

STATE OF SOUTH CAROLINA
 COUNTY OF WILLIAMSBURG
 IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

CASE NO. 2010 CP-45-00399

Estate of Joseph S. Smith, a/ka J.S. Smith, Jr

Patrick S. Smith, et al

PLAINTIFF(S)

DEFENDANT(S)

Submitted by: William M. O'Bryan, Jr.

Attorney for : Plaintiff Defendant
 or
 Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

- JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered. See Page 2 for additional information.
- ACTION DISMISSED (CHECK REASON):** Rule 12(b), SCRPC; Rule 41(a) SCRPC (Vol. Nonsuit); Rule 43(k), SCRPC (Settled); Other
- ACTION STRICKEN (CHECK REASON):** Rule 40(j), SCRPC; Bankruptcy; Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; Other
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
 Affirmed; Reversed; Remanded; Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: See attached order (formal order to follow) Statement of Judgment by the Court:

ORDER INFORMATION

This order ends does not end the case.

Additional Information for the Clerk :

INFORMATION FOR THE JUDGMENT INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)
N/A		\$
		\$
		\$

If applicable, describe the property, including tax map information and address, referenced in the order:
 TMS#45-331-003

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. Note: Title abstractors and researchers should refer to the official court order for judgment details.

Haig Porter
 Special Referee

Judge Code _____ Date Nov. 1, 2016

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A CERTIFIED TRUE COPY
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WILLIAMS COUNTY
CLERK OF COURT
KINGSBEE, S.C.

<p>STATE OF SOUTH CAROLINA</p> <p>COUNTY OF WILLIAMSBURG</p> <p>Estate of Joseph S. Smith, a/ka J.S. Smith, Jr., by its Personal Representative, Geneva S. Hall, and Joseph Keith Ray,</p> <p style="text-align: center;">Plaintiffs,</p> <p style="text-align: center;">vs.</p> <p>Patrick S. Smith, Sandra B. Smith, Thomas Lewis Smith, Elizabeth S. Kappeler, Gloria Darlene Hall Smith, Courtney Elizabeth Smith, Tiffany Elaine Smith, Joseph Sampson Smith, IV, Charles Richard Ray, Jr., John Doe and Jane Doe, the latter two Parties being fictitious names used to Designate any and all unknown heirs, Heirs-at-law, devisees, distributes, descendants, legatees, personal representatives, next of kin, creditors and/or lien creditors of the late Joseph S. Smith a/k/a J.S. Smith, Jr., the late Joseph (Joey) S. Smith a/k/a Joseph S. Smith, III, Richard Roe and Mary Roe, being fictitious names used to designate any and all infants, minors, incompetents, persons in prison, or under legal disability, unborn, including persons protected under the <u>Soldiers and Sailors Relief Act</u> and /or persons or entities whomever or whatsoever claiming any right, title or interest in the real estate described in the Complaint and Lis Pendens of this action,</p> <p style="text-align: center;">Defendants.</p>	<p>IN THE COURT OF COMMON PLEAS OF THE THIRD JUDICIAL CIRCUIT</p> <p style="text-align: center;">CASE NO.: 2010-CP-45-3</p> <p style="text-align: center;">ORDER AUTHORIZING PARTITION AND PUBLIC SALE</p> <p style="text-align: right;">2016 NOV -2 PH 2:26 FILED CLERK OF COURT KINGSBEE, S.C.</p>
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PRESIDING JUDGE:	W. Haigh Porter
DATE OF HEARING:	May 16, 2016
TIME OF HEARING:	9:30 A.M.
PLACE OF HEARING:	509 South Dargan Street, Florence, SC 29506
COURT REPORTER:	Andrea R. Kelly
APPEARANCES	
FOR PLAINTIFF:	William M. O'Bryan, Jr., Gregory B. Askins
FOR DEFENDANT:	Steven S. McKenzie
GUARDIAN AD LITEM	Elbert K. Turbeville

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SC Court of Appeals

Handwritten initials: H/ NP

PROCEDURAL HISTORY

1. Lis Pendens Filed September 30, 2010; Amended Filed June 14, 2011
2. Summons Filed September 30, 2010; Amended Filed June 14, 2011
3. Complaint Filed September 30, 2010; Amended Filed June 14, 2011

5. Summons, Answer, Counterclaim and Cross-Claim Filed by Patrick S. Smith and Sandra B. Smith August 15, 2011
6. Answer to Amended Complaint, Counterclaim and Cross-Complaint Filed by Elizabeth S. Kappeler September 21, 2011.
7. Answer to Counterclaim and Crossclaim of Patrick S. Smith and Sandra B. Smith Filed October 28, 2011.
8. Proof of Service by Certified Mail, Restricted Delivery of Tiffany Smith, Thomas Smith, Elizabeth Kappeler, Gloria Darlene Hall Smith, and Joseph S. Smith, IV Filed March 5, 2012.
9. Acknowledgement and Acceptance of Service and Stipulation to Consent to Reference Filed by Joseph S. Smith, IV; Gloria Darlene Hall Smith and Tiffany Elaine Smith Filed March 5, 2012.
10. Acknowledgement and Acceptance of Service and Stipulation to Consent to Reference Filed by Charles Richard Ray March 27, 2012.
11. Acknowledgement and Acceptance of Service and Stipulation to Consent to Reference Filed by Courtney Elizabeth Smith April 16, 2012.
12. Motion and Order for Appointment of Guardian ad Litem Nisi Filed May 24, 2012.
14. Consent Order for Continuance (death of Geneva S. Hall) Filed November 14, 2013.
15. Order of Protection for William M. O'Bryan, Jr. (for week of July21-25, 2014) Filed July 3, 2014.
16. Motion, Affidavit, Order for Publication Summons and Notice of Filing Filed October 8, 2014.
17. Motion by W. E. Jenkinson, III to be Relieved as counsel for Patrick S. Smith and Sandra B. Smith Filed October 8, 2014.
18. Notice of Appearance received via facsimile from Steven S. McKenzie, counsel for Sandra B. Smith received October 30, 2014.
19. Affidavit of Publication Filed November 7, 2014.
20. Consent Order of Reference Filed May 28, 2015
21. Notice of Motion and Motion of William M. O'Bryan, Jr. to be Relieved as Counsel for Estate of Joseph S. Smith Filed August 3, 2015.
22. Order Relieving William M. O'Bryan, Jr as Counsel for Estate of Joseph S. Smith filed November 4, 2015.
23. Notice of Hearing Filed April 13, 2016.
24. Notice of Appearance of Gregory B. Askins as co-counsel for Plaintiff, Joseph Keith Ray, Filed April 27, 2016.
25. Affidavit of Default of Thomas Lewis Smith, Gloria Darlene Hall Smith, Courtney Elizabeth Smith, Tiffany Elaine Smith, Joseph Sampson Smith, IV, Charles Richard Ray, Jr., John Doe, Jane Doe, Richard Roe and Mary Roe Filed May 3, 2016.

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STATEMENT OF THE CASE

This matter was commenced for the partition of an approximately 185.5 acre tract of land located in Williamsburg County, originally owned by J.S. Smith, a/k/a Joseph S. Smith, Sr. A final hearing was held May 16, 2016, before the undersigned pursuant to an Order of Reference dated May 25, 2015. Present at the hearing were the Plaintiff, Thomas Smith, Personal Representative of the Estate of Joseph S. Smith, a/k/a J.S. Smith, Jr. (*Pro Se*); the Plaintiff, Joseph Keith Ray and his attorneys, William M. O'Bryan, Jr. and Gregory B. Askins; the Defendant, Patrick S. Smith and his attorney, Steven S. McKenzie. Also present were the Defendant, Charles Richard Ray; the Defendants Joseph Sampson Smith IV, Tiffany Elaine Smith, and Courtney Elizabeth Smith, three children of the deceased Joseph S. Smith, III; two children of the deceased Plaintiff, Geneva Hall; and witnesses, Kevin Wilson, a licensed land surveyor, and Charles O'Quinn, a licensed forester and land surveyor. A life estate in the property which is the subject of this action was devised to Joseph S. Smith, Jr. by Will of his father, J.S. Smith, a/k/a Joseph S. Smith, Sr., dated February 16, 1939, and recorded in Office of the Judge of Probate for Williamsburg County in Compartment 129, Package 20. Pursuant to the terms of the Will, the property was to be vested in the children of or the child or children of a deceased child of Joseph S. Smith, Jr. upon his death. J.S. Smith, Jr. died May 4, 2008 and this controversy arose regarding the ownership of the property and a division among the owners.

Prior to receiving any testimony the parties entered into a lengthy discussion and certain issues were resolved by stipulation as follows:

1. Joseph S. Smith, Jr. had 5 biological children: Patrick S. Smith, Thomas Lewis Smith, Elizabeth S. Kappeler, Joseph S. Smith III "Joey" and Geneva S. Hall as well as 2 adopted children; Joseph Keith Ray and Charles Richard Ray.
2. Joseph S. Smith, Jr. conveyed his life estate interest in said property to Patrick S. Smith, Geneva S. Hall, Joey S. Smith a.k.a J.S. Smith III, Thomas Lewis Smith, Libby S. Kappeler a.k.a Elizabeth S. Kappeler by deed dated January 23, 1991 and recorded in Williamsburg County Clerk's Office in Book A-277 at Page 119.
3. Geneva S. Hall conveyed her fractional interest in the property to Patrick S. Smith by deed dated November 22, 1999 and recorded in said Clerk's Office in Deed Book A-450 at Page 132.
4. Patrick S. Smith conveyed his undivided interest in said property to Sandra B. Smith by deed dated July 20, 2001 and recorded in Deed Book A-485 at Page 236.
5. Elizabeth Kappeler conveyed her fractional interest in the property to Joseph S. Smith, Jr. by Deed dated January 29, 2004 and recorded in Williamsburg County in Deed Book A-545 at 226.
6. Thomas Lewis Smith conveyed his undivided interest in the property to Joseph S. Smith, Jr. by Deed dated February 9, 2004 and recorded in Williamsburg County in Deed Book A-546 at Page 99.

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7. Joseph S. "Joey Smith III" died on or about October 23, 2000 prior to his father, leaving his wife, Gloria Darlene Hall Smith, and children; Joseph Sampson Smith IV, Tiffany Elaine Smith, and Courtney Elizabeth Smith.
8. Gloria D. Hall Smith conveyed any interest that she had in the subject property to Patrick S. Smith by Deed dated December 2006 and recorded in Williamsburg County Deed Book A-615 at Page 211. Under the terms of the Will of J.S. Smith, Sr. provided that should any children of J.S. Smith, Jr. predecease him than their share will go to their children or issue. As Joseph S. Smith III, predeceased his father, his remainder interest in the property went to his children: Joseph S. Smith IV, Courtney Elizabeth Smith, Tiffany Elaine Smith and Gloria Darlene Hall Smith is not a lineal descendant of J.S. Smith, Jr.
9. J.S. Smith, Jr. died May 4, 2008 prepared a Will dated February 25, 2005 and Codicils dated June 1, 2007 and September 20, 2007 in which he devised his interest that he had repurchased to Joseph Keith Ray. The Wills and Codicils of J.S. Smith, Jr. were admitted to Probate in Kershaw County as Estate file 2008-ES-28-238. The only claims filed against the estate were claim filed on behalf of Ford Motor Credit.
10. Sandra B. Smith re conveyed the interest previously conveyed to her by Patrick Steve Smith by Deed dated August 15, 2011 and recorded in Williamsburg County in Deed Book 212 at 281.
11. Joseph S. Smith, Jr. married Sybil Smith, the mother of Charles Richard Ray, Jr. and Joseph Keith Ray and adopted both.
12. James J. Dukes had rented the J.S. Smith farm for many years and paid the rent to J.S. Smith, Jr. during his life time. The farm rent for the years 2008-2014 were paid to Patrick Steve Smith in the amount of \$1,375 per year. The rent for 2015 year was paid at the request of Pat Smith as per James J. Dukes and confirmed with Steve McKenzie as Attorney for Pat Smith to O'Bryan & O'Bryan Attorneys for deposit in the Trust Account.

Prior to receiving testimony, the Plaintiffs submitted seventeen (17) exhibits consisting of prior deeds in the chain of title, copies of estate proceedings; a GSI map for the property, sketches of a proposed land division which were received and admitted into evidence without objection.

Various conveyances of the life estate and remainder interests were made, more particularly:

1. Deed from Joseph S. Smith a/k/a J.S. Smith, Jr. conveying his interest in the subject property to Patrick S. Smith, Geneva S. Hall, Joey S. Smith, Thomas Lewis Smith, Libby S. Kappler dated January 23, 1991 recorded in Williamsburg County Deed Book A277 at Page 119. (Exhibit 3)
2. Deed from Geneva S. Hall to Patrick S. Smith dated November 22, 1999, and recorded January 5, 2000, in Williamsburg County Deed Book A-450 at Page 132, conveying interest in subject property. (Exhibit 4)
3. Deed from Patrick S. Smith to Sandra B. Smith dated July 20, 2001, and recorded July 23, 2001, in Williamsburg County Deed Book A-485 at Page 236, conveying interest in subject property. (Exhibit 5)
4. Deed from Elizabeth S. Kappler to Joseph S. Smith a/k/a Joseph S. Smith, Jr. dated January 29, 2004, and recorded January 29, 2004, in Williamsburg County Deed Book A-545 at Page 226, conveying interest in subject property. (Exhibit 6)

5. Deed from Thomas Lewis Smith to Joseph S. Smith a/k/a Joseph S. Smith, Jr. dated February 9, 2004, and recorded February 9, 2004, in Williamsburg County Deed Book A-546 at Page 99, conveying interest in subject property. (Exhibit 7)

6. Deed from Gloria Darlene Hall Smith to Patrick S. Smith dated December 1, 2006, and recorded in Williamsburg County Deed Book A-615 at Page 211. (Exhibit 8)

7. Devise to Joseph Keith Ray in the Last Will and Testament of Joseph S. Smith, a/k/a J.S. Smith, Jr., dated February 25, 2005, with Codicils dated June 1, 2007 and September 20, 2007, recorded in Kershaw County Probate Court Case Number 2008-ES-28-238, devising interest in the property. (Exhibit 9)

8. Deed from Sandra B. Smith to Patrick Steve Smith re-conveying interest in property dated and recorded August 15, 2011, in Williamsburg County Deed Book 212 at Page 281. (Exhibit 10)

At trial, testimony was received from Kevin Wilson, a licensed surveyor, who was qualified as an expert witness. Mr. Wilson testified that he had inspected the property, which is a fairly narrow, rectangular tract with approximately 1200 feet of frontage on the highway, running back in depth approximately a mile, consisting of a mixture of cleared and wooded land. Mr. Wilson prepared a sketch of a proposed division of the land into four tracts (Exhibit 16), with the division lines running parallel to the highway and an access easement running along the western line for access to the properties with no highway frontage. Mr. Wilson reviewed a second map (Exhibit 17), a survey by Kemp Ahrens completed May 28, 1997, which appears to be annotated to show division lines for the property into five tracts with the division lines running perpendicular to the public highway. Mr. Wilson testified that this would only give about 170 feet of frontage on the highway for each tract; it could make access to the rear portions of the property difficult because of wetlands; and, the one share proposed to be owned by three individuals would be almost impossible to divide between the three.

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Testimony was also received from Charles O'Quinn, a professional registered forester and licensed land surveyor who was qualified as an expert. Mr. O'Quinn testified that he had inspected the property with the idea of establishing a value of the timber and finding a market for its sale. He found that the timber consists of primarily small hardwood with an estimated market value of \$40,000.00 at current prices and made a recommendation as to how the timber could be marketed and sold. Mr. O'Quinn further testified in response to questions from the Court that the rear of the property contained a pond and other wetlands and would not be suitable for any type of development but would be limited primarily to use for hunting.

The Court noted its great concern for future disagreements between the owners when properties have to be accessed over or through each other by way of easement and when sharing the considerable

expense of constructing and properly maintaining an easement; furthermore, the difficulty in fairly dividing the land, given its wetland nature in the rear portions of the property, was also of great concern to the Court.

After careful consideration, the Court recessed, instructing the parties to submit briefs to support their vastly different opinions regarding a fair and equitable partition of the property as well as Affidavits for Attorney's Fees and Cost.

FINDINGS OF FACT

Based on the testimony, the evidence received, and the briefs filed by the attorneys, I make the following findings:

1. This Court has jurisdiction of the parties and the subject matter
2. All parties have been properly served
3. All parties have been properly notified of the hearing
4. The Plaintiffs and Defendants are fee simple owners and tenants in common of the property described herein in the following fractional shares:
 - a. Joseph Keith Ray 3/7
 - b. Patrick S. Smith 2/7
 - c. Children of Joseph S. (Joey) Smith, III 1/7
[Joseph Sampson Smith, IV, Tiffany Elaine Smith & Courtney Elizabeth Smith]
 - d. Charles Richard Ray 1/7
5. I find the property cannot be fairly divided in kind without manifest injury to one or more parties. Foremost, the proposed division requested by the Plaintiffs would require each property owner, except the owner of property fronting on the highway, to access their property by crossing over or through land of another owner and the very real possibility of disputes from a blocking of access or other disputes regarding the costs of constructing and maintaining of an easement. Additionally, based on the testimony of the forester, it appears that the rear portion of the property is comprised almost entirely of wetlands with little to no potential for development, and would not be equal in value to the higher woodlands or cleared land, making a division in kind based strictly on acreage inequitable. Lastly, the approach recommended by Defendant, Patrick Smith, would create long narrow strips of land whereby access roads would have to be created for each tract; possibly making rear of the tracts inaccessible and, in effect, creating a "bowling alley" effect that would negatively impact the use and value of the individual properties and virtually preclude any further division in the case of multiple owners.
6. I find that the property should be sold at public auction as a whole and the proceeds of sale after payment of costs of this action be divided among the owners in proportion to their interest.

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7. I find that Patrick Smith has received farm rent in the amount of One thousand three hundred seventy-five and no/100 (\$1375.00) Dollars per year for the years 2008 to 2014 and 2016, inclusive, and paid the Williamsburg County taxes for the years 2008 through 2015 from those amounts. Farm rent for the year 2015 in the amount of One thousand three hundred seventy-five and no/100 (\$1375.00) Dollars is being held by O'Bryan & O'Bryan in its trust account. These funds will be paid over to the Special Referee to be added to the proceeds of the sale of the property and then divided among the owners after costs are deducted in proportion to their interest.

8. The Plaintiff, Joseph Keith Ray's attorneys have submitted an Affidavit for attorney's fees and costs incurred in the prosecution of this action. I find this to have been a very complicated action, not only with the division of land, but also with the issues affecting from determining of the time of vesting of the remainder interest; ownership due to purchases of fractional interests in the property by Mr. J.S. Smith, Jr. during his lifetime from his children and his subsequent devise of these interest under his Will to Joseph Keith Ray. I find that the cost incurred for legal research and expert witnesses (surveyor and forester) were absolutely essential to the resolution of this case. I find that the sum of Eighteen thousand seven hundred fifty and 00/100 (\$18,750.00) Dollars is an appropriate fee to be paid for the Plaintiff's attorneys, in addition to costs in the amount of Five thousand two hundred sixteen and 19/100 (\$5,216.19) Dollars, which include the expert witnesses' fees and Court Reporter's charges.

9. I find that the Guardian *ad Litem*, Elbert K. Turbeville, has represented the interests of all unknown or unascertained Defendants, or those persons suffering under minority or other disability, and that the sum of Seven hundred fifty and 00/100 (\$750.00) Dollars is an appropriate amount to be paid to him as Guardian *ad Litem*.

10. I find the Special Referee shall be paid a fee of Two Thousand Nine Hundred seventy and 00/100 (\$2,970.00) Dollars from the proceeds of sale.

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11. The Defendant, Patrick Steve Smith's attorney, Steve McKenzie has submitted an Affidavit for attorney's fees and costs incurred in the defense of this action in the amount of Twelve thousand five hundred and no/100 (\$12,500.00) Dollars. I find that Mr. McKenzie came into this case late, and after Patrick Smith's previous attorney filed a Motion to be Relieved as opposed to being involved from the outset of the case, that Patrick Smith's contentions that only a life estate interest was owned by J.S. Smith, Jr. at the time of his death or that an enforceable agreement invalidating transfers existed amongst the five biological children of J.S. Smith, Jr. were unfounded. I find that the sum of Five Thousand and 00/100 (\$5,000.00) Dollars is an appropriate amount to be paid to him.

12. I find that these fees and costs are properly chargeable to the property as a whole pursuant to Rule 71(d)(3), South Carolina Rules of Civil Procedure, and shall be assessed and apportioned among the owners of the property in proportion to their respective interest

13. I find the net farm rent held by Patrick Smith in the amount of One thousand three hundred seventy-five and no/100 (\$1375.00) Dollars per year for the years 2008 to 2014 and 2016, inclusive, after deduction for the payment of Williamsburg County taxes for the years 2008 through 2015, and the Farm rent for the year 2015 in the amount of One thousand three hundred seventy-five and no/100 (\$1375.00) Dollars currently in the trust account of O'Bryan & O'Bryan will be paid over to the Special Referee to be added to the proceeds of the sale of the property within ___ days from the effective date of this order.

NOW, THEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED

- A. That the property, which is the subject of this action, shall be sold at public auction conducted by the undersigned after duly advertising the above described premises for sale according to law and the customs of this Court, which sale which will be in front of the Williamsburg County Courthouse on Main Street in Kingstree, SC to the highest bidder on the sales day of December 5, 2016 at 11:00 o'clock A.M., or at some subsequent sales day.
- B. The bidding shall be closed on the day of the sale and, upon compliance by the purchaser with the terms of the sale, the undersigned will execute to the purchaser or purchasers, a deed for the premise so sold.
- C. The undersigned shall give the usual legal notices of time, place, terms of sale, and in conducting said sale, shall require the highest bidder at sale to make deposit of cash or cashier's check or certified funds immediately after the sale, an amount equal to five (5%) percent of the bid as earnest money or in evidence as good faith in the bidding, such deposit to be applied upon the bid should there be compliance with the same.
- D. If the purchaser fails to comply with the terms of the said sale within twenty (20) days, the premises shall be resold on some subsequent day without further order of the Court on the same terms and conditions at the risk of the former successive bidder or bidders and shall be sold from time to time thereafter until compliance shall be secured; and any deposit made previously, directed, shall be retained by the undersigned, after deducting the expenses, and shall be placed in the fund to be used to first pay all costs, attorney fees, and reimbursements as directed hereinabove and thereafter to be divided between the parties as other net proceeds.
- E. The net farm rent held by Patrick Smith in the amount of One thousand three hundred seventy-five and no/100 (\$1375.00) Dollars per year for the years 2008 to 2014, inclusive, after deduction for the payment of Williamsburg County taxes for the years 2008 through 2015, and the Farm rent for the year 2015 in the amount of One thousand three hundred seventy-five and no/100 (\$1375.00) Dollars held by O'Bryan & O'Bryan

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in its trust account will be paid over to the Special Referee within 30 days from the effective date of this order to be added to the proceeds of the sale of the property

F. That the proceeds of the sale shall be applied as follows:

To the payment of all costs and disbursements of this action, including expenses of sale, attorney's fees, Special Referee's fee, court reporter's fee, payment of real property taxes, which may now be due and constitute a lien on the property, or payment to prevent such a tax sale, all as set forth hereinabove

G. The remaining proceeds together, with the proceeds from the rental of the farm, shall be disbursed to the fee simple owners and tenants in common according to the fractional interests set forth above.

I. Upon tender of the sales price, the Special Referee shall execute a deed to the purchaser, or his designee. The property which is to be conveyed is described as follows:

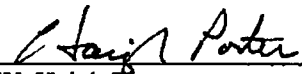
All that certain piece, parcel or tract of land situate in Turkey Township, County of Williamsburg, State of South Carolina, containing One Hundred Eighty-five and five tenths (185.5) acres, more or less, and being bounded as follows: On the North by SC Highway 527; on the Northeast by lands of Nathene S. Nesmith; on the Southeast by lands of Fulton B. Creech, Jr., and John S. Creech; and on the Southwest by lands of Thomas Emory Smith, *et al*

Being the premises devised to Joseph S. Smith, Jr. by Will of his father, J.S. Smith, a/k/a Joseph S. Smith, Sr., dated February 16, 1939, and recorded in Office of the Judge of Probate for Williamsburg County in Compartment 129, Package 20.

TMS Map No. 45-331-003

J. The Plaintiffs and all Defendants and all persons whomsoever claiming under them, shall be and are forever barred and foreclosed of all right, title and interest and equity and redemption in the premises partitioned and sold hereunder or any part thereto.

K. The undersigned will retain jurisdiction to do all necessary acts incident to this partition.



W. Haigh Porter
Special Referee

November 1, 2016
Florence, South Carolina

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