. Otherwise, go to line 15.

Part III Special Allowance for Commercial Revitalization Deductions From Rental Real Estate Activities

Note: *Enter all numbers in Part III as positive amounts. See the example for Part II on page 8 of the instructions.*

11	Enter $25,000 reduced by the amount, if any, on line 10. If married filing separately, see instructions	11	
12	Enter the loss from line 4	12	
13	Reduce line 12 by the amount on line 10	13	
14	Enter the smallest of line 2c (treated as a positive amount), line 11, or line 13	14	

Part IV Total Losses Allowed

15	Add the income, if any, on lines 1a and 3a and enter the total	15	
16	**Total losses allowed from all passive activities for 2007.** Add lines 10, 14, and 15. See the instructions to find out how to report the losses on your tax return SEE STATEMENT 22	16	0.

Caution: *The worksheets must be filed with your tax return. Keep a copy for your records.*

Worksheet 1 - For Form 8582, Lines 1a, 1b, and 1c (See instructions.)

Name of activity	Current year		Prior years	Overall gain or loss	
	(a) Net income (line 1a)	(b) Net loss (line 1b)	(c) Unallowed loss (line 1c)	(d) Gain	(e) Loss
	SEE ATTACHED STATEMENT FOR WORKSHEET 1				
Total. Enter on Form 8582, lines 1a, 1b, and 1c ▶		-20,597.	-5,296.		

Worksheet 2 - For Form 8582, Lines 2a and 2b (See instructions.)

Name of activity	(a) Current year deductions (line 2a)	(b) Prior year unallowed deductions (line 2b)	(c) Overall loss
Total. Enter on Form 8582, lines 2a and 2b ▶			

Worksheet 3 - For Form 8582, Lines 3a, 3b, and 3c (See instructions.)

Name of activity	Current year		Prior years	Overall gain or loss	
	(a) Net income (line 3a)	(b) Net loss (line 3b)	(c) Unallowed loss (line 3c)	(d) Gain	(e) Loss
Total. Enter on Form 8582, lines 3a, 3b, and 3c ▶					

Worksheet 4 - Use this worksheet if an amount is shown on Form 8582, line 10 or 14 (See instructions.)

Name of activity	Form or schedule and line number to be reported on (see instructions)	(a) Loss	(b) Ratio	(c) Special allowance	(d) Subtract column (c) from column (a)
Total ▶					

Worksheet 5 - Allocation of Unallowed Losses (See instructions.)

Name of activity	Form or schedule and line number to be reported on (see instructions)	(a) Loss	(b) Ratio	(c) Unallowed loss
	SEE ATTACHED STATEMENT FOR WORKSHEET 5			
Total ▶		25,893.	1.000000000	25,893.

Worksheet 6 - Allowed Losses (See instructions.)

Name of activity	Form or schedule and line number to be reported on (see instructions)	(a) Loss	(b) Unallowed loss	(c) Allowed loss
	SEE ATTACHED STATEMENT FOR WORKSHEET 6			
Total ▶		25,893.	25,893.	

Worksheet 7 - Activities With Losses Reported on Two or More Forms or Schedules (See instructions.)

Name of Activity:	(a)	(b)	(c) Ratio	(d) Unallowed loss	(e) Allowed loss
Form or schedule and line number to be reported on (see instructions):					
1a Net loss plus prior year unallowed loss from form or schedule ▶					
b Net income from form or schedule ▶					
c Subtract line 1b from line 1a. If zero or less, enter -0- ▶					
Form or schedule and line number to be reported on (see instructions):					
1a Net loss plus prior year unallowed loss from form or schedule ▶					
b Net income from form or schedule ▶					
c Subtract line 1b from line 1a. If zero or less, enter -0- ▶					
Form or schedule and line number to be reported on (see instructions):					
1a Net loss plus prior year unallowed loss from form or schedule ▶					
b Net income from form or schedule ▶					
c Subtract line 1b from line 1a. If zero or less, enter -0- ▶					
Total ▶					

FORM 1040 PENSIONS AND ANNUITIES STATEMENT 1

NATIONAL FINANCIAL SERVICES LLC

AMOUNT RECEIVED THIS YEAR	4,298.	
NONTAXABLE AMOUNT	4,298.	
CAPITAL GAIN DISTRIBUTION REPORTED ON SCH D		0.
TOTAL INCLUDED IN FORM 1040, LINE 16B		

STATEMENT(S) 1

Plaintiffs' Ex 0075.022

FORM 1040 PERSONAL EXEMPTION WORKSHEET STATEMENT 2

1. IS THE AMOUNT ON FORM 1040, LINE 38, MORE THAN THE AMOUNT SHOWN ON LINE 4 BELOW FOR YOUR FILING STATUS?
   NO. STOP. MULTIPLY $3,400 BY THE TOTAL NUMBER OF EXEMPTIONS CLAIMED ON FORM 1040, LINE 6D, AND ENTER THE RESULT ON LINE 42.
   YES. CONTINUE
2. MULTIPLY $3,400 BY THE TOTAL NUMBER OF EXEMPTIONS CLAIMED ON FORM 1040, LINE 6D . . . . . 10,200.
3. ENTER THE AMOUNT FROM FORM 1040, LINE 38 . . 376,274.
4. ENTER THE AMOUNT FOR YOUR FILING STATUS . . 234,600.

SINGLE	$156,400
MARRIED FILING JOINTLY OR WIDOW(ER)	$234,600
MARRIED FILING SEPARATELY	$117,300
HEAD OF HOUSEHOLD	$195,500

5. SUBTRACT LINE 4 FROM LINE 3 . . . . . 141,674.
6. IS LINE 5 MORE THAN $122,500 ($61,250 IF MARRIED FILING SEPARATELY)?
   [X] YES. MULTIPLY $1,133 BY THE TOTAL NUMBER OF EXEMPTIONS CLAIMED ON FORM 1040, LINE 6D. ENTER THE RESULT HERE AND ON FORM 1040, LINE 42. DO NOT COMPLETE THE REST OF THIS WORKSHEET.
   [ ] NO. DIVIDE LINE 5 BY $2,500 ($1,250 IF MARRIED FILING SEPARATELY). IF THE RESULT IS NOT A WHOLE NUMBER, INCREASE IT TO THE NEXT WHOLE NUMBER (FOR EXAMPLE, INCREASE 0.0004 TO 1) . . . . . 3,399.
7. MULTIPLY LINE 6 BY 2% (.02) AND ENTER THE RESULT AS A DECIMAL . . . . . .
8. MULTIPLY LINE 2 BY LINE 7 . . . . . .
9. DIVIDE LINE 8 BY 1.5 . . . . . .
10. SUBTRACT LINE 9 FROM LINE 2. TOTAL TO FORM 1040, LINE 42.

STATEMENT(S) 2

Plaintiffs' Ex 0075.023

FORM 1040 STUDENT LOAN INTEREST DEDUCTION STATEMENT 3

1.	ENTER THE TOTAL INTEREST PAID IN 2007 ON QUALIFIED STUDENT LOANS. DO NOT ENTER MORE THAN $2,500	2,500.
2.	ENTER THE AMOUNT FROM FORM 1040, LINE 22	398,805.
3.	ENTER THE TOTAL OF THE AMOUNTS FROM FORM 1040, LINES 23 THROUGH 32 PLUS ANY WRITE-IN ADJUSTMENTS YOU ENTERED ON THE DOTTED LINE NEXT TO LINE 36	22,531.
4.	SUBTRACT LINE 3 FROM LINE 2	376,274.
5.	ENTER THE AMOUNT SHOWN BELOW FOR YOUR FILING STATUS. * SINGLE, HEAD OF HOUSEHOLD, OR QUALIFYING WIDOW(ER)-$55,000 * MARRIED FILING JOINTLY-$110,000	110,000.
6.	IS THE AMOUNT ON LINE 4 MORE THAN THE AMOUNT ON LINE 5? [ ] NO. SKIP LINES 6 AND 7, ENTER -0- ON LINE 8, AND GO TO LINE 9 [X] YES. SUBTRACT LINE 5 FROM LINE 4	266,274.
7.	DIVIDE LINE 6 BY $15,000 ($30,000 IF MARRIED FILING JOINTLY). ENTER THE RESULT AS A DECIMAL (ROUNDED TO AT LEAST THREE PLACES). IF THE RESULT IS 1.000 OR MORE, ENTER 1.000	1.000
8.	MULTIPLY LINE 1 BY LINE 7.	2,500.
9.	STUDENT LOAN INTEREST DEDUCTION. SUBTRACT LINE 8 FROM LINE 1. ENTER THE RESULT HERE AND ON FORM 1040, LINE 33	0.

FORM 1040 WAGES RECEIVED AND TAXES WITHHELD STATEMENT 4

T S	EMPLOYER'S NAME	AMOUNT PAID	FEDERAL TAX WITHHELD	STATE TAX WITHHELD	CITY SDI TAX W/H	FICA TAX	MEDICARE TAX
S	TAKEDA PHARMACEUTICALS	44,437.	8,805.	2,901.		3,015.	705.
T	KERSHAW ENT	224,600.	51,494.	15,422.		6,045.	3,480.
TOTALS		269,037.	60,299.	18,323.		9,060.	4,185.

STATEMENT(S) 3, 4

Plaintiffs' Ex 0075.024

FORM 1040 QUALIFIED DIVIDENDS STATEMENT 5

NAME OF PAYER	ORDINARY DIVIDENDS	QUALIFIED DIVIDENDS
AMERITRADE	31.	31.
AMERITRADE	116.	116.
CGM REALTY FD	500.	50.
DODGE & COX FUNDS	565.	504.
CGM FOCUS FUND	1,735.	61.
JANUS CONTRARIAN	103.	94.
JANUS ORION	48.	37.
JANUS GROWTH	31.	11.
T ROWE PRICE EMERG. & MED	129.	66.
T ROWE PRICE NEW ASIA	229.	89.
T ROWE PRICE NEW ERA	181.	141.
T ROWE PRICE CAPITAL APP.	299.	108.
T ROWE PRICE MEDIA AND TEL.	283.	79.
VANGUARD FUNDS	1,562.	745.
FIDELITY SELECT ENERGY	8.	8.
FIDELITY VALUE FUND	22.	22.
TOTAL INCLUDED IN FORM 1040, LINE 9B		2,162.

FORM 1040 LATE PAYMENT INTEREST STATEMENT 6

DESCRIPTION	DATE	AMOUNT	BALANCE	RATE	DAYS	INTEREST
TAX DUE	04/15/08	4,113.	4,113.	.0600	76	52.
INTEREST RATE CHANGE	06/30/08	0.	4,165.	.0500	31	18.
DATE FILED	07/31/08		4,183.			
TOTAL LATE PAYMENT INTEREST						70.

SCHEDULE A STATE AND LOCAL INCOME TAXES STATEMENT 7

DESCRIPTION	AMOUNT
TAKEDA PHARMACEUTICALS	2,901.
KERSHAW ENT	15,422.
SOUTH CAROLINA 1ST QTR ESTIMATE PAYMENTS	1,180.
SOUTH CAROLINA 2ND QTR ESTIMATE PAYMENTS	1,180.
SOUTH CAROLINA 3RD QTR ESTIMATE PAYMENTS	1,180.
SOUTH CAROLINA PRIOR YEAR BALANCE DUE AND EXTENSION PAYMENTS	2,994.
TOTAL TO SCHEDULE A, LINE 5	24,857.

STATEMENT(S) 5, 6, 7

Plaintiffs' Ex 0075.025

SCHEDULE A — ITEMIZED DEDUCTIONS WORKSHEET — STATEMENT 8

1.	ENTER THE TOTAL OF THE AMOUNTS FROM SCHEDULE A, LINES 4, 9, 15, 19, 20, 27, AND 28		50,929.
2.	ENTER THE TOTAL OF THE AMOUNTS FROM SCHEDULE A, LINES 4, 14, AND 20, PLUS ANY GAMBLING AND CASUALTY OR THEFT LOSSES INCLUDED ON LINE 28		0.
3.	IS THE AMOUNT ON LINE 2 LESS THAN THE AMOUNT ON LINE 1? IF NO, YOUR DEDUCTION IS NOT LIMITED. ENTER THE AMOUNT FROM LINE 1 ABOVE ON SCHEDULE A, LINE 29. IF YES, SUBTRACT LINE 2 FROM LINE 1		50,929.
4.	MULTIPLY LINE 3 BY 80% (.80)	40,743.	
5.	ENTER THE AMOUNT FROM FORM 1040, LINE 38	376,274.	
6.	ENTER: $156,400 ($78,200 IF MARRIED FILING SEPARATELY)	156,400.	
7.	IS THE AMOUNT ON LINE 6 LESS THAN THE AMOUNT ON LINE 5? IF NO, YOUR DEDUCTION IS NOT LIMITED. ENTER THE AMOUNT FROM LINE 1 ABOVE ON SCHEDULE A, LINE 29. IF YES, SUBTRACT LINE 6 FROM LINE 5	219,874.	
8.	MULTIPLY LINE 7 BY 3% (.03)	6,596.	
9.	ENTER THE SMALLER OF LINE 4 OR LINE 8		6,596.
10.	DIVIDE LINE 9 BY 3		2,199.
11.	SUBTRACT LINE 10 FROM LINE 9		4,397.
12.	TOTAL ITEMIZED DEDUCTIONS. SUBTRACT LINE 11 FROM LINE 1. ENTER THE RESULT HERE AND ON SCHEDULE A, LINE 29		46,532.

SCHEDULE C — CAR AND TRUCK EXPENSES — STATEMENT 9

DESCRIPTION	AMOUNT
VEHICLE NUMBER 1 - 35000 BUSINESS MILES @ $0.485	16,975.
TOTAL TO SCHEDULE C, LINE 9	16,975.

STATEMENT(S) 8, 9

Plaintiffs' Ex 0075.026

SCHEDULE D — CAPITAL GAIN DISTRIBUTIONS — STATEMENT 10

NAME OF PAYER	TOTAL CAPITAL GAIN	28% GAIN
CGM REALTY FD	572.	
DODGE & COX FUNDS	391.	
CGM FOCUS FUND	356.	
FIDELITY SELECT MEDICAL	51.	
JANUS CONTRARIAN	1,038.	
T ROWE PRICE EMERG. & MED	629.	
T ROWE PRICE NEW ASIA	793.	
T ROWE PRICE NEW ERA	557.	
T ROWE PRICE CAPITAL APP.	406.	
T ROWE PRICE MEDIA AND TEL.	658.	
VANGUARD FUNDS	2,173.	
FIDELITY SELECT ENERGY	611.	
FIDELITY VALUE FUND	279.	
TOTALS TO SCHEDULE D, LINE 13	8,514.	

SCHEDULE E — OTHER EXPENSES — STATEMENT 11

RENTAL - DANIEL ISLAND DRIVE

DESCRIPTION	AMOUNT
HOA FEE	2,760.
ASSESMENT	697.
TOTAL TO SCHEDULE E, PAGE 1, LINE 18	3,457.

SCHEDULE SE — NON-FARM INCOME — STATEMENT 12

DESCRIPTION	AMOUNT
PHYSICIAN	106,928.
TOTAL TO SCHEDULE SE, LINE 2	106,928.

STATEMENT(S) 10, 11, 12

Plaintiffs' Ex 0075.027

FORM 6251 EXEMPTION WORKSHEET STATEMENT 13

1	ENTER: $44,350 IF SINGLE OR HEAD OF HOUSEHOLD; $66,250 IF MARRIED FILING JOINTLY OR QUALIFYING WIDOW(ER); $33,125 IF MARRIED FILING SEPARATELY.		66,250.
2	ENTER YOUR ALTERNATIVE MINIMUM TAXABLE INCOME (AMTI) FORM 6251, LINE 28	353,310.	
3	ENTER: $112,500 IF SINGLE OR HEAD OF HOUSEHOLD; $150,000 IF MARRIED FILING JOINTLY OR QUALIFYING WIDOW(ER); $75,000 IF MARRIED FILING SEPARATELY	150,000.	
4	SUBTRACT LINE 3 FROM LINE 2. IF ZERO OR LESS ENTER -0-	203,310.	
5	MULTIPLY LINE 4 BY 25% (.25)		50,828.
6	SUBTRACT LINE 5 FROM LINE 1. IF ZERO OR LESS, ENTER -0-. IF THIS FORM IS FOR A CHILD UNDER AGE 18, GO TO LINE 7 BELOW. OTHERWISE, STOP HERE AND ENTER THIS AMOUNT ON FORM 6251, LINE 29, AND GO TO FORM 6251, LINE 30		15,422.
7	CHILD'S MINIMUM EXEMPTION AMOUNT.		
8	ENTER THE CHILD'S EARNED INCOME, IF ANY		
9	ADD LINES 7 AND 8		
10	ENTER THE SMALLER OF LINE 6 OR LINE 9 HERE AND ON FORM 6251, LINE 29, AND GO TO FORM 6251, LINE 30		

FORM 8582 ACTIVE RENTAL OF REAL ESTATE - WORKSHEET 1 STATEMENT 14

NAME OF ACTIVITY	CURRENT YEAR NET INCOME	CURRENT YEAR NET LOSS	PRIOR YEAR UNALLOWED LOSS	OVERALL GAIN OR LOSS GAIN	OVERALL GAIN OR LOSS LOSS
RENTAL - DANIEL ISLAND DRIVE	0.	-20,597.	-5,296.		-25,893.
TOTALS	0.	-20,597.	-5,296.		-25,893.

STATEMENT(S) 13, 14

Plaintiffs' Ex 0075.028

FORM 8582 ALLOCATION OF UNALLOWED LOSSES - WORKSHEET 5 STATEMENT 15

NAME OF ACTIVITY	FORM OR SCHEDULE	LOSS	RATIO	UNALLOWED LOSS
RENTAL - DANIEL ISLAND DRIVE	SCH E	25,893.	1.000000000	25,893.
TOTALS		25,893.	1.000000000	25,893.

FORM 8582 ALLOWED LOSSES - WORKSHEET 6 STATEMENT 16

NAME OF ACTIVITY	FORM OR SCHEDULE	LOSS	UNALLOWED LOSS	ALLOWED LOSS
RENTAL - DANIEL ISLAND DRIVE	SCH E	25,893.	25,893.	
TOTALS		25,893.	25,893.	

FORM 8582 SUMMARY OF PASSIVE ACTIVITIES STATEMENT 17

R R E A -	NAME	FORM OR SCHEDULE	GAIN/LOSS	PRIOR YEAR C/O	NET GAIN/LOSS	UNALLOWED LOSS	ALLOWED LOSS
X	RENTAL - DANIEL ISLAND DRIVE	SCH E	-20,597.	-5,296.	-25,893.	25,893.	
TOTALS			-20,597.	-5,296.	-25,893.	25,893.	

PRIOR YEAR CARRYOVERS ALLOWED DUE TO CURRENT YEAR NET ACTIVITY INCOME

TOTAL TO FORM 8582, LINE 16

STATEMENT(S) 15, 16, 17

Plaintiffs' Ex 0075.029

FORM 8582 MODIFIED AGI STATEMENT 18

INCOME

WAGES, SALARIES, TIPS ETC.		269,037.
DIVIDEND INCOME		5,969.
TAXABLE REFUNDS		59.
ALIMONY RECEIVED		
TAXABLE IRA DISTRIBUTIONS		
TAXABLE PENSIONS AND ANNUITIES		
UNEMPLOYMENT COMPENSATION		
OTHER INCOME		
INTEREST INCOME	1,121.	
ADD: SERIES EE AND I EXCLUSION		
		1,121.
BUSINESS INCOME OR LOSS	106,928.	
ADD: PASSIVE LOSSES		
SUBTRACT: PASSIVE INCOME		
		106,928.
SALE OF ASSETS	15,691.	
ADD: PASSIVE/RREA PROFESSIONAL LOSSES		
SUBTRACT: PASSIVE INCOME		
		15,691.
RENTAL, ROYALTY OR PASSTHROUGH INCOME OR LOSS		
ADD: PASSIVE/RREA PROFESSIONAL LOSSES		
SUBTRACT: PASSIVE INCOME		
FARM OR FARM RENTAL INCOME OR LOSS		
ADD: PASSIVE/RREA PROFESSIONAL LOSSES		
SUBTRACT: PASSIVE INCOME		
TOTAL INCOME		398,805.

ADJUSTMENTS

MOVING EXPENSES		
SELF-EMPLOYED HEALTH INSURANCE DEDUCTION		
PENALTY ON EARLY WITHDRAWAL OF SAVINGS		
ALIMONY PAID		
KEOGH/SEP DEDUCTION	21,099.	
OTHER ADJUSTMENTS		
TOTAL ADJUSTMENTS		21,099.
TOTAL TO FORM 8582, LINE 7		377,706.

STATEMENT(S) 18

Plaintiffs' Ex 0075.030

FORM 8582 ALTERNATIVE MINIMUM TAX STATEMENT 19
ACTIVE RENTAL OF REAL ESTATE - WORKSHEET 1

NAME OF ACTIVITY	CURRENT YEAR NET INCOME	CURRENT YEAR NET LOSS	PRIOR YEAR UNALLOWED LOSS	OVERALL GAIN OR LOSS GAIN	OVERALL GAIN OR LOSS LOSS
RENTAL - DANIEL ISLAND DRIVE	0.	-20,597.	-5,296.		-25,893.
TOTALS	0.	-20,597.	-5,296.		-25,893.

FORM 8582 ALTERNATIVE MINIMUM TAX STATEMENT 20
ALLOCATION OF UNALLOWED LOSSES - WORKSHEET 5

NAME OF ACTIVITY	FORM OR SCHEDULE	LOSS	RATIO	UNALLOWED LOSS
RENTAL - DANIEL ISLAND DRIVE	SCH E	25,893.	1.000000000	25,893.
TOTALS		25,893.	1.000000000	25,893.

FORM 8582 ALTERNATIVE MINIMUM TAX STATEMENT 21
ALLOWED LOSSES - WORKSHEET 6

NAME OF ACTIVITY	FORM OR SCHEDULE	LOSS	UNALLOWED LOSS	ALLOWED LOSS
RENTAL - DANIEL ISLAND DRIVE	SCH E	25,893.	25,893.	
TOTALS		25,893.	25,893.	

STATEMENT(S) 19, 20, 21

Plaintiffs' Ex 0075.031

FORM 8582AMT SUMMARY OF PASSIVE ACTIVITIES - AMT STATEMENT 22

R R E A -	NAME	FORM OR SCHEDULE	GAIN/LOSS	PRIOR YEAR C/O	NET GAIN/LOSS	UNALLOWED LOSS	ALLOWED LOSS
X	RENTAL - DANIEL ISLAND DRIVE	SCH E	-20,597.	-5,296.	-25,893.	25,893.	
TOTALS			-20,597.	-5,296.	-25,893.	25,893.	

PRIOR YEAR CARRYOVERS ALLOWED DUE TO CURRENT YEAR NET ACTIVITY INCOME

TOTAL TO FORM 8582AMT, LINE 16

STATEMENT(S) 22

Plaintiffs' Ex 0075.032

1019

Do not write in this space - OFFICE USE

SC1040
(Rev. 9/27/07) 3075

SOUTH CAROLINA INDIVIDUAL INCOME TAX RETURN 2007

For the year January 1 - December 31, 2007, or fiscal tax year beginning , and ending ,

Print Your first name and initial (Sr, Jr, 2nd, 3rd, 4th)	Last name	Check if Deceased	Your Social Security number
ORVILLE H	DYCE	☐	083 64 2427
Spouse's first name and initial, if married filing jointly	**Spouse's last name**	**Check if Deceased**	**Spouse's Social Security number**
JAMIE C	CURLEY	☐	573 73 4698

Check if new address	Present mailing address (number and street, Apt. No or P.O. Box)	County code	Do not write in this space - OFFICE USE
☐	401 WOODLAND DRIVE	16	

City, state and ZIP code	Area Code Daytime telephone
HARTSVILLE, SC 29550	843-38-31667

For Office Use Only ▶ ☐

Check this box if you are filing SC Schedule NR (Part year/Nonresident) ▶ ☐

Check this box if you have filed a federal or state extension ▶ ☐

Check this box if filing a composite return for partnership or "S" corporation. ▶ ☐

CHECK YOUR FEDERAL FILING STATUS (1) ☐ Single (3) ☐ Married filing separately. Enter spouse's SSN here: ____
(2) ☒ Married filing jointly (4) ☐ Head-of-household (5) ☐ Widow(er) with dependent child

Federal Exemptions: Enter the number of exemptions from line 6(d) of your 2007 federal return. ▶ 3
How many of the exemptions listed above were under the age of 6 years on December 31, 2007? ▶ 1
Enter the number of taxpayers age 65 or older, as of December 31, 2007. ▶ 0

STAPLE PAYMENT HERE

					Dollars	Cents
1	**Enter Federal taxable income from your federal Form 1040, line 43; 1040A, line 27; or 1040EZ, line 6. If zero or less, enter zero here.** **STOP!** Resident filers complete lines 32 through 54. Nonresident filers complete Schedule NR and enter total from line 49 on line 5 below. ▶			1	326343	00
2	TOTAL ADDITIONS. Enter amount from line 37. ▶			2	22711	00
3	Add lines 1 and 2. Enter total here.			3	349054	00
4	TOTAL SUBTRACTIONS. Enter amount from line 54. ▶			4	< 123858	00>
5	South Carolina INCOME SUBJECT TO TAX. Residents subtract line 4 from line 3 and enter the difference. Nonresidents enter amount from Schedule NR, line 49. If less than zero, enter zero. ▶			5	225196	00
6	TAX: Enter tax from SOUTH CAROLINA tax tables.	6	15316 00			
7	TAX on Lump Sum Distribution (Attach SC4972) ▶	7	00			
8	TAX on Active Trade or Business Income (Attach I-335) ▶	8	6330 00			
9	TAX on Excess Withdrawals from Catastrophe Savings Accounts ▶	9	00			
10	TOTAL South Carolina tax. Add lines 6, 7, 8 and 9. Enter the total.			10	21646	00
11	Child and Dependent Care (See instructions) ▶	11	00			
12	Two Wage Earner Credit (See instructions) ▶	12	210 00			
13	Other Non-refundable Credits (Attach SC1040TC) ▶	13	00			
14	TOTAL Non-refundable Credits. Add lines 11 through 13 and enter the total.			14	210	00
15	SUBTRACT line 14 from line 10. Enter the difference BUT NOT LESS THAN ZERO.			15	21436	00
16	SC INCOME TAX WITHHELD (Attach W-2 or SC41) ▶ 18323 00	20	Other SC Withholding (Attach Form 1099) ▶ 00			
17	2007 Estimated Tax Payments ▶ 4720 00	21	Tuition Tax Credit (Attach I-319) ▶ 00			
18	Amount Paid with extension ▶ 00	22	Other Refundable Credit (Attach I-333 or I-334) ▶ 00			
19	NR sale of real estate ▶ 00					
					Tip Make sure lines 16-22 are completed.	
23	ADD lines 16 through 22 and enter the total.			23	23043	00
24	If line 23 is LARGER than line 15, subtract line 15 from line 23 and enter the OVERPAYMENT.			24	1607	00
25	If line 15 is LARGER than line 23, subtract line 23 from line 15 and enter the AMOUNT DUE.			25		00
26	USE TAX (Due on Out-of-state Purchases. See instructions) ▶	26	00			
27	Amount of line 24 to be credited to your 2008 ESTIMATED TAX. ▶	27	1607 00			
28	Total Contributions for Check-offs (Attach I-330) ▶	28	00			
29	ADD lines 26 through 28 and enter the total.			29	1607	00
30	NET REFUND: If line 29 is larger than line 24, go to line 31. Otherwise, subtract line 29 from line 24 and enter the **AMOUNT TO BE REFUNDED TO YOU.** **REFUND** ▶			30	0	00
31	NET DUE: ADD lines 25 and 29 and, if applicable, penalty amount. If line 29 is larger than line 24, subtract line 24 from line 29. Enter the AMOUNT YOU OWE. If subject to penalty for Underpayment of Estimated Tax, attach SC2210. (See instructions) Staple a check or money order for the full amount payable to "SC Department of Revenue." Write your Social Security number and "2007 SC1040" on the payment. Penalty: $ ____ **BALANCE DUE** ▶			31		00

STAPLE W-2 / 1099 HERE

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Plaintiffs' Ex 0075.033

STOP! **Resident filers complete lines 32 through 54.**
Nonresident filers complete Schedule NR. Do not complete lines 32 through 54.

				Dollars	Cents
PART 1	**ADDITIONS TO FEDERAL TAXABLE INCOME**				
32	State tax addback, if itemizing on federal return. SEE STATEMENT 6	32	22711 00		
33	Out-of-state losses - (See instructions)	33	00		
34	Expenses related to National Guard and Military Reserve income.	34	00		
35	Interest income on obligations of states and political subdivisions other than South Carolina.	35	00		
36	Other additions to income. Attach an explanation (See instructions)	36	00		
37	TOTAL ADDITIONS --- add lines 32 through 36 and enter your total additions to income here and on line 2.			37	22711 00
PART 2	**SUBTRACTIONS FROM FEDERAL TAXABLE INCOME**				
38	State tax refund, if included on line 10, on your federal Form 1040.	38	59 00		
39	Total and permanent disability retirement income, if taxed on your federal return.	39	00		
40	Out-of-state income/gain - Do not include personal service income. (See instructions)	40	00		
41	44% of net capital gains held for more than one year (See instructions) STMT 7	41	6903 00		
42	Volunteer Firefighter/Rescue Squad Worker/Volunteer HAZMAT Team Member/ Reserve Police Officer/DNR Deputy Enforcement Officer/State Guard Member deduction. (See instructions)	42	00		
43	Contributions to the SC Tuition Prepayment Program or the SC College Investment Program. (See instructions)	43	8000 00		
44	Active Trade or Business Income Deduction (See instructions)	44	105496 00		
45	Interest income from obligations of the US government.	45	00		
46	National Guard or Reserve annual training and drill pay. (See instructions)	46	00		
47	Social Security and/or railroad retirement, if taxed on your federal return.	47	00		
48	**Caution: Retirement Deduction - (See instructions)**				
	a) Taxpayer: Date of Birth _____	48a	00		
	b) Spouse: Date of Birth _____	48b	00		
	c) Surviving Spouse: Date of Birth of Deceased Spouse _____	48c	00		
49	Age 65 and older deduction - (See instructions)				
	a) Taxpayer: Date of Birth _____	49a	00		
	b) Spouse: Date of Birth _____	49b	00		
50	Negative amount of federal taxable income.	50	00		
51	Subsistence Allowance _____ days @ $8.00	51	00		
52	Dependents under the age of 6 years on December 31, 2007. Date of Birth 04/05/2007 SSN 654-26-7737 Date of Birth _____ SSN _____	52	3400 00		
53	Other subtractions. (See instructions) _____	53	00		
54	TOTAL SUBTRACTIONS --- add lines 38 through 53 and enter the total here and on line 4.			54	123858 00

I declare that this return and all attachments are true, correct and complete to the best of my knowledge and belief.

Your Signature	Date	Spouse's Signature (if jointly, BOTH must sign)

I authorize the Director of the Department of Revenue or delegate to discuss this return, attachments and related tax matters with the preparer.	Yes [X] No [ ]	Preparer's Printed Name AUSTIN M. SHEHEEN

If prepared by a person other than taxpayer, his declaration is based on all information of which he has any knowledge.

Paid Preparer's Use Only

Prepared by	Date	Address
AUSTIN M. SHEHEEN	07/15/08	PO DRAWER 428
EI Number	**Phone Number**	**City** / **State** / **ZIP**
57-0522539	803-432-1424	CAMDEN, SC 29021

ATTACH A COMPLETE COPY OF YOUR FEDERAL RETURN ONLY IF you have income and/or (loss) on federal Schedules C, D, E, F or filed a SC Schedule NR, SC1040TC, I-319 or I-335.

PFX 777002 12-04-07

MAIL RETURN TO THE PROPER ADDRESS

REFUNDS OR ZERO TAX:
SC1040 PROCESSING CENTER
P.O. BOX 101100
COLUMBIA SC 29211-0100

BALANCE DUE:
TAXABLE PROCESSING CENTER
P.O. BOX 101105
COLUMBIA SC 29211-0105

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Plaintiffs' Ex 0075.034

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STATE OF SOUTH CAROLINA
DEPARTMENT OF REVENUE

ACTIVE TRADE OR BUSINESS INCOME REDUCED RATE COMPUTATION

(Complete one I-335 for each return)
(Attach I-335 and all supporting Worksheets to SC1040 or SC1041)

I-335
(Rev. 9/28/07)
3410

For the year January 1 - December 31, 2007, or fiscal tax year beginning _____ and ending _____

Print your name	Spouse's first name	Your Social Security number
DYCE ORVILLE H	JAMIE C	083-64-2427 Spouse's Social Security number 573-73-4698

1a.	Enter amount from Worksheet 1, line 3	1a. $ 105496.00
1b.	Enter total of amounts from Worksheet 2, line 22, Column C	1b. $ .00
1c.	Add lines 1a and 1b	1c. $ 105496.00
2a.	Enter any adjustments necessary because of at-risk rules, South Carolina net operating losses, and/or passive activity losses. <Enter in brackets if the adjustment is negative.> Enter -0- if no adjustments are necessary	2a. $ .00
2b.	Enter the amount of one half of self-employment tax on partnership income related to South Carolina. Do not include the amount on line 2 of Worksheet 1.	2b. $ .00
2c.	Line 2a minus line 2b. <Enter in brackets if negative.>	2c. $ .00
3.	Add lines 1c and 2c. If zero or negative, STOP - DO NOT PROCEED	3. $ 105496.00
4.	Enter amounts reasonably related to personal services of the taxpayer, the taxpayer's spouse, or any person claimed as dependent on the taxpayer's income tax return (see Rules for Using Safe Harbor below). Do not include amounts from W-2s or 1099s or guaranteed payments for personal services	4. $ .00
	☐ Check here if using Safe Harbor	
5.	Subtract line 4 from line 3. If greater than zero, enter on SC1040, line 44; Schedule NR, line 39; or SC1041, Part I, line 2d. If zero or negative, STOP - DO NOT PROCEED	5. $ 105496.00
6.	Tax Year 2007 rate on qualifying active trade or business income	6. 6% (.06)
7.	Multiply line 5 by line 6 (enter here and on SC1040, line 8; or on SC1041, line 9)	7. $ 6330.00

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Plaintiffs' Ex 0075.035

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STATE OF SOUTH CAROLINA
DEPARTMENT OF REVENUE

WORKSHEET 1
PASS-THROUGH INCOME FROM A SOLE PROPRIETORSHIP

(Complete one Worksheet 1 for all Schedules C, C-EZ and F)
(Attach Worksheet 1 to your return)

I-335A
(Rev. 9/28/07)
3421

For the year January 1 - December 31, 2007, or fiscal tax year beginning _____ and ending _____

Print your name	Spouse's first name	Your Social Security number
DYCE ORVILLE H	JAMIE C	083-64-2427 Spouse's Social Security number 573-73-4698

In order to use the flat tax rate on active trade or business income, an individual, estate or trust with pass-through income from one or more sole proprietorships or single-member LLCs not taxed as corporations must complete Worksheet 1.

A taxpayer needs to complete only one Worksheet 1 for all federal Schedules C, C-EZ and F.

1. South Carolina net profit (loss) all federal Schedules C, C-EZ and F ..... 1. $ 106928.00
2. One half of the self-employment tax related to line 1 (enter the amount from line 27 of federal Form 1040 if all business income is taxable to South Carolina) ..... 2. $ 1432.00
3. Subtract line 2 from line 1 and enter here and on I-335, line 1a ..... 3. $ 105496.00

Instructions to Worksheet 1

Line 1 Enter total of South Carolina amounts from federal Schedule C, line 31; Schedule C-EZ line 3; and Schedule F, line 36.

Line 2 Enter the amount from Form 1040, line 27 that applies to line 1. The entire amount applies unless one or more of the Schedules C and F are from a multi-state business or business not taxable to South Carolina.

Line 3 Subtract line 2 from line 1. Enter this amount on I-335, line 1a.

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Plaintiffs' Ex 0075.036

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STATE OF SOUTH CAROLINA
DEPARTMENT OF REVENUE

UNDERPAYMENT OF ESTIMATED TAX BY INDIVIDUALS

▶ Attach to SC1040 or SC1041

SC2210
(Rev. 1/09/08)
3098
2007

Name(s) as shown on SC1040 or SC1041

ORVILLE H DYCE & JAMIE C CURLEY

Social Security Number

083-64-2427

Do You Have To File SC2210?

Complete lines 1 through 6 below. Is line 6 less than $100? **Yes** → Do not file SC2210. You do not owe a penalty.

No ↓

Complete lines 7 and 8 below. Is line 5 equal to or more than line 8? **Yes** → You do not owe a penalty. **Do not file SC2210** (but if box E applies, you must file page 1 of SC2210).

No ↓

You may owe a penalty. Does any box in Part II below apply? **Yes** → You must file SC2210. Does box B, C, or D apply?

No ↓

Do not file SC2210. You are not required to figure your penalty because the Department will figure it and send you a bill for any unpaid amount. If you want to figure it, you may file Part III or Part IV as a worksheet and enter your penalty amount on your tax return, but **do not file SC2210.**

You must file SC2210. Does box B, C, or D apply?

No ↓

You are not required to figure your penalty because the Department will figure it and send you a bill for any unpaid amount. If you want to figure it, you may use Part III or Part IV as a worksheet and enter your penalty amount on your tax return, but **file only page 1 of SC2210.**

Yes → You must figure your penalty.

Part I Required Annual Payment

1	Enter your 2007 tax after credits from SC1040, line 15 or SC1041, line 13	1	21,436.00
2	Enter total of refundable credits from SC1040, lines 21 and 22	2	
3	Current tax year. Subtract line 2 from line 1. If less than $100, you do not owe a penalty. **Do not file SC2210**	3	21,436.00
4	Multiply line 3 by 90% (.90)	4	19,292.00
5	Withholding taxes. Add SC1040, lines 16, 19, and 20. **Do not** include any estimated tax payments or amounts paid with request for extension on this line	5	18,323.00
6	Subtract line 5 from line 3. If the result is less than $100, **do not file SC2210**	6	3,113.00
7	Enter the tax shown on your 2006 tax return (110% of that amount if the adjusted gross income shown on that return is more than $150,000, or, if married filing separately for 2007, more than $75,000)	7	18,697.00
8	**Required annual payment.** (Enter the **smaller** of line 4 or line 7)	8	18,697.00

Next: Is line 8 more than line 5?

☐ No. You **do not** owe a penalty. **Do not file** SC2210 unless box E below applies.

☒ Yes. You may owe a penalty, but **do not file SC2210** unless one or more boxes in Part II below applies.

- If box B, C, or D applies, you must figure your penalty and file SC2210.
- If only box A or E (or both) applies, file only page 1 of SC2210. You are **not** required to figure your penalty; the Department will figure it and send you a bill for any unpaid amount. If you want to figure your penalty, you may use Part III or IV as a worksheet and enter your penalty on your tax return, but **file only page 1 of SC2210.**

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Plaintiffs' Ex 0075.037

Part II Reasons For Filing - Check applicable boxes. If none apply, do not file SC2210.

A ☐ You request a waiver (see instructions for waiver of penalty) of your entire penalty. You must check this box and file page 1 of SC2210, but you are not required to figure your penalty.

B ☐ You request a waiver (see instructions for waiver of penalty) of part of your penalty. You must figure your penalty and waiver amount and file SC2210.

C ☐ Your income varied during the year and your penalty is reduced or eliminated when figured using the **Annualized Income Installment Method.** (see instructions). Complete federal Schedule AI for South Carolina purposes and file SC2210.

D ☐ Your penalty is lower when figured by treating the South Carolina income tax withheld from your wages as paid on the dates it was actually withheld, instead of in equal amounts on the payment due dates. You must figure your penalty and file SC2210.

E ☐ You filed or are filing a joint return for either 2006 or 2007, but not for both years, and line 7 above is smaller than line 4 above. You must file page 1 of SC2210, but you are not required to figure your penalty (unless box B, C, or D applies).

Part III Short Method

You may use the short method if:

- You made no estimated tax payments (or your only payments were South Carolina income tax withheld) or
- You paid estimated tax in **equal** amounts on your due dates.

You must use the regular method (Part IV) instead of the short method if:

- You made any estimated tax payments late, or
- You checked box C or D in Part II.

Note: *If any payment was made earlier than the due date, you may use the short method, but using it may cause you to pay a larger penalty than the regular method. If the payment was only a few days early, the difference is likely to be small.*

9	Enter the amount from SC2210, line 8			9	18,697.00
10	Enter the amount, if any, from SC2210, line 5	10	18,323.00		
11	Enter the total amount, if any, of estimated tax payments you made	11	4,720.00		
12	Add lines 10 and 11			12	23,043.00
13	**Total underpayment for year.** Subtract line 12 from line 9. If zero or less, stop here; you do not owe the penalty. **Do not file SC2210 unless you checked box E in Part II**			13	-4,346.00
14	Multiply line 13 by .05057 and enter result			14	-220.00
15	• If the amount on line 13 was paid on or after 4/15/2008, enter -0-. • If the amount on line 13 was paid **before** 4/15/2008, make the following computation to find the amount to enter on line 15. Amount on line 13 X Number of days paid before 4/15/08 X .00019			15	
16	**Penalty.** Subtract line 15 from line 14. Enter the result here and in the space provided on the tax return. If you owe tax, add penalty to tax and show the total on SC1040, line 31 or SC1041, line 18. If you are due a refund, subtract penalty from overpayment and show amount on SC1040, line 30 or SC1041, line 21			16	

TWO WAGE EARNER CREDIT WHEN BOTH SPOUSES WORK — Worksheet W

Your filing status must be married filing jointly to claim this credit.

Step 1 Compute your earned income		(a) You		(b) Your spouse	
1 Wages, salaries, tips, etc., taxed to South Carolina from South Carolina Schedule NR, Column B; line 1, federal Form 1040, line 7; 1040A, line 7 or 1040EZ, line 1. (Do not include pensions or annuities	1	224,600 00	1	44,437	00
2 Net profit or (loss) from self-employment (from Schedules C and on Schedule K-1 of Form 1065) and any other earned income taxed to South Carolina	2	106,928 00	2		00
3 Add lines 1 and 2. This is your total earned income taxed to SC	3	331,528 00	3	44,437	00
Step 2 Compute your qualified earned income					
4 Add amounts entered on federal form 1040 lines 27 thru 29, and 32. If filing South Carolina Schedule NR, enter amounts from lines 21 thru 23, and 26 and any repayment of supplemental unemployment benefits (sub-pay) allocable to South Carolina income	4	22,531 00	4		00
5 Subtract line 4 from line 3. This is your qualified earned income taxed to South Carolina. If the amount in column (a) or (b) is zero (-0-) or less, stop here. You may not take this credit	5	308,997 00	5	44,437	00
Step 3 Compute your credit					
6 Compare the amounts in columns (a) and (b). Do not enter more than $30,000			6	30,000	00
7 Multiply the amount on line 6 by .007. Do not enter more than $210. Enter the amount here and on SC1040, line 11			7	210	00

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Plaintiffs' Ex 0075.039

Form **8582**

Department of the Treasury
Internal Revenue Service (99)

Passive Activity Loss Limitations

▶ See separate instructions.
▶ Attach to Form 1040 or Form 1041.

SC
OMB No. 1545-1008

2007

Attachment Sequence No. 88

Name(s) shown on return

ORVILLE H DYCE & JAMIE C CURLEY

Identifying number

083-64-2427

Part I 2007 Passive Activity Loss Caution: *Complete Worksheets 1, 2, and 3 on page 2 before completing Part I.*

Rental Real Estate Activities With Active Participation (For the definition of active participation, see **Special Allowance for Rental Real Estate Activities** on page 3 of the instructions.)

1a	Activities with net income (enter the amount from Worksheet 1, column (a))	1a		
b	Activities with net loss (enter the amount from Worksheet 1, column (b))	1b	-20,597.	
c	Prior years unallowed losses (enter the amount from Worksheet 1, column (c))	1c	-5,296.	
d	Combine lines 1a, 1b, and 1c			1d -25,893.

Commercial Revitalization Deductions From Rental Real Estate Activities

2a	Commercial revitalization deductions from Worksheet 2, column (a)	2a		
b	Prior year unallowed commercial revitalization deductions from Worksheet 2, column (b)	2b		
c	Add lines 2a and 2b			2c

All Other Passive Activities

3a	Activities with net income (enter the amount from Worksheet 3, column (a))	3a		
b	Activities with net loss (enter the amount from Worksheet 3, column (b))	3b		
c	Prior years unallowed losses (enter the amount from Worksheet 3, column (c))	3c		
d	Combine lines 3a, 3b, and 3c			3d

4 Combine lines 1d, 2c, and 3d. If the result is net income or zero, all losses are allowed, including any prior year unallowed losses entered on line 1c, 2b, or 3c. Do not complete Form 8582. Report the losses on the forms and schedules normally used ..... 4 -25,893.

If line 4 is a loss and:
- Line 1d is a loss, go to Part II.
- Line 2c is a loss (and line 1d is zero or more), skip Part II and go to Part III.
- Line 3d is a loss (and lines 1d and 2c are zero or more), skip Parts II and III and go to line 15.

Caution: *If your filing status is married filing separately and you lived with your spouse at any time during the year,* do not *complete Part II or Part III. Instead, go to line 15.*

Part II Special Allowance for Rental Real Estate Activities With Active Participation

Note: *Enter all numbers in Part II as positive amounts. See page 8 of the instructions for an example.*

5	Enter the smaller of the loss on line 1d or the loss on line 4			5 25,893.
6	Enter $150,000. If married filing separately, see the instructions	6	150,000.	
7	Enter modified adjusted gross income, but not less than zero (see the instr.)	7	377,706.	
	Note: *If line 7 is greater than or equal to line 6, skip lines 8 and 9, enter -0- on line 10. Otherwise, go to line 8.*			
8	Subtract line 7 from line 6	8	0.	
9	Multiply line 8 by 50% (.5). Do not enter more than $25,000. If married filing separately, see the instructions			9
10	Enter the smaller of line 5 or line 9			10

If line 2c is a loss, go to Part III. Otherwise, go to line 15.

Part III Special Allowance for Commercial Revitalization Deductions From Rental Real Estate Activities

Note: *Enter all numbers in Part III as positive amounts. See the example for Part II on page 8 of the instructions.*

11	Enter $25,000 reduced by the amount, if any, on line 10. If married filing separately, see instructions	11	
12	Enter the loss from line 4	12	
13	Reduce line 12 by the amount on line 10	13	
14	Enter the smallest of line 2c (treated as a positive amount), line 11, or line 13	14	

Part IV Total Losses Allowed

15	Add the income, if any, on lines 1a and 3a and enter the total	15	
16	**Total losses allowed from all passive activities for 2007.** Add lines 10, 14, and 15. See the instructions to find out how to report the losses on your tax return	16	0.

SC1040 NET CAPITAL GAINS DEDUCTION - LONG-TERM LOSS SUMMARY STATEMENT 1

DESCRIPTION	AMOUNT
SCHEDULE D TRANSACTIONS	47.00
TOTAL TO SC NET CAPITAL GAINS DEDUCTION WORKSHEET - TOTAL NET LONG-TERM CAPITAL LOSS	47.00

SC1040 NET CAPITAL GAINS DEDUCTION - SHORT-TERM GAIN SUMMARY STATEMENT 2

DESCRIPTION	AMOUNT
SCHEDULE D TRANSACTIONS	9.00
TOTAL TO SC NET CAPITAL GAINS DEDUCTION WORKSHEET - TOTAL NET SHORT-TERM CAPITAL GAIN	9.00

SC1040 NET CAPITAL GAINS DEDUCTION - SHORT-TERM LOSS SUMMARY STATEMENT 3

DESCRIPTION	AMOUNT
SCHEDULE D TRANSACTIONS	7.00
TOTAL TO SC NET CAPITAL GAINS DEDUCTION WORKSHEET - TOTAL NET SHORT-TERM CAPITAL LOSS	7.00

SC1040 NET CAPITAL GAINS DEDUCTION - LONG-TERM GAIN SUMMARY STATEMENT 4

DESCRIPTION	AMOUNT
SCHEDULE D TRANSACTIONS	7,222.00
CAPITAL GAIN DISTRIBUTIONS	8,514.00
TOTAL TO SC NET CAPITAL GAINS DEDUCTION WORKSHEET - TOTAL NET LONG-TERM CAPITAL GAIN	15,736.00

STATEMENT(S) 1, 2, 3, 4

Plaintiffs' Ex 0075.041

SC SC1040 SOUTH CAROLINA TAX OPTIMIZATION STATEMENT 5

TAX USING I-335 REDUCED RATE COMPUTATION

1	FEDERAL TAXABLE INCOME (RESIDENTS ENTER SC1040, LINE 1 NON-RESIDENTS ENTER SCHEDULE NR, LINE 33B LESS LINE 49). . .		326,343
2	TOTAL ADDITIONS.		22,711
3	ADD LINES 1 AND 2.		349,054
4	ACTIVE TRADE OR BUSINESS INCOME.	105,496	
5	OTHER SUBTRACTIONS	18,362	
6	TOTAL SUBTRACTIONS		123,858
7	INCOME SUBJECT TO TAX (IF LESS THAN ZERO, ENTER ZERO). . . .		225,196
8	TAX FROM SOUTH CAROLINA TAX TABLES		15,316
9	ACTIVE TRADE OR BUSINESS INCOME.		105,496
10	TAX RATE ON ACTIVE TRADE OR BUSINESS INCOME.		6.00%
11	TAX ON ACTIVE TRADE OR BUSINESS INCOME (LN 9 TIMES LN 10). .		6,330
12	ADD LINES 8 AND 11		21,646

TAX NOT USING I-335 REDUCED RATE COMPUTATION

13	FEDERAL TAXABLE INCOME (RESIDENTS ENTER SC1040, LINE 1 NON-RESIDENTS ENTER SCHEDULE NR, LINE 33B LESS LINE 49). . .		326,343
14	TOTAL ADDITIONS.		22,711
15	ADD LINES 13 AND 14.		349,054
16	TOTAL SUBTRACTIONS		18,362
17	INCOME SUBJECT TO TAX (IF LESS THAN ZERO, ENTER ZERO). . . .		330,692
18	TAX FROM SOUTH CAROLINA TAX TABLES		22,700

[X] IF LINE 12 IS LESS THAN LINE 18 USE THE I-335 REDUCED RATE COMPUTATION.

[ ] IF LINE 18 IS LESS THAN OR EQUAL TO LINE 12 DO NOT USE THE I-335 REDUCED RATE COMPUTATION.

SC SC1040 STATE INCOME TAX ADJUSTMENT STATEMENT 6

WORKSHEET A

1. ITEMIZED DEDUCTIONS FROM 2007 FEDERAL FROM 1040, LINE 40. .	46,532.00
2. ENTER ALLOWABLE FEDERAL STANDARD DEDUCTION YOU WOULD HAVE BEEN ALLOWED IF YOU HAD NOT ITEMIZED. (ENTER ZERO IF MARRIED FILING SEPARATE [MFS] RETURNS -- SEE FEDERAL INSTRUCTIONS.	10,700.00
3. SUBTRACT LINE 2 FROM LINE 1. (ENTER ZERO IF LINE 2 IS GREATER THAN LINE 1	35,832.00
4. ENTER THE AMOUNT OF STATE AND LOCAL INCOME TAXES (OR GENERAL SALES TAXES) FROM LINE 5 OF FEDERAL SCHEDULE A. IF YOUR FEDERAL ITEMIZED DEDUCTIONS WERE LIMITED DUE TO YOUR ADJUSTED GROSS INCOME BEING MORE THAN $150,500 ($72,250 MARRIED FILING SEPARATE), GO TO WORKSHEET B	22,711.00
5. THE LESSOR OF LINE 3 OR LINE 4. ENTER THIS AMOUNT ON SC1040 LINE 31.	22,711.00

WORKSHEET B

1. STATE AND LOCAL INCOME TAXES (OR GENERAL SALES TAXES) FROM LINE 5 OF FEDERAL SCHEDULE A.	24,857.00
2. ENTER THE AMOUNT FROM LINE 3 OF THE ITEMIZED DEDUCTIONS WORKSHEET IN THE INSTRUCTION BOOKLET FOR FEDERAL FORM 1040.	50,929.00
3. DIVIDE LINE 1 BY LINE 2, AND ENTER THE RESULT HERE.	.4881
4. ENTER THE AMOUNT FROM LINE 11 OF THE ITEMIZED DEDUCTIONS WORKSHEET IN THE INSTRUCTION BOOKLET FOR FEDERAL FORM 1040.	4,397.00
5. MULTIPLY LINE 3 BY LINE 4, AND ENTER THE RESULT HERE. . . .	2,146.00
6. SUBTRACT LINE 5 FROM LINE 1. ENTER THIS AMOUNT ON LINE 4 OF WORKSHEET A.	22,711.00

Plaintiffs' Ex 0075.043

FORM 8582 ALLOCATION OF UNALLOWED LOSSES - WORKSHEET 5 STATEMENT 9

NAME OF ACTIVITY	FORM OR SCHEDULE	LOSS	RATIO	UNALLOWED LOSS
RENTAL - DANIEL ISLAND DRIVE	SCH E	25,893.	1.000000000	25,893.
TOTALS		25,893.	1.000000000	25,893.

FORM 8582 ALLOWED LOSSES - WORKSHEET 6 STATEMENT 10

NAME OF ACTIVITY	FORM OR SCHEDULE	LOSS	UNALLOWED LOSS	ALLOWED LOSS
RENTAL - DANIEL ISLAND DRIVE	SCH E	25,893.	25,893.	
TOTALS		25,893.	25,893.	

FORM 8582 SUMMARY OF PASSIVE ACTIVITIES STATEMENT 11

R R E A -	NAME	FORM OR SCHEDULE	GAIN/LOSS	PRIOR YEAR C/O	NET GAIN/LOSS	UNALLOWED LOSS	ALLOWED LOSS
X	RENTAL - DANIEL ISLAND DRIVE	SCH E	-20,597.	-5,296.	-25,893.	25,893.	
TOTALS			-20,597.	-5,296.	-25,893.	25,893.	

STATEMENT(S) 9, 10, 11

Plaintiffs' Ex 0075.044

Form **8879**

Department of the Treasury
Internal Revenue Service

IRS e-file Signature Authorization

▶ Do not send to the IRS. This is not a tax return.
▶ Keep this form for your records. See instructions.

OMB No. 1545-0074

2007

Declaration Control Number (DCN) ▶ 00 - 570560 - 14396 - 8

Taxpayer's name	Social security number
ORVILLE H DYCE	083 64 2427
Spouse's name	**Spouse's social security number**
JAMIE C CURLEY	573 73 4698

Part I Tax Return Information - Tax Year Ending December 31, 2007 (Whole Dollars Only)

1	Adjusted gross income (Form 1040, line 38; Form 1040A, line 22; Form 1040EZ, line 4)	1	376,274.
2	Total tax (Form 1040, line 63; Form 1040A, line 37; Form 1040EZ, line 10)	2	91,652.
3	Federal income tax withheld (Form 1040, line 64; Form 1040A, line 38; Form 1040EZ, line 7)	3	60,299.
4	Refund (Form 1040, line 74a; Form 1040A, line 44a; Form 1040EZ, line 11a; Form 1040-SS, Part I, line 12a)	4	
5	Amount you owe (Form 1040, line 76; Form 1040A, line 46; Form 1040EZ, line 12) *	5	4,113.

Part II Taxpayer Declaration and Signature Authorization (Be sure you get and keep a copy of your return)

Under penalties of perjury, I declare that I have examined a copy of my electronic individual income tax return and accompanying schedules and statements for the tax year ending December 31, 2007, and to the best of my knowledge and belief, it is true, correct, and complete. I further declare that the amounts in Part I above are the amounts from my electronic income tax return. I consent to allow my intermediate service provider, transmitter, or electronic return originator (ERO) to send my return to the IRS and to receive from the IRS (a) an acknowledgment of receipt or reason for rejection of the transmission, (b) an indication of any refund offset, (c) the reason for any delay in processing the return or refund, and (d) the date of any refund. If applicable, I authorize the U.S. Treasury and its designated Financial Agent to initiate an ACH electronic funds withdrawal (direct debit) entry to the financial institution account indicated in the tax preparation software for payment of my Federal taxes owed on this return and/or a payment of estimated tax, and the financial institution to debit the entry to this account. I further understand that this authorization may apply to future Federal tax payments that I direct to be debited through the Electronic Federal Tax Payment System (EFTPS). In order for me to initiate future payments, I request that the IRS send me a personal identification number (PIN) to access EFTPS. This authorization is to remain in full force and effect until I notify the U.S. Treasury Financial Agent to terminate the authorization. To revoke a payment, I must contact the U.S. Treasury Financial Agent at 1-888-353-4537 no later than 2 business days prior to the payment (settlement) date. I also authorize the financial institutions involved in the processing of the electronic payment of taxes to receive confidential information necessary to answer inquiries and resolve issues related to the payment. I further acknowledge that the personal identification number (PIN) below is my signature for my electronic income tax return and, if applicable, my Electronic Funds Withdrawal Consent.

*AMOUNT DUE WITH LATE PENALTIES AND INTEREST: 4,183.

Taxpayer's PIN: check one box only

[X] I authorize SHEHEEN HANCOCK & GODWIN LLP CPAS to enter or generate my PIN 6 2 4 2 7
ERO firm name — do not enter all zeros
as my signature on my tax year 2007 electronically filed income tax return.

[ ] I will enter my PIN as my signature on my tax year 2007 electronically filed income tax return. Check this box only if you are entering your own PIN and your return is filed using the Practitioner PIN method. The ERO must complete Part III below.

Your signature ▶ _____ Date ▶ 07/15/2008

Spouse's PIN: check one box only

[X] I authorize SHEHEEN HANCOCK & GODWIN LLP CPAS to enter or generate my PIN 2 4 6 9 8
ERO firm name — do not enter all zeros
as my signature on my tax year 2007 electronically filed income tax return.

[ ] I will enter my PIN as my signature on my tax year 2007 electronically filed income tax return. Check this box only if you are entering your own PIN and your return is filed using the Practitioner PIN method. The ERO must complete Part III below.

Spouse's signature ▶ _____ Date ▶ 07/15/2008

Practitioner PIN Method Returns Only - continue below

Part III Certification and Authentication - Practitioner PIN Method Only

ERO's EFIN/PIN. Enter your six-digit EFIN followed by your five-digit self-selected PIN. 5 7 0 5 6 0 9 6 1 6 4
do not enter all zeros

I certify that the above numeric entry is my PIN, which is my signature for the tax year 2007 electronically filed income tax return for the taxpayer(s) indicated above. I confirm that I am submitting this return in accordance with the requirements of the Practitioner PIN method and **Publication 1345**, Handbook for Authorized IRS *e-file* Providers of Individual Income Tax Returns.

ERO's signature ▶ AUSTIN M. SHEHEEN Date ▶ 07/15/2008

719995
01-28-08

ERO Must Retain This Form - See Instructions
Do Not Submit This Form to the IRS Unless Requested To Do So

LHA For Privacy Act and Paperwork Reduction Act Notice, see instructions. Form **8879** (2007)

Plaintiffs' Ex 0075.045

Tax Year 2007 e-file Jurat/Disclosure
for Form 1040, 1040A, or 1040EZ
using Practitioner PIN method
(with or without Electronic Funds Withdrawal)

ERO Declaration

I declare that the information contained in this electronic tax return is the information furnished to me by the taxpayer. If the taxpayer furnished me a completed tax return, I declare that the information contained in this electronic tax return is identical to that contained in the return provided by the taxpayer. If the furnished return was signed by a paid preparer, I declare I have entered the paid preparer's identifying information in the appropriate portion of this electronic return. If I am the paid preparer, under the penalties of perjury I declare that I have examined this electronic return, and to the best of my knowledge and belief, it is true, correct, and complete. This declaration is based on all information of which I have any knowledge.

ERO Signature

I am signing this Tax Return by entering my PIN below.

ERO's PIN 57056096164

(enter EFIN plus 5 self-selected numerics)

Taxpayer Declarations

Perjury Statement

Under penalties of perjury, I declare that I have examined this return, including any accompanying statements and schedules and, to the best of my knowledge and belief, it is true, correct, and complete.

Consent to Disclosure

I consent to allow my Intermediate Service Provider, transmitter, or Electronic Return Originator (ERO) to send my return/form to IRS and to receive the following information from IRS: 1) acknowledgment of receipt or reason for rejection of transmission; 2) refund offset; 3) reason for any delay in processing the return or refund; and, 4) date of any refund.

I am signing this Tax Return and Electronic Funds Withdrawal Consent, if applicable, by entering my Self-Select PIN below.

Taxpayer's PIN: 62427 Date 07152008

Spouse's PIN: 24698

7 19988
04-27-07

Plaintiffs' Ex 0075.046

1019

STATE OF SOUTH CAROLINA
DEPARTMENT OF REVENUE
INDIVIDUAL INCOME TAX DECLARATION FOR ELECTRONIC FILING

SC8453
(Rev. 11/29/07)
3299

DO NOT MAIL KEEP FOR YOUR RECORDS

Use label. Otherwise, please print or type.

Your first name and initial	ORVILLE H
Last name	DYCE
Your social security number	083 64 2427
If joint return, spouse's first name and initial	JAMIE C
Last name, if different	CURLEY
Spouse's social security number	573 73 4698
Home address (number and street, apt. number or RR)	401 WOODLAND DRIVE
Daytime telephone #	843-38-31667
Office use only	
City, town or post office, state and ZIP code	HARTSVILLE SC 29550

Part I Tax Return Information (Whole dollars only)

1. Federal taxable income Check form filed: [X] SC1040, line 1; [ ] SC1040A, line 1	1	326,343 00
2. Net SC tax (SC1040, line 15; SC1040A, line 8)	2	21,436 00
3. Use Tax	3	0 00
4. Total Tax	4	21,436 00
5. SC Income Tax Withheld (SC1040, lines 16 & 20; SC1040A, line 9)	5	18,323 00
6. Tuition Tax Credit (SC1040, line 21)	6	0 00
7. Refund (SC1040, line 30; SC1040A, line 15)	7	0 00
8. Amount you owe (SC1040, line 31; SC1040A, line 16)	8	0 00

Part II Direct Deposit of Refund or EFW Payment of Tax Due (Optional - See instructions.)

STAPLE COPIES OF STATE W-2(s) and 1099(s) HERE

9. Routing transit number (RTN) [ ][ ][ ][ ][ ][ ][ ][ ][ ] **The first two numbers of the RTN must be 01 through 12 or 21 through 32.**

10. Bank account number (BAN) [ ][ ][ ][ ][ ][ ][ ][ ][ ][ ][ ][ ][ ][ ][ ][ ]

11. Type of account: [ ] Checking [ ] Savings

12. Withdrawal Date _____ Withdrawal Amount $_____

Part III Declaration of Taxpayer (Sign only after Part I is completed.)

13. [ ] a. I consent that my refund be directly deposited as designated in Part II, and declare that the information shown on lines 1 through 8 is correct. If I have filed a joint return, this is an irrevocable appointment of the other spouse as an agent to receive the refund.

[X] b. I do not want direct deposit of my refund or am not receiving a refund.

[ ] c. I authorize (1) the South Carolina Department of Revenue and its designated financial agents to initiate an Electronic Funds Withdrawal (payment) entry to my financial institution account designated in Part II for payment of my South Carolina taxes owed, and (2) my financial institution to debit the entry to my account. I also authorize the financial institutions involved in the processing of my electronic payment of taxes to receive confidential information necessary to answer inquiries and resolve issues related to my payment. Under the items of this authorization, I can revoke this authorization by notifying the South Carolina Department of Revenue no later than two business days prior to the withdrawal (settlement) date by calling 803-898-1715.

If I have filed a balance due return, I understand that if the SC Department of Revenue does not receive full and timely payment of my tax liability, I will remain liable for the tax liability and all applicable interest and penalties.

I declare that I have compared the information (including direct deposit or EFW data) on my return with the information I have provided to my electronic return originator (ERO) and the amounts agree with the amounts on my SC tax return. To the best of my knowledge, my return is true and complete. I consent that my return and accompanying schedules and statements be sent to the Internal Revenue Service (IRS) by my ERO, and subsequently by the IRS to the SC Department of Revenue. I understand that EROs and taxpayers filing on line should not submit this form to the SC Department of Revenue, but should retain it and supporting documents for three (3) years.

Sign Here ▶ Your signature _____ Date _____ ▶ Spouse's signature (If joint, BOTH must sign) _____ Date _____

Part IV Declaration of Electronic Return Originator (ERO) and Paid Preparer (See Instructions.)

I declare that I have received the above taxpayer's return and the entries on this form are complete and correct to the best of my knowledge. I have obtained the taxpayer's signature on this form before submitting this return to the SC Department of Revenue. I have provided the taxpayer with a copy of all forms and information to be filed with the IRS and the SC Department of Revenue, and have followed all other requirements described in the IRS Pub. 1345 Authorized IRS e-file Providers of Individual Income Tax Returns, and requirements specified by the SC Department of Revenue. If I am the preparer, I declare that I have examined the above taxpayer's return and accompanying schedules and statements, and to the best of my knowledge, they are true and complete. This declaration is based on all information of which I have knowledge. I understand I do not mail this form. I am required to keep this form and the supporting documents for three (3) years.

ERO's Use Only

ERO signature ▶ AUSTIN M. SHEHEEN	Date 07/15/08	Check if also paid preparer [X]	Check if self-employed [ ]	Your social security number P00186164	
Firm name (or yours if self-employed) and address ▶ SHEHEEN HANCOCK & GODWIN LLP CPAS				E.I. No. 57-0522539	
PO DRAWER 428 CAMDEN, SC				ZIP code 29021	

Paid Preparer's Use Only

Preparer signature ▶	Date	Check if self-employed [ ]	Preparer's social security no.
Firm name (or yours if self-employed) and address ▶		E.I. No.	
		ZIP code	

777051/02-13-08

2613

Plaintiffs' Ex 0075.047