

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

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APPEAL FROM YORK COUNTY  
Court of Common Pleas  
S. Jackson Kimball, Circuit Court Judge

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C.A. Nos: 2013-CP-46-00438; 2013-CP-46-00440  
Appellate Case No: 2016-001272

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**RECEIVED**

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**SC Court of Appeals**

Robert Clay Sparrow and Mickey Crowe..... Respondents,

v.

Fort Mill Holdings, LLC, David Baucom and Maurer Holdings,  
LLC..... Appellants.

---

**RECORD ON APPEAL**

**VOLUME I**

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January 10, 2017

## INDEX

### I. ORDERS

|                                                                          |   |
|--------------------------------------------------------------------------|---|
| Order for Judgment filed March 30, 2016 .....                            | 1 |
| Order Denying Motion to Alter or Amend Judgment filed May 23, 2016 ..... | 6 |

### II. PLEADINGS

|                                                                                                                      |     |
|----------------------------------------------------------------------------------------------------------------------|-----|
| Summons and Complaint (2013-CP-46-00438) filed February 8, 2013 .....                                                | 10  |
| Summons and Complaint (2013-CP-46-00440) filed February 8, 2013 .....                                                | 42  |
| Motion to Dismiss of Baucom, Answer and Counterclaims of Defendants<br>(2013-CP-46-00438) filed March 29, 2013 ..... | 79  |
| Motion to Dismiss of Baucom, Answer and Counterclaim of Defendants<br>(2013-CP-46-00440) filed March 29, 2013 .....  | 88  |
| Reply (2013-CP-46-00438) filed May 28, 2013 .....                                                                    | 97  |
| Reply (2013-CP-46-00440) filed May 28, 2013 .....                                                                    | 100 |
| Amended Reply (2013-CP-46-00438) filed August 5, 2013 .....                                                          | 103 |
| Amended Reply (2013-CP-46-00440) filed August 5, 2013 .....                                                          | 108 |

### III. TRANSCRIPTS

|                                                 |     |
|-------------------------------------------------|-----|
| Transcript of Record dated March 24, 2016 ..... | 113 |
| Transcript of Record dated May 10, 2016 .....   | 137 |

### IV. OTHER MATERIALS

#### A. Motions & Memoranda

|                                                                                                                             |     |
|-----------------------------------------------------------------------------------------------------------------------------|-----|
| Motion to Compel Settlement filed December 22, 2015 .....                                                                   | 155 |
| Defendants' Motion to Alter or Amend Judgment Pursuant to Rule 59(e)<br>SCRCF (2013-CP-46-00438) filed April 12, 2016 ..... | 161 |
| Defendants' Motion to Alter or Amend Judgment Pursuant to Rule 59(e)<br>SCRCF (2013-CP-46-00440) filed April 12, 2016 ..... | 169 |

|                                                                                                                               |     |
|-------------------------------------------------------------------------------------------------------------------------------|-----|
| Memorandum in Opposition to Plaintiffs' Motion to Compel Settlement<br>(C.A. No. 2013-CP-46-00438) filed March 30, 2016 ..... | 177 |
|-------------------------------------------------------------------------------------------------------------------------------|-----|

|                                                                                                                               |     |
|-------------------------------------------------------------------------------------------------------------------------------|-----|
| Memorandum in Opposition to Plaintiffs' Motion to Compel Settlement<br>(C.A. No. 2013-CP-46-00440) filed March 30, 2016 ..... | 233 |
|-------------------------------------------------------------------------------------------------------------------------------|-----|

|                                                                                                                                                     |     |
|-----------------------------------------------------------------------------------------------------------------------------------------------------|-----|
| Joint Memorandum in Support of Plaintiffs' Motion to Compel Settlement<br>(C.A. No.: 2013-CP-46-00438 & 2013-CP-46-00440) filed April 1, 2016 ..... | 286 |
|-----------------------------------------------------------------------------------------------------------------------------------------------------|-----|

## **B. Notice of Appeal**

|                                                                |     |
|----------------------------------------------------------------|-----|
| Appellants' Amended Notice of Appeal filed June 21, 2016 ..... | 397 |
|----------------------------------------------------------------|-----|

## **C. Affidavits**

|                                                                         |     |
|-------------------------------------------------------------------------|-----|
| Affidavit of David Baucom (2013-CP-46-00438) filed March 30, 2016 ..... | 399 |
|-------------------------------------------------------------------------|-----|

|                                                                        |     |
|------------------------------------------------------------------------|-----|
| Affidavit of Tracy Goins (2013-CP-46-00438) filed March 30, 2016 ..... | 422 |
|------------------------------------------------------------------------|-----|

|                                                                         |     |
|-------------------------------------------------------------------------|-----|
| Affidavit of David Baucom (2013-CP-46-00440) filed March 30, 2016 ..... | 443 |
|-------------------------------------------------------------------------|-----|

|                                                                         |     |
|-------------------------------------------------------------------------|-----|
| Affidavit of Tracy Goins (2013-CP-46-004440) filed March 30, 2016 ..... | 463 |
|-------------------------------------------------------------------------|-----|

|                                                             |     |
|-------------------------------------------------------------|-----|
| Affidavit of G. Franklin Pendleton, II March 16, 2016 ..... | 484 |
|-------------------------------------------------------------|-----|

## **D. Other**

|                                                    |     |
|----------------------------------------------------|-----|
| Settlement Agreement, signed October 7, 2014 ..... | 486 |
|----------------------------------------------------|-----|

|                                                                         |     |
|-------------------------------------------------------------------------|-----|
| Assignment of Mortgages signed by Mickey Crowe on October 1, 2014 ..... | 490 |
|-------------------------------------------------------------------------|-----|

|                                                                                                                                              |     |
|----------------------------------------------------------------------------------------------------------------------------------------------|-----|
| Promissory Note 1 and Mortgage recorded December 30, 2011, in Record<br>Book 12360, p. 239, RMC Office for York County, South Carolina ..... | 494 |
|----------------------------------------------------------------------------------------------------------------------------------------------|-----|

|                                                                                                                                              |     |
|----------------------------------------------------------------------------------------------------------------------------------------------|-----|
| Promissory Note 2 and Mortgage recorded December 30, 2011, in Record<br>Book 12360, p. 230, RMC Office for York County, South Carolina ..... | 501 |
|----------------------------------------------------------------------------------------------------------------------------------------------|-----|

## **E. Certificate of Counsel**

|                   |     |
|-------------------|-----|
| Certificate ..... | 508 |
|-------------------|-----|

STATE OF SOUTH CAROLINA )  
COUNTY OF YORK )

Robert Clay Sparrow and  
Mickey Crowe,  
Plaintiffs,

v.

Fort Mill Holdings, LLC, and  
David Baucom,

Defendants.

IN THE COURT OF COMMON PLEAS  
SIXTEENTH JUDICIAL CIRCUIT

Case No. 2013-CP-46-00438

ORDER FOR  
JUDGMENT

FILED-RECEIVED  
2016 MAR 30 AM 8:52  
DAVID HAMILTON  
C.C.P. & GS  
YORK COUNTY, SC

STATE OF SOUTH CAROLINA )  
COUNTY OF YORK )

Robert Clay Sparrow and  
Mickey Crowe,  
Plaintiffs,

v.

Maurer Holdings, LLC, and  
David Baucom,

Defendants.

IN THE COURT OF COMMON PLEAS  
SIXTEENTH JUDICIAL CIRCUIT

Case No. 2013-CP-46-00440

ORDER FOR  
JUDGMENT

This matter came before me on March 24, 2016, upon Plaintiffs' Motion to Compel enforcement of the terms of a written settlement agreement reached between the parties in these two actions during mediation pursuant to the South Carolina Rules for Alternative Dispute Resolution ("ADR Rules"). Plaintiffs were represented by James M. Griffin, and Defendants were represented by Paul S. Landis. After considering the arguments of counsel, briefs of the parties and the record in this matter, I make the following findings and conclusions.

#### **BACKGROUND**

On December 1, 2011, Plaintiffs sold separate parcels of land to the Defendants. Defendant Fort Mill Holdings, LLC ("Fort Mill"), executed a promissory note to Plaintiffs in the sum of \$907,300.00 in exchange for certain property secured by the purchase money mortgage duly recorded December 30, 2011, in the RMC Office for York County ("Note 1"). Defendant Maurer Holdings, LLC ("Maurer"), executed a promissory note to Plaintiffs in the sum of

*[Handwritten signature]*  
\$1



\$284,500.00 in exchange for certain property secured by the purchase money mortgage duly recorded December 30, 2011, in the RMC Office for York County ("Note 2"). Defendant David Baucom ("Baucom") executed Note 1 and Note 2 (the "Notes") as guarantor. The sum of the Notes bore an interest rate of 7% per annum until paid, or until default. In the event of default, the Notes accrued interest at a rate of 15% per annum until paid.

Beginning in June, 2012, Defendants did not make timely and full payments due under the Notes, and were therefore in default. As a result, Plaintiffs notified Defendants Fort Mill and Maurer ("Corporate Defendants") of Plaintiffs' election to demand immediate payment of the principal amount remaining on the Notes, with applicable interest.

As a result of Defendants' failure to pay the Notes, Plaintiffs filed these actions on February 8, 2013, seeking judgment against Defendants and foreclosure of the mortgages in the amounts due and owing under the Notes, together with taxes and insurance premiums, and costs and attorneys fees. In response, Defendants filed a Motion to Dismiss Defendant Baucom, and Answers and Counterclaims in both actions. Prior to these actions coming to trial, all parties and their counsel participated in mediation on October 7, 2014, pursuant to the ADR Rules. This resulted in an agreement to settle all parties' then pending claims. The terms of the settlement were reduced to writing and signed by all parties and their counsel.

Pursuant to the terms of the settlement agreement, Plaintiffs agreed to pay the outstanding real estate taxes on the property, so that the property would not be sold at a tax sale. On their part, Defendants agreed to execute a contingent confession of judgment in favor of Plaintiffs as follows: (1) Principal and Interest under the Notes for \$1,356,752.10 (at 7% interest through October 7, 2014); (2) Real Property Taxes of \$70,595.46; and, (3) the combined amount of (1) & (2) to bear interest at a rate of \$273.74 per diem until the judgment was paid in full.

Plaintiffs agreed not to file the confession of judgment until the earlier of October 7, 2015, or until the sale of the mortgaged properties by Defendants resulted in a deficiency. In such case, the confession of judgment would be reduced by the proceeds of the sales paid to Plaintiffs. If a sale of the properties resulted in excess proceeds over the judgment, the excess would go to Defendants. Additionally, Plaintiffs would release the mortgages on the two properties prior to closing of any *bona fide* sale of the property by Defendants.

The settlement agreement was signed on October 7, 2014, by all parties, the parties'

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counsel, and the mediator.<sup>1</sup> Following execution of the settlement agreement, Plaintiff Sparrow paid the outstanding real estate taxes of \$70,595.46 per the terms of the agreement.

Defendants were unable to sell the property, and have refused to execute the confession of judgment as required by the terms of the settlement agreement. Further, the property has since been sold by York County for subsequent unpaid property taxes, accruing following mediation and execution of the settlement agreement. As a result, Plaintiffs filed the instant motion seeking to compel Defendants' compliance with the settlement agreement.

#### DISCUSSION / ANALYSIS

In South Carolina, settlement agreements are viewed as contracts, and a settlement to which all parties agree is valid and binding. *Pee Dee Stores, Inc. v. Doyle*, 381 S.C. 234, 672 S.E.2d 799 (Ct.App. 2008); see *Pruitt v. South Carolina Medical Malpractice Liability Joint Underwriting Association*, 343 S.C. 335, 540 S.E.2d 843 (2001). "Absent fraud or mistake, where attorneys of record for a party agree to settle a case, the party cannot later repudiate the settlement." *Shelton v. Bressant*, 312 S.C. 183, 184, 439 S.E.2d 833, 834 (1993). Nor can a party rescind a settlement agreement upon the ground that he has entered into it by mistake based on erroneous advice of his attorney. *Kirkland v. Moseley*, 109 S.C. 477, 96 S.E. 608 (1917).

In the present case, I find and conclude that the terms of the settlement agreement are not ambiguous; nor was the agreement the product of any fraud. The agreement was reduced to writing and signed by all parties and their counsel as required by Rule 43(k), SCRPC. Accordingly, the settlement agreement should be enforced.

It is clear from the face of the agreement that the parties agreed that Defendants would execute a confession of judgment in favor of Plaintiffs in a specified amount, accruing a specified rate of interest until the debts were repaid. Plaintiffs agreed the confession of judgment would remain unfiled for one year, until October 7, 2015. If during the year, Defendants were able to sell the properties and repay Plaintiffs the amount owed, Plaintiffs would forgo filing the judgment. However, if the Defendants were unable to repay Plaintiffs \$1,427,347.56, with interest, prior to October 7, 2015, then Plaintiffs were entitled to file the confession of judgment.

There is no evidence before the Court that fraud or mistake induced the Defendants to enter into the settlement agreement. Rather, the fact that Plaintiffs, Defendants, and their

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<sup>1</sup> On October 1, 2014, for value received, Plaintiff Crowe assigned his interests in the Notes and mortgages securing the same to Plaintiff Sparrow; thus, Sparrow executed the settlement agreement on behalf of Plaintiff Crowe.

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53

respective counsel were present at the mediation, participated in the mediation, and voluntarily executed the settlement agreement, illustrates that all parties were apprised of, and agreed to, the terms of the agreement when it was executed. Enforcement of the settlement agreement would not be substantially unfair to Defendants.

Defendants argue that the North Carolina's 'anti-deficiency' statute prevents Plaintiffs from obtaining a deficiency judgment in the foreclosure action, and that therefore, they are not required to execute the confession of judgment. Defendants assert that if they had been aware of this statute when they mediated these cases, they would not have entered into the settlement agreement. Plaintiffs contend that the anti-deficiency statute does not apply to these transactions. Whether the statute applies or not is not material to the conclusion herein that the settlement agreement is binding upon the Defendants. The present case pertains only to enforcement of a voluntary settlement agreement made in accordance with applicable South Carolina rules and case law. Defendants' assertion of the protection of the statute, if it applies, is left for a later date should the issue actually present itself.

Furthermore, it would be substantially unfair to Plaintiffs if the settlement agreement were not enforced. As set forth in the mortgages on the properties, Defendants were responsible for paying all property taxes on the mortgaged properties. In the event Defendants failed to timely pay the same, and Plaintiffs' incurred the expense, such monies were also secured by the mortgages. As part of the settlement agreement, Plaintiffs agreed to pay \$70,595.46 in property taxes owed by Defendants on the properties in exchange for Defendants' agreement to abide by the terms of the settlement agreement. Following Defendants' execution of the settlement agreement and in reliance on its terms, Plaintiffs paid the taxes. However, Defendants refused, and continue to refuse, to sign the confession of judgment that was the critical component in Plaintiffs' acceptance to the terms of the settlement agreement. Such refusal is without justification or legal excuse.

Accordingly, Plaintiffs' motion is granted because the terms of the settlement agreement are not ambiguous, and not influenced by fraud or mistake. Additionally, there is no evidence of substantial injustice to Defendants in the enforcement of the agreement. Finally, the agreement complies fully with Rule 43(k), SCRPC.

#### CONCLUSION

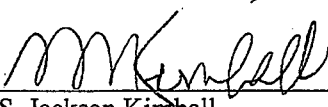
Therefore, based on the record presented, and the discussion and analysis herein, it is

*Don*  
*A3*

ordered that judgment be entered in favor of the Plaintiffs, Robert Clay Sparrow and Mickey Crow against Defendants Maurer Holdings, LLC, Fort Mill Holdings, LLC, and David Baucom in the principal amount of \$1,427,347.56, plus interest at the rate of \$273.74 per diem from October 7, 2014, until the date of the entry of this Order of Judgment.

AND IT IS SO ORDERED.

March 29, 2016

  
\_\_\_\_\_  
S. Jackson Kimball  
Special Circuit Court Judge  
York County

#5

STATE OF SOUTH CAROLINA )  
COUNTY OF YORK )

Robert Clay Sparrow and  
Mickey Crowe,  
Plaintiffs,

v.

Fort Mill Holdings, LLC, and  
David Baucom,

Defendants.

IN THE COURT OF COMMON PLEAS  
SIXTEENTH JUDICIAL CIRCUIT

Case Nos. 2013-CP-46-00438

**ORDER DENYING  
MOTION TO ALTER OR AMEND  
JUDGMENT**

FILED-RECEIVED  
2016 MAY 23 AM 9:06  
DAVID HAMILTON  
CLERK  
C.C.P. & G.S.  
YORK COUNTY, SC

STATE OF SOUTH CAROLINA )  
COUNTY OF YORK )

Robert Clay Sparrow and  
Mickey Crowe,  
Plaintiffs,

v.

Maurer Holdings, LLC, and  
David Baucom,

Defendants.

IN THE COURT OF COMMON PLEAS  
SIXTEENTH JUDICIAL CIRCUIT

Case Nos. 2013-CP-46-00440

**ORDER DENYING  
MOTION TO ALTER OR AMEND  
JUDGMENT**

This matter came before me on May 10, 2016, upon Defendants' Motion pursuant to Rule 59(e), SCRCP, to alter or amend the order entered March 30, 2016, in these two cases. Plaintiffs were represented by James M. Griffin, and Defendants were represented by Paul S. Landis. Specifically, Defendants move the Court to alter, amend and reconsider its Order on the following grounds:

1. By its own terms, the Settlement Agreement was not consummated;
2. The Settlement Agreement is contrary to the North Carolina anti-deficiency statute, and thus prohibited by governing law; and,
3. The Settlement Agreement is void due to its violation of the statute and public policy.

After considering the arguments of counsel, and upon careful consideration of Defendants' Motion and the entire record in these two cases, I make the following findings and

*DM*  
1

conclusions, and address each asserted error separately.

**A. Consummation of Settlement Agreement.**

The Settlement Agreement entered into between the parties is clear, unambiguous and fully complies with Rule 43(k), SCRC. Under the terms of the Settlement Agreement, Plaintiffs agreed to pay the outstanding real estate taxes on the property so that the property would not be sold at a tax sale, and Defendants agreed to execute a contingent confession of judgment in favor of Plaintiffs. Plaintiffs also agreed not to file the confession of judgment until the earlier of October 7, 2015, or a sale of the properties by Defendants resulting in a deficiency, in which case the confession of judgment would be reduced by the proceeds of the sales paid to Plaintiffs. If the sale of the properties resulted in proceeds exceeding the judgment, the excess belonged to Defendants. Additionally, Plaintiffs agreed to release the mortgages on the two properties prior to closing of any *bona fide* sale of the property by Defendants. The settlement agreement was signed on October 7, 2014, by all parties, the parties' counsel, and the mediator.

Defendants contend that the Settlement Agreement was not consummated because the parties did not execute "formal documents", and Plaintiffs did not file a dismissal.<sup>1</sup> The Settlement Agreement provided that "Plaintiffs will consent to and counsel will execute a dismissal, with prejudice, of the referenced action upon execution of more formal documents." The Agreement further provided that "Counsel will prepare more formal settlement documents and the contingent confession, whereupon execution [sic] by all parties."

Here, Plaintiffs partially performed under the Settlement Agreement by paying outstanding property taxes of \$70,595.46. Moreover, Defendants do not dispute that counsel prepared a contingent confession of judgment as contemplated by Settlement Agreement, and that Plaintiffs were ready, willing and able to perform their part of the Agreement, but were unable to do so because of Defendants' refusal.

In order to compel specific performance, a court of equity must find: (1) there is clear evidence of a valid agreement; (2) the agreement had been partly carried into execution on one side with the approbation of the other; and (3) the party who comes to compel performance has performed his or her part, or has been and remains able and willing to perform his or her part of the contract. *Ingram v. Kasey's Associates*, 340 S.C. 98, 106, 531 S.E.2d 287, 291 (2000).

<sup>1</sup> Defendants' position may be likened to arguing that a Purchaser may not enforce a contract for the purchase and sale of real estate because the Seller refuses to sign a deed.



Under the circumstances of this case, I find and conclude that Plaintiffs are entitled to an order compelling enforcement of the Settlement Agreement.

**B. North Carolina Law and Public Policy Considerations.**

Defendants further argue that the Settlement Agreement should not be enforced because the promissory notes have a choice of law provision, stating that the notes in the underlying transaction should be governed and construed in accordance with North Carolina law. Thus, Defendants assert, the Settlement Agreement is void as against the public policy of North Carolina as expressed in North Carolina's anti-deficiency judgment statute.

The Settlement Agreement is governed by South Carolina law, not North Carolina law. The Settlement Agreement was entered into in South Carolina, and resolved a dispute being litigated in the courts of this State, which involved land located in South Carolina. Unlike the initial promissory notes, there is no choice of law provision in the Settlement Agreement.

The act of the parties in entering into a contract at a particular place, in the absence of anything shown to the contrary, sufficiently indicates their intention to contract with reference to the laws of that place; hence the rule as it is usually stated is that a contract as to its validity and interpretation is governed by the law of the place where it is made, the *lex loci contractus*; or more accurately, that contracts are to be governed as to their nature, validity and interpretation by the law of the place where they are made. *Lister v. NationsBank of Delaware, N.A.*, 329 S.C. 133, 144, 494 S.E.2d 449, 455 (Ct.App. 1997).

Thus, the law of South Carolina, as the *lex loci contractu*, governs the interpretation and application of the Settlement Agreement in this case.

Further, under South Carolina law, there is a strong public policy favoring settlement in lieu of litigation. See *Poston by Poston v. Barnes*, 294 S.C. 261, 363 S.E.2d 888 (1987); and, *Darden v. Witham*, 258 S.C. 380, 188 S.E.2d 776 (1972).<sup>2</sup> That policy favors enforcement of the settlement in this action, notwithstanding policy considerations supporting North Carolina's anti-deficiency statute.

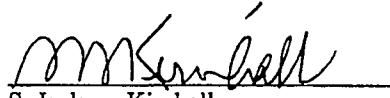
Upon reviewing the record presented, and considering the memoranda and arguments of counsel, I find no matter presented that was not addressed expressly or by clear implication in

<sup>2</sup> That public policy is further expressed in the South Carolina Supreme Court's expansion of the mandatory mediation requirement to all counties in the State as of January 1, 2016. See, Rule 1, SC ADR Rules-Editors Note.

the prior order. I further find no basis for reconsideration or amendment of the ruling rendered in the prior order. Therefore, it is ordered that Defendants' Motion pursuant to Rule 59(e), SCRCP, be denied.

AND IT IS SO ORDERED.

May 20, 2016

  
S. Jackson Kimball  
Special Circuit Court Judge  
York County

#4



STATE OF SOUTH CAROLINA )  
COUNTY OF YORK )

IN THE COURT OF COMMON PLEAS  
SIXTEENTH JUDICIAL CIRCUIT

Robert Clay Sparrow and )  
Mickey Crowe, )

Plaintiffs, )

-vs- )

Fort Mill Holdings, LLC, and )  
David Baucom, )

Defendants. )

S U M M O N S

(Suit on Note)

(Foreclosure of Mortgage)

(Deficiency Judgment Demanded)

(Breach of Guaranty Agreement)

(Non-Jury)

2013-CP46-00738

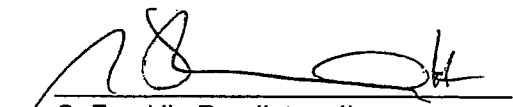
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DAVID HAMILTON  
C.C.P. & G.S. SC  
YORK COUNTY, SC

TO THE DEFENDANTS ABOVE NAMED:

You are required to answer the Complaint in this action and to serve a copy of your answer on the subscriber of this Summons at 103 Kings Mountain Street, Clover, South Carolina, within thirty (30) days after service of this Summons, exclusive of the day of service. If you fail to answer the Complaint within thirty (30) days after service of this Summons, judgment will be granted against you by default for the relief demanded in the Complaint.

Clover, South Carolina

January 31, 2013



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Clover, South Carolina 29710  
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STATE OF SOUTH CAROLINA )  
COUNTY OF YORK )

IN THE CIRCUIT COURT FOR THE  
SIXTEENTH JUDICIAL CIRCUIT

Robert Clay Sparrow and Mickey  
Crowe,

Plaintiffs,

vs.

Fort Mill Holdings, LLC, and David  
Baucom,

Defendants.

CERTIFICATE OF EXEMPTION  
FROM ADR

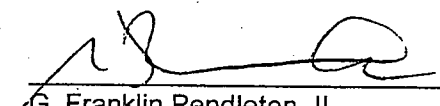
2013-CP46-00738

I certify that this action is exempt from ADR because:

- ☐ this is a special proceeding or action seeking extraordinary relief such as mandamus, habeas corpus of prohibition;
- ☐ this action is appellate in nature;
- ☐ this is a post-conviction relief matter;
- ☐ this is a contempt of court proceeding;
- ☐ this is a forfeiture proceeding brought by the State;
- ☒ this is a case involving a mortgage foreclosure; or
- ☐ the parties submitted the case to voluntary mediation with a certified mediator prior to the filing of this action.

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2013 FEB -8 PM 4:21  
DAVID HAMILTON  
C.C.C.P. & G.S.  
YORK COUNTY, SC

Date: January 3, 2013

  
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STATE OF SOUTH CAROLINA )  
COUNTY OF YORK )

IN THE COURT OF COMMON PLEAS  
SIXTEENTH JUDICIAL CIRCUIT

Robert Clay Sparrow and )  
Mickey Crowe, )

Plaintiffs, )

vs. )

Fort Mill Holdings, LLC, and )  
David Baucom, )

Defendants. )

LIS PENDENS  
FORECLOSURE-NON-JURY  
2013-CP46-00438

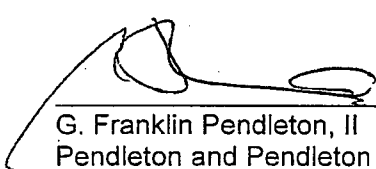
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DAVID HAMILTON  
C.C.P. & G.S. SC  
YORK COUNTY, SC

Notice is hereby given that an action has been commenced and is now pending in the Court upon the Complaint of the above-named Plaintiffs against the above-named Defendants for the foreclosure of that certain Mortgage dated December 1, 2011, and recorded December 30, 2011, in Record Book 12360, Page 239, RMC Office for York County, South Carolina. The premises covered by this foreclosure action is described as follows:

All that certain piece, parcel or lot of land lying, being and situate on the southern side of S.C. Highway 51, and being shown and designated as Lot 9H on Plat of Property of Dynamic Properties, a Partnership, by John Quinn Hall, dated April 24, 1984, being more particularly described according to said plat as follows: Beginning at an iron in the right of way for S.C. Highway 51, running thence with line of property of the Estate of W.B. Roddey, S. 13-33-26 E. 425.77 feet to a new iron; thence S. 79-40-15 W. 93.85 feet; thence running with line of property previously conveyed to Southern Utilities, Inc., N. 15-59-19 W. 427.17 feet to an iron in right of way for S.C. Highway 51, thence running in said right of way N. 79-40-25 E. 112 feet to the point of beginning. LESS AND EXCEPT that certain piece, parcel or log of land consisting of 0.05 acres which has been conveyed to the South Carolina Department of Transportation by Deed dated December 28, 1993, recorded in Record Book 1129 at Page 112, on November 4, 1994.

This is the identical property conveyed to Fort Mill Holdings, LLC, by deed

recorded December 30, 2011, in Record Book 12360, Page 79, RMC Office  
for York County, South Carolina.



---

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January 31, 2013

Clover, South Carolina

STATE OF SOUTH CAROLINA )  
COUNTY OF YORK )

IN THE COURT OF COMMON PLEAS  
SIXTEENTH JUDICIAL CIRCUIT

Robert Clay Sparrow and )  
Mickey Crowe, )

Plaintiffs, )

vs. )

Fort Mill Holdings, LLC, and )  
David Baucom, )

Defendants. )

COMPLAINT  
(Suit on Note)  
(Foreclosure of Mortgage)  
(Deficiency Judgment Demanded)  
(Breach of Guaranty Agreement)  
(Non-Jury)

2013-CP46-00438

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DAVID HAMILTON  
S.C.P. & G.S.  
YORK COUNTY, S.C.

The Plaintiffs allege as follows:

PARTIES AND JURISDICTION

1. The Plaintiff, Robert Clay Sparrow, is a citizen and resident of Mecklenburg County, North Carolina, and the Plaintiff, Mickey Crowe, is a citizen and resident of York County, South Carolina.

2. The Defendant, Fort Mill Holdings, LLC, on information and belief, is a North Carolina limited liability company doing business in South Carolina.

3. The Defendant, David Baucom, on information and belief, is a citizen and resident of Mecklenburg County, North Carolina, and is not in the military service of the United States of America pursuant to the provisions of the Servicemembers Civil Relief Act (2003).

4. The Plaintiffs are the owners and holders of the mortgage covering real property, which is the subject of the foreclosure action herein, located in the County of York, State of South Carolina.

5. The Plaintiffs are the owners and holders of the note securing the mortgage

which is the subject of the foreclosure action herein, located in the County of York, State of South Carolina.

6. The Defendants named herein have an interest in the property that is the subject of this action.

FOR A FIRST CAUSE OF ACTION  
(Suit on Note)  
(Foreclosure of Mortgage)  
(Deficiency Judgment Demanded)

7. To the extent that they are not inconsistent, the allegations contained in the preceding paragraphs are repeated and re-alleged herein as if in verbatim.

8. On or about December 1, 2011, for value received, the Defendant, Fort Mill Holdings, LLC, by and through its Manager, Tracy Goins, executed and delivered to Plaintiffs a certain promissory note in the sum of \$907,300.00, together with interest thereon at seven (7%) percent per annum until paid or until default. After default, the promissory note accrues interest thereon at fifteen (15%) percent per annum until paid. The Defendant, David Baucom, executed the promissory note dated on or about December 1, 2011, as its guarantor. (See Exhibit A, attached hereto and made a part hereof.)

9. To secure the payment of the said note and debt, secured thereby, and in accordance with the terms and conditions thereof, on December 1, 2011, the Defendant, Fort Mill Holdings, LLC, by and through its Manager, Tracy Goins, executed and delivered to the Plaintiffs, their heirs and assigns, a mortgage covering the following described property:

All that certain piece, parcel or lot of land lying, being and situate on the southern side of S.C. Highway 51, and being shown and designated as Lot 9H on Plat of Property of Dynamic Properties, a Partnership, by John Quinn

Hall, dated April 24, 1984, being more particularly described according to said plat as follows: Beginning at an iron in the right of way for S.C. Highway 51, running thence with line of property of the Estate of W.B. Roddey, S. 13-33-26 E. 425.77 feet to a new iron; thence S. 79-40-15 W. 93.85 feet; thence running with line of property previously conveyed to Southern Utilities, Inc., N. 15-59-19 W. 427.17 feet to an iron in right of way for S.C. Highway 51, thence running in said right of way N. 79-40-25 E. 112 feet to the point of beginning. LESS AND EXCEPT that certain piece, parcel or log of land consisting of 0.05 acres which has been conveyed to the South Carolina Department of Transportation by Deed dated December 28, 1993, recorded in Record Book 1129 at Page 112, on November 4, 1994.

This is the identical property conveyed to Fort Mill Holdings, LLC, by deed recorded December 30, 2011, in Record Book 12360, Page 79, RMC Office for York County, South Carolina.

10. Thereafter the mortgage was recorded in the Office of the Clerk of Court for York County in Record Book 12360, at Page 239, on December 30, 2011. (See Exhibit B, attached hereto and made a part hereof.)

11. The mortgage constitutes a purchase money first mortgage lien on the subject property.

12. Pursuant to the terms of the mortgage, any sums paid by the Plaintiffs for inspecting and securing the subject property, for fire and other hazard insurance, taxes and assessments for the mortgaged premises, and any costs of collection, including reasonable attorney's fees, are secured by the mortgage.

13. The last full monthly payment of \$7,034.29 made by Defendant, Fort Mill Holdings, LLC, was for the installment due May 1, 2012. The Defendant, Fort Mill Holdings, LLC, made partial payments of one-half the monthly amount due for the installments due the first day of June, July, and August, 2012. The monthly installments due on said note and mortgage are in default since September 1, 2012; plus one-half of the installments not

paid on the first day of the months of June, July, and August, 2012. Demand for payment thereof has been made and the Plaintiffs, as the holders of the said note and mortgage, after providing all required notices, elect to, and do declare the entire balance of said indebtedness due and payable, and that there is due on said note and mortgage as of August 1, 2012, the principal sum of \$895,783.90, plus with interest at the rate of Seven (7%) percent per annum from August 1, 2012, through December 19, 2012, and interest at the rate of Fifteen (15%) percent per annum from December 20, 2012, and thereafter, and also for the costs and disbursements of this action, including reasonable attorney's fees not to exceed fifteen (15%) percent of the outstanding balance owing on said note.

14. Pursuant to Sections 37-3-105, South Carolina Code of Laws (1976 as amended), the mortgage lien, which is the subject of this action, is a first lien on real estate and is not a '*consumer loan*' for the purposes of the South Carolina Consumer Protection Code. Any notice of right to cure has been given as required.

15. The Plaintiffs specifically demand their right to a deficiency judgment against Defendant, Fort Mill Holdings, LLC, and further demand an immediate entry of judgment against Defendant, Fort Mill Holdings, LLC, pursuant to S.C. Code Ann. § 29-3-650.

16. Upon information and belief, certain costs for the preservation of the subject property may have been incurred by the Plaintiffs as a result of this delinquency, and Plaintiffs are informed and believe they are entitled to reimbursement for such charges, if any.

17. The Plaintiffs are not participating member of the Home Affordable Modification Program, and therefore the Plaintiffs are not subject to the restrictions and requirements of the Home Affordable Modification Program.



18. Further, since this foreclosure action involves a commercial note and mortgage, and the subject property, upon information and belief, is not owner-occupied by the Mortgagor, this foreclosure action is not subject to the provisions of the Administrative Order issued on May 2, 2011, by the honorable Jean H. Toal of The Supreme Court of South Carolina.

FOR A SECOND CAUSE OF ACTION AGAINST  
DEFENDANTS FORT MILL HOLDINGS, LLC,  
AND DAVID BAUCOM

19. To the extent that they are not inconsistent, the allegations contained in the preceding paragraphs are repeated and re-alleged herein as if in verbatim.

20. On or about December 1, 2011, Defendant, David Baucom, ("Guarantor") executed and delivered that certain guaranty agreement on the Note dated December 1, 2011, in favor of Plaintiffs, wherein and whereby the Guarantor individually guaranteed payment of all sums due by Defendant, Fort Mill Holdings, LLC, to the Plaintiffs under the Note and any extensions thereof.

21. The guaranty agreement is the absolute, unconditional and continuing obligation of the Guarantor and constitutes a binding contract between the parties thereto.

22. The Guarantor has failed to pay all sums due and owing to Plaintiffs pursuant to the guaranty agreement, and after all notices and demands have been made therefor, Guarantor has continued to fail and refuse to pay the sum due under the guaranty agreement, and is thereby in default.

23. Plaintiffs have elected, as a result of the default of the Guarantor, as aforesaid, to declare pursuant to the guaranty agreement, the entire indebtedness due under the Fort

Mill Holdings, LLC, note immediately due and payable.

24. Therefore, Plaintiffs are entitled, pursuant to S.C. Code Ann. § 29-3-650, to an Order rendering an immediate judgment against the Guarantor, namely Defendant, David Baucom, for the amount due under the Note, together with interest at the rate set forth in the Note, plus all costs of collection, including attorney's fees, all as is provided in the Note and guaranty agreement.

WHEREFORE, having fully set forth their Complaint, the Plaintiffs pray that this Honorable Court inquire into the matters set forth herein and that:

1. The amount due upon the said note and mortgage held by Plaintiffs be ascertained and determined under the direction of this Court, together with attorney's fees and the costs of this action.

2. The said Plaintiffs' Mortgage be declared a first mortgage lien and that the Plaintiffs have judgment of foreclosure for the amount so found to be due and owing thereon, together with any taxes or insurance premiums which may be due, with a reasonable sum as attorney's fees and for the costs of this action.

3. The mortgaged premises be sold under the direction of this Court, the equity of redemption be barred, and that the proceeds of sale be applied as follows:

First, to the costs and expenses of the within action and sale.

Second, to the payment and discharge of the amount due on Plaintiffs' note and mortgage, together with the attorney's fees as aforesaid,

Third, the surplus, if any be distributed according to law, and

Fourth, if there is no surplus, that Plaintiffs have a money judgment against the Defendants for any amount due Plaintiffs after the application of the net proceeds of its

security to the amount due the Plaintiffs from the Defendants.

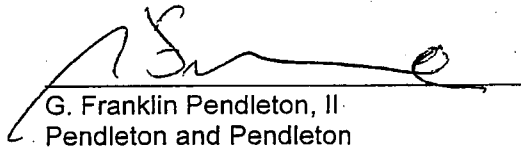
4. An Order be entered directing and empowering the Sheriff of York County, South Carolina, to place the successful purchaser at said foreclosure sale in possession of the property hereinabove described should the same become necessary.

5. An Order be entered for the ejectment of the Defendant in possession herein and all persons claiming thereunder and the removal therefrom of all furnishings, fixtures and items not subject to the lien of the Plaintiffs' mortgage, which personal property if not removed shall be deemed abandoned and shall be removed by the Plaintiffs or their agents from the subject property by placing said property on the public street or highway or by any other means.

6. An Order be entered for reimbursement of all costs for inspecting and securing the property incurred by the Plaintiffs as a result of the delinquency.

7. An Order be entered for such other and further relief as may be just and proper.

January 31, 2013



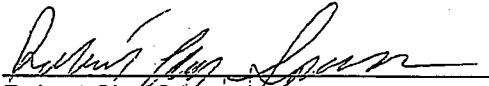
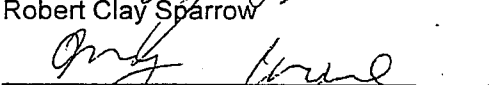
G. Franklin Pendleton, II  
Pendleton and Pendleton  
Attorneys for Plaintiff  
Post Office Box 399  
Clover, South Carolina 29710  
(803) 222-3026  
(803) 222-3027 (facsimile)

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF YORK )

VERIFICATION

PERSONALLY appeared before me Robert Clay Sparrow and Mickey Crowe, who being duly sworn, deposes and says that they are the Plaintiffs in the foregoing Complaint; that they have read the within Complaint and the matters and things alleged therein are true to their own knowledge and belief, except those on information and belief and as to those they believe them to be true.

SWORN to before me this  
31 day of January, 2013.

  
Robert Clay Sparrow  
  
Mickey Crowe

  
Notary Public for South Carolina  
My Commission Expires: 3/20/13

FILED-RECEIVED  
2013 FEB -8 PM 4:21  
DAVID HAMILTON  
C.C.P. & G.S.  
YORK COUNTY, SC

SATISFACTION: The debt evidenced by this  
Note has been satisfied in full this  
\_\_\_\_ day of \_\_\_\_\_  
Signed: \_\_\_\_\_

EXHIBIT "A"

PURCHASE MONEY PROMISSORY NOTE

Charlotte, N.C.  
December 1, 2011

\$300.00

FOR VALUE RECEIVED the undersigned, jointly and severally, promise to pay to Robert Clay Sparrow and Mickey Crowe, or order, the principal sum of NINE HUNDRED SEVEN THOUSAND THREE HUNDRED DOLLARS (\$907,300.00), with interest from December 1, 2011, at the rate of SEVEN per cent (7%) per annum on the unpaid balance until paid or until default, both principal and interest payable in lawful money of the United States of America, at the office of Robert Clay Sparrow, 142 Stoney Point Drive, Blacksburg, SC 29702, or at such place as the legal holder hereof may designate in writing. The principal and interest shall be due and payable as follows:

In 240 consecutive and equal payments of \$7,034.29 each commencing January 1, 2012 and continuing to become due on the first day of each month thereafter until December 1, 2031 when all remaining amounts due hereunder shall be due and payable in full, all as shown on the attached amortization schedule.

All amounts of both principal and interest due hereunder shall be paid in full on or before December 1, 2031.

If payable in installments, each such installment shall, unless otherwise provided, be applied first to payment of interest then accrued and due on the unpaid principal balance, with the remainder applied to the unpaid principal.

Unless otherwise provided, this Note may be prepaid in full or in part at any time without penalty or premium. Partial payments shall be applied to installments due in reverse order of their maturity.

In the event of (a) default in payment of any installment of principal or interest hereof as the same becomes due and such default is not cured within ten (10) days from the due date, or (b) default under the terms of any instrument securing this Note, and such default is not cured within fifteen (15) days after written notice to maker, then in either such event the holder may without further notice, declare the remainder of the principal sum, together with all interest accrued thereon and, the prepayment premium, if any, at once due and payable. Failure to exercise this option shall not constitute a waiver of the right to exercise the same at any other time. The unpaid principal of this Note and any part thereof, accrued interest and all other sums due under this Note and the Deed of Trust or Mortgage, if any, shall bear interest at the rate of Fifteen per cent (15%) per annum after default until paid.

All parties to this Note, including maker and any sureties, endorsers, or guarantors hereby waive protest, presentment, notice of dishonor, and notice of acceleration of maturity and agree to continue to remain bound for the payment of principal, interest and all other sums due under this Note and the Deed of Trust or Mortgage notwithstanding any change or changes by way of release, surrender, exchange, modification or substitution of any security for this Note or by way of any extension or extensions of time for the payment of principal and interest; and all such parties waive all and every kind of notice of such change or changes and agree that the same may be made without notice or consent of any of them.

Upon default the holder of this Note may employ an attorney to enforce the holder's rights and remedies, and the maker, principal, surety, guarantor and endorsers of this Note hereby agree to pay to the holder reasonable attorneys fees not exceeding a sum equal to fifteen percent (15%) of the outstanding balance owing on said Note, plus all other reasonable expenses incurred by the holder in exercising any of the holder's rights and remedies upon default. The rights and remedies of the holder as provided in this Note and any instrument securing this Note shall be cumulative and may be pursued singly, successively, or together against the property described in the Deed of Trust or Mortgage or any other funds, property or security held by the holder for payment or security, in the sole discretion of the holder. The failure to exercise any such right or remedy shall not be a waiver or release of such rights or remedies or the right to exercise any of them at another time.

This Note is to be governed and construed in accordance with the laws of the State of North Carolina.

This Note is given for the balance of purchase price for the property located off Highway 51, Fort Mill, SC, and is secured by a Purchase Money Mortgage or Deed of Trust or Mortgage, which is a first lien upon said property.

IN TESTIMONY WHEREOF, the corporate maker has caused this instrument to be executed in its corporate name by its Manager, by the authority duly given by its managers and members, the day and year first above written.

Fort Mill Holdings, LLC

By: Tracy Goins  
Tracy Goins, Manager

IN TESTIMONY WHEREOF, each individual maker or guarantor has hereunto set his hand and adopted as his seal the word "SEAL" appearing beside his name, the day and year first above written.

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David Baucom (SEAL)  
David Baucom, Guarantor

Amortization Schedule generated by the [www.amortization-schedule.info](http://www.amortization-schedule.info) website.

## Amortization Schedule

The monthly payment for a \$907,300.00 loan at 7.00% annual interest rate will be \$7,034.29 per payment. This amount should be paid to the lender, bank or lending institution for 20 years. The loan amortization table below shows your monthly payment divided into two portions. One portion is put towards interest (interest paid), while the other portion goes towards principal (principal paid). As you can see, initially a larger amount is applied towards interest and as the loan matures the portion applied towards the outstanding principal balance gets larger and larger.

Please note that if you are calculating a mortgage loan, property taxes, property insurance and private mortgage insurance is neglected in the calculation, they will increase the amount of your regular periodic payments.

| period: | date:      | interest paid: | principal paid: | remaining balance: |
|---------|------------|----------------|-----------------|--------------------|
| 1       | 01/01/2012 | \$5,292.58     | \$1,741.71      | \$905,558.29       |
| 2       | 02/01/2012 | \$5,282.42     | \$1,751.87      | \$903,806.42       |
| 3       | 03/01/2012 | \$5,272.20     | \$1,762.09      | \$902,044.33       |
| 4       | 04/01/2012 | \$5,261.93     | \$1,772.36      | \$900,271.97       |
| 5       | 05/01/2012 | \$5,251.59     | \$1,782.70      | \$898,489.27       |
| 6       | 06/01/2012 | \$5,241.19     | \$1,793.10      | \$896,696.17       |
| 7       | 07/01/2012 | \$5,230.73     | \$1,803.56      | \$894,892.61       |
| 8       | 08/01/2012 | \$5,220.21     | \$1,814.08      | \$893,078.53       |
| 9       | 09/01/2012 | \$5,209.62     | \$1,824.67      | \$891,253.86       |
| 10      | 10/01/2012 | \$5,198.98     | \$1,835.31      | \$889,418.55       |
| 11      | 11/01/2012 | \$5,188.27     | \$1,846.02      | \$887,572.53       |
| 12      | 12/01/2012 | \$5,177.51     | \$1,856.78      | \$885,715.75       |

Loan amortization schedule for year 1 (2012):

You will spend \$62,827.23 on interest and \$21,584.25 on principal.

| period: | date:      | interest paid: | principal paid: | remaining balance: |
|---------|------------|----------------|-----------------|--------------------|
| 13      | 01/01/2013 | \$5,166.68     | \$1,867.61      | \$883,848.14       |
| 14      | 02/01/2013 | \$5,155.78     | \$1,878.51      | \$881,969.63       |
| 15      | 03/01/2013 | \$5,144.82     | \$1,889.47      | \$880,080.16       |
| 16      | 04/01/2013 | \$5,133.80     | \$1,900.49      | \$878,179.67       |
| 17      | 05/01/2013 | \$5,122.71     | \$1,911.58      | \$876,268.09       |
| 18      | 06/01/2013 | \$5,111.56     | \$1,922.73      | \$874,345.36       |
| 19      | 07/01/2013 | \$5,100.35     | \$1,933.94      | \$872,411.42       |
| 20      | 08/01/2013 | \$5,089.07     | \$1,945.22      | \$870,466.20       |
| 21      | 09/01/2013 | \$5,077.72     | \$1,956.57      | \$868,509.63       |
| 22      | 10/01/2013 | \$5,066.31     | \$1,967.98      | \$866,541.65       |
| 23      | 11/01/2013 | \$5,054.83     | \$1,979.46      | \$864,562.19       |
| 24      | 12/01/2013 | \$5,043.28     | \$1,991.01      | \$862,571.18       |

Loan amortization schedule for year 2 (2013):

You will spend \$61,266.91 on interest and \$23,144.57 on principal.

| period: | date:      | interest paid: | principal paid: | remaining balance: |
|---------|------------|----------------|-----------------|--------------------|
| 25      | 01/01/2014 | \$5,031.67     | \$2,002.62      | \$860,568.56       |
| 26      | 02/01/2014 | \$5,019.98     | \$2,014.31      | \$858,554.25       |
| 27      | 03/01/2014 | \$5,008.23     | \$2,026.06      | \$856,528.19       |
| 28      | 04/01/2014 | \$4,996.41     | \$2,037.88      | \$854,490.31       |
| 29      | 05/01/2014 | \$4,984.53     | \$2,049.76      | \$852,440.55       |
| 30      | 06/01/2014 | \$4,972.57     | \$2,061.72      | \$850,378.83       |
| 31      | 07/01/2014 | \$4,960.54     | \$2,073.75      | \$848,305.08       |
| 32      | 08/01/2014 | \$4,948.45     | \$2,085.84      | \$846,219.24       |
| 33      | 09/01/2014 | \$4,936.28     | \$2,098.01      | \$844,121.23       |
| 34      | 10/01/2014 | \$4,924.04     | \$2,110.25      | \$842,010.98       |
| 35      | 11/01/2014 | \$4,911.73     | \$2,122.56      | \$839,888.42       |
| 36      | 12/01/2014 | \$4,899.35     | \$2,134.94      | \$837,753.48       |

## Loan amortization schedule for year 3 (2014):

You will spend \$59,593.78 on interest and \$24,817.70 on principal.

| period: | date:      | interest paid: | principal paid: | remaining balance: |
|---------|------------|----------------|-----------------|--------------------|
| 37      | 01/01/2015 | \$4,886.90     | \$2,147.39      | \$835,606.09       |
| 38      | 02/01/2015 | \$4,874.37     | \$2,159.92      | \$833,446.17       |
| 39      | 03/01/2015 | \$4,861.77     | \$2,172.52      | \$831,273.65       |
| 40      | 04/01/2015 | \$4,849.10     | \$2,185.19      | \$829,088.46       |
| 41      | 05/01/2015 | \$4,836.35     | \$2,197.94      | \$826,890.52       |
| 42      | 06/01/2015 | \$4,823.53     | \$2,210.76      | \$824,679.76       |
| 43      | 07/01/2015 | \$4,810.63     | \$2,223.66      | \$822,456.10       |
| 44      | 08/01/2015 | \$4,797.66     | \$2,236.63      | \$820,219.47       |
| 45      | 09/01/2015 | \$4,784.61     | \$2,249.68      | \$817,969.79       |
| 46      | 10/01/2015 | \$4,771.49     | \$2,262.80      | \$815,706.99       |
| 47      | 11/01/2015 | \$4,758.29     | \$2,276.00      | \$813,430.99       |
| 48      | 12/01/2015 | \$4,745.01     | \$2,289.28      | \$811,141.71       |

## Loan amortization schedule for year 4 (2015):

You will spend \$57,799.71 on interest and \$26,611.77 on principal.

| period: | date:      | interest paid: | principal paid: | remaining balance: |
|---------|------------|----------------|-----------------|--------------------|
| 49      | 01/01/2016 | \$4,731.66     | \$2,302.63      | \$808,839.08       |
| 50      | 02/01/2016 | \$4,718.23     | \$2,316.06      | \$806,523.02       |
| 51      | 03/01/2016 | \$4,704.72     | \$2,329.57      | \$804,193.45       |
| 52      | 04/01/2016 | \$4,691.13     | \$2,343.16      | \$801,850.29       |
| 53      | 05/01/2016 | \$4,677.46     | \$2,356.83      | \$799,493.46       |
| 54      | 06/01/2016 | \$4,663.71     | \$2,370.58      | \$797,122.88       |
| 55      | 07/01/2016 | \$4,649.88     | \$2,384.41      | \$794,738.47       |
| 56      | 08/01/2016 | \$4,635.97     | \$2,398.32      | \$792,340.15       |
| 57      | 09/01/2016 | \$4,621.98     | \$2,412.31      | \$789,927.84       |
| 58      | 10/01/2016 | \$4,607.91     | \$2,426.38      | \$787,501.46       |
| 59      | 11/01/2016 | \$4,593.76     | \$2,440.53      | \$785,060.93       |
| 60      | 12/01/2016 | \$4,579.52     | \$2,454.77      | \$782,606.16       |

## Loan amortization schedule for year 5 (2016):

You will spend \$55,875.93 on interest and \$28,535.55 on principal.

| period: | date:      | interest paid: | principal paid: | remaining balance: |
|---------|------------|----------------|-----------------|--------------------|
| 61      | 01/01/2017 | \$4,565.20     | \$2,469.09      | \$780,137.07       |
| 62      | 02/01/2017 | \$4,550.80     | \$2,483.49      | \$777,653.58       |
| 63      | 03/01/2017 | \$4,536.31     | \$2,497.98      | \$775,155.60       |
| 64      | 04/01/2017 | \$4,521.74     | \$2,512.55      | \$772,643.05       |
| 65      | 05/01/2017 | \$4,507.08     | \$2,527.21      | \$770,115.84       |
| 66      | 06/01/2017 | \$4,492.34     | \$2,541.95      | \$767,573.89       |
| 67      | 07/01/2017 | \$4,477.51     | \$2,556.78      | \$765,017.11       |
| 68      | 08/01/2017 | \$4,462.60     | \$2,571.69      | \$762,445.42       |
| 69      | 09/01/2017 | \$4,447.60     | \$2,586.69      | \$759,858.73       |
| 70      | 10/01/2017 | \$4,432.51     | \$2,601.78      | \$757,256.95       |
| 71      | 11/01/2017 | \$4,417.33     | \$2,616.96      | \$754,639.99       |
| 72      | 12/01/2017 | \$4,402.07     | \$2,632.22      | \$752,007.77       |

## Loan amortization schedule for year 6 (2017):

You will spend \$53,813.09 on interest and \$30,598.39 on principal.

| period: | date:      | interest paid: | principal paid: | remaining balance: |
|---------|------------|----------------|-----------------|--------------------|
| 73      | 01/01/2018 | \$4,386.71     | \$2,647.58      | \$749,360.19       |
| 74      | 02/01/2018 | \$4,371.27     | \$2,663.02      | \$746,697.17       |
| 75      | 03/01/2018 | \$4,355.73     | \$2,678.56      | \$744,018.61       |
| 76      | 04/01/2018 | \$4,340.11     | \$2,694.18      | \$741,324.43       |
| 77      | 05/01/2018 | \$4,324.39     | \$2,709.90      | \$738,614.53       |
| 78      | 06/01/2018 | \$4,308.58     | \$2,725.71      | \$735,888.82       |
| 79      | 07/01/2018 | \$4,292.68     | \$2,741.61      | \$733,147.21       |

|    |            |            |            |              |
|----|------------|------------|------------|--------------|
| 80 | 08/01/2018 | \$4,276.69 | \$2,757.60 | \$730,389.61 |
| 81 | 09/01/2018 | \$4,260.61 | \$2,773.68 | \$727,615.93 |
| 82 | 10/01/2018 | \$4,244.43 | \$2,789.86 | \$724,826.07 |
| 83 | 11/01/2018 | \$4,228.15 | \$2,806.14 | \$722,019.93 |
| 84 | 12/01/2018 | \$4,211.78 | \$2,822.51 | \$719,197.42 |

## Loan amortization schedule for year 7 (2018):

You will spend \$51,601.13 on interest and \$32,810.35 on principal.

| period: | date:      | interest paid: | principal paid: | remaining balance: |
|---------|------------|----------------|-----------------|--------------------|
| 85      | 01/01/2019 | \$4,195.32     | \$2,838.97      | \$716,358.45       |
| 86      | 02/01/2019 | \$4,178.76     | \$2,855.53      | \$713,502.92       |
| 87      | 03/01/2019 | \$4,162.10     | \$2,872.19      | \$710,630.73       |
| 88      | 04/01/2019 | \$4,145.35     | \$2,888.94      | \$707,741.79       |
| 89      | 05/01/2019 | \$4,128.49     | \$2,905.80      | \$704,835.99       |
| 90      | 06/01/2019 | \$4,111.54     | \$2,922.75      | \$701,913.24       |
| 91      | 07/01/2019 | \$4,094.49     | \$2,939.80      | \$698,973.44       |
| 92      | 08/01/2019 | \$4,077.35     | \$2,956.94      | \$696,016.50       |
| 93      | 09/01/2019 | \$4,060.10     | \$2,974.19      | \$693,042.31       |
| 94      | 10/01/2019 | \$4,042.75     | \$2,991.54      | \$690,050.77       |
| 95      | 11/01/2019 | \$4,025.30     | \$3,008.99      | \$687,041.78       |
| 96      | 12/01/2019 | \$4,007.74     | \$3,026.55      | \$684,015.23       |

## Loan amortization schedule for year 8 (2019):

You will spend \$49,229.29 on interest and \$35,182.19 on principal.

| period: | date:      | interest paid: | principal paid: | remaining balance: |
|---------|------------|----------------|-----------------|--------------------|
| 97      | 01/01/2020 | \$3,990.09     | \$3,044.20      | \$680,971.03       |
| 98      | 02/01/2020 | \$3,972.33     | \$3,061.96      | \$677,909.07       |
| 99      | 03/01/2020 | \$3,954.47     | \$3,079.82      | \$674,829.25       |
| 100     | 04/01/2020 | \$3,936.50     | \$3,097.79      | \$671,731.46       |
| 101     | 05/01/2020 | \$3,918.43     | \$3,115.86      | \$668,615.60       |
| 102     | 06/01/2020 | \$3,900.26     | \$3,134.03      | \$665,481.57       |
| 103     | 07/01/2020 | \$3,881.98     | \$3,152.31      | \$662,329.26       |
| 104     | 08/01/2020 | \$3,863.59     | \$3,170.70      | \$659,158.56       |
| 105     | 09/01/2020 | \$3,845.09     | \$3,189.20      | \$655,969.36       |
| 106     | 10/01/2020 | \$3,826.49     | \$3,207.80      | \$652,761.56       |
| 107     | 11/01/2020 | \$3,807.78     | \$3,226.51      | \$649,535.05       |
| 108     | 12/01/2020 | \$3,788.95     | \$3,245.34      | \$646,289.71       |

## Loan amortization schedule for year 9 (2020):

You will spend \$46,685.96 on interest and \$37,725.52 on principal.

| period: | date:      | interest paid: | principal paid: | remaining balance: |
|---------|------------|----------------|-----------------|--------------------|
| 109     | 01/01/2021 | \$3,770.02     | \$3,264.27      | \$643,025.44       |
| 110     | 02/01/2021 | \$3,750.98     | \$3,283.31      | \$639,742.13       |
| 111     | 03/01/2021 | \$3,731.83     | \$3,302.46      | \$636,439.67       |
| 112     | 04/01/2021 | \$3,712.56     | \$3,321.73      | \$633,117.94       |
| 113     | 05/01/2021 | \$3,693.19     | \$3,341.10      | \$629,776.84       |
| 114     | 06/01/2021 | \$3,673.70     | \$3,360.59      | \$626,416.25       |
| 115     | 07/01/2021 | \$3,654.09     | \$3,380.20      | \$623,036.05       |
| 116     | 08/01/2021 | \$3,634.38     | \$3,399.91      | \$619,636.14       |
| 117     | 09/01/2021 | \$3,614.54     | \$3,419.75      | \$616,216.39       |
| 118     | 10/01/2021 | \$3,594.60     | \$3,439.69      | \$612,776.70       |
| 119     | 11/01/2021 | \$3,574.53     | \$3,459.76      | \$609,316.94       |
| 120     | 12/01/2021 | \$3,554.35     | \$3,479.94      | \$605,837.00       |

## Loan amortization schedule for year 10 (2021):

You will spend \$43,958.77 on interest and \$40,452.71 on principal.

| period: | date:      | interest paid: | principal paid: | remaining balance: |
|---------|------------|----------------|-----------------|--------------------|
| 121     | 01/01/2022 | \$3,534.05     | \$3,500.24      | \$602,336.76       |
| 122     | 02/01/2022 | \$3,513.63     | \$3,520.66      | \$598,816.10       |



|     |            |            |            |              |
|-----|------------|------------|------------|--------------|
| 123 | 03/01/2022 | \$3,493.09 | \$3,541.20 | \$595,274.90 |
| 124 | 04/01/2022 | \$3,472.44 | \$3,561.85 | \$591,713.05 |
| 125 | 05/01/2022 | \$3,451.66 | \$3,582.63 | \$588,130.42 |
| 126 | 06/01/2022 | \$3,430.76 | \$3,603.53 | \$584,526.89 |
| 127 | 07/01/2022 | \$3,409.74 | \$3,624.55 | \$580,902.34 |
| 128 | 08/01/2022 | \$3,388.60 | \$3,645.69 | \$577,256.65 |
| 129 | 09/01/2022 | \$3,367.33 | \$3,666.96 | \$573,589.69 |
| 130 | 10/01/2022 | \$3,345.94 | \$3,688.35 | \$569,901.34 |
| 131 | 11/01/2022 | \$3,324.42 | \$3,709.87 | \$566,191.47 |
| 132 | 12/01/2022 | \$3,302.78 | \$3,731.51 | \$562,459.96 |

Loan amortization schedule for year 11 (2022):

You will spend \$41,034.44 on interest and \$43,377.04 on principal.

| period: | date:      | interest paid: | principal paid: | remaining balance: |
|---------|------------|----------------|-----------------|--------------------|
| 133     | 01/01/2023 | \$3,281.02     | \$3,753.27      | \$558,706.69       |
| 134     | 02/01/2023 | \$3,259.12     | \$3,775.17      | \$554,931.52       |
| 135     | 03/01/2023 | \$3,237.10     | \$3,797.19      | \$551,134.33       |
| 136     | 04/01/2023 | \$3,214.95     | \$3,819.34      | \$547,314.99       |
| 137     | 05/01/2023 | \$3,192.67     | \$3,841.62      | \$543,473.37       |
| 138     | 06/01/2023 | \$3,170.26     | \$3,864.03      | \$539,609.34       |
| 139     | 07/01/2023 | \$3,147.72     | \$3,886.57      | \$535,722.77       |
| 140     | 08/01/2023 | \$3,125.05     | \$3,909.24      | \$531,813.53       |
| 141     | 09/01/2023 | \$3,102.25     | \$3,932.04      | \$527,881.49       |
| 142     | 10/01/2023 | \$3,079.31     | \$3,954.98      | \$523,926.51       |
| 143     | 11/01/2023 | \$3,056.24     | \$3,978.05      | \$519,948.46       |
| 144     | 12/01/2023 | \$3,033.03     | \$4,001.26      | \$515,947.20       |

Loan amortization schedule for year 12 (2023):

You will spend \$37,898.72 on interest and \$46,512.76 on principal.

| period: | date:      | interest paid: | principal paid: | remaining balance: |
|---------|------------|----------------|-----------------|--------------------|
| 145     | 01/01/2024 | \$3,009.69     | \$4,024.60      | \$511,922.60       |
| 146     | 02/01/2024 | \$2,986.22     | \$4,048.07      | \$507,874.53       |
| 147     | 03/01/2024 | \$2,962.60     | \$4,071.69      | \$503,802.84       |
| 148     | 04/01/2024 | \$2,938.85     | \$4,095.44      | \$499,707.40       |
| 149     | 05/01/2024 | \$2,914.96     | \$4,119.33      | \$495,588.07       |
| 150     | 06/01/2024 | \$2,890.93     | \$4,143.36      | \$491,444.71       |
| 151     | 07/01/2024 | \$2,866.76     | \$4,167.53      | \$487,277.18       |
| 152     | 08/01/2024 | \$2,842.45     | \$4,191.84      | \$483,085.34       |
| 153     | 09/01/2024 | \$2,818.00     | \$4,216.29      | \$478,869.05       |
| 154     | 10/01/2024 | \$2,793.40     | \$4,240.89      | \$474,628.16       |
| 155     | 11/01/2024 | \$2,768.66     | \$4,265.63      | \$470,362.53       |
| 156     | 12/01/2024 | \$2,743.78     | \$4,290.51      | \$466,072.02       |

Loan amortization schedule for year 13 (2024):

You will spend \$34,536.30 on interest and \$49,875.18 on principal.

| period: | date:      | interest paid: | principal paid: | remaining balance: |
|---------|------------|----------------|-----------------|--------------------|
| 157     | 01/01/2025 | \$2,718.75     | \$4,315.54      | \$461,756.48       |
| 158     | 02/01/2025 | \$2,693.58     | \$4,340.71      | \$457,415.77       |
| 159     | 03/01/2025 | \$2,668.26     | \$4,366.03      | \$453,049.74       |
| 160     | 04/01/2025 | \$2,642.79     | \$4,391.50      | \$448,658.24       |
| 161     | 05/01/2025 | \$2,617.17     | \$4,417.12      | \$444,241.12       |
| 162     | 06/01/2025 | \$2,591.41     | \$4,442.88      | \$439,798.24       |
| 163     | 07/01/2025 | \$2,565.49     | \$4,468.80      | \$435,329.44       |
| 164     | 08/01/2025 | \$2,539.42     | \$4,494.87      | \$430,834.57       |
| 165     | 09/01/2025 | \$2,513.20     | \$4,521.09      | \$426,313.48       |
| 166     | 10/01/2025 | \$2,486.83     | \$4,547.46      | \$421,766.02       |
| 167     | 11/01/2025 | \$2,460.30     | \$4,573.99      | \$417,192.03       |
| 168     | 12/01/2025 | \$2,433.62     | \$4,600.67      | \$412,591.36       |

## Loan amortization schedule for year 14 (2025):

You will spend \$30,930.82 on interest and \$53,480.66 on principal.

| period: | date:      | interest paid: | principal paid: | remaining balance: |
|---------|------------|----------------|-----------------|--------------------|
| 169     | 01/01/2026 | \$2,406.78     | \$4,627.51      | \$407,963.85       |
| 170     | 02/01/2026 | \$2,379.79     | \$4,654.50      | \$403,309.35       |
| 171     | 03/01/2026 | \$2,352.64     | \$4,681.65      | \$398,627.70       |
| 172     | 04/01/2026 | \$2,325.33     | \$4,708.96      | \$393,918.74       |
| 173     | 05/01/2026 | \$2,297.86     | \$4,736.43      | \$389,182.31       |
| 174     | 06/01/2026 | \$2,270.23     | \$4,764.06      | \$384,418.25       |
| 175     | 07/01/2026 | \$2,242.44     | \$4,791.85      | \$379,626.40       |
| 176     | 08/01/2026 | \$2,214.49     | \$4,819.80      | \$374,806.60       |
| 177     | 09/01/2026 | \$2,186.37     | \$4,847.92      | \$369,958.68       |
| 178     | 10/01/2026 | \$2,158.09     | \$4,876.20      | \$365,082.48       |
| 179     | 11/01/2026 | \$2,129.65     | \$4,904.64      | \$360,177.84       |
| 180     | 12/01/2026 | \$2,101.04     | \$4,933.25      | \$355,244.59       |

## Loan amortization schedule for year 15 (2026):

You will spend \$27,064.71 on interest and \$57,346.77 on principal.

| period: | date:      | interest paid: | principal paid: | remaining balance: |
|---------|------------|----------------|-----------------|--------------------|
| 181     | 01/01/2027 | \$2,072.26     | \$4,962.03      | \$350,282.56       |
| 182     | 02/01/2027 | \$2,043.31     | \$4,990.98      | \$345,291.58       |
| 183     | 03/01/2027 | \$2,014.20     | \$5,020.09      | \$340,271.49       |
| 184     | 04/01/2027 | \$1,984.92     | \$5,049.37      | \$335,222.12       |
| 185     | 05/01/2027 | \$1,955.46     | \$5,078.83      | \$330,143.29       |
| 186     | 06/01/2027 | \$1,925.84     | \$5,108.45      | \$325,034.84       |
| 187     | 07/01/2027 | \$1,896.04     | \$5,138.25      | \$319,896.59       |
| 188     | 08/01/2027 | \$1,866.06     | \$5,168.23      | \$314,728.36       |
| 189     | 09/01/2027 | \$1,835.92     | \$5,198.37      | \$309,529.99       |
| 190     | 10/01/2027 | \$1,805.59     | \$5,228.70      | \$304,301.29       |
| 191     | 11/01/2027 | \$1,775.09     | \$5,259.20      | \$299,042.09       |
| 192     | 12/01/2027 | \$1,744.41     | \$5,289.88      | \$293,752.21       |

## Loan amortization schedule for year 16 (2027):

You will spend \$22,919.10 on interest and \$61,492.38 on principal.

| period: | date:      | interest paid: | principal paid: | remaining balance: |
|---------|------------|----------------|-----------------|--------------------|
| 193     | 01/01/2028 | \$1,713.55     | \$5,320.74      | \$288,431.47       |
| 194     | 02/01/2028 | \$1,682.52     | \$5,351.77      | \$283,079.70       |
| 195     | 03/01/2028 | \$1,651.30     | \$5,382.99      | \$277,696.71       |
| 196     | 04/01/2028 | \$1,619.90     | \$5,414.39      | \$272,282.32       |
| 197     | 05/01/2028 | \$1,588.31     | \$5,445.98      | \$266,836.34       |
| 198     | 06/01/2028 | \$1,556.55     | \$5,477.74      | \$261,358.60       |
| 199     | 07/01/2028 | \$1,524.59     | \$5,509.70      | \$255,848.90       |
| 200     | 08/01/2028 | \$1,492.45     | \$5,541.84      | \$250,307.06       |
| 201     | 09/01/2028 | \$1,460.12     | \$5,574.17      | \$244,732.89       |
| 202     | 10/01/2028 | \$1,427.61     | \$5,606.68      | \$239,126.21       |
| 203     | 11/01/2028 | \$1,394.90     | \$5,639.39      | \$233,486.82       |
| 204     | 12/01/2028 | \$1,362.01     | \$5,672.28      | \$227,814.54       |

## Loan amortization schedule for year 17 (2028):

You will spend \$18,473.81 on interest and \$65,937.67 on principal.

| period: | date:      | interest paid: | principal paid: | remaining balance: |
|---------|------------|----------------|-----------------|--------------------|
| 205     | 01/01/2029 | \$1,328.92     | \$5,705.37      | \$222,109.17       |
| 206     | 02/01/2029 | \$1,295.64     | \$5,738.65      | \$216,370.52       |
| 207     | 03/01/2029 | \$1,262.16     | \$5,772.13      | \$210,598.39       |
| 208     | 04/01/2029 | \$1,228.49     | \$5,805.80      | \$204,792.59       |
| 209     | 05/01/2029 | \$1,194.62     | \$5,839.67      | \$198,952.92       |
| 210     | 06/01/2029 | \$1,160.56     | \$5,873.73      | \$193,079.19       |
| 211     | 07/01/2029 | \$1,126.30     | \$5,907.99      | \$187,171.20       |

|     |            |            |            |              |
|-----|------------|------------|------------|--------------|
| 212 | 08/01/2029 | \$1,091.83 | \$5,942.46 | \$181,228.74 |
| 213 | 09/01/2029 | \$1,057.17 | \$5,977.12 | \$175,251.62 |
| 214 | 10/01/2029 | \$1,022.30 | \$6,011.99 | \$169,239.63 |
| 215 | 11/01/2029 | \$987.23   | \$6,047.06 | \$163,192.57 |
| 216 | 12/01/2029 | \$951.96   | \$6,082.33 | \$157,110.24 |

Loan amortization schedule for year 18 (2029):

You will spend \$13,707.18 on interest and \$70,704.30 on principal.

| period: | date:      | interest paid: | principal paid: | remaining balance: |
|---------|------------|----------------|-----------------|--------------------|
| 217     | 01/01/2030 | \$916.48       | \$6,117.81      | \$150,992.43       |
| 218     | 02/01/2030 | \$880.79       | \$6,153.50      | \$144,838.93       |
| 219     | 03/01/2030 | \$844.89       | \$6,189.40      | \$138,649.53       |
| 220     | 04/01/2030 | \$808.79       | \$6,225.50      | \$132,424.03       |
| 221     | 05/01/2030 | \$772.47       | \$6,261.82      | \$126,162.21       |
| 222     | 06/01/2030 | \$735.95       | \$6,298.34      | \$119,863.87       |
| 223     | 07/01/2030 | \$699.21       | \$6,335.08      | \$113,528.79       |
| 224     | 08/01/2030 | \$662.25       | \$6,372.04      | \$107,156.75       |
| 225     | 09/01/2030 | \$625.08       | \$6,409.21      | \$100,747.54       |
| 226     | 10/01/2030 | \$587.69       | \$6,446.60      | \$94,300.94        |
| 227     | 11/01/2030 | \$550.09       | \$6,484.20      | \$87,816.74        |
| 228     | 12/01/2030 | \$512.26       | \$6,522.03      | \$81,294.71        |

Loan amortization schedule for year 19 (2030):

You will spend \$8,595.95 on interest and \$75,815.53 on principal.

| period: | date:      | interest paid: | principal paid: | remaining balance: |
|---------|------------|----------------|-----------------|--------------------|
| 229     | 01/01/2031 | \$474.22       | \$6,560.07      | \$74,734.64        |
| 230     | 02/01/2031 | \$435.95       | \$6,598.34      | \$68,136.30        |
| 231     | 03/01/2031 | \$397.46       | \$6,636.83      | \$61,499.47        |
| 232     | 04/01/2031 | \$358.75       | \$6,675.54      | \$54,823.93        |
| 233     | 05/01/2031 | \$319.81       | \$6,714.48      | \$48,109.45        |
| 234     | 06/01/2031 | \$280.64       | \$6,753.65      | \$41,355.80        |
| 235     | 07/01/2031 | \$241.24       | \$6,793.05      | \$34,562.75        |
| 236     | 08/01/2031 | \$201.62       | \$6,832.67      | \$27,730.08        |
| 237     | 09/01/2031 | \$161.76       | \$6,872.53      | \$20,857.55        |
| 238     | 10/01/2031 | \$121.67       | \$6,912.62      | \$13,944.93        |
| 239     | 11/01/2031 | \$81.35        | \$6,952.94      | \$6,991.99         |
| 240     | 12/01/2031 | \$40.79        | \$6,991.99      | \$0.00             |

Loan amortization schedule for year 20 (2031):

You will spend \$3,115.25 on interest and \$81,294.71 on principal.

## Loan payoff summary

| Loan amount:          | Loan details: | Monthly payment:  | Loan payoff details: |
|-----------------------|---------------|-------------------|----------------------|
| \$907,300.00          | 7.00%         | \$7,034.29        | \$7,034.29           |
| Annual interest rate: | 20 years      | Loan start date:  | 12/01/2011           |
| Loan length:          | monthly       | Loan payoff date: | 12/01/2031           |
| Pay periodicity:      |               | Interest paid:    | \$780,928.09         |

On a \$907,300.00 loan you will spend \$1,688,228.09.

From this \$780,928.09 goes towards interest and \$907,300.00 will be applied to the principal.

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EXHIBIT "B"

201100156180  
Filed for Record in  
YORK COUNTY, SC  
DAVID HAMILTON, CLERK OF COURTS  
12-30-2011 At 02:33 pm.  
MORTGAGE 12.00  
OR Vol 12360 Page 239 - 244

STATE OF SOUTH CAROLINA

MORTGAGE

COUNTY OF YORK

WHEREAS, Fort Mill Holdings, LLC, (hereafter called Mortgagor), in and by their certain Note of even date, stands firmly held and bound unto Robert Clay Sparrow (hereafter referred to as Mortgagee) for payment of the full and just sum of Nine Hundred Seven Thousand Three Hundred Dollars (\$907,300.00) payable per terms of Note, with the entire balance, if not sooner paid, being due per terms of Note, with interest, if any, as in and by the Note, reference being had thereto, will more fully appear.

KNOW ALL MEN BY THESE PRESENTS: That the Mortgagor, for and inconsideration of the debt or sum of money aforesaid, and to better secure its payment to the Mortgagee according to the conditions of the Note, and also in consideration of the further sum of \$3.00 to the Mortgagor in hand well and truly paid by the Mortgagee at and before the sealing and delivery of these presents the receipt and sufficiency whereof is hereby acknowledged, have granted, bargained, sold and released, and by these Presents do grant, bargain, sell and release unto said unto the Mortgagee, his heirs and assigns, the real property described below:

SEE EXHIBIT "A" ATTACHED HERETO.

MORTGAGEE'S ADDRESS:

Robert Clay Sparrow  
142 Stoney Point Drive  
Blacksburg, SC 29702

TOGETHER with all and singular, the rights, members, hereditaments and appurtenances to said Premises belonging, or in anyways incident or appertaining.

OK 12360 PG0239

TO HAVE AND TO HOLD, all and singular the premises unto the mortgagee, his heirs and assigns, forever.

AND THE MORTGAGOR does hereby bind himself and his heirs and successors to warrant and forever defend all and singular the premises unto the mortgagee, his heirs and assigns, from and against himself and his heirs and successors, lawfully claiming, or to claim the same, or any part thereof.

AND IT IS AGREED by and between the parties that the Mortgagor, his heirs and assigns, shall keep any building erected on the premises insured against loss and damage by fire for the benefit of the Mortgagee, for an amount not less than the sum shown above, with such company as shall be approved by the Mortgagee, his successors, heirs and assigns, and shall deliver the policy to the Mortgagee; and in default thereof, the Mortgagee, his successors, heirs and assigns may effect such insurance and reimburse themselves under this Mortgage to the expense thereof, together with interest thereon at the rate provided in the Note from the date of its payment.

AND IT IS FURTHER AGREED in the event of other insurance and contribution between the insurers that the Mortgagee, his successors, heirs and assigns, shall be entitled to receive from the aggregate of the insurance monies to be paid a sum equal to the amount of the debt secured by this Mortgage.

AND IT IS AGREED by and between the parties, that if the Mortgagor, his heirs and successors or assigns, shall fail to pay all taxes and assessments upon the premises when they shall first become payable, then the Mortgagee, his heirs or assigns, may cause the same to be paid, together with all penalties and costs incurred thereon, and reimburse herself under this Mortgage for the sum so paid, with interest thereon at the rate provided in the Note from the date of such payment.

AND IT IS AGREED by and between the parties that upon any default being made in the payment of the Note or of the insurance premiums, or of the taxes, or of the assessments hereinabove mentioned, or failure to pay any other indebtedness which constitutes a lien upon the real property when the same shall severally become payable, then the entire amount of the debt secured or intended to be secured hereby shall become due, at the option of the Mortgagee, his successors, heirs or assigns, although the period for the payment thereof may not then have expired.

AND IT IS AGREED by and between the parties that should legal proceedings be instituted for the collection of the debt secured hereby, then the Mortgagee, his successors, heirs or assigns, shall have the right to have a receiver appointed of the rents and profits of the premises, who, after deducting all charges and expenses attending such proceedings, and the execution of the trust as receiver, shall apply the residue of the rents and profits towards the payment of the debt secured hereby.

AND IT IS FURTHER AGREED by and between the parties that should legal proceedings be instituted for the foreclosure of this Mortgage, or should the Mortgagees become a party to any action by reason of this Mortgage, or should the debt secured hereby be placed in the hands of an attorney at law for collection, by suit or otherwise, all costs and expenses incurred by the Mortgagee, including a reasonable attorney's fee, shall thereupon become due and payable as a part of the debt secured hereby, and may be recovered and collected hereunder..

PROVIDED ALWAYS, NEVERTHELESS, and it is the true intent and meaning of the parties, that if the Mortgagor does and shall well and truly pay, or cause to be paid, unto the Mortgagees, their successors, heirs and assigns, the debt or sum of money aforesaid, with interest thereon, and if any shall be due, according to the true intent and meaning of the Note and this Mortgage, then this Mortgage shall cease, determine and be utterly null and void; otherwise it shall remain in full force and virtue.

IN THE EVENT of sale of the mortgaged property or the transfer of any interest therein to any transferee, excepting only the creation of lien or encumbrance junior

to the lien of this Mortgage, Mortgagor agrees that the Mortgagees may, at their sole option, declare all sums secured by this Mortgage immediately due and payable in full. If the Mortgagee exercises its option to declare the entire amounts so secured to be paid in full, its shall give written notice to Mortgagor who shall have a period of thirty(30) days after the date such notice is mailed to pay the amount declared to be due. If Mortgagor fails to pay such sum prior to the expiration of such period, Mortgagees may without further notice or demand invoke all remedies permitted by this Mortgage.

AND IT IS AGREED by and between the said parties, that the Mortgagor should hold and enjoy the premises until default of payment shall be made.

RK 12360 PG0241

WITNESS Grantors' hands and seals this the 1<sup>st</sup> day of December, 2011.

SIGNED, SEALED AND DELIVERED IN THE PRESENCE OF:

Fort Mill Holdings, LLC

Tracy Goins (SEAL)  
By: Tracy Goins, Manager

William A. Reese  
Witness # 1

Michael L. Taylor  
Witness # 2

8K12360 P00242

State of North Carolina  
County of Mecklenburg

Personally appeared before me the undersigned witness and made oath that he/she saw the within named Grantors, sign, seal and as Grantors' acts and deeds delivery the within Mortgage, and that he/she with the other witness subscribed above, witnessed the execution thereof.

William L. Reece  
Witness # 1 signature William L. Reece

Sworn to before me this 1<sup>st</sup> day of December, 2011.

Mary D. Smith  
Notary Public  
Iredell County, NC

My commission expires: 12-18-13

8K-12360 PG0243



Exhibit A

All that certain piece, parcel or lot of land lying, being and situate on the southern side of S.C. Highway 51, and being shown and designated as Lot 2H, on Plat of Property of Dynamic Properties, a Partnership, by John Quinn Hall, dated April 24, 1984, being more particularly described according to said plat as follows: BEGINNING at an iron in the right of way for S.C. Highway 51, running thence with line of property of the Estate of W.B. Roddey, S. 13-33-26 E. 425.77 feet to a new iron; thence S. 79-40-45 W. 93.85 feet; thence running with line of property previously conveyed to Southern Utilities, Inc., N. 15-59-19 W. 427.17 feet to an iron in right of way for S.C. Highway 51, thence running in said right of way N. 79-40-25 E. 112 feet to the point of beginning; LESS AND EXCEPT that certain piece, parcel or lot of and consisting of 0.05 acres which has been conveyed to the South Carolina Department of Transportation by Deed dated December 28, 1993, recorded in Record Book 1129 at page 112 on November 4, 1994.

Being the property conveyed to  
Font Mill Holdings, LLC by deed  
recorded December 30, 2011 in  
Book 12360 at page 79

BAD ORIGINAL

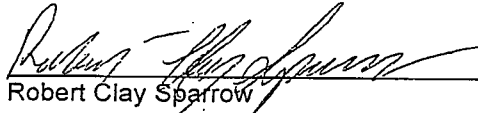
8X-12360-P00244

STATE OF SOUTH CAROLINA )  
COUNTY OF YORK )

VERIFIED STATEMENT OF ACCOUNT

THE UNDERSIGNED, ROBERT CLAY SPARROW AND MICKEY CROWE, HEREBY CERTIFY that there currently exists outstanding on that certain Note dated December 1, 2011, a principal balance of Eight Hundred Ninety-five Thousand, Seven Hundred Eighty-three and 90/100 (\$895,783.90) Dollars, plus interest at the rate of seven (7%) percent per annum from August 1, 2012, through December 19, 2012, at which time outstanding principal draws interest at the rate of Fifteen (15%) per annum until paid.

This 31 day of January, 2013.

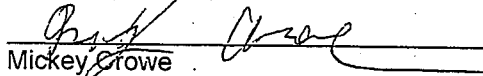
  
Robert Clay Sparrow

  
Mickey Crowe

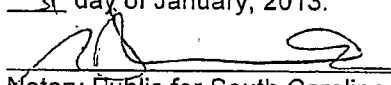
STATE OF SOUTH CAROLINA )  
COUNTY OF YORK )

I, C. Franklin P. McElrath, a Notary Public of the aforesaid County and State certify that Robert Clay Sparrow and Mickey Crowe personally appeared before me this day and acknowledged the execution of the foregoing instrument.

  
Robert Clay Sparrow

  
Mickey Crowe

SWORN TO before me this  
31 day of January, 2013.

  
Notary Public for South Carolina

My Commission Expires: 3/20/13

FILED-RECEIVED  
2013 FEB -8 PM 4:21  
DAVID HAMILTON  
C.C.P. & G.S.  
YORK COUNTY, SC

NOTICE REQUIRED BY THE  
FAIR DEBT COLLECTION PRACTICES ACT  
15 U.S.C. SECTION 1601 AS AMENDED

1. The amount of the debt is Eight Hundred Ninety-five Thousand, Seven Hundred Eighty-three and 90/100 (\$895,783.90) Dollars, plus interest at the rate of seven (7%) percent per annum from August 1, 2012, through December 19, 2012, at which time outstanding principal will draw interest at the rate of Fifteen (15%) percent per annum until paid.

2. Robert Clay Sparrow and Mickey Crowe are named in the attached letter dated January 2, 2012, as the creditors to whom the debt is owed.

3. The debt as described herein will be assumed to be valid by the creditors' law firm, unless the debtor, within thirty days after the receipt of this notice, disputes, in writing, the validity of the debt or some portion thereof.

4. If the debtor notifies the creditors' law firm in writing within thirty (30) days of the receipt of this notice that the debt or any portion thereof is disputed, the creditors' law firm will obtain a verification of the debt, and a copy of the verification will be mailed to the debtor by the creditors' law firm.

5. Written requests should be addressed to G. Franklin Pendleton, II, attorney at law, PO Box 399, Clover, South Carolina, 29710.

6. This notice shall not be construed as a thirty (30) day grace period or an extension.

7. This is an attempt to collect a debt, and any information obtained will be used for that purpose.

STATE OF SOUTH CAROLINA )  
COUNTY OF YORK )

Robert Clay Sparrow and  
Mickey Crowe,

Plaintiffs,

v.

Fort Mill Holdings, LLC, and  
David Baucom,

Defendants. )

IN THE COURT OF COMMON PLEAS  
SIXTEENTH JUDICIAL CIRCUIT

AFFIDAVIT  
OF NON-ELIGIBILITY FOR LOAN'S  
MODIFICATION UNDER THE HOME  
AFFORDABLE MODIFICATION PROGRAM  
Deficiency Judgment Demanded

2013-CP46-00438

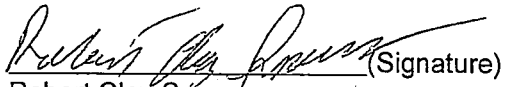
FILED-RECEIVED  
2013 FEB -8 PM 4:21  
DAVID HAMILTON  
C.C.C.P. & C.G.S.  
YORK COUNTY

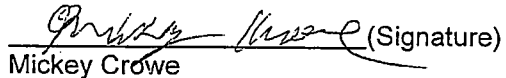
PERSONALLY APPEARED BEFORE ME Robert Clay Sparrow and Mickey Crowe,  
who, being duly sworn, state:

1. The undersigned are the Plaintiffs in the above captioned case. We have  
knowledge of the facts set forth in this affidavit and are authorized to execute it.

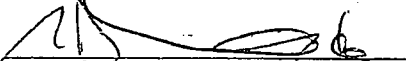
2. Plaintiffs sold the subject property to the Defendant, Fort Mill Holdings, LLC,  
and financed the sale with a purchase money mortgage on the subject premises.

3. The loan that is subject to Plaintiffs' above-referenced action is NOT  
ELIGIBLE for modification pursuant to the terms of the Home Affordable Modification  
Program (HMP).

 (Signature)  
Robert Clay Sparrow

 (Signature)  
Mickey Crowe

SWORN TO before me this  
31 day of January, 2013.

  
Notary Public for South Carolina

My Commission Expires: 31 2013

STATE OF SOUTH CAROLINA )

COUNTY OF YORK )

IN THE COURT OF COMMON PLEAS  
SIXTEENTH JUDICIAL CIRCUIT

Robert Clay Sparrow and  
Mickey Crowe,

Plaintiffs,

v.

Fort Mill Holdings, LLC and  
David Baucom,

Defendants. )

AFFIDAVIT  
HOME AFFORDABLE MODIFICATION  
PROGRAM

2013-CP46-00438

FILED-RECEIVED  
2013 FEB -8 PM 4:21  
DAVID HAMILTON  
S.C. C.P. & G.S.  
YORK COUNTY, Y.C.

TO DEFENDANTS: Pursuant to S.C. Supreme Court Order 2009-05-22-01, if you contest this affidavit, you have 10 days to serve a Counter-affidavit on Plaintiffs' Counsel.

PERSONALLY APPEARED before me G. Franklin Pendleton, who, being duly sworn, deposes and says that:

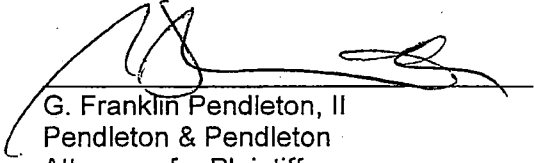
1. My name is G. Franklin Pendleton, II. I am the Attorney for the Plaintiffs in the above captioned case. I have personal knowledge of the facts set forth in this affidavit and am authorized to execute it on Plaintiffs' behalf.

2. I have reviewed the Administrative Order of the South Carolina Supreme Court (2009-05-22-01) dated May 22, 2009.

3. The loan that is the subject of this action is not eligible for modification under Home Affordable Modification Program (HMP) because it is a non-residential loan and not owned, securitized or guaranteed by Fannie Mae or Freddie Mac and Plaintiffs which are servicing these loans are not participating in the HMP. Consequently, this action is not

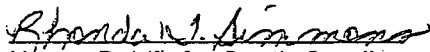
stayed pursuant to Administrative Order 2009-05-22-01.

Date: January 31, 2013



G. Franklin Pendleton, II  
Pendleton & Pendleton  
Attorneys for Plaintiff  
Post Office Box 399  
103 Kings Mountain Street  
Clover, South Carolina 29710  
(803) 222-3026  
(803) 222-3027 - Facsimile

SWORN to before me this  
31 day of January, 2013.



Rhonda N. Simmons  
Notary Public for South Carolina  
My Commission Expires: 03-28-13

SATISFACTION: The debt evidenced by this  
Note has been satisfied in full this  
\_\_\_\_ day of \_\_\_\_\_

Signed: \_\_\_\_\_

## PURCHASE MONEY PROMISSORY NOTE

\$284,500.00

Charlotte, N.C.  
December 1, 2011

FOR VALUE RECEIVED the undersigned, jointly and severally, promise to pay to Robert Clay Sparrow and Mickey Crowe, or order, the principal sum of TWO HUNDRED EIGHTY FOUR THOUSAND FIVE HUNDRED DOLLARS (\$284,500.00), with interest from December 1, 2011, at the rate of SEVEN per cent (7%) per annum on the unpaid balance until paid or until default, both principal and interest payable in lawful money of the United States of America, at the office of Robert Clay Sparrow, 142 Stoney Point Drive, Blacksburg, SC 29702, or at such place as the legal holder hereof may designate in writing. The principal and interest shall be due and payable as follows:

In 240 consecutive and equal payments of \$2,205.73 each commencing January 1, 2012 and continuing to become due on the first day of each month thereafter until December 1, 2031 when all remaining amounts due hereunder shall be due and payable in full, all as shown on the attached amortization schedule.

All amounts of both principal and interest due hereunder shall be paid in full on or before December 1, 2031.

If payable in installments, each such installment shall, unless otherwise provided, be applied first to payment of interest then accrued and due on the unpaid principal balance, with the remainder applied to the unpaid principal.

Unless otherwise provided, this Note may be prepaid in full or in part at any time without penalty or premium. Partial payments shall be applied to installments due in reverse order of their maturity.

In the event of (a) default in payment of any installment of principal or interest hereof as the same becomes due and such default is not cured within ten (10) days from the due date, or (b) default under the terms of any instrument securing this Note, and such default is not cured within fifteen (15) days after written notice to maker, then in either such event the holder may without further notice, declare the remainder of the principal sum, together with all interest accrued thereon and, the prepayment premium, if any, at once due and payable. Failure to exercise this option shall not constitute a waiver of the right to exercise the same at any other time. The unpaid principal of this Note and any part thereof, accrued interest and all other sums due under this Note and the Deed of Trust or Mortgage, if any, shall bear interest at the rate of Fifteen per cent (15%) per annum after default until paid.

All parties to this Note, including maker and any sureties, endorsers, or guarantors hereby waive protest, presentment, notice of dishonor, and notice of acceleration of maturity and agree to continue to remain bound for the payment of principal, interest and all other sums due under this Note and the Deed of Trust or Mortgage notwithstanding any change or changes by way of release, surrender, exchange, modification or substitution of any security for this Note or by way of any extension or extensions of time for the payment of principal and interest; and all such parties waive all and every kind of notice of such change or changes and agree that the same may be made without notice or consent of any of them.

Upon default the holder of this Note may employ an attorney to enforce the holder's rights and remedies, and the maker, principal, surety, guarantor and endorsers of this Note hereby agree to pay to the holder reasonable attorneys fees not exceeding a sum equal to fifteen percent (15%) of the outstanding balance owing on said Note, plus all other reasonable expenses incurred by the holder in exercising any of the holder's rights and remedies upon default. The rights and remedies of the holder as provided in this Note and any instrument securing this Note shall be cumulative and may be pursued singly, successively, or together against the property described in the Deed of Trust or Mortgage or any other funds, property or security held by the holder for payment or security, in the sole discretion of the holder. The failure to exercise any such right or remedy shall not be a waiver or release of such rights or remedies or the right to exercise any of them at another time.

This Note is to be governed and construed in accordance with the laws of the State of North Carolina.

This Note is given for the balance of purchase price for the property located off Highway 51, Fort Mill, SC, and is secured by a Purchase Money Mortgage or Deed of Trust or Mortgage, which is a first lien upon said property.

IN TESTIMONY WHEREOF, the corporate maker has caused this instrument to be executed in its corporate name by its Manager, by the authority duly given by its managers and members, the day and year first above written.

Maurer Holdings, LLC

By: Tracy Goins  
Tracy Goins, Manager

IN TESTIMONY WHEREOF, each individual maker or guarantor has hereunto set his hand and adopted as his seal the word "SEAL" appearing beside his name, the day and year first above written.

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N

David Baucom (SEAL)  
David Baucom, Guarantor

SATISFACTION: The debt evidenced by this  
Note has been satisfied in full this

day of \_\_\_\_\_

Signed: \_\_\_\_\_

## PURCHASE MONEY PROMISSORY NOTE

\$907,300.00

Charlotte, N.C.  
December 1, 2011

FOR VALUE RECEIVED the undersigned, jointly and severally, promise to pay to Robert Clay Sparrow and Mickey Crowe, or order, the principal sum of NINE HUNDRED SEVEN THOUSAND THREE HUNDRED DOLLARS (\$907,300.00), with interest from December 1, 2011, at the rate of SEVEN per cent (7%) per annum on the unpaid balance until paid or until default, both principal and interest payable in lawful money of the United States of America, at the office of Robert Clay Sparrow, 142 Stoney Point Drive, Blacksburg, SC 29702, or at such place as the legal holder hereof may designate in writing. The principal and interest shall be due and payable as follows:

In 240 consecutive and equal payments of \$7,034.29 each commencing January 1, 2012 and continuing to become due on the first day of each month thereafter until December 1, 2031 when all remaining amounts due hereunder shall be due and payable in full, all as shown on the attached amortization schedule.

All amounts of both principal and interest due hereunder shall be paid in full on or before December 1, 2031.

If payable in installments, each such installment shall, unless otherwise provided, be applied first to payment of interest then accrued and due on the unpaid principal balance, with the remainder applied to the unpaid principal.

Unless otherwise provided, this Note may be prepaid in full or in part at any time without penalty or premium. Partial payments shall be applied to installments due in reverse order of their maturity.

In the event of (a) default in payment of any installment of principal or interest hereof as the same becomes due and such default is not cured within ten (10) days from the due date, or (b) default under the terms of any instrument securing this Note, and such default is not cured within fifteen (15) days after written notice to maker, then in either such event the holder may without further notice, declare the remainder of the principal sum, together with all interest accrued thereon and, the prepayment premium, if any, at once due and payable. Failure to exercise this option shall not constitute a waiver of the right to exercise the same at any other time. The unpaid principal of this Note and any part thereof, accrued interest and all other sums due under this Note and the Deed of Trust or Mortgage, if any, shall bear interest at the rate of Fifteen per cent (15%) per annum after default until paid.

All parties to this Note, including maker and any sureties, endorsers, or guarantors hereby waive protest, presentment, notice of dishonor, and notice of acceleration of maturity and agree to continue to remain bound for the payment of principal, interest and all other sums due under this Note and the Deed of Trust or Mortgage notwithstanding any change or changes by way of release, surrender, exchange, modification or substitution of any security for this Note or by way of any extension or extensions of time for the payment of principal and interest; and all such parties waive all and every kind of notice of such change or changes and agree that the same may be made without notice or consent of any of them.

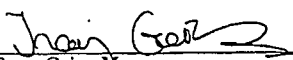
Upon default the holder of this Note may employ an attorney to enforce the holder's rights and remedies, and the maker, principal, surety, guarantor and endorsers of this Note hereby agree to pay to the holder reasonable attorneys fees not exceeding a sum equal to fifteen percent (15%) of the outstanding balance owing on said Note, plus all other reasonable expenses incurred by the holder in exercising any of the holder's rights and remedies upon default. The rights and remedies of the holder as provided in this Note and any instrument securing this Note shall be cumulative and may be pursued singly, successively, or together against the property described in the Deed of Trust or Mortgage or any other funds, property or security held by the holder for payment or security, in the sole discretion of the holder. The failure to exercise any such right or remedy shall not be a waiver or release of such rights or remedies or the right to exercise any of them at another time.

This Note is to be governed and construed in accordance with the laws of the State of North Carolina.

This Note is given for the balance of purchase price for the property located off Highway 51, Fort Mill, SC, and is secured by a Purchase Money Mortgage or Deed of Trust or Mortgage, which is a first lien upon said property.

IN TESTIMONY WHEREOF, the corporate maker has caused this instrument to be executed in its corporate name by its Manager, by the authority duly given by its managers and members, the day and year first above written.

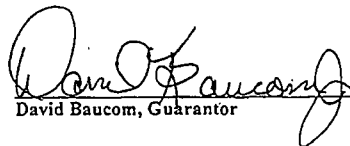
Fort Mill Holdings, LLC

By:   
Tracy Goins, Manager

IN TESTIMONY WHEREOF, each individual maker or guarantor has hereunto set his hand and adopted as his seal the word "SEAL" appearing beside his name, the day and year first above written.

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N

 (SEAL)  
David Baucom, Guarantor



STATE OF SOUTH CAROLINA )  
COUNTY OF YORK )

IN THE COURT OF COMMON PLEAS  
SIXTEENTH JUDICIAL CIRCUIT

Robert Clay Sparrow and )  
Mickey Crowe, )

Plaintiffs, )

vs. )

Maurer Holdings, LLC, and )  
David Baucom, )

Defendants. )

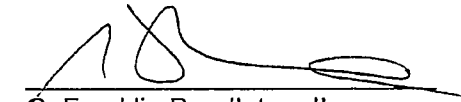
LIS PENDENS  
FORECLOSURE-NON-JURY  
2013-CP46-00770

FILED-RECEIVED  
2013 FEB -8 PM 4:32  
DAVID HAMILTON  
C.C.P. & S.S.  
YORK COUNTY, SC

Notice is hereby given that an action has been commenced and is now pending in the Court upon the Complaint of the above-named Plaintiffs against the above-named Defendants for the foreclosure of that certain Mortgage dated December 1, 2011, and recorded December 30, 2011, in Record Book 12360, Page 230, RMC Office for York County, South Carolina. The premises covered by this foreclosure action is described as follows:

All that certain piece, parcel or lot of land lying, being and situate on the in Fort Mill Township, being shown and designated on Boundary Survey for Robert Clay Sparrow, drawn by A. Alan Wallwork, S.C.R.L.S., dated November 12, 1998, containing 5.75 acres, more or less, and being recorded contemporaneously herewith in Plat Book B-55, at Page 2, said plat showing the following courses and distances, to wit: Beginning at an iron, joint corner with A.E. Stone property and right of way for road and running thence, N. 35-27-22 E. 200.80 feet to an iron; thence N. 43-36-40 E. 109.33 feet to an iron; thence N. 43-30-13 E. 128.33 feet to an iron; thence, N. 74-00-08 E. 206.34 feet to an iron; thence N. 79-39-22 E. 121.04 feet to an iron; thence S. 12-55-47 E. 231.11 feet to an iron; thence N. 73-38-36 E. 85.00 feet to an iron; thence S. 10-06 W. 450.00 feet to an iron; thence S. 79-02-30 E. 188.49 feet to an iron; thence N. 11-04-58 E. 192.79 feet to an iron; thence S. 78-36-50 E. 200.69 feet to an iron; thence N. 37-00-02 E. 153.07 feet to an iron; thence N. 78-38-38 W. 74.01 feet to an iron; thence, along a clockwise curving arc (radius = 256.48 feet) 107.88 feet to an iron; thence N. 54-32-38

W. 51.73 feet to an iron, the point of beginning This is the identical property conveyed to Maurer Holdings, LLC by deed recorded December 30, 2011, in Record Book 12360, Page 226, RMC Office for York County, South Carolina.



G. Franklin Pendleton, II  
Pendleton and Pendleton  
Attorneys for Plaintiff  
103 Kings Mountain Street  
P. O. Box 399  
Clover, South Carolina 29710  
(803) 222-3026

January 31, 2013

Clover, South Carolina

STATE OF SOUTH CAROLINA )  
COUNTY OF YORK )

IN THE COURT OF COMMON PLEAS  
SIXTEENTH JUDICIAL CIRCUIT

Robert Clay Sparrow and )  
Mickey Crowe, )

Plaintiffs, )

-vs- )

Maurer Holdings, LLC, and )  
David Baucom, )

Defendants. )

S U M M O N S  
(Suit on Note)  
(Foreclosure of Mortgage)  
(Deficiency Judgment Demanded)  
(Breach of Guaranty Agreement)  
(Non-Jury)

2013-CP46- 00990

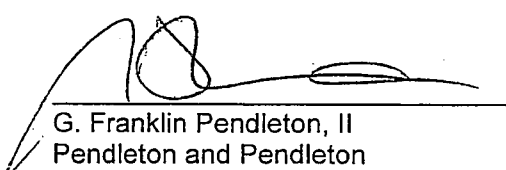
FILED-RECEIVED  
2013 FEB -8 PM 4:32  
DAVID HAMILTON  
C.C.P. & G.S. SC  
YORK COUNTY, SC

TO THE DEFENDANTS ABOVE NAMED:

You are required to answer the Complaint in this action and to serve a copy of your answer on the subscriber of this Summons at 103 Kings Mountain Street, Clover, South Carolina, within thirty (30) days after service of this Summons, exclusive of the day of service. If you fail to answer the Complaint within thirty (30) days after service of this Summons, judgment will be granted against you by default for the relief demanded in the Complaint.

Clover, South Carolina

January 7, 2013

  
G. Franklin Pendleton, II  
Pendleton and Pendleton  
Attorneys for Plaintiff  
103 Kings Mountain Street  
P. O. Box 399  
Clover, South Carolina 29710  
(803) 222-3026  
(803) 222-3027 - Facsimile

STATE OF SOUTH CAROLINA )  
COUNTY OF YORK )

IN THE CIRCUIT COURT FOR THE  
SIXTEENTH JUDICIAL CIRCUIT

Robert Clay Sparrow and Mickey  
Crowe,

Plaintiffs,

vs.

Maurer Holdings, LLC, and David  
Baucom,

Defendants.

CERTIFICATE OF EXEMPTION  
FROM ADR

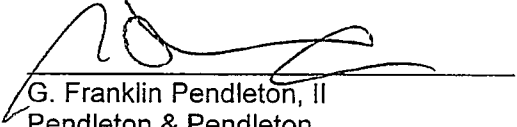
2013-CP46- 60790

I certify that this action is exempt from ADR because:

- ☐ this is a special proceeding or action seeking extraordinary relief such as mandamus, habeas corpus or prohibition;
- ☐ this action is appellate in nature;
- ☐ this is a post-conviction relief matter;
- ☐ this is a contempt of court proceeding;
- ☐ this is a forfeiture proceeding brought by the State;
- ☒ this is a case involving a mortgage foreclosure; or
- ☐ the parties submitted the case to voluntary mediation with a certified mediator prior to the filing of this action.

FILED-RECEIVED  
2013 FEB -8 PM 4:32  
DAVID HAMILTON  
C.C. P & G.S.  
YORK COUNTY, SC

Date: January 31, 2013

  
G. Franklin Pendleton, II  
Pendleton & Pendleton  
Attorneys for Plaintiff  
Post Office Box 399  
103 Kings Mountain Street  
Clover, South Carolina 29710  
(803) 222-3026  
(803) 222-3027 - Facsimile

STATE OF SOUTH CAROLINA )  
COUNTY OF YORK )

Robert Clay Sparrow and  
Mickey Crowe,

Plaintiffs,

v.

Maurer Holdings, LLC, and  
David Baucom,

Defendants. )

IN THE COURT OF COMMON PLEAS  
SIXTEENTH JUDICIAL CIRCUIT

AFFIDAVIT  
OF NON-ELIGIBILITY FOR LOAN  
MODIFICATION UNDER THE HOME  
AFFORDABLE MODIFICATION PROGRAM  
Deficiency Judgment Demanded

2013-CP46-00440

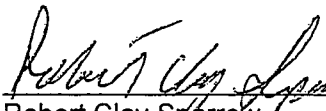
FILED-RECEIVED  
2013 FEB - 8 PM 4:32  
DAVID HAMILTON  
CLERK OF COURT  
YORK COUNTY, SC

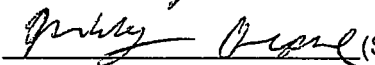
PERSONALLY APPEARED BEFORE ME Robert Clay Sparrow and Mickey Crowe,  
who, being duly sworn, state:

1. The undersigned are the Plaintiffs in the above captioned case. We have  
knowledge of the facts set forth in this affidavit and are authorized to execute it.

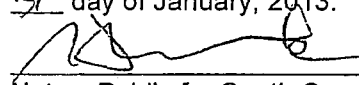
2. Plaintiffs sold the subject property to the Defendant, Maurer Holdings, LLC,  
and financed the sale with a purchase money mortgage on the subject premises.

3. The loan that is subject to Plaintiffs' above-referenced action is NOT  
ELIGIBLE for modification pursuant to the terms of the Home Affordable Modification  
Program (HMP).

  
Robert Clay Sparrow (Signature)

  
Mickey Crowe (Signature)

SWORN TO before me this  
31 day of January, 2013.

  
Notary Public for South Carolina

My Commission Expires: 3/20/13

STATE OF SOUTH CAROLINA  
COUNTY OF YORK

IN THE COURT OF COMMON PLEAS  
SIXTEENTH JUDICIAL CIRCUIT

FILED-RECEIVED  
13 FEB -8 PM 4:32  
DAVID HAMILTON  
C.C.P. & G.S.  
YORK COUNTY, S.C.

Robert Clay Sparrow and  
Mickey Crowe,

Plaintiffs,

v.

Maurer Holdings, LLC and  
David Baucom,

Defendants.

AFFIDAVIT  
HOME AFFORDABLE MODIFICATION  
PROGRAM

2013-CP46-00740

TO DEFENDANTS: Pursuant to S.C. Supreme Court Order 2009-05-22-01, if you contest this affidavit, you have 10 days to serve a Counter-affidavit on Plaintiffs' Counsel.

PERSONALLY APPEARED before me G. Franklin Pendleton, who, being duly sworn, deposes and says that:

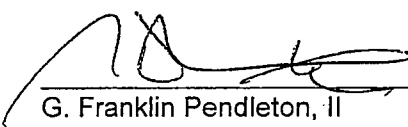
1. My name is G. Franklin Pendleton, II. I am the Attorney for the Plaintiffs in the above captioned case. I have personal knowledge of the facts set forth in this affidavit and am authorized to execute it on Plaintiffs' behalf.

2. I have reviewed the Administrative Order of the South Carolina Supreme Court (2009-05-22-01) dated May 22, 2009.

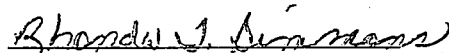
3. The loan that is the subject of this action is not eligible for modification under Home Affordable Modification Program (HMP) because it is a non-residential loan and not owned, securitized or guaranteed by Fannie Mae or Freddie Mac and Plaintiffs which are servicing these loans are not participating in the HMP. Consequently, this action is not

stayed pursuant to Administrative Order 2009-05-22-01.

Date: January 31, 2013

  
\_\_\_\_\_  
G. Franklin Pendleton, II  
Pendleton & Pendleton  
Attorneys for Plaintiff  
Post Office Box 399  
103 Kings Mountain Street  
Clover, South Carolina 29710  
(803) 222-3026  
(803) 222-3027 - Facsimile

SWORN to before me this  
31 day of January, 2013.

  
\_\_\_\_\_  
Rhonda J. Simmons  
Notary Public for South Carolina  
My Commission Expires: 03-30-13

STATE OF SOUTH CAROLINA  
COUNTY OF YORK

IN THE COURT OF COMMON PLEAS  
SIXTEENTH JUDICIAL CIRCUIT

Robert Clay Sparrow and  
Mickey Crowe,

Plaintiffs,

v.

Maurer Holdings, LLC, and  
David Baucom,

Defendants.

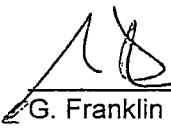
CERTIFICATE OF EXEMPTION  
FROM ADMINISTRATIVE ORDER

2013-CP46-00740  
(Non-owner occupied property)

The undersigned attorney for the Plaintiffs does hereby certify as follows:

- 1) That this is an action for the foreclosure of real property.
- 2) That the Administrative Order of the Supreme Court of South Carolina dated May 2, 2011 (2011-05-02-01) does not apply in this case because the real property is not an "owner occupied dwelling" as defined in the Order.

Date: January 31, 2013

  
G. Franklin Pendleton, II  
Pendleton & Pendleton  
Attorneys for Plaintiff  
Post Office Box 399  
103 Kings Mountain Street  
Clover, South Carolina 29710  
(803) 222-3026  
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2013 FEB - 8 PM 4:32  
DAVID HAMILTON  
C.C.P. & G.S. SC  
YORK COUNTY, SC



STATE OF SOUTH CAROLINA )  
COUNTY OF YORK )

IN THE COURT OF COMMON PLEAS  
SIXTEENTH JUDICIAL CIRCUIT

Robert Clay Sparrow and )  
Mickey Crowe, )

Plaintiffs, )

vs. )

Maurer Holdings, LLC, and )  
David Baucom, )

Defendants. )

COMPLAINT  
(Suit on Note)  
(Foreclosure of Mortgage)  
(Deficiency Judgment Demanded)  
(Breach of Guaranty Agreement)  
(Non-Jury)

2013-CP46-DD740

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DAVID HAMILTON  
C.C.P. & S.S.  
YORK COUNTY, SC

The Plaintiffs allege as follows:

PARTIES AND JURISDICTION

1. The Plaintiff, Robert Clay Sparrow, is a citizen and resident of Mecklenburg County, North Carolina, and the Plaintiff, Mickey Crowe, is a citizen and resident of York County, South Carolina.

2. The Defendant, Maurer Holdings, LLC, on information and belief, is a North Carolina limited liability company doing business in South Carolina.

3. The Defendant, David Baucom, on information and belief, is a citizen and resident of Mecklenburg County, North Carolina, and is not in the military service of the United States of America pursuant to the provisions of the Servicemembers Civil Relief Act (2003).

4. The Plaintiffs are the owners and holders of the mortgage covering real property, which is the subject of the foreclosure action herein, located in the County of York, State of South Carolina.

5. The Plaintiffs are the owners and holders of the note securing the mortgage

which is the subject of the foreclosure action herein, located in the County of York, State of South Carolina.

6. The Defendants named herein have an interest in the property that is the subject of this action.

FOR A FIRST CAUSE OF ACTION  
(Suit on Note)  
(Foreclosure of Mortgage)  
(Deficiency Judgment Demanded)

7. To the extent that they are not inconsistent, the allegations contained in the preceding paragraphs are repeated and re-alleged herein as if in verbatim.

8. On or about December 1, 2011, for value received, the Defendant, Maurer Holdings, LLC, by and through its Manager, Tracy Goins, executed and delivered to Plaintiffs a certain promissory note in the sum of \$284,500.00, together with interest thereon at seven (7%) percent per annum until paid or until default. After default, the promissory note accrues interest thereon at fifteen (15%) percent per annum until paid. The Defendant, David Baucom, executed the promissory note dated on or about December 1, 2011, as its guarantor. (See Exhibit A, attached hereto and made a part hereof.)

9. To secure the payment of the said note and debt, secured thereby, and in accordance with the terms and conditions thereof, on December 1, 2011, the Defendant, Maurer Holdings, LLC, by and through its Manager, Tracy Goins, executed and delivered to the Plaintiffs, their heirs and assigns, a mortgage covering the following described property:

All that certain piece, parcel or lot of land lying, being and situate on the in Fort Mill Township, being shown and designated on Boundary Survey for Robert Clay Sparrow, drawn by A. Alan Wallwork, S.C.R.L.S., dated

November 12, 1998, containing 5.75 acres, more or less, and being recorded contemporaneously herewith in Plat Book B-55, at Page 2, said plat showing the following courses and distances, to wit: Beginning at an iron, joint corner with A.E. Stone property and right of way for road and running thence, N. 35-27-22 E. 200.80 feet to an iron; thence N. 43-36-40 E. 109.33 feet to an iron; thence N. 43-30-13 E. 128.33 feet to an iron; thence, N. 74-00-08 E. 206.34 feet to an iron; thence N. 79-39-22 E. 121.04 feet to an iron; thence S. 12-55-47 E. 231.11 feet to an iron; thence N. 73-38-36 E. 85.00 feet to an iron; thence S. 10-06 W. 450.00 feet to an iron; thence S. 79-02-30 E. 188.49 feet to an iron; thence N. 11-04-58 E. 192.79 feet to an iron; thence S. 78-36-50 E. 200.69 feet to an iron; thence N. 37-00-02 E. 153.07 feet to an iron; thence N. 78-38-38 W. 74.01 feet to an iron; thence, along a clockwise curving arc (radius = 256.48 feet) 107.88 feet to an iron; thence N. 54-32-38 W. 51.73 feet to an iron, the point of beginning This is the identical property conveyed to Maurer Holdings, LLC by deed recorded December 30, 2011, in Record Book 12360, Page 226, RMC Office for York County, South Carolina.

10. Thereafter the mortgage was recorded in the Office of the Clerk of Court for York County in Record Book 12360, at Page 230, on December 30, 2011. (See Exhibit B, attached hereto and made a part hereof.)

11. The mortgage constitutes a purchase money first mortgage lien on the subject property.

12. Pursuant to the terms of the mortgage, any sums paid by the Plaintiffs for inspecting and securing the subject property, for fire and other hazard insurance, taxes and assessments for the mortgaged premises, and any costs of collection, including reasonable attorney's fees, are secured by the mortgage.

13. The last full monthly payment of \$2,205.73 made by Defendant, Maurer Holdings, LLC, was for the installment due May 1, 2012. The Defendant, Maurer Holdings, LLC, made partial payments of one-half the monthly amount due for the installments due the first day of June, July, and August, 2012. The monthly installments due on said note

and mortgage are in default since September 1, 2012, plus one-half of the installments not paid on the first day of the months of June, July, and August, 2012. Demand for payment thereof has been made and the Plaintiffs, as the holders of the said note and mortgage, after providing all required notices, elect to, and do declare the entire balance of said indebtedness due and payable, and that there is due on said note and mortgage as of August 1, 2012, the principal sum of \$280,888.90, plus with interest at the rate of Seven (7%) percent per annum from August 1, 2012, through December 19, 2012, and interest at the rate of Fifteen (15%) percent per annum from December 20, 2012, and thereafter, and also for the costs and disbursements of this action, including reasonable attorney's fees not to exceed fifteen (15%) percent of the outstanding balance owing on said note.

14. Pursuant to Sections 37-3-105, South Carolina Code of Laws (1976 as amended), the mortgage lien, which is the subject of this action, is a first lien on real estate and is not a '*consumer loan*' for the purposes of the South Carolina Consumer Protection Code. Any notice of right to cure has been given as required.

15. The Plaintiffs specifically demand their right to a deficiency judgment against Defendant, Maurer Holdings, LLC, and further demand an immediate entry of judgment against Defendant, Fort Mill Holdings, LLC, pursuant to S.C. Code Ann. § 29-3-650.

16. Upon information and belief, certain costs for the preservation of the subject property may have been incurred by the Plaintiffs as a result of this delinquency, and Plaintiffs are informed and believe they are entitled to reimbursement for such charges, if any.

17. The Plaintiffs are not participating member of the Home Affordable Modification Program, and therefore the Plaintiffs are not subject to the restrictions and requirements of

the Home Affordable Modification Program.

18. Further, since this foreclosure action involves a commercial note and mortgage, and the subject property, upon information and belief, is not owner-occupied by the Mortgagor, this foreclosure action is not subject to the provisions of the Administrative Order issued on May 2, 2011, by the honorable Jean H. Toal of The Supreme Court of South Carolina.

FOR A SECOND CAUSE OF ACTION AGAINST  
DEFENDANTS MAURER HOLDINGS, LLC,  
AND DAVID BAUCOM

19. To the extent that they are not inconsistent, the allegations contained in the preceding paragraphs are repeated and re-alleged herein as if in verbatim.

20. On or about December 1, 2011, Defendant, David Baucom, ("Guarantor") executed and delivered that certain guaranty agreement on the Note dated December 1, 2011, in favor of Plaintiffs, wherein and whereby the Guarantor individually guaranteed payment of all sums due by Defendant, Maurer Holdings, LLC, to the Plaintiffs under the Note and any extensions thereof.

21. The guaranty agreement is the absolute, unconditional and continuing obligation of the Guarantor and constitutes a binding contract between the parties thereto.

22. The Guarantor has failed to pay all sums due and owing to Plaintiffs pursuant to the guaranty agreement, and after all notices and demands have been made therefor, Guarantor has continued to fail and refuse to pay the sum due under the guaranty agreement, and is thereby in default.

23. Plaintiffs have elected, as a result of the default of the Guarantor, as aforesaid,

to declare pursuant to the guaranty agreement, the entire indebtedness due under the Maurer Holdings, LLC, note immediately due and payable.

24. Therefore, Plaintiffs are entitled, pursuant to S.C. Code Ann. § 29-3-650, to an Order rendering an immediate judgment against the Guarantor, namely Defendant, David Baucom, for the amount due under the Note, together with interest at the rate set forth in the Note, plus all costs of collection, including attorney's fees, all as is provided in the Note and guaranty agreement.

WHEREFORE, having fully set forth their Complaint, the Plaintiffs pray that this Honorable Court inquire into the matters set forth herein and that:

1. The amount due upon the said note and mortgage held by Plaintiffs be ascertained and determined under the direction of this Court, together with attorney's fees and the costs of this action.

2. The said Plaintiffs' Mortgage be declared a first mortgage lien and that the Plaintiffs have judgment of foreclosure for the amount so found to be due and owing thereon, together with any taxes or insurance premiums which may be due, with a reasonable sum as attorney's fees and for the costs of this action.

3. The mortgaged premises be sold under the direction of this Court, the equity of redemption be barred, and that the proceeds of sale be applied as follows:

First, to the costs and expenses of the within action and sale.

Second, to the payment and discharge of the amount due on Plaintiffs' note and mortgage, together with the attorney's fees as aforesaid,

Third, the surplus, if any be distributed according to law, and

Fourth, if there is no surplus, that Plaintiffs have a money judgment against the

Defendants for any amount due Plaintiffs after the application of the net proceeds of its security to the amount due the Plaintiffs from the Defendants.

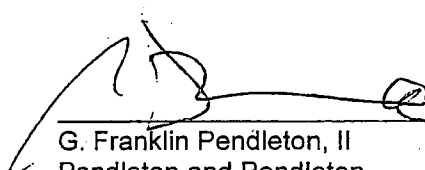
4. An Order be entered directing and empowering the Sheriff of York County, South Carolina, to place the successful purchaser at said foreclosure sale in possession of the property hereinabove described should the same become necessary.

5. An Order be entered for the ejectment of the Defendant in possession herein and all persons claiming thereunder and the removal therefrom of all furnishings, fixtures and items not subject to the lien of the Plaintiffs' mortgage, which personal property if not removed shall be deemed abandoned and shall be removed by the Plaintiffs or their agents from the subject property by placing said property on the public street or highway or by any other means.

6. An Order be entered for reimbursement of all costs for inspecting and securing the property incurred by the Plaintiffs as a result of the delinquency.

7. An Order be entered for such other and further relief as may be just and proper.

January 24, 2013



---

G. Franklin Pendleton, II  
Pendleton and Pendleton  
Attorneys for Plaintiff  
Post Office Box 399  
Clover, South Carolina 29710  
(803) 222-3026  
(803) 222-3027 (facsimile)

STATE OF SOUTH CAROLINA )  
COUNTY OF YORK )

VERIFICATION

PERSONALLY appeared before me Robert Clay Sparrow and Mickey Crowe, who being duly sworn, deposes and says that they are the Plaintiffs in the foregoing Complaint; that they have read the within Complaint and the matters and things alleged therein are true to their own knowledge and belief, except those on information and belief and as to those they believe them to be true.

SWORN to before me this  
31 day of January, 2013.

[Signature]  
Notary Public for South Carolina  
My Commission Expires: 3/20/13

[Signature]  
Robert Clay Sparrow  
[Signature]  
Mickey Crowe

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DAVID HAMILTON  
C.C.P. & G.S.  
YORK COUNTY, SC



## EXHIBIT "A"

SATISFACTION. The debt evidenced by this  
Note has been satisfied in full this

## PURCHASE MONEY PROMISSORY NOTE

Signed \_\_\_\_\_

2011

Charlotte, N.C.  
December 1, 2011

FOR VALUE RECEIVED the undersigned, jointly and severally, promise to pay to Robert Clay Sparrow and Mickey Crowe, or order, the principal sum of TWO HUNDRED EIGHTY FOUR THOUSAND FIVE HUNDRED DOLLARS (\$284,500.00), with interest from December 1, 2011, at the rate of SEVEN per cent (7%) per annum on the unpaid balance until paid or until default, both principal and interest payable in lawful money of the United States of America, at the office of Robert Clay Sparrow, 142 Stoney Point Drive, Blacksburg, SC 29702, or at such place as the legal holder hereof may designate in writing. The principal and interest shall be due and payable as follows:

in 240 consecutive and equal payments of \$2,205.73 each commencing January 1, 2012 and continuing to become due on the first day of each month thereafter until December 1, 2031 when all remaining amounts due hereunder shall be due and payable in full, all as shown on the attached amortization schedule.

All amounts of both principal and interest due hereunder shall be paid in full on or before December 1, 2031.

If payable in installments, each such installment shall, unless otherwise provided, be applied first to payment of interest then accrued and due on the unpaid principal balance, with the remainder applied to the unpaid principal.

Unless otherwise provided, this Note may be prepaid in full or in part at any time without penalty or premium. Partial payments shall be applied to installments due in reverse order of their maturity.

In the event of (a) default in payment of any installment of principal or interest hereof as the same becomes due and such default is not cured within ten (10) days from the due date, or (b) default under the terms of any instrument securing this Note, and such default is not cured within fifteen (15) days after written notice to maker, then in either such event the holder may without further notice, declare the remainder of the principal sum, together with all interest accrued thereon and, the prepayment premium, if any, at once due and payable. Failure to exercise this option shall not constitute a waiver of the right to exercise the same at any other time. The unpaid principal of this Note and any part thereof, accrued interest and all other sums due under this Note and the Deed of Trust or Mortgage, if any, shall bear interest at the rate of Fifteen per cent (15%) per annum after default until paid.

All parties to this Note, including maker and any sureties, endorsers, or guarantors hereby waive protest, presentment, notice of dishonor, and notice of acceleration of maturity and agree to continue to remain bound for the payment of principal, interest and all other sums due under this Note and the Deed of Trust or Mortgage notwithstanding any change or changes by way of release, surrender, exchange, modification or substitution of any security for this Note or by way of any extension or extensions of time for the payment of principal and interest; and all such parties waive all and every kind of notice of such change or changes and agree that the same may be made without notice or consent of any of them.

Upon default the holder of this Note may employ an attorney to enforce the holder's rights and remedies, and the maker, principal, surety, guarantor and endorsers of this Note hereby agree to pay to the holder reasonable attorneys fees not exceeding a sum equal to fifteen percent (15%) of the outstanding balance owing on said Note, plus all other reasonable expenses incurred by the holder in exercising any of the holder's rights and remedies upon default. The rights and remedies of the holder as provided in this Note and any instrument securing this Note shall be cumulative and may be pursued singly, successively, or together against the property described in the Deed of Trust or Mortgage or any other funds, property or security held by the holder for payment or security, in the sole discretion of the holder. The failure to exercise any such right or remedy shall not be a waiver or release of such rights or remedies or the right to exercise any of them at another time.

This Note is to be governed and construed in accordance with the laws of the State of North Carolina.

This Note is given for the balance of purchase price for the property located off Highway 51, Fort Mill, SC, and is secured by a Purchase Money Mortgage or Deed of Trust or Mortgage, which is a first lien upon said property.

IN TESTIMONY WHEREOF, the corporate maker has caused this instrument to be executed in its corporate name by its Manager, by the authority duly given by its managers and members, the day and year first above written.

Maurer Holdings, LLC

By: Tracy Goins

Tracy Goins, Manager

IN TESTIMONY WHEREOF, each individual maker or guarantor has hereunto set his hand and adopted as his seal the word "SEAL" appearing beside his name, the day and year first above written.

B  
L  
A  
C  
K  
I  
N  
KO  
N

David Baucom (SEAL)  
David Baucom, Guarantor

Amortization Schedule generated by the [www.amortization-schedule.info](http://www.amortization-schedule.info) website.

## Amortization Schedule

Monthly payment for a \$284,500.00 loan at 7% annual interest rate will be \$2,205.73 per payment. This amount should be paid to the lender, bank or lending institution for 20 years. The loan amortization table below shows your monthly payment divided into two portions. One portion is put towards interest (interest paid), while the other portion goes towards principal (principal paid). As you can see, initially a larger amount is applied towards interest and as the loan matures the portion applied towards the outstanding principal balance gets larger and larger.

Please note that if you are calculating a mortgage loan, property taxes, property insurance and private mortgage insurance is neglected in the calculation, they will increase the amount of your regular periodic payments.

| period: | date:      | interest paid: | principal paid: | remaining balance: |
|---------|------------|----------------|-----------------|--------------------|
| 1       | 01/01/2012 | \$1,659.58     | \$546.15        | \$283,953.85       |
| 2       | 02/01/2012 | \$1,656.40     | \$549.33        | \$283,404.52       |
| 3       | 03/01/2012 | \$1,653.19     | \$552.54        | \$282,851.98       |
| 4       | 04/01/2012 | \$1,649.97     | \$555.76        | \$282,296.22       |
| 5       | 05/01/2012 | \$1,646.73     | \$559.00        | \$281,737.22       |
| 6       | 06/01/2012 | \$1,643.47     | \$562.26        | \$281,174.96       |
| 7       | 07/01/2012 | \$1,640.19     | \$565.54        | \$280,609.42       |
| 8       | 08/01/2012 | \$1,636.89     | \$568.84        | \$280,040.58       |
| 9       | 09/01/2012 | \$1,633.57     | \$572.16        | \$279,468.42       |
| 10      | 10/01/2012 | \$1,630.23     | \$575.50        | \$278,892.92       |
| 11      | 11/01/2012 | \$1,626.88     | \$578.85        | \$278,314.07       |
| 12      | 12/01/2012 | \$1,623.50     | \$582.23        | \$277,731.84       |

Loan amortization schedule for year 1 (2012):

You will spend \$19,700.60 on interest and \$6,768.16 on principal.

| period: | date:      | interest paid: | principal paid: | remaining balance: |
|---------|------------|----------------|-----------------|--------------------|
| 13      | 01/01/2013 | \$1,620.10     | \$585.63        | \$277,146.21       |
| 14      | 02/01/2013 | \$1,616.69     | \$589.04        | \$276,557.17       |
| 15      | 03/01/2013 | \$1,613.25     | \$592.48        | \$275,964.69       |
| 16      | 04/01/2013 | \$1,609.79     | \$595.94        | \$275,368.75       |
| 17      | 05/01/2013 | \$1,606.32     | \$599.41        | \$274,769.34       |
| 18      | 06/01/2013 | \$1,602.82     | \$602.91        | \$274,166.43       |
| 19      | 07/01/2013 | \$1,599.30     | \$606.43        | \$273,560.00       |
| 20      | 08/01/2013 | \$1,595.77     | \$609.96        | \$272,950.04       |
| 21      | 09/01/2013 | \$1,592.21     | \$613.52        | \$272,336.52       |
| 22      | 10/01/2013 | \$1,588.63     | \$617.10        | \$271,719.42       |
| 23      | 11/01/2013 | \$1,585.03     | \$620.70        | \$271,098.72       |
| 24      | 12/01/2013 | \$1,581.41     | \$624.32        | \$270,474.40       |

Loan amortization schedule for year 2 (2013):

You will spend \$19,211.32 on interest and \$7,257.44 on principal.

| period: | date:      | interest paid: | principal paid: | remaining balance: |
|---------|------------|----------------|-----------------|--------------------|
| 25      | 01/01/2014 | \$1,577.77     | \$627.96        | \$269,846.44       |
| 26      | 02/01/2014 | \$1,574.10     | \$631.63        | \$269,214.81       |
| 27      | 03/01/2014 | \$1,570.42     | \$635.31        | \$268,579.50       |
| 28      | 04/01/2014 | \$1,566.71     | \$639.02        | \$267,940.48       |
| 29      | 05/01/2014 | \$1,562.99     | \$642.74        | \$267,297.74       |
| 30      | 06/01/2014 | \$1,559.24     | \$646.49        | \$266,651.25       |
| 31      | 07/01/2014 | \$1,555.47     | \$650.26        | \$266,000.99       |
| 32      | 08/01/2014 | \$1,551.67     | \$654.06        | \$265,346.93       |
| 33      | 09/01/2014 | \$1,547.86     | \$657.87        | \$264,689.06       |
| 34      | 10/01/2014 | \$1,544.02     | \$661.71        | \$264,027.35       |
| 35      | 11/01/2014 | \$1,540.16     | \$665.57        | \$263,361.78       |
| 36      | 12/01/2014 | \$1,536.28     | \$669.45        | \$262,692.33       |

<http://www.amortization-schedule.info/calculator>

11/30/2011

## Loan amortization schedule for year 3 (2014):

You will spend \$18,586.69 on interest and \$7,782.07 on principal.

| period: | date:      | interest paid: | principal paid: | remaining balance: |
|---------|------------|----------------|-----------------|--------------------|
| 37      | 01/01/2015 | \$1,532.37     | \$673.36        | \$262,018.97       |
| 38      | 02/01/2015 | \$1,528.44     | \$677.29        | \$261,341.68       |
| 39      | 03/01/2015 | \$1,524.49     | \$681.24        | \$260,660.44       |
| 40      | 04/01/2015 | \$1,520.52     | \$685.21        | \$259,975.23       |
| 41      | 05/01/2015 | \$1,516.52     | \$689.21        | \$259,286.02       |
| 42      | 06/01/2015 | \$1,512.50     | \$693.23        | \$258,592.79       |
| 43      | 07/01/2015 | \$1,508.46     | \$697.27        | \$257,895.52       |
| 44      | 08/01/2015 | \$1,504.39     | \$701.34        | \$257,194.18       |
| 45      | 09/01/2015 | \$1,500.30     | \$705.43        | \$256,488.75       |
| 46      | 10/01/2015 | \$1,496.18     | \$709.55        | \$255,779.20       |
| 47      | 11/01/2015 | \$1,492.05     | \$713.68        | \$255,065.52       |
| 48      | 12/01/2015 | \$1,487.88     | \$717.85        | \$254,347.67       |

## Loan amortization schedule for year 4 (2015):

You will spend \$18,124.10 on interest and \$8,344.66 on principal.

| period: | date:      | interest paid: | principal paid: | remaining balance: |
|---------|------------|----------------|-----------------|--------------------|
| 49      | 01/01/2016 | \$1,483.69     | \$722.04        | \$253,625.63       |
| 50      | 02/01/2016 | \$1,479.48     | \$726.25        | \$252,899.38       |
| 51      | 03/01/2016 | \$1,475.25     | \$730.48        | \$252,168.90       |
| 52      | 04/01/2016 | \$1,470.99     | \$734.74        | \$251,434.16       |
| 53      | 05/01/2016 | \$1,466.70     | \$739.03        | \$250,695.13       |
| 54      | 06/01/2016 | \$1,462.39     | \$743.34        | \$249,951.79       |
| 55      | 07/01/2016 | \$1,458.05     | \$747.68        | \$249,204.11       |
| 56      | 08/01/2016 | \$1,453.69     | \$752.04        | \$248,452.07       |
| 57      | 09/01/2016 | \$1,449.30     | \$756.43        | \$247,695.64       |
| 58      | 10/01/2016 | \$1,444.89     | \$760.84        | \$246,934.80       |
| 59      | 11/01/2016 | \$1,440.45     | \$765.28        | \$246,169.52       |
| 60      | 12/01/2016 | \$1,435.99     | \$769.74        | \$245,399.78       |

## Loan amortization schedule for year 5 (2016):

You will spend \$17,520.87 on interest and \$8,947.89 on principal.

| period: | date:      | interest paid: | principal paid: | remaining balance: |
|---------|------------|----------------|-----------------|--------------------|
| 61      | 01/01/2017 | \$1,431.50     | \$774.23        | \$244,625.55       |
| 62      | 02/01/2017 | \$1,426.98     | \$778.75        | \$243,846.80       |
| 63      | 03/01/2017 | \$1,422.44     | \$783.29        | \$243,063.51       |
| 64      | 04/01/2017 | \$1,417.87     | \$787.86        | \$242,275.65       |
| 65      | 05/01/2017 | \$1,413.27     | \$792.46        | \$241,483.19       |
| 66      | 06/01/2017 | \$1,408.65     | \$797.08        | \$240,686.11       |
| 67      | 07/01/2017 | \$1,404.00     | \$801.73        | \$239,884.38       |
| 68      | 08/01/2017 | \$1,399.33     | \$806.40        | \$239,077.98       |
| 69      | 09/01/2017 | \$1,394.62     | \$811.11        | \$238,266.87       |
| 70      | 10/01/2017 | \$1,389.89     | \$815.84        | \$237,451.03       |
| 71      | 11/01/2017 | \$1,385.13     | \$820.60        | \$236,630.43       |
| 72      | 12/01/2017 | \$1,380.34     | \$825.39        | \$235,805.04       |

## Loan amortization schedule for year 6 (2017):

You will spend \$16,874.02 on interest and \$9,594.74 on principal.

| period: | date:      | interest paid: | principal paid: | remaining balance: |
|---------|------------|----------------|-----------------|--------------------|
| 73      | 01/01/2018 | \$1,375.53     | \$830.20        | \$234,974.84       |
| 74      | 02/01/2018 | \$1,370.69     | \$835.04        | \$234,139.80       |
| 75      | 03/01/2018 | \$1,365.82     | \$839.91        | \$233,299.89       |
| 76      | 04/01/2018 | \$1,360.92     | \$844.81        | \$232,455.08       |
| 77      | 05/01/2018 | \$1,355.99     | \$849.74        | \$231,605.34       |
| 78      | 06/01/2018 | \$1,351.03     | \$854.70        | \$230,750.64       |
| 79      | 07/01/2018 | \$1,346.05     | \$859.68        | \$229,890.96       |

|    |            |            |          |              |
|----|------------|------------|----------|--------------|
| 30 | 08/01/2018 | \$1,341.03 | \$864.70 | \$229,026.26 |
| 31 | 09/01/2018 | \$1,335.99 | \$869.74 | \$228,156.52 |
| 82 | 10/01/2018 | \$1,330.91 | \$874.82 | \$227,281.70 |
| 83 | 11/01/2018 | \$1,325.81 | \$879.92 | \$226,401.78 |
| 84 | 12/01/2018 | \$1,320.68 | \$885.05 | \$225,516.73 |

Loan amortization schedule for year 7 (2018):

You will spend \$16,180.45 on interest and \$10,288.31 on principal.

| period: | date:      | interest paid: | principal paid: | remaining balance: |
|---------|------------|----------------|-----------------|--------------------|
| 85      | 01/01/2019 | \$1,315.51     | \$890.22        | \$224,626.51       |
| 86      | 02/01/2019 | \$1,310.32     | \$895.41        | \$223,731.10       |
| 87      | 03/01/2019 | \$1,305.10     | \$900.63        | \$222,830.47       |
| 88      | 04/01/2019 | \$1,299.84     | \$905.89        | \$221,924.58       |
| 89      | 05/01/2019 | \$1,294.56     | \$911.17        | \$221,013.41       |
| 90      | 06/01/2019 | \$1,289.24     | \$916.49        | \$220,096.92       |
| 91      | 07/01/2019 | \$1,283.90     | \$921.83        | \$219,175.09       |
| 92      | 08/01/2019 | \$1,278.52     | \$927.21        | \$218,247.88       |
| 93      | 09/01/2019 | \$1,273.11     | \$932.62        | \$217,315.26       |
| 94      | 10/01/2019 | \$1,267.67     | \$938.06        | \$216,377.20       |
| 95      | 11/01/2019 | \$1,262.20     | \$943.53        | \$215,433.67       |
| 96      | 12/01/2019 | \$1,256.70     | \$949.03        | \$214,484.64       |

Loan amortization schedule for year 8 (2019):

You will spend \$15,436.67 on interest and \$11,032.09 on principal.

| period: | date:      | interest paid: | principal paid: | remaining balance: |
|---------|------------|----------------|-----------------|--------------------|
| 97      | 01/01/2020 | \$1,251.16     | \$954.57        | \$213,530.07       |
| 98      | 02/01/2020 | \$1,245.59     | \$960.14        | \$212,569.93       |
| 99      | 03/01/2020 | \$1,239.99     | \$965.74        | \$211,604.19       |
| 100     | 04/01/2020 | \$1,234.36     | \$971.37        | \$210,632.82       |
| 101     | 05/01/2020 | \$1,228.69     | \$977.04        | \$209,655.78       |
| 102     | 06/01/2020 | \$1,222.99     | \$982.74        | \$208,673.04       |
| 103     | 07/01/2020 | \$1,217.26     | \$988.47        | \$207,684.57       |
| 104     | 08/01/2020 | \$1,211.49     | \$994.24        | \$206,690.33       |
| 105     | 09/01/2020 | \$1,205.69     | \$1,000.04      | \$205,690.29       |
| 106     | 10/01/2020 | \$1,199.86     | \$1,005.87      | \$204,684.42       |
| 107     | 11/01/2020 | \$1,193.99     | \$1,011.74      | \$203,672.68       |
| 108     | 12/01/2020 | \$1,188.09     | \$1,017.64      | \$202,655.04       |

Loan amortization schedule for year 9 (2020):

You will spend \$14,639.16 on interest and \$11,829.60 on principal.

| period: | date:      | interest paid: | principal paid: | remaining balance: |
|---------|------------|----------------|-----------------|--------------------|
| 109     | 01/01/2021 | \$1,182.15     | \$1,023.58      | \$201,631.46       |
| 110     | 02/01/2021 | \$1,176.18     | \$1,029.55      | \$200,601.91       |
| 111     | 03/01/2021 | \$1,170.18     | \$1,035.55      | \$199,566.36       |
| 112     | 04/01/2021 | \$1,164.14     | \$1,041.59      | \$198,524.77       |
| 113     | 05/01/2021 | \$1,158.06     | \$1,047.67      | \$197,477.10       |
| 114     | 06/01/2021 | \$1,151.95     | \$1,053.78      | \$196,423.32       |
| 115     | 07/01/2021 | \$1,145.80     | \$1,059.93      | \$195,363.39       |
| 116     | 08/01/2021 | \$1,139.62     | \$1,066.11      | \$194,297.28       |
| 117     | 09/01/2021 | \$1,133.40     | \$1,072.33      | \$193,224.95       |
| 118     | 10/01/2021 | \$1,127.15     | \$1,078.58      | \$192,146.37       |
| 119     | 11/01/2021 | \$1,120.85     | \$1,084.88      | \$191,061.49       |
| 120     | 12/01/2021 | \$1,114.53     | \$1,091.20      | \$189,970.29       |

Loan amortization schedule for year 10 (2021):

You will spend \$13,784.01 on interest and \$12,684.75 on principal.

| period: | date:      | interest paid: | principal paid: | remaining balance: |
|---------|------------|----------------|-----------------|--------------------|
| 121     | 01/01/2022 | \$1,108.16     | \$1,097.57      | \$188,872.72       |
| 122     | 02/01/2022 | \$1,101.76     | \$1,103.97      | \$187,768.75       |

|     |            |            |            |              |
|-----|------------|------------|------------|--------------|
| 123 | 03/01/2022 | \$1,095.32 | \$1,110.41 | \$186,658.34 |
| 124 | 04/01/2022 | \$1,038.84 | \$1,116.89 | \$185,541.45 |
| 125 | 05/01/2022 | \$1,032.33 | \$1,123.40 | \$184,418.05 |
| 126 | 06/01/2022 | \$1,075.77 | \$1,129.96 | \$183,288.09 |
| 127 | 07/01/2022 | \$1,059.18 | \$1,136.55 | \$182,151.54 |
| 128 | 08/01/2022 | \$1,052.55 | \$1,143.18 | \$181,008.36 |
| 129 | 09/01/2022 | \$1,055.88 | \$1,149.85 | \$179,858.51 |
| 130 | 10/01/2022 | \$1,049.17 | \$1,156.56 | \$178,701.95 |
| 131 | 11/01/2022 | \$1,042.43 | \$1,163.30 | \$177,538.65 |
| 132 | 12/01/2022 | \$1,035.64 | \$1,170.09 | \$176,368.56 |

Loan amortization schedule for year 11 (2022):

You will spend \$12,867.03 on interest and \$13,601.73 on principal.

| period: | date:      | interest paid: | principal paid: | remaining balance: |
|---------|------------|----------------|-----------------|--------------------|
| 133     | 01/01/2023 | \$1,028.82     | \$1,176.91      | \$175,191.65       |
| 134     | 02/01/2023 | \$1,021.95     | \$1,183.78      | \$174,007.87       |
| 135     | 03/01/2023 | \$1,015.05     | \$1,190.68      | \$172,817.19       |
| 136     | 04/01/2023 | \$1,008.10     | \$1,197.63      | \$171,619.56       |
| 137     | 05/01/2023 | \$1,001.11     | \$1,204.62      | \$170,414.94       |
| 138     | 06/01/2023 | \$994.09       | \$1,211.64      | \$169,203.30       |
| 139     | 07/01/2023 | \$987.02       | \$1,218.71      | \$167,984.59       |
| 140     | 08/01/2023 | \$979.91       | \$1,225.82      | \$166,758.77       |
| 141     | 09/01/2023 | \$972.76       | \$1,232.97      | \$165,525.80       |
| 142     | 10/01/2023 | \$965.57       | \$1,240.16      | \$164,285.64       |
| 143     | 11/01/2023 | \$958.33       | \$1,247.40      | \$163,038.24       |
| 144     | 12/01/2023 | \$951.06       | \$1,254.67      | \$161,783.57       |

Loan amortization schedule for year 12 (2023):

You will spend \$11,883.77 on interest and \$14,584.99 on principal.

| period: | date:      | interest paid: | principal paid: | remaining balance: |
|---------|------------|----------------|-----------------|--------------------|
| 145     | 01/01/2024 | \$943.74       | \$1,261.99      | \$160,521.58       |
| 146     | 02/01/2024 | \$936.38       | \$1,269.35      | \$159,252.23       |
| 147     | 03/01/2024 | \$928.97       | \$1,276.76      | \$157,975.47       |
| 148     | 04/01/2024 | \$921.52       | \$1,284.21      | \$156,691.26       |
| 149     | 05/01/2024 | \$914.03       | \$1,291.70      | \$155,399.56       |
| 150     | 06/01/2024 | \$906.50       | \$1,299.23      | \$154,100.33       |
| 151     | 07/01/2024 | \$898.92       | \$1,306.81      | \$152,793.52       |
| 152     | 08/01/2024 | \$891.30       | \$1,314.43      | \$151,479.09       |
| 153     | 09/01/2024 | \$883.63       | \$1,322.10      | \$150,156.99       |
| 154     | 10/01/2024 | \$875.92       | \$1,329.81      | \$148,827.18       |
| 155     | 11/01/2024 | \$868.16       | \$1,337.57      | \$147,489.61       |
| 156     | 12/01/2024 | \$860.36       | \$1,345.37      | \$146,144.24       |

Loan amortization schedule for year 13 (2024):

You will spend \$10,829.43 on interest and \$15,639.33 on principal.

| period: | date:      | interest paid: | principal paid: | remaining balance: |
|---------|------------|----------------|-----------------|--------------------|
| 157     | 01/01/2025 | \$852.51       | \$1,353.22      | \$144,791.02       |
| 158     | 02/01/2025 | \$844.61       | \$1,361.12      | \$143,429.90       |
| 159     | 03/01/2025 | \$836.67       | \$1,369.06      | \$142,060.84       |
| 160     | 04/01/2025 | \$828.69       | \$1,377.04      | \$140,683.80       |
| 161     | 05/01/2025 | \$820.66       | \$1,385.07      | \$139,298.73       |
| 162     | 06/01/2025 | \$812.58       | \$1,393.15      | \$137,905.58       |
| 163     | 07/01/2025 | \$804.45       | \$1,401.28      | \$136,504.30       |
| 164     | 08/01/2025 | \$796.28       | \$1,409.45      | \$135,094.85       |
| 165     | 09/01/2025 | \$788.05       | \$1,417.68      | \$133,677.17       |
| 166     | 10/01/2025 | \$779.78       | \$1,425.95      | \$132,251.22       |
| 167     | 11/01/2025 | \$771.47       | \$1,434.26      | \$130,816.96       |
| 168     | 12/01/2025 | \$763.10       | \$1,442.63      | \$129,374.33       |

## Loan amortization schedule for year 14 (2025):

You will spend \$9,698.85 on interest and \$16,769.91 on principal.

| period: | date:      | interest paid: | principal paid: | remaining balance: |
|---------|------------|----------------|-----------------|--------------------|
| 169     | 01/01/2026 | \$754.68       | \$1,451.05      | \$127,923.28       |
| 170     | 02/01/2026 | \$746.22       | \$1,459.51      | \$126,463.77       |
| 171     | 03/01/2026 | \$737.71       | \$1,468.02      | \$124,995.75       |
| 172     | 04/01/2026 | \$729.14       | \$1,476.59      | \$123,519.16       |
| 173     | 05/01/2026 | \$720.53       | \$1,485.20      | \$122,033.96       |
| 174     | 06/01/2026 | \$711.86       | \$1,493.87      | \$120,540.09       |
| 175     | 07/01/2026 | \$703.15       | \$1,502.58      | \$119,037.51       |
| 176     | 08/01/2026 | \$694.39       | \$1,511.34      | \$117,526.17       |
| 177     | 09/01/2026 | \$685.57       | \$1,520.16      | \$116,006.01       |
| 178     | 10/01/2026 | \$676.70       | \$1,529.03      | \$114,476.98       |
| 179     | 11/01/2026 | \$667.78       | \$1,537.95      | \$112,939.03       |
| 180     | 12/01/2026 | \$658.81       | \$1,546.92      | \$111,392.11       |

## Loan amortization schedule for year 15 (2026):

You will spend \$8,486.54 on interest and \$17,982.22 on principal.

| period: | date:      | interest paid: | principal paid: | remaining balance: |
|---------|------------|----------------|-----------------|--------------------|
| 181     | 01/01/2027 | \$649.79       | \$1,555.94      | \$109,836.17       |
| 182     | 02/01/2027 | \$640.71       | \$1,565.02      | \$108,271.15       |
| 183     | 03/01/2027 | \$631.58       | \$1,574.15      | \$106,697.00       |
| 184     | 04/01/2027 | \$622.40       | \$1,583.33      | \$105,113.67       |
| 185     | 05/01/2027 | \$613.16       | \$1,592.57      | \$103,521.10       |
| 186     | 06/01/2027 | \$603.87       | \$1,601.86      | \$101,919.24       |
| 187     | 07/01/2027 | \$594.53       | \$1,611.20      | \$100,308.04       |
| 188     | 08/01/2027 | \$585.13       | \$1,620.60      | \$98,687.44        |
| 189     | 09/01/2027 | \$575.68       | \$1,630.05      | \$97,057.39        |
| 190     | 10/01/2027 | \$566.17       | \$1,639.56      | \$95,417.83        |
| 191     | 11/01/2027 | \$556.60       | \$1,649.13      | \$93,768.70        |
| 192     | 12/01/2027 | \$546.98       | \$1,658.75      | \$92,109.95        |

## Loan amortization schedule for year 16 (2027):

You will spend \$7,186.60 on interest and \$19,282.16 on principal.

| period: | date:      | interest paid: | principal paid: | remaining balance: |
|---------|------------|----------------|-----------------|--------------------|
| 193     | 01/01/2028 | \$537.31       | \$1,668.42      | \$90,441.53        |
| 194     | 02/01/2028 | \$527.58       | \$1,678.15      | \$88,763.38        |
| 195     | 03/01/2028 | \$517.79       | \$1,687.94      | \$87,075.44        |
| 196     | 04/01/2028 | \$507.94       | \$1,697.79      | \$85,377.65        |
| 197     | 05/01/2028 | \$498.04       | \$1,707.69      | \$83,669.96        |
| 198     | 06/01/2028 | \$488.07       | \$1,717.66      | \$81,952.30        |
| 199     | 07/01/2028 | \$478.06       | \$1,727.67      | \$80,224.63        |
| 200     | 08/01/2028 | \$467.98       | \$1,737.75      | \$78,486.88        |
| 201     | 09/01/2028 | \$457.84       | \$1,747.89      | \$76,738.99        |
| 202     | 10/01/2028 | \$447.64       | \$1,758.09      | \$74,980.90        |
| 203     | 11/01/2028 | \$437.39       | \$1,768.34      | \$73,212.56        |
| 204     | 12/01/2028 | \$427.07       | \$1,778.66      | \$71,433.90        |

## Loan amortization schedule for year 17 (2028):

You will spend \$5,792.71 on interest and \$20,676.05 on principal.

| period: | date:      | interest paid: | principal paid: | remaining balance: |
|---------|------------|----------------|-----------------|--------------------|
| 205     | 01/01/2029 | \$416.70       | \$1,789.03      | \$69,644.87        |
| 206     | 02/01/2029 | \$406.26       | \$1,799.47      | \$67,845.40        |
| 207     | 03/01/2029 | \$395.76       | \$1,809.97      | \$66,035.43        |
| 208     | 04/01/2029 | \$385.21       | \$1,820.52      | \$64,214.91        |
| 209     | 05/01/2029 | \$374.59       | \$1,831.14      | \$62,383.77        |
| 210     | 06/01/2029 | \$363.91       | \$1,841.82      | \$60,541.95        |
| 211     | 07/01/2029 | \$353.16       | \$1,852.57      | \$58,689.38        |

|     |            |          |            |             |
|-----|------------|----------|------------|-------------|
| 212 | 08/01/2029 | \$342.35 | \$1,863.38 | \$56,826.00 |
| 213 | 09/01/2029 | \$331.49 | \$1,874.24 | \$54,951.76 |
| 214 | 10/01/2029 | \$320.55 | \$1,885.18 | \$53,066.58 |
| 215 | 11/01/2029 | \$309.56 | \$1,896.17 | \$51,170.41 |
| 216 | 12/01/2029 | \$298.49 | \$1,907.24 | \$49,263.17 |

Loan amortization schedule for year 18 (2029):

You will spend \$4,298.03 on interest and \$22,170.73 on principal.

| period: | date:      | interest paid: | principal paid: | remaining balance: |
|---------|------------|----------------|-----------------|--------------------|
| 217     | 01/01/2030 | \$287.37       | \$1,918.36      | \$47,344.81        |
| 218     | 02/01/2030 | \$276.18       | \$1,929.55      | \$45,415.26        |
| 219     | 03/01/2030 | \$264.92       | \$1,940.81      | \$43,474.45        |
| 220     | 04/01/2030 | \$253.60       | \$1,952.13      | \$41,522.32        |
| 221     | 05/01/2030 | \$242.21       | \$1,963.52      | \$39,558.80        |
| 222     | 06/01/2030 | \$230.76       | \$1,974.97      | \$37,583.83        |
| 223     | 07/01/2030 | \$219.24       | \$1,986.49      | \$35,597.34        |
| 224     | 08/01/2030 | \$207.65       | \$1,998.08      | \$33,599.26        |
| 225     | 09/01/2030 | \$196.00       | \$2,009.73      | \$31,589.53        |
| 226     | 10/01/2030 | \$184.27       | \$2,021.46      | \$29,568.07        |
| 227     | 11/01/2030 | \$172.48       | \$2,033.25      | \$27,534.82        |
| 228     | 12/01/2030 | \$160.62       | \$2,045.11      | \$25,489.71        |

Loan amortization schedule for year 19 (2030):

You will spend \$2,695.30 on interest and \$23,773.46 on principal.

| period: | date:      | interest paid: | principal paid: | remaining balance: |
|---------|------------|----------------|-----------------|--------------------|
| 229     | 01/01/2031 | \$148.69       | \$2,057.04      | \$23,432.67        |
| 230     | 02/01/2031 | \$136.69       | \$2,069.04      | \$21,363.63        |
| 231     | 03/01/2031 | \$124.62       | \$2,081.11      | \$19,282.52        |
| 232     | 04/01/2031 | \$112.48       | \$2,093.25      | \$17,189.27        |
| 233     | 05/01/2031 | \$100.27       | \$2,105.46      | \$15,083.81        |
| 234     | 06/01/2031 | \$87.99        | \$2,117.74      | \$12,966.07        |
| 235     | 07/01/2031 | \$75.64        | \$2,130.09      | \$10,835.98        |
| 236     | 08/01/2031 | \$63.21        | \$2,142.52      | \$8,693.46         |
| 237     | 09/01/2031 | \$50.71        | \$2,155.02      | \$6,538.44         |
| 238     | 10/01/2031 | \$38.14        | \$2,167.59      | \$4,370.85         |
| 239     | 11/01/2031 | \$25.50        | \$2,180.23      | \$2,190.62         |
| 240     | 12/01/2031 | \$12.78        | \$2,190.62      | \$0.00             |

Loan amortization schedule for year 20 (2031):

You will spend \$976.72 on interest and \$25,489.71 on principal.

## Loan payoff summary

| Loan details:         |              | Loan payoff details: |              |
|-----------------------|--------------|----------------------|--------------|
| Loan amount:          | \$284,500.00 | Monthly payment:     | \$2,205.73   |
| Annual interest rate: | 7.00%        | Loan start date:     | 12/01/2011   |
| Loan length:          | 20 years     | Loan payoff date:    | 12/01/2031   |
| Pay periodicity:      | monthly      | Interest paid:       | \$244,872.87 |

On a \$284,500.00 loan you will spend \$529,372.87.

From this \$244,872.87 goes towards interest and \$284,500.00 will be applied to the principal.

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EXHIBIT "B"

201100156178  
Filed for Record in  
YORK COUNTY, SC  
DAVID HAMILTON, CLERK OF COURTS  
12-30-2011 At 02:31 PM.  
MORTGAGE 12.00  
OR Vol 12360 Page 230 - 235

STATE OF SOUTH CAROLINA

MORTGAGE

COUNTY OF YORK

WHEREAS, Maurer Holdings, LLC, a North Carolina limited liability company (hereafter called Mortgagor), in and by their certain Note of even date, stands firmly held and bound unto Robert Clay Sparrow (hereafter referred to as Mortgagee) for payment of the full and just sum of Two Hundred Eighty Four Thousand Five Hundred Dollars (\$284,500.00) payable per terms of Note, with the entire balance, if not sooner paid, being due per terms of Note, with interest, if any, as in and by the Note, reference being had thereto, will more fully appear.

KNOW ALL MEN BY THESE PRESENTS: That the Mortgagor, for and inconsideration of the debt or sum of money aforesaid, and to better secure its payment to the Mortgagee according to the conditions of the Note, and also in consideration of the further sum of \$3.00 to the Mortgagor in hand well and truly paid by the Mortgagee at and before the sealing and delivery of these presents the receipt and sufficiency whereof is hereby acknowledged, have granted, bargained, sold and released, and by these Presents do grant, bargain, sell and release unto said unto the Mortgagee, his heirs and assigns, the real property described below:

SEE EXHIBIT "A" ATTACHED HERETO.

MORTGAGEE'S ADDRESS:

Robert Clay Sparrow  
142 Stoney Point Drive  
Blacksburg, SC 29702

TOGETHER with all and singular, the rights, members, hereditaments and appurtenances to said Premises belonging, or in any ways incident or appertaining.

BK12360 PG0230



TO HAVE AND TO HOLD, all and singular the premises unto the mortgagee, his heirs and assigns, forever.

AND THE MORTGAGOR does hereby bind himself and his heirs and successors to warrant and forever defend all and singular the premises unto the mortgagee, his heirs and assigns, from and against himself and his heirs and successors, lawfully claiming, or to claim the same, or any part thereof.

AND IT IS AGREED by and between the parties that the Mortgagor, his heirs and assigns, shall keep any building erected on the premises insured against loss and damage by fire for the benefit of the Mortgagee, for an amount not less than the sum shown above, with such company as shall be approved by the Mortgagee, his successors, heirs and assigns, and shall deliver the policy to the Mortgagee; and in default thereof, the Mortgagee, his successors, heirs and assigns may effect such insurance and reimburse themselves under this Mortgage to the expense thereof, together with interest thereon at the rate provided in the Note from the date of its payment.

AND IT IS FURTHER AGREED in the event of other insurance and contribution between the Insurers that the Mortgagee, his successors, heirs and assigns, shall be entitled to receive from the aggregate of the insurance monies to be paid a sum equal to the amount of the debt secured by this Mortgage.

AND IT IS AGREED by and between the parties, that if the Mortgagor, his heirs and successors or assigns, shall fail to pay all taxes and assessments upon the premises when they shall first become payable, then the Mortgagee, his heirs or assigns, may cause the same to be paid, together with all penalties and costs incurred thereon, and reimburse herself under this Mortgage for the sum so paid, with interest thereon at the rate provided in the Note from the date of such payment.

AND IT IS AGREED by and between the parties that upon any default being made in the payment of the Note or of the insurance premiums, or of the taxes, or of the assessments hereinabove mentioned, or failure to pay any other indebtedness which constitutes a lien upon the real property when the same shall severally become payable, then the entire amount of the debt secured or intended to be secured hereby shall become due, at the option of the Mortgagee, his successors, heirs or assigns, although the period for the payment thereof may not then have expired.

AND IT IS AGREED by and between the parties that should legal proceedings be instituted for the collection of the debt secured hereby, then the Mortgagee, his successors, heirs or assigns, shall have the right to have a receiver appointed of the rents and profits of the premises, who, after deducting all charges and expenses attending such proceedings, and the execution of the trust as receiver, shall apply the residue of the rents and profits towards the payment of the debt secured hereby.

AND IT IS FURTHER AGREED by and between the parties that should legal proceedings be instituted for the foreclosure of this Mortgage, or should the Mortgagees become a party to any action by reason of this Mortgage, or should the debt secured hereby be placed in the hands of an attorney at law for collection, by suit or otherwise, all costs and expenses incurred by the Mortgagee, including a reasonable attorney's fee, shall thereupon become due and payable as a part of the debt secured hereby, and may be recovered and collected hereunder.

PROVIDED ALWAYS, NEVERTHELESS, and it is the true intent and meaning of the parties, that if the Mortgagor does and shall well and truly pay, or cause to be paid, unto the Mortgagees, their successors, heirs and assigns, the debt or sum of money aforesaid, with interest thereon, and if any shall be due, according to the true intent and meaning of the Note and this Mortgage, then this Mortgage shall cease, determine and be utterly null and void; otherwise it shall remain in full force and virtue.

IN THE EVENT of sale of the mortgaged property or the transfer of any interest therein to any transferee, excepting only the creation of lien or encumbrance junior

to the lien of this Mortgage, Mortgagor agrees that the Mortgagees may, at their sole option, declare all sums secured by this Mortgage immediately due and payable in full. If the Mortgagee exercises its option to declare the entire amounts so secured to be paid in full, it shall give written notice to Mortgagor who shall have a period of thirty(30) days after the date such notice is mailed to pay the amount declared to be due. If Mortgagor fails to pay such sum prior to the expiration of such period, Mortgagees may without further notice or demand invoke all remedies permitted by this Mortgage.

AND IT IS AGREED by and between the said parties, that the Mortgagor should hold and enjoy the premises until default of payment shall be made.

WITNESS Grantors' hands and seals this the 1<sup>st</sup> day of December, 2011.

SIGNED, SEALED AND DELIVERED IN THE PRESENCE OF :

Maurer Holdings, LLC

Tracy Goins (SEAL)  
By: Tracy Goins, Manager

William A. Reed  
Witness # 1

Mark W. Hill  
Witness # 2

BK12360 PG0233

State of North Carolina  
County of Mecklenburg

Personally appeared before me the undersigned witness and made oath that he/she saw the within named Grantors, sign, seal and as Grantors' acts and deeds delivery the within Mortgage, and that he/she with the other witness subscribed above, witnessed the execution thereof.

William L. Reece  
Witness # 1 signature William L. Reece

Sworn to before me this 1<sup>st</sup> day of December, 2011.

Myo S. Smith  
Notary Public  
Iredell County, NC

My commission expires: 12-18-13

BK 12360 PG0234

EXHIBIT A

ALL that certain piece, parcel or tract of land lying, being and situate  
in Fort Mill Township, being shown and designated on *Boundary  
Survey for Robert Clay Sparrow*, drawn by A. Alan Wallwork,  
S.C.R.L.S., dated 11-12-98, containing 5.75 acres, more or less, and  
being recorded contemporaneously herewith in Plat Book 1255,  
at page 2, said plat showing the following courses and  
distances, to-wit: BEGINNING at an iron, joint corner with A.E.  
Stone property and right of way for road and running thence, N. 35-  
27-22 E. 200.80 feet to an iron; thence N. 43-36-40 E. 109.33 feet to  
an iron, thence N. 43-30-13 E. 128.33 feet to an iron, thence N. 74-  
00-08 E. 206.34 feet to an iron, thence N. 79-39-22 E. 121.04 feet to  
an iron, thence S. 12-55-47 E. 231.11 feet to an iron, thence N. 73-38-  
36 E. 85.00 feet to an iron, thence S. 10-06 W. 450.00 feet to an iron,  
thence S. 79-02-30 E. 188.49 feet to an iron, thence N. 11-04-58 E.  
192.79 feet to an iron, thence S. 78-36-50 E. 200.69 feet to an iron,  
thence N. 37-00-02 E. 153.07 feet to an iron, thence N. 78-38-38 W.  
74.01 feet to an iron, thence along a clockwise curving arc (radius =  
256.48') 107.88 feet to an iron, thence N. 54-32-38 W. 51.73 feet to  
an iron, the point of beginning.

Being the property conveyed  
to Maunere Holdings, LLC  
by deed recorded December 30,  
2011 in Book 12360 at page 226

8K12360 P00235

201100156180  
Filed for Record in  
YORK COUNTY, SC  
DAVID HAMILTON, CLERK OF COURTS  
12-30-2011 At 02:33 pm.  
MORTGAGE 12.00  
OR Vol 12360 Page 239 - 244

STATE OF SOUTH CAROLINA

MORTGAGE

COUNTY OF YORK

WHEREAS, Fort Mill Holdings, LLC, (hereafter called Mortgagor), in and by their certain Note of even date, stands firmly held and bound unto Robert Clay Sparrow (hereafter referred to as Mortgagee) for payment of the full and just sum of Nine Hundred Seven Thousand Three Hundred Dollars (\$907,300.00) payable per terms of Note, with the entire balance, if not sooner paid, being due per terms of Note, with interest, if any, as in and by the Note, reference being had thereto, will more fully appear.

KNOW ALL MEN BY THESE PRESENTS: That the Mortgagor, for and inconsideration of the debt or sum of money aforesaid, and to better secure its payment to the Mortgagee according to the conditions of the Note, and also in consideration of the further sum of \$3.00 to the Mortgagor in hand well and truly paid by the Mortgagee at and before the sealing and delivery of these presents the receipt and sufficiency whereof is hereby acknowledged, have granted, bargained, sold and released, and by these Presents do grant, bargain, sell and release unto said unto the Mortgagee, his heirs and assigns, the real property described below:

SEE EXHIBIT "A" ATTACHED HERETO.

MORTGAGEE'S ADDRESS:

Robert Clay Sparrow  
142 Stoney Point Drive  
Blacksburg, SC 29702

TOGETHER with all and singular, the rights, members, hereditaments and appurtenances to said Premises belonging, or in anyways incident or appertaining.

BK12360 PG0239

TO HAVE AND TO HOLD, all and singular the premises unto the mortgagee, his heirs and assigns, forever.

AND THE MORTGAGOR does hereby bind himself and his heirs and successors to warrant and forever defend all and singular the premises unto the mortgagee, his heirs and assigns, from and against himself and his heirs and successors, lawfully claiming, or to claim the same, or any part thereof.

AND IT IS AGREED by and between the parties that the Mortgagor, his heirs and assigns, shall keep any building erected on the premises insured against loss and damage by fire for the benefit of the Mortgagee, for an amount not less than the sum shown above, with such company as shall be approved by the Mortgagee, his successors, heirs and assigns, and shall deliver the policy to the Mortgagee; and in default thereof, the Mortgagee, his successors, heirs and assigns may effect such insurance and reimburse themselves under this Mortgage to the expense thereof, together with interest thereon at the rate provided in the Note from the date of its payment.

AND IT IS FURTHER AGREED in the event of other insurance and contribution between the Insurers that the Mortgagee, his successors, heirs and assigns, shall be entitled to receive from the aggregate of the insurance monies to be paid a sum equal to the amount of the debt secured by this Mortgage.

AND IT IS AGREED by and between the parties, that if the Mortgagor, his heirs and successors or assigns, shall fail to pay all taxes and assessments upon the premises when they shall first become payable, then the Mortgagee, his heirs or assigns, may cause the same to be paid, together with all penalties and costs incurred thereon, and reimburse herself under this Mortgage for the sum so paid, with interest thereon at the rate provided in the Note from the date of such payment.

AND IT IS AGREED by and between the parties that upon any default being made in the payment of the Note or of the insurance premiums, or of the taxes, or of the assessments hereinabove mentioned, or failure to pay any other indebtedness which constitutes a lien upon the real property when the same shall severally become payable, then the entire amount of the debt secured or intended to be secured hereby shall become due, at the option of the Mortgagee, his successors, heirs or assigns, although the period for the payment thereof may not then have expired.

AND IT IS AGREED by and between the parties that should legal proceedings be instituted for the collection of the debt secured hereby, then the Mortgagee, his successors, heirs or assigns, shall have the right to have a receiver appointed of the rents and profits of the premises, who, after deducting all charges and expenses attending such proceedings, and the execution of the trust as receiver, shall apply the residue of the rents and profits towards the payment of the debt secured hereby.

AND IT IS FURTHER AGREED by and between the parties that should legal proceedings be instituted for the foreclosure of this Mortgage, or should the Mortgagees become a party to any action by reason of this Mortgage, or should the debt secured hereby be placed in the hands of an attorney at law for collection, by suit or otherwise, all costs and expenses incurred by the Mortgagee, including a reasonable attorney's fee, shall thereupon become due and payable as a part of the debt secured hereby, and may be recovered and collected hereunder.

PROVIDED ALWAYS, NEVERTHELESS, and it is the true intent and meaning of the parties, that if the Mortgagor does and shall well and truly pay, or cause to be paid, unto the Mortgagees, their successors, heirs and assigns, the debt or sum of money aforesaid, with interest thereon, and if any shall be due, according to the true intent and meaning of the Note and this Mortgage, then this Mortgage shall cease, determine and be utterly null and void; otherwise it shall remain in full force and virtue.

IN THE EVENT of sale of the mortgaged property or the transfer of any interest therein to any transferee, excepting only the creation of lien or encumbrance junior

to the lien of this Mortgage, Mortgagor agrees that the Mortgagees may, at their sole option, declare all sums secured by this Mortgage immediately due and payable in full. If the Mortgagee exercises its option to declare the entire amounts so secured to be paid in full, its shall give written notice to Mortgagor who shall have a period of thirty(30) days after the date such notice is mailed to pay the amount declared to be due. If Mortgagor fails to pay such sum prior to the expiration of such period, Mortgagees may without further notice or demand invoke all remedies permitted by this Mortgage.

AND IT IS AGREED by and between the said parties, that the Mortgagor should hold and enjoy the premises until default of payment shall be made.



WITNESS Grantors' hands and seals this the 1<sup>st</sup> day of December, 2011.

SIGNED, SEALED AND DELIVERED IN THE PRESENCE OF :

Fort Mill Holdings, LLC

Tracy Goins (SEAL)  
By: Tracy Goins, Manager

William A. Reese  
Witness # 1

Theresa L. Taylor  
Witness # 2

BK12360 P80242

State of North Carolina  
County of Mecklenburg

Personally appeared before me the undersigned witness and made oath that he/she saw the within named Grantors, sign, seal and as Grantors' acts and deeds delivery the within Mortgage, and that he/she with the other witness subscribed above, witnessed the execution thereof.

William L. Reese  
Witness # 1 signature William L. Reese

Sworn to before me this 1<sup>st</sup> day of December, 2011.

Mary D. Smith  
Notary Public  
Iredell County, NC

My commission expires: 12-18-13

OK-12369 P00243

Exh. 6. + A

All that certain pieces, parcel or lot of land lying, being and situate on the southern side of S.C. Highway 51, and being shown and designated as Lot 2H, on Plat of Property of Dynamic Properties, a Partnership, by John Quinn Hall, dated April 24, 1984, being more particularly described according to said plat as follows: BEGINNING at an iron in the right of way for S.C. Highway 51, running thence with line of property of the Estate of W.B. Roddey, S. 13-33-26 E. 425.77 feet to a new iron; thence S. 79-40-15 W. 93.83 feet; thence running with line of property previously conveyed to Southern Utilities, Inc., N. 15-59-19 W. 427.17 feet to an iron in right of way for S.C. Highway 51, thence running in said right of way N. 79-40-25 E. 112 feet to the point of beginning; LESS AND EXCEPT that certain piece, parcel or lot of and consisting of 0.05 acres which has been conveyed to the South Carolina Department of Transportation by Deed dated December 28, 1993, recorded in Record Book 1129 at page 112 on November 4, 1994.

Being the property conveyed to  
Font Mill Holdings, LLC by deed  
recorded December 30, 2011 in  
Book 12360 at page 79

BAD ORIGINAL

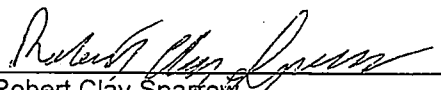
BK-12360 PG0244

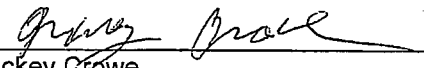
STATE OF SOUTH CAROLINA )  
COUNTY OF YORK )

VERIFIED STATEMENT OF ACCOUNT

THE UNDERSIGNED, ROBERT CLAY SPARROW AND MICKEY CROWE,  
HEREBY CERTIFY that there currently exists outstanding on that certain Note dated December  
1, 2011, a principal balance of Two Hundred Eighty Thousand, Eight Hundred Eighty-eight and  
90/100 (\$280,888.90) Dollars, plus interest at the rate of seven (7%) percent per annum from  
August 1, 2012, through December 19, 2012, at which time outstanding principal draws interest  
at the rate of Fifteen (15%) per annum until paid.

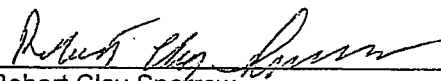
This 31 day of January, 2013.

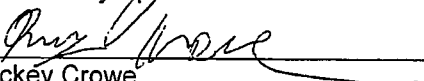
  
Robert Clay Sparrow

  
Mickey Crowe

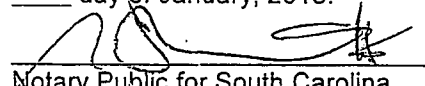
STATE OF SOUTH CAROLINA )  
COUNTY OF YORK )

I, DeFrankie Pullen, a Notary Public of the aforesaid County and State  
certify that Robert Clay Sparrow and Mickey Crowe personally appeared before me this day  
and acknowledged the execution of the foregoing instrument.

  
Robert Clay Sparrow

  
Mickey Crowe

SWORN TO before me this  
31 day of January, 2013.

  
Notary Public for South Carolina

My Commission Expires: 3/20/13

FILED-RECEIVED  
2013 FEB -8 PM 4:33  
DAVID HAMILTON  
C.C. CP & G.S.  
YORK COUNTY, SC

NOTICE REQUIRED BY THE  
FAIR DEBT COLLECTION PRACTICES ACT  
15 U.S.C. SECTION 1601 AS AMENDED

1. The amount of the debt is Two Hundred Eighty Thousand, Eight Hundred Eighty-eight and 90/100 (\$280,888.90) Dollars, plus interest at the rate of seven (7%) percent per annum from August 1, 2012, through December 19, 2012, at which time outstanding principal will draw interest at the rate of Fifteen (15%) percent per annum until paid.

2. Robert Clay Sparrow and Mickey Crowe are named in the attached letter dated January 2, 2012, as the creditors to whom the debt is owed.

3. The debt as described herein will be assumed to be valid by the creditors' law firm, unless the debtor, within thirty days after the receipt of this notice, disputes, in writing, the validity of the debt or some portion thereof.

4. If the debtor notifies the creditors' law firm in writing within thirty (30) days of the receipt of this notice that the debt or any portion thereof is disputed, the creditors' law firm will obtain a verification of the debt, and a copy of the verification will be mailed to the debtor by the creditors' law firm.

5. Written requests should be addressed to G. Franklin Pendleton, II, attorney at law, PO Box 399, Clover, South Carolina, 29710.

6. This notice shall not be construed as a thirty (30) day grace period or an extension.

7. This is an attempt to collect a debt, and any information obtained will be used for that purpose.

STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

COUNTY OF YORK

CASE NUMBER: 2013-CP-46-00438

ROBERT CLAY SPARROW and MIKEY  
CROWE,

Plaintiff,

vs.

FORT MILL HOLDINGS, LLC, and  
DAVID BAUCOM,

Defendants.

**MOTION TO DISMISS OF  
BAUCOM, AND  
ANSWER AND COUNTERCLAIMS  
OF DEFENDANTS  
(JURY DEMANDED)**

Defendant David Baucom hereby moves to dismiss the Complaint against him  
and alleges:

FILED-RECEIVED  
2013 MAR 29 AM 11:54  
DAVID BAUCOM  
C.C.P. & GS  
YORK COUNTY, SC

**MOTION TO DISMISS**

Defendant David Baucom ("Baucom") moves pursuant to Rule 12, South Carolina Rules of Civil Procedure, for dismissal of him from the lawsuit for failure to state a claim against him as guarantor. Specifically, the face of the Complaint and attached Promissory Note reveal that Baucom is not a primary obligor under said note, but, at most, is a guarantor with contingent and secondary liability. The Plaintiffs must first pursue recovery from the primary obligor, and from the mortgaged property. Only after those primary sources of recovery are pursued, and if it is then determined that part of the obligation remains unsatisfied, can the Plaintiffs attempt to collect from Baucom as a contingent guarantor. Thus, the Complaint fails to state a claim against Baucom, and must be dismissed.

### ANSWER

Defendants, Fort Mill Holdings, LLC, and David Baucom, ("Defendants") answer the Complaint filed by Robert Clay Sparrow and Mikey Crowe, ("Plaintiffs"), and allege as follows:

All allegations that are not expressly admitted to herein are denied. Fort Mill Holdings, LLC, and David Baucom respond to the number paragraphs of the complaint below.

1. Defendants lack information to admit or deny the allegations of paragraph 1, and therefore deny same and demand strict proof thereof.
2. Admitted.
3. Admitted.
4. Defendants lack information to admit or deny the allegations of paragraph 4, and therefore deny same and demand strict proof thereof.
5. Defendants lack information to admit or deny the allegations of paragraph 5, and therefore deny same and demand strict proof thereof.
6. Admitted.
7. The preceding allegations of the Answer are repeated and re-alleged herein.
8. Defendants admit that a promissory note was executed, and that the terms of the document speak for themselves and are the best evidence thereof. Any allegations inconsistent with the terms themselves are denied.
9. Defendants admit that a mortgage was executed, and that the terms of the document speak for themselves and are the best evidence thereof. Any allegations inconsistent with the terms themselves are denied.
10. Admitted.
11. Defendants lack information to admit or deny the allegations of paragraph 11, and therefore deny same and demand strict proof thereof.

12. Defendants admit that a mortgage was executed, and that the terms of the document speak for themselves and are the best evidence thereof. Any allegations inconsistent with the terms themselves are denied.
13. Admitted, and Defendants further assert that the one-half payments that were made were done with the express consent of the Plaintiffs.
14. The allegations of paragraph 14 require a legal conclusion and therefore are denied.
15. To the extent the allegation of paragraph 15 require a response, they are denied.
16. Denied.
17. The allegations of paragraph 17 require a legal conclusion and therefore are denied.
18. The allegations of paragraph 18 require a legal conclusion and therefore are denied.
19. The preceding allegations of the Answer are repeated and re-alleged herein.
20. Defendants admit that a guaranty was executed, and that the terms of the document speak for themselves and are the best evidence thereof. Any allegations inconsistent with the terms themselves are denied.
21. Defendants admit that a promissory note was executed, and that the terms of the document speak for themselves and are the best evidence thereof. Any allegations inconsistent with the terms themselves are denied.
22. Denied.
23. To the extent the allegation of paragraph 23 require a response, they are denied.
24. Denied

#### **AFFIRMATIVE DEFENSES**

1. Plaintiffs have failed to state a claim for which relief can be granted.
2. Plaintiffs' claim may be bared by the doctrines of waiver, estoppel, laches, release and/or unclean hands. More specifically, the plaintiff and Defendant entered into a subsequent agreement, either expressly or



impliedly, allowing Defendant forbearance, and allowing the Defendants, upon the event of default, to return the property to the Plaintiffs in full satisfaction of the debts.

3. Plaintiff's claim may be barred by the applicable statute of limitations by failing to file said action as required by applicable law.
4. Plaintiff's claim may be barred by the applicable statute of frauds by failure to have aspects thereof in writing as required by applicable law.
5. Plaintiff's claim may be barred by the doctrine of novation. More specifically, the Plaintiffs and Defendants entered into a subsequent agreement, either expressly or impliedly, allowing Defendants to return the property upon default in full satisfaction of all debt.
6. Plaintiff's claim may be barred by the intervening acts of the Plaintiffs, as set forth in the Counterclaims below, which are incorporated herein by reference.
7. Plaintiff's claim may be barred by the doctrine of payment. More specifically, the Plaintiffs and Defendants entered into a subsequent agreement whether expressly or impliedly, allowing Defendants to return the property in full satisfaction of the debt.
8. Plaintiff's claim is barred by the Plaintiffs' breaches of contract(s), as set forth herein and in the counterclaims below, which are incorporated herein by reference.

### COUNTERCLAIMS

The previous allegations of the Answer are incorporated herein by reference to the extent not inconsistent with the allegations of the counterclaims.

1. Contemporaneous with or subsequent to the execution of the Note and Mortgage attached to the Complaint, Plaintiffs entered into an agreement with the Defendants whereby Plaintiffs specifically promised and agreed that Plaintiffs would not seek a deficiency if the Defendants ever defaulted on the Note. Defendants had invested a significant amount of money into the property in issue for expansion and improvement to the premises. Such improvements inured to the benefit of the Plaintiffs and increased the business revenues and rents received for the premises.
2. There was not a licensed South Carolina attorney involved with the Note and Mortgage transaction underlying this lawsuit.

#### FIRST COUNTERCLAIM (Breach of Contract)

3. To the extent not inconsistent with the allegations herein, the preceding allegations are incorporated herein by reference.
4. As set forth above, the parties entered into a binding contract relating to the cancellation of the debt upon default and return of the property, and not to seek a deficiency judgment.
5. Plaintiffs have breached the contract, by failing to comply with the terms thereof, and by its wrongful conduct, and by the filing of the complaint seeking a deficiency.

6. As a direct and proximate result of Plaintiffs' breaches of contract, Defendants have suffered actual damages, incidental and consequential damages in an amount to be proven at trial.

#### SECOND COUNTERCLAIM

(Breach of Contract Accompanied by Fraudulent Act)

7. To the extent not inconsistent with the allegations herein, the preceding allegations are incorporated herein by reference.
8. As set forth above, Plaintiffs committed breaches of contract(s).
9. In connection with and relating to the breaches, Plaintiff displayed fraudulent intent, including dishonesty in fact, and unfair dealing.
10. In addition, Plaintiffs committed fraudulent acts with respect to the Defendants related to the breach, as set forth herein.
11. As a direct and proximate result of Plaintiffs' breaches of contract accompanied by fraudulent act, Defendants have suffered damages in an amount to be proven at trial to the jury, and Defendant is entitled to punitive damages.

#### THIRD COUNTERCLAIM

(Unclean Hands and Invalid Note and Mortgage Due to Unauthorized Practice of Law)

12. To the extent not inconsistent with the allegations herein, the preceding allegations are incorporated herein by reference.
13. Representatives of the Plaintiffs made binding promises, assurances and misrepresentations to Defendant regarding the Note and Mortgage.

14. Plaintiffs, through its authorized representatives, engaged in the unauthorized practice of law relating to the Note and Mortgage.
15. Pursuant to South Carolina law, the Plaintiffs have unclean hands and are not entitled to foreclose its purported mortgage, and both the note and mortgage are invalid, null and void.

FOURTH COUNTERCLAIM  
(Unfair Trade Practices)

16. To the extent not inconsistent with the allegations herein, the preceding allegations are incorporated herein by reference.
17. Plaintiffs are a "person" as defined by S.C. Code section 39-5-10 engaged in "trade" and "commerce" as defined by S.C. Code section 39-5-10.
18. Plaintiff's conduct as set forth herein constitutes unfair and deceptive acts in the conduct of trade or commerce which affect the public interest.
19. Plaintiff's conduct is capable of repetition.
20. Plaintiff's unfair and deceptive acts have caused and continue to cause damage to Defendants.
21. Plaintiff's conduct is a willing and knowing violation of S.C. Code section 39-5-20 thereby entitling Defendants to treble damages, in an amount to be proven at trial to the jury, plus costs and attorneys' fees.

FIFTH COUNTERCLAIM  
(Negligent Misrepresentation)

22. To the extent not inconsistent with the allegations herein, the preceding allegations are incorporated herein by reference.

23. Plaintiffs made false representations to Defendants, as set forth herein. Plaintiff had a pecuniary interest in making the false statements.

24. Plaintiffs owed a duty of care to Defendants to see that they communicated truthful information to the Defendants regarding the loan.

25. Plaintiffs breached its duty of care, and Defendants justifiably relied on the representation by, *inter alia*, proceeding with the transaction and investing in the underlying property.

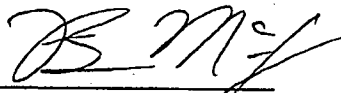
26. Defendants suffered a pecuniary loss as a direct and proximate result of their reliance on Plaintiff's misrepresentations, in an amount to be proven at trial.

WHEREFORE, defendants pray for dismissal of this action, a cancellation of the note and mortgage, judgment in their favor, for recovery under the counterclaims of actual and punitive damages, for treble damages as provided by statute, for the costs of this action and attorneys' fees, and for such other and further relief as the Court deems just and proper.

**JURY TRIAL DEMANDED.**

WHEREFORE, defendants Fort Mill Holdings, LLC, and David Baucom pray for dismissal of this action, judgment in its favor, for the costs of this action, and for such other and further relief as the Court deems just and proper.

Respectfully submitted this 28th day of March, 2013.



Brian S. McCoy, Esq.  
McCOY LAW FIRM, LLC  
378 E. Main St.  
Rock Hill, SC 29730  
(803) 366-2280  
ATTORNEY FOR DEFENDANTS  
Fort Mill Holdings, LLC, and David Baucom

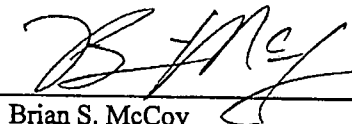
**CERTIFICATE OF SERVICE BY MAILING**

The undersigned does hereby certify that a copy of the foregoing and attached ANSWER, was served upon the attorney of record in this action by depositing in the U.S. mail, with sufficient postage attached thereto and addressed as follows:

G. Frank Pendleton, II  
Pendleton and Pendleton  
Attorneys for Plaintiffs  
Post Office Box 399  
Clover, South Carolina 29710

This the 28<sup>th</sup> day of March, 2013

By: \_\_\_\_\_



Brian S. McCoy  
Attorney for Defendants

FILED-RECEIVED  
2013 MAR 29 AM 11:54  
DAVID HAMILTON  
C.C.P. & GS  
YORK COUNTY, SC

STATE OF SOUTH CAROLINA  
COUNTY OF YORK

IN THE COURT OF COMMON PLEAS  
CASE NUMBER: 2013-CP-46-00440

ROBERT CLAY SPARROW and MIKEY  
CROWE,

Plaintiff,

vs.

MAURER HOLDINGS, LLC, and DAVID  
BAUCOM

Defendants.

**MOTION TO DISMISS OF  
BAUCOM, AND  
ANSWER AND COUNTERCLAIMS  
OF DEFENDANTS  
(JURY DEMANDED)**

Defendant David Baucom hereby moves to dismiss the Complaint against him  
and alleges:

**MOTION TO DISMISS**

Defendant David Baucom ("Baucom") moves pursuant to Rule 12, South Carolina Rules of Civil Procedure, for dismissal of him from the lawsuit for failure to state a claim against him as guarantor. Specifically, the face of the Complaint and attached Promissory Note reveal that Baucom is not a primary obligor under said note, but, at most, is a guarantor with contingent and secondary liability. The Plaintiffs must first pursue recovery from the primary obligor, and from the mortgaged property. Only after those primary sources of recovery are pursued, and if it is then determined that part of the obligation remains unsatisfied, can the Plaintiffs attempt to collect from Baucom as a contingent guarantor. Thus, the Complaint fails to state a claim against Baucom, and must be dismissed.

FILED-RECEIVED  
2013 MAR 29 AM 11:37  
DAVID HAMILTON  
S.C.C.P. & GS  
YORK COUNTY, SC

**ANSWER**

Defendants, Maurer Holdings, LLC, and David Baucom, ("Defendants") answer the Complaint filed by Robert Clay Sparrow and Mikey Crowe, ("Plaintiffs"), and allege as follows:

All allegations that are not expressly admitted to herein are denied. Maurer Holdings, LLC, and David Baucom respond to the number paragraphs of the complaint below.

1. Defendants lack information to admit or deny the allegations of paragraph 1, and therefore deny same and demand strict proof thereof.
2. Admitted.
3. Admitted.
4. Defendants lack information to admit or deny the allegations of paragraph 4, and therefore deny same and demand strict proof thereof.
5. Defendants lack information to admit or deny the allegations of paragraph 5, and therefore deny same and demand strict proof thereof.
6. Admitted.
7. The preceding allegations of the Answer are repeated and re-alleged herein.
8. Defendants admit that a promissory note was executed, and that the terms of the document speak for themselves and are the best evidence thereof. Any allegations inconsistent with the terms themselves are denied.
9. Defendants admit that a mortgage was executed, and that the terms of the document speak for themselves and are the best evidence thereof. Any allegations inconsistent with the terms themselves are denied.
10. Admitted.
11. Defendants lack information to admit or deny the allegations of paragraph 11, and therefore deny same and demand strict proof thereof.
12. Defendants admit that a mortgage was executed, and that the terms of the document speak for themselves and are the best evidence thereof. Any allegations inconsistent with the terms themselves are denied.



13. Admitted, and Defendants further assert that the one-half payments that were made were done with the express consent of the Plaintiffs.
14. The allegations of paragraph 14 require a legal conclusion and therefore are denied.
15. To the extent the allegation of paragraph 15 require a response, they are denied.
16. Denied.
17. The allegations of paragraph 17 require a legal conclusion and therefore are denied.
18. The allegations of paragraph 18 require a legal conclusion and therefore are denied.
19. The preceding allegations of the Answer are repeated and re-alleged herein.
20. Defendants admit that a guaranty was executed, and that the terms of the document speak for themselves and are the best evidence thereof. Any allegations inconsistent with the terms themselves are denied.
21. Defendants admit that a promissory note was executed, and that the terms of the document speak for themselves and are the best evidence thereof. Any allegations inconsistent with the terms themselves are denied.
22. Denied.
23. To the extent the allegation of paragraph 23 require a response, they are denied.
24. Denied

#### **AFFIRMATIVE DEFENSES**

1. Plaintiffs have failed to state a claim for which relief can be granted.
2. Plaintiffs' claim may be bared by the doctrines of waiver, estoppel, laches, release and/or unclean hands. More specifically, the plaintiff and Defendant entered into a subsequent agreement, either expressly or impliedly, allowing Defendant forbearance, and allowing the Defendants,

upon the event of default, to return the property to the Plaintiffs in full satisfaction of the debts.

3. Plaintiff's claim may be barred by the applicable statute of limitations by failing to file said action as required by applicable law.
4. Plaintiff's claim may be barred by the applicable statute of frauds by failure to have aspects thereof in writing as required by applicable law.
5. Plaintiff's claim may be barred by the doctrine of novation. More specifically, the Plaintiffs and Defendants entered into a subsequent agreement, either expressly or impliedly, allowing Defendants to return the property upon default in full satisfaction of all debt.
6. Plaintiff's claim may be barred by the intervening acts of the Plaintiffs, as set forth in the Counterclaims below, which are incorporated herein by reference.
7. Plaintiff's claim may be barred by the doctrine of payment. More specifically, the Plaintiffs and Defendants entered into a subsequent agreement whether expressly or impliedly, allowing Defendants to return the property in full satisfaction of the debt.
8. Plaintiff's claim is barred by the Plaintiffs' breaches of contract(s), as set forth herein and in the counterclaims below, which are incorporated herein by reference.

#### **COUNTERCLAIMS**

The previous allegations of the Answer are incorporated herein by reference to the extent not inconsistent with the allegations of the counterclaims.

1. Contemporaneous with or subsequent to the execution of the Note and Mortgage attached to the Complaint, Plaintiffs entered into an agreement with the Defendants whereby Plaintiffs specifically promised and agreed that Plaintiffs would not seek a deficiency if the Defendants ever defaulted on the Note. Defendants had invested a significant amount of money into the property in issue for expansion and improvement to the premises. Such improvements inured to the benefit of the Plaintiffs and increased the business revenues and rents received for the premises.
2. There was not a licensed South Carolina attorney involved with the Note and Mortgage transaction underlying this lawsuit.

FIRST COUNTERCLAIM  
(Breach of Contract)

3. To the extent not inconsistent with the allegations herein, the preceding allegations are incorporated herein by reference.
4. As set forth above, the parties entered into a binding contract relating to the cancellation of the debt upon default and return of the property, and not to seek a deficiency judgment.
5. Plaintiffs have breached the contract, by failing to comply with the terms thereof, and by its wrongful conduct, and by the filing of the complaint seeking a deficiency.

6. As a direct and proximate result of Plaintiffs' breaches of contract, Defendants have suffered actual damages, incidental and consequential damages in an amount to be proven at trial.

#### SECOND COUNTERCLAIM

(Breach of Contract Accompanied by Fraudulent Act)

7. To the extent not inconsistent with the allegations herein, the preceding allegations are incorporated herein by reference.
8. As set forth above, Plaintiffs committed breaches of contract(s).
9. In connection with and relating to the breaches, Plaintiff displayed fraudulent intent, including dishonesty in fact, and unfair dealing.
10. In addition, Plaintiffs committed fraudulent acts with respect to the Defendants related to the breach, as set forth herein.
11. As a direct and proximate result of Plaintiffs' breaches of contract accompanied by fraudulent act, Defendants have suffered damages in an amount to be proven at trial to the jury, and Defendant is entitled to punitive damages.

#### THIRD COUNTERCLAIM

(Unclean Hands and Invalid Note and Mortgage Due to Unauthorized Practice of Law)

12. To the extent not inconsistent with the allegations herein, the preceding allegations are incorporated herein by reference.
13. Representatives of the Plaintiffs made binding promises, assurances and misrepresentations to Defendant regarding the Note and Mortgage.

14. Plaintiffs, through its authorized representatives, engaged in the unauthorized practice of law relating to the Note and Mortgage.

15. Pursuant to South Carolina law, the Plaintiffs have unclean hands and are not entitled to foreclose its purported mortgage, and both the note and mortgage are invalid, null and void.

**FOURTH COUNTERCLAIM**  
(Unfair Trade Practices)

16. To the extent not inconsistent with the allegations herein, the preceding allegations are incorporated herein by reference.

17. Plaintiffs are a "person" as defined by S.C. Code section 39-5-10 engaged in "trade" and "commerce" as defined by S.C. Code section 39-5-10.

18. Plaintiff's conduct as set forth herein constitutes unfair and deceptive acts in the conduct of trade or commerce which affect the public interest.

19. Plaintiff's conduct is capable of repetition.

20. Plaintiff's unfair and deceptive acts have caused and continue to cause damage to Defendants.

21. Plaintiff's conduct is a willing and knowing violation of S.C. Code section 39-5-20 thereby entitling Defendants to treble damages, in an amount to be proven at trial to the jury, plus costs and attorneys' fees.

**FIFTH COUNTERCLAIM**  
(Negligent Misrepresentation)

22. To the extent not inconsistent with the allegations herein, the preceding allegations are incorporated herein by reference.

23. Plaintiffs made false representations to Defendants, as set forth herein. Plaintiff had a pecuniary interest in making the false statements.

24. Plaintiffs owed a duty of care to Defendants to see that they communicated truthful information to the Defendants regarding the loan.

25. Plaintiffs breached its duty of care, and Defendants justifiably relied on the representation by, *inter alia*, proceeding with the transaction and investing in the underlying property.

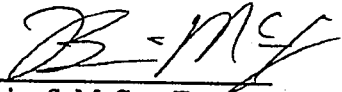
26. Defendants suffered a pecuniary loss as a direct and proximate result of their reliance on Plaintiff's misrepresentations, in an amount to be proven at trial.

WHEREFORE, defendants pray for dismissal of this action, a cancellation of the note and mortgage, judgment in their favor, for recovery under the counterclaims of actual and punitive damages, for treble damages as provided by statute, for the costs of this action and attorneys' fees, and for such other and further relief as the Court deems just and proper.

**JURY TRIAL DEMANDED.**

WHEREFORE, defendants Maurer Holdings, LLC, and David Baucom pray for dismissal of this action, judgment in its favor, for the costs of this action, and for such other and further relief as the Court deems just and proper.

Respectfully submitted this 28th day of March, 2013.

  
\_\_\_\_\_  
Brian S. McCoy, Esq  
McCOY LAW FIRM, LLC  
378 E. Main St.  
Rock Hill, SC 29730  
(803) 366-2280  
ATTORNEY FOR DEFENDANTS  
Maurer Holdings, LLC, and David Baucom

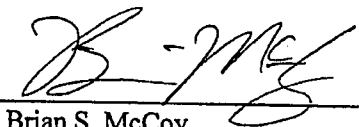
**CERTIFICATE OF SERVICE BY MAILING**

The undersigned does hereby certify that a copy of the foregoing and attached ANSWER, was served upon the attorney of record in this action by depositing in the U.S. mail, with sufficient postage attached thereto and addressed as follows:

G. Frank Pendleton, II  
Pendleton and Pendleton  
Attorneys for Plaintiffs  
Post Office Box 399  
Clover, South Carolina 29710

FILED-RECEIVED  
2013 MAR 29 AM 11:37  
DAVID HAMILTON  
C.C.P. & GS  
YORK COUNTY, SC

This the 28<sup>th</sup> day of March, 2013

By:   
\_\_\_\_\_  
Brian S. McCoy  
Attorney for Defendants

STATE OF SOUTH CAROLINA )  
COUNTY OF YORK )

IN THE COURT OF COMMON PLEAS  
SIXTEENTH JUDICIAL CIRCUIT

Robert Clay Sparrow and )  
Mickey Crowe, )  
Plaintiffs, )

vs. )

REPLY

Fort Mill Holdings, LLC, and )  
David Baucom, )  
Defendants. )

2013-CP46-00438

The Plaintiffs, reserving their right to file responsive pleadings amending and/or modifying their Reply after the Court rules on their Motion to Strike, replies to the Counterclaim of the Defendants, and would respectfully show unto the Court that:

1. The Plaintiffs deny each and every allegation of the Answer and Counterclaim not hereinafter specifically admitted, qualified, or explained.

2. Plaintiffs deny paragraphs 1, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 18, 19, 20, 21, 22, 23, 24, 25, 25, and 26.

3. As to the allegations of paragraph 2 and further answering the allegations of paragraphs 14 and 15, Plaintiffs knew the Defendants' closing attorney was a North Carolina licensed attorney but had no knowledge that the attorney the Defendants chose to close their purchase and prepare the note and mortgage on the subject was not licensed in South Carolina.

4. Plaintiffs admit the allegations of paragraph 17.

5. Further answering the allegations of Defendants' Counterclaims herein and as



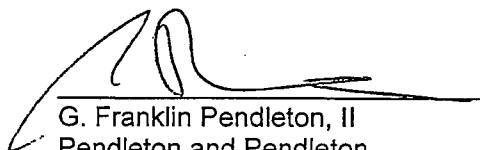
an affirmative defense thereto, Plaintiffs are informed and believe that the Defendant, Fort Mill Holdings, LLC, is a limited liability company organized pursuant to the laws of the State of North Carolina and is not authorized to do business in the State of South Carolina as it is not domesticated in South Carolina, that it does not have a certificate of authority to do business in South Carolina, and that it is not entitled to maintain an action/counterclaim in South Carolina as set forth in SC Code Ann § 33-44-1008 (1976, as amended).

6. Further answering the allegations of Defendants' Counterclaims herein and as an affirmative defense thereto, Plaintiffs are informed and believe that the Counterclaims of the Defendants may be barred by the doctrines of waiver, estoppel, laches, release and/or unclean hands as the Defendants chose the closing attorney for their purchase and financing of the subject real property and their choice of an attorney not licensed in the State of South Carolina should not allow them to avoid, setoff, or cancel their debt to Plaintiffs.

WHEREFORE, Plaintiffs having fully replied to the Counterclaim of the Defendants, the Plaintiffs pray that same be dismissed with costs and that Plaintiffs be granted judgment on the Complaint.

Clover, South Carolina

May 23, 2013



G. Franklin Pendleton, II  
Pendleton and Pendleton  
103 Kings Mountain Street  
PO Box 399  
Clover, South Carolina 29710  
(803)222-3026  
Attorneys for Plaintiffs

2013-CP-46-438

CERTIFICATE OF MAILING

The undersigned hereby certifies that she is the secretary to G. Franklin Pendleton, II, Attorney for the Plaintiffs, Robert Clay Sparrow and Mickey Crowe, and that the attached Reply was served upon the Defendants, Fort Mill Holdings, LLC, and Robert Baucom, by depositing a copy of same in the United States Mail, with sufficient postage annexed thereto, addressed as follows:

Mr. Brian S. McCoy, Esq.  
McCoy Law Firm  
378 E. Main Street  
Rock Hill, South Carolina 29730

This 24<sup>th</sup> day of May, 2013.

  
Rhonda T. Simmons, Secretary

STATE OF SOUTH CAROLINA )  
COUNTY OF YORK )

IN THE COURT OF COMMON PLEAS  
SIXTEENTH JUDICIAL CIRCUIT

Robert Clay Sparrow and )  
Mickey Crowe, )  
Plaintiffs, )

vs. )

REPLY

Maurer Holdings, LLC, and )  
David Baucom, )  
Defendants. )

2013-CP46-00440

The Plaintiffs, reserving their right to file responsive pleadings amending and/or modifying their Reply after the Court rules on their Motion to Strike, replies to the Counterclaim of the Defendants, and would respectfully show unto the Court that:

1. The Plaintiffs deny each and every allegation of the Counterclaim not hereinafter specifically admitted, qualified, or explained.

2. Plaintiffs deny paragraphs 1, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 18, 19, 20, 21, 22, 23, 24, 25, 25, and 26.

3. As to the allegations of paragraph 2 and further answering the allegations of paragraphs 14 and 15, Plaintiffs knew the Defendants' closing attorney was a North Carolina licensed attorney but had no knowledge that the attorney the Defendants chose to close their purchase and prepare the note and mortgage on the subject was not licensed in South Carolina.

4. Plaintiffs admit the allegations of paragraph 17.

5. Further answering the allegations of Defendants' Counterclaims herein and as

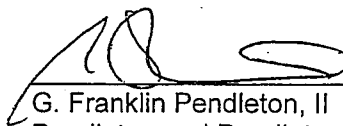
an affirmative defense thereto, Plaintiffs are informed and believe that the Defendant, Maurer Holdings, LLC, is a limited liability company organized pursuant to the laws of the State of North Carolina and is not authorized to do business in the State of South Carolina as it is not domesticated in South Carolina, that it does not have a certificate of authority to do business in South Carolina, and that it is not entitled to maintain an action/counterclaim in South Carolina as set forth in SC Code Ann § 33-44-1008 (1976, as amended).

6. Further answering the allegations of Defendants' Counterclaims herein and as an affirmative defense thereto, Plaintiffs are informed and believe that the Counterclaims of the Defendants may be barred by the doctrines of waiver, estoppel, laches, release and/or unclean hands as the Defendants chose the closing attorney for their purchase and financing of the subject real property and their choice of an attorney not licensed in the State of South Carolina should not allow them to avoid, setoff, or cancel their debt to Plaintiffs.

WHEREFORE, Plaintiffs having fully replied to the Counterclaim of the Defendants, the Plaintiffs pray that same be dismissed with costs and that Plaintiffs be granted judgment on the Complaint.

Clover, South Carolina

May 23, 2013



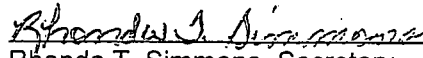
G. Franklin Pendleton, II  
Pendleton and Pendleton  
103 Kings Mountain Street  
PO Box 399  
Clover, South Carolina 29710  
(803)222-3026  
Attorneys for Plaintiffs

CERTIFICATE OF MAILING

The undersigned hereby certifies that she is the secretary to G. Franklin Pendleton, II, Attorney for the Plaintiffs, Robert Clay Sparrow and Mickey Crowe, and that the attached Reply was served upon the Defendants, Maurer Holdings, LLC, and Robert Baucom, by depositing a copy of same in the United States Mail, with sufficient postage annexed thereto, addressed as follows:

Mr. Brian S. McCoy, Esq.  
McCoy Law Firm  
378 E. Main Street  
Rock Hill, South Carolina 29730

This 24<sup>th</sup> day of May, 2013.

  
Rhonda T. Simmons, Secretary

STATE OF SOUTH CAROLINA )  
COUNTY OF YORK )

IN THE COURT OF COMMON PLEAS  
SIXTEENTH JUDICIAL CIRCUIT

Robert Clay Sparrow and )  
Mickey Crowe, )

Plaintiffs, )

vs. )

Fort Mill Holdings, LLC, and )  
David Baucom, )

Defendants. )

AMENDED  
REPLY

2013-CP46-00438

The Plaintiffs, pursuant to Order Denying Plaintiffs' Motion to Strike dated July 22, 2013, reply to the allegations contained in the Defendants' Counterclaims and Affirmative Defenses and would respectfully show unto the Court that:

1. The Plaintiffs deny each and every allegation of the Counterclaims and Affirmative Defenses not hereinafter specifically admitted, qualified, or explained.

2. Plaintiffs admit so much of the allegations of paragraph 1 of the Counterclaim that alleges the Defendants attempted to make "improvements" to the premises, but on information and belief, the "improvements" were not properly done, were not done in compliance with the York County building code, and were condemned by the York County building inspector making the structures on the premises uninhabitable for any purpose. Plaintiffs are further informed and believe the actions of the Defendants have greatly decreased the value of the property and will cause great sums of money to have to be spent to correct the actions of the

Defendants. The remaining allegations of paragraph 1 of the Counterclaim are denied.

3. As to the allegations of paragraph 2 and further answering the allegations of paragraphs 14 and 15 of the Counterclaim, Plaintiffs knew the Defendants' closing attorney was a North Carolina licensed attorney but had no knowledge that the attorney the Defendants chose to close their purchase of the subject premises and prepare the note and mortgage for their financing of the purchase price was not licensed in South Carolina.

4. Plaintiffs deny paragraphs 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 18, 19, 20, 21, 22, 23, 24, 25, 25, and 26 of the Counterclaim and paragraphs 1, 2, 3, 4, 5, 6, 7, and 8 of the Affirmative Defenses.

5. The allegations of paragraph 17 of the Counterclaim require a legal conclusion and therefore are denied.

#### AFFIRMATIVE DEFENSES

1. Further answering the allegations of Defendants' Counterclaims herein and as an affirmative defense thereto, Plaintiffs are informed and believe that the Counterclaims of the Defendants may be barred by the doctrines of waiver, estoppel, laches, release and/or unclean hands as the Defendants, a North Carolina limited liability company and a North Carolina resident, knew or should have known that the attorney they chose to close their purchase and finance of the subject real property was an attorney licensed in the State of North Carolina and not licensed in the State

of South Carolina and their choice of the closing attorney should not allow them to avoid, setoff, or cancel their debt or the security instrument for their debt to Plaintiffs.

2. Further answering the allegations of Defendants' Counterclaims herein and as an affirmative defense thereto, Plaintiffs deny the Defendants' allegations that:

- 1) "...the plaintiff and Defendant entered into a subsequent agreement, either expressly or impliedly, allowing Defendant forbearance, and allowing the Defendants, upon the event of default, to return the property to the Plaintiffs in full satisfaction of the debts";
- 2) "...Plaintiffs specifically promised and agreed that Plaintiffs would not seek a deficiency if the Defendants ever defaulted on the Note"; and,
- 3) "...the parties entered into a binding contract relating to the cancellation of the debt upon default and return of the property, and not to seek a deficiency judgment".

Plaintiffs vehemently deny the allegations ever existed, were discussed, or were considered by the parties; furthermore, such allegations are barred by the statute of frauds as they are not in writing as required by applicable law.

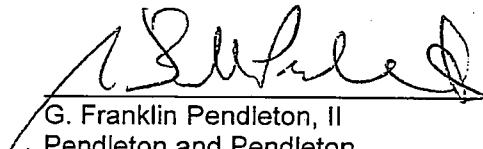
3. Further answering the allegations of Defendants' Counterclaims herein and as an affirmative defense thereto, Plaintiffs are informed and believe that the Counterclaims of the Defendants with respect to their allegations, as above set forth, of unwritten oral agreements, which the Plaintiffs vehemently deny ever existed, discussed, or considered, may be barred by the doctrines of waiver, estoppel, laches, release and/or unclean hands as the Defendants knew or should have known that the alleged unwritten oral agreements should have and could have been reduced to writing by the Defendants.



WHEREFORE, Plaintiffs having fully replied to the Counterclaim of the Defendants, the Plaintiffs pray that same be dismissed with costs and that Plaintiffs be granted judgment on the Complaint.

Clover, South Carolina

August 2, 2013



G. Franklin Pendleton, II  
Pendleton and Pendleton  
103 Kings Mountain Street  
PO Box 399  
Clover, South Carolina 29710  
(803)222-3026  
Attorneys for Plaintiffs

CERTIFICATE OF MAILING

The undersigned hereby certifies that she is the secretary to G. Franklin Pendleton, II, Attorney for the Plaintiffs, Robert Clay Sparrow and Mickey Crowe, and that the attached Amended Reply was served upon the Defendants, Fort Mill Holdings, LLC, and Robert Baucom, by depositing a copy of same in the United States Mail, with sufficient postage annexed thereto, addressed as follows:

Mr. Brian S. McCoy, Esq.  
McCoy Law Firm  
378 E. Main Street  
Rock Hill, South Carolina 29730

This 2<sup>nd</sup> day of August, 2013.

Rhonda T. Simmons  
Rhonda T. Simmons, Secretary

STATE OF SOUTH CAROLINA )  
COUNTY OF YORK )

IN THE COURT OF COMMON PLEAS  
SIXTEENTH JUDICIAL CIRCUIT

Robert Clay Sparrow and )  
Mickey Crowe, )

Plaintiffs, )

vs. )

Maurer Holdings, LLC, and )  
David Baucom, )

Defendants. )

AMENDED  
REPLY

2013-CP46-00440

The Plaintiffs, pursuant to Order Denying Plaintiffs' Motion to Strike dated July 22, 2013, reply to the allegations contained in the Defendants' Counterclaims and Affirmative Defenses and would respectfully show unto the Court that:

1. The Plaintiffs deny each and every allegation of the Counterclaims and Affirmative Defenses not hereinafter specifically admitted, qualified, or explained.

2. Plaintiffs admit so much of the allegations of paragraph 1 of the Counterclaim that alleges the Defendants attempted to make "improvements" to the premises, but on information and belief, the "improvements" were not properly done, were not done in compliance with the York County building code, and were condemned by the York County building inspector making the structures on the premises uninhabitable for any purpose. Plaintiffs are further informed and believe the actions of the Defendants have greatly decreased the value of the property and will cause great sums of money to have to be spent to correct the actions of the

Defendants. The remaining allegations of paragraph 1 of the Counterclaim are denied.

3. As to the allegations of paragraph 2 and further answering the allegations of paragraphs 14 and 15 of the Counterclaim, Plaintiffs knew the Defendants' closing attorney was a North Carolina licensed attorney but had no knowledge that the attorney the Defendants chose to close their purchase of the subject premises and prepare the note and mortgage for their financing of the purchase price was not licensed in South Carolina.

4. Plaintiffs deny paragraphs 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 18, 19, 20, 21, 22, 23, 24, 25, 25, and 26 of the Counterclaim and paragraphs 1, 2, 3, 4, 5, 6, 7, and 8 of the Affirmative Defenses.

5. The allegations of paragraph 17 of the Counterclaim require a legal conclusion and therefore are denied.

#### AFFIRMATIVE DEFENSES

1. Further answering the allegations of Defendants' Counterclaims herein and as an affirmative defense thereto, Plaintiffs are informed and believe that the Counterclaims of the Defendants may be barred by the doctrines of waiver, estoppel, laches, release and/or unclean hands as the Defendants, a North Carolina limited liability company and a North Carolina resident, knew or should have known that the attorney they chose to close their purchase and finance of the subject real property was an attorney licensed in the State of North Carolina and not licensed in the State

of South Carolina and their choice of the closing attorney should not allow them to avoid, setoff, or cancel their debt or the security instrument for their debt to Plaintiffs.

2. Further answering the allegations of Defendants' Counterclaims herein and as an affirmative defense thereto, Plaintiffs deny the Defendants' allegations that:

- 1) "...the plaintiff and Defendant entered into a subsequent agreement, either expressly or impliedly, allowing Defendant forbearance, and allowing the Defendants, upon the event of default, to return the property to the Plaintiffs in full satisfaction of the debts";
- 2) "...Plaintiffs specifically promised and agreed that Plaintiffs would not seek a deficiency if the Defendants ever defaulted on the Note"; and,
- 3) "...the parties entered into a binding contract relating to the cancellation of the debt upon default and return of the property, and not to seek a deficiency judgment".

Plaintiffs vehemently deny the allegations ever existed, were discussed, or were considered by the parties; furthermore, such allegations are barred by the statute of frauds as they are not in writing as required by applicable law.

3. Further answering the allegations of Defendants' Counterclaims herein and as an affirmative defense thereto, Plaintiffs are informed and believe that the Counterclaims of the Defendants with respect to their allegations, as above set forth, of unwritten oral agreements, which the Plaintiffs vehemently deny ever existed, discussed, or considered, may be barred by the doctrines of waiver, estoppel, laches, release and/or unclean hands as the Defendants knew or should have known that the alleged unwritten oral agreements should have and could have been reduced to writing by the Defendants.

WHEREFORE, Plaintiffs having fully replied to the Counterclaim of the Defendants, the Plaintiffs pray that same be dismissed with costs and that Plaintiffs be granted judgment on the Complaint.

Clover, South Carolina

August 2 2013

  
G. Franklin Pendleton, II  
Pendleton and Pendleton  
103 Kings Mountain Street  
PO Box 399  
Clover, South Carolina 29710  
(803)222-3026  
Attorneys for Plaintiffs

2013-CP-46-440

CERTIFICATE OF MAILING

The undersigned hereby certifies that she is the secretary to G. Franklin Pendleton, II, Attorney for the Plaintiffs, Robert Clay Sparrow and Mickey Crowe, and that the attached Amended Reply was served upon the Defendants, Maurer Holdings, LLC, and Robert Baucom, by depositing a copy of same in the United States Mail, with sufficient postage annexed thereto, addressed as follows:

Mr. Brian S. McCoy, Esq.  
McCoy Law Firm  
378 E. Main Street  
Rock Hill, South Carolina 29730

This 2<sup>nd</sup> day of August, 2013.

Rhonda T. Simmons  
Rhonda T. Simmons, Secretary

State of South Carolina., ) In the Common Pleas  
 ) Court of York  
 )  
County of York. ) Case No.: 2013-CP-46-00438

Robert Clay Sparrow., )  
and Mickey Crowe., )  
 )  
Plaintiffs., )  
 )  
-vs- ) Transcript of Record  
 )  
Fort Mill Holdings, LLC., )  
and David Baucom., )  
 )  
Defendant. )  
\_\_\_\_\_ )

March 24, 2016  
York, South Carolina

B E F O R E:

The Honorable S. Jackson Kimball, Judge.

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

Mr. James M. Griffin  
Lewis Babcock & Griffin,  
P.O. Box 999  
Columbia, South Carolina 29202  
For the Plaintiffs

Mr. Paul Landis  
Fayssoux & Landis  
209 East Washington Street  
Greenville, South Carolina 29601  
864-233-0445  
For the Defendants

**ORIGINAL**

Wanda Nelson, CVR-M  
Official Court Reporter  
To the Honorable John C. Hayes, III



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I-N-D-E-X

E-X-A-M-I-N-A-T-I-O-N

WITNESS

BY:

PAGE NO.

No witnesses were called and examined.

I-N-D-E-X

E-X-H-I-B-I-T-S

| <u>NO.</u> | <u>DESCRIPTION</u> | <u>ID</u> | <u>EVD.</u> |
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No Exhibits were received into the record.

1 (COURT IN SESSION AT 09:10 AM.)

2 THE COURT: All right, the first thing I've got is  
3 Case Number 2013-438 Robert Clay Sparrow and others against  
4 Fort Mill Holdings and Maurer Holdings. There are two  
5 cases?

6 MR. GRIFFIN: Yes, your Honor.

7 THE COURT: You all are settled in. Right?

8 MR. GRIFFIN: Yes, sir.

9 THE COURT: All right. I'm correct in saying I guess  
10 that the motions are identical. Right?

11 MR. GRIFFIN: Yes, your Honor, in both cases.

12 THE COURT: All right. This is Plaintiff's motion to  
13 compel settlement.

14 MR. GRIFFIN: Yes, sir. Thank you, your Honor.

15 Jim Griffin on behalf of the plaintiff's. And, your  
16 Honor, I have a copy of the memoranda that we mailed your  
17 court that my office handed up so you'll have it for you.

18 THE COURT: All right.

19 MR. GRIFFIN: And I served it on opposing counsel.

20 Your Honor, we are here pursuant to a motion to seek  
21 enforcement of a settlement agreement reached in two  
22 actions. First is Clay Sparrow and Mickey Crowe versus  
23 Maurer Holdings and David Baucom and that is Case Number  
24 2013-CP-46-440. And the second case is Clay Sparrow and  
25 Mickey Crowe versus Fort Mill Holdings, LLC and David

1 Baucom and that has a Case Number 438.

2 Your Honor, both of these cases are essentially they  
3 were filed as foreclosure actions. They involved two  
4 separate pieces of property. Maurer Holdings was the  
5 purchaser of one property and Fort Mill Holdings was the  
6 purchaser of another property. The sellers were the same  
7 in both transactions. And David Baucom provided a personal  
8 guarantee on both transactions.

9 The case was filed in 2013; it was litigated. There  
10 was a mediation that was conducted in October of 2014 and  
11 the parties reached a settlement at mediation. They  
12 entered into a written settlement agreement at mediation  
13 which we've attached to our motion. And the written  
14 settlement agreement is signed by counsel for all parties,  
15 and signed by all parties, and it contains, your Honor, the  
16 terms of the settlement.

17 Pursuant to the mediation agreement, the handwritten  
18 mediation agreement, the parties agreed as follows:

19 That the defendant's in both cases would confess  
20 judgment in the amount of One Million, Three Hundred and  
21 Fifty-six Dollars. Excuse me, One Million, Three Hundred  
22 and Fifty-six Thousand, Seven Hundred Fifty Dollars and ten  
23 cents which represented the principle on the two notes.  
24 Plus they would pay interest at seven percent through  
25 10/7/14.

1           In addition, your Honor, the plaintiff's agree to pay  
2           the outstanding real estate taxes on both pieces of  
3           property which was Seventy Thousand, Five Hundred and  
4           Ninety-five Dollars and Forty-six cents. The parties  
5           agreed the defendant's would execute a confession of  
6           judgment but that that confession of judgment would remain  
7           unfiled for one year while the defendant's attempted to  
8           sell the property. If the property was not sold within  
9           that year period of time then the confession of judgment  
10          would be filed.

11          THE COURT: All right.

12          MR. GRIFFIN: Your Honor, the plaintiff's paid the  
13          Seventy thousand dollars in real estate taxes under the  
14          agreement. The plaintiff's have waited a year allowing the  
15          defendant to try to sell the property. The defendant has  
16          not sold the property and when requested to execute the  
17          confession of judgment the defendant's refused.

18          And your Honor, the defendant's have opposed our  
19          motion on a couple of grounds.

20          THE COURT: Well we'll let them tell me that. You  
21          tell me what else you need to know.

22          MR. GRIFFIN: Well, your Honor, the law that we set  
23          forth in our memorandum is straight forward that the --  
24          that under Rule 43(k) of the South Carolina Rules of Civil  
25          Procedure settlement agreements that are signed by all

1 parties and counsel are enforceable by the court. There is  
2 no factual dispute about that. The agreement contains all  
3 the -- it's unambiguous and it contains all the principle  
4 points of the agreement. There's no fraud alleged; there's  
5 no mistake alleged and the -- and all parties agreed to  
6 settle the case. Under South Carolina law settlement  
7 agreements are viewed as contracts and a settlement to  
8 which all parties agree is valid and binding absent fraud  
9 or mistake.

10 And also, your Honor, it says the law is clear that  
11 when a litigant voluntarily accepts an offer of settlement  
12 the integrity of the agreement cannot be attacked on the  
13 basis of inadequate representation by the litigant's  
14 attorney. In such cases any remaining dispute is purely  
15 between the party and his attorney.

16 Your Honor, the -- I'm not gonna argue the defendant's  
17 case, I'll do it on reply on what they are saying but we'll  
18 get to it, we don't believe there's any inadequate  
19 representation by the litigants attorney and that the  
20 grounds that they're raising here is -- don't rise to the  
21 level of admitting a misstate of fact and there's no doubt  
22 that --

23 THE COURT: What they said was a misunderstanding or  
24 something. No, that was the case that they cited.

25 MR. GRIFFIN: Yes, sir. And, your Honor, the case.

1 that they cited specifically says --

2 THE COURT: They can do that.

3 MR. GRIFFIN: Okay.

4 THE COURT: I'm gonna ask them about that.

5 MR. GRIFFIN: And so, your Honor, we have a valid  
6 settlement agreement. A year has gone by; they had a year  
7 to sell the property. The plaintiff's have complied with  
8 the terms to settlement agreement. They paid the taxes.  
9 Now the taxes were up again and now the property has been  
10 sold, at least one parcel, at a tax sell for Six hundred  
11 and forty some thousand dollars. And so, you know, there's  
12 --

13 THE COURT: Prior to the tax sale I assume none of  
14 these -- none of the parties have been the purchaser's at  
15 the tax sale have they?

16 MR. GRIFFIN: No, sir.

17 THE COURT: Okay. Prior to the tax sale was all --  
18 was the property all titled in the name of the defendant's?

19 MR. GRIFFIN: The property was -- One piece of the  
20 property was titled in the name of one of the LLCs.

21 THE COURT: Okay.

22 MR. GRIFFIN: And the other piece was titled in the  
23 name of the other LLC.

24 THE COURT: All right.

25 MR. GRIFFIN: The individual defendant the property

1 was not titled in his name at all.

2 THE COURT: The parcels were titled in the name of the  
3 LLC?

4 MR. GRIFFIN: Yes, sir.

5 THE COURT: Okay.

6 MR. GRIFFIN: And frankly that's important if you were  
7 to consider the North Carolina Anti-deficiency statute.

8 THE COURT: All right. Thank you.

9 MR. GRIFFIN: Thank you.

10 THE COURT: All right, sir.

11 MR. LANDIS: Yes, sir, your Honor. Paul Landis on  
12 behalf of all defendants in both of the two cases; 438 and  
13 440. And, your Honor, as a housekeeping matter we have  
14 submitted via email and also exchanged with other counsel,  
15 with Mr. Griffin, some memoranda and some affidavits.

16 One thing I want to make sure that I get out of here  
17 and do is make sure that I properly file those with the  
18 court, is the best thing for me to do is submit those in  
19 the hearing or should I file those with the Clerk's office?

20 THE COURT: This is it right here, right?

21 MR. LANDIS: Yes, your Honor, with one caveat. It's  
22 the binder up there and I've also printed out all the cases  
23 that I've cited in the brief. With the caveat being that  
24 Mr. Baucom had not fully executed one of the affidavits in  
25 the two cases. He's done that now so I have properly



1 signed affidavits.

2 THE COURT: Okay.

3 MR. LANDIS: So I just wanted to make sure with that  
4 caveat all -- substantively the two affidavits are  
5 basically identical anyway.

6 THE COURT: All right. Go ahead.

7 MR. LANDIS: Your Honor, may it please the Court.

8 I appreciate your Honor hearing this today.

9 THE COURT: That's what they pay me to do is hear  
10 cases.

11 MR. LANDIS: All right. And anyway, Judge, I want to  
12 be clear from the outset. This is not a situation where  
13 people mediated a case, for example a car wreck, and a  
14 plaintiff settled for Thirty thousand dollars and then  
15 afterthought maybe I should have gone for fifty. This case  
16 is a lot different than that.

17 THE COURT: How? They paid Seventy thousand dollars  
18 and the defendant's all signed the settlement agreement, I  
19 mean the mediation agreement.

20 MR. LANDIS: The reason that its different, your  
21 Honor, is because --

22 THE COURT: Because you now raise the question of  
23 North Carolina law doesn't permit a -- the deficiency  
24 judgment against an individual?

25 MR. LANDIS: That's correct.

1 THE COURT: What's that got to do with it - the  
2 settlement?

3 MR. LANDIS: Yes, your Honor. The reason that's  
4 important I think is two fold. One is this court has the  
5 discretion to refuse to enforce a settlement in the case  
6 I've cited.

7 THE COURT: Or the discretion not to refuse to enforce  
8 a settlement.

9 MR. LANDIS: That's correct. Absolutely.

10 And if a settlement is unfair in a case that was cited  
11 and the *Petty* case that was cited by both us and opposing  
12 counsel, that in the *Petty* case they say that if it's  
13 unfair, and here, Judge, it's unfair and the reason is --

14 THE COURT: Well why did they agree?

15 MR. LANDIS: They didn't know as my client's --

16 THE COURT: Well now whose problem is that?

17 MR. LANDIS: Well we prefer not to go there yet.

18 THE COURT: Okay.

19 MR. LANDIS: And unless they have to. But the North  
20 Carolina Anti-deficiency statute it's not only that it  
21 prohibits a judgment against my clients, but it's also the  
22 cases that I've cited say specifically that the substantive  
23 law that governs that purchase money note I think everybody  
24 has to agree. It said - Both notes say these are to be  
25 governed by the law in North Carolina.

1 THE COURT: That's right.

2 MR. LANDIS: They're North Carolina purchase money  
3 notes.

4 THE COURT: I read it.

5 MR. LANDIS: Therefore the substantive law that  
6 governs this case not only says you can't get a -- you  
7 can't get a deficiency judgment, but it also says that  
8 statute cannot be waived. And so essentially what has  
9 happened in this case, if the court --

10 THE COURT: Well what you're telling me is -- I  
11 understand that the defendant's now think that they just  
12 weren't informed, but what you're telling me is that  
13 somebody could intentionally enter into such an agreement  
14 and then renege on it claiming the statute later on.

15 MR. LANDIS: That's correct. And although that didn't  
16 happen in this case, and my client's affidavit establish  
17 that that they didn't know about it at the time, but I  
18 don't think anybody would dispute that. But ultimately --  
19 You know one of the cases that I've cited, your Honor, is  
20 interesting because it's the *Barnaby versus Boardman* case.  
21 And that was a situation where the sellers had actually  
22 released the collateral on a purchase money note.

23 THE COURT: What's the cite?

24 MR. LANDIS: Yes, your Honor, it's Tab Number 2 in the  
25 binder but it's 313 N.C., 565.

1 THE COURT: A North Carolina case?

2 MR. LANDIS: Yes, sir. But it's interesting because  
3 what it says is the sellers in that case had released their  
4 collateral in a purchase money situation and tried to sue  
5 on the note and the court said too bad sellers. And, your  
6 Honor, if you look at the line of cases that I've cited out  
7 of North Carolina law - North Carolina, I think probably in  
8 every case that I've cited the court has basically said  
9 look --

10 THE COURT: Who signed the settlement agreement? And  
11 to whom does the statute -- this anti-deficiency statute  
12 apply?

13 MR. LANDIS: The statute applies both to borrower's  
14 and to guarantors. The purchaser's --

15 THE COURT: Individuals?

16 MR. LANDIS: It applies to businesses.

17 THE COURT: LLCs?

18 MR. LANDIS: I believe so, your Honor. But regardless  
19 Mr. Baucom certainly is an individual who signed as a quote  
20 unquote guarantor on the purchase money notes. And, your  
21 Honor, I would also mention under South Carolina law I've  
22 cited the case of *Rocksmith Chevrolet versus Smith*.

23 THE COURT: I read it.

24 MR. LANDIS: And with that case, you know, the court  
25 basically said look I think the litigant, its probably the

1 litigants fault or the party's fault. It appears that he  
2 misunderstood or misconstrued his attorney's advice and  
3 basically they put that responsibility on the litigant.  
4 And even then the court said but I'm concerned because it  
5 appears that there was a misunderstanding or a mis-  
6 communication, something happened and allowed --

7 THE COURT: One has to do a lot of reading between the  
8 lines to figure out what really went on in that case.

9 MR. LANDIS: And I agree with you, Judge. And I don't  
10 know if any of us know based on the record because the  
11 record is not as your Honor pointed out very detailed in  
12 that case. But certainly here, Judge, the relief that my  
13 client's are seeking is not extraordinary. The relief that  
14 my client's are --

15 THE COURT: What do you mean? The plaintiff paid  
16 Seventy thousand dollars in real estate taxes and  
17 effectively you're asking me to let them off the hook for  
18 that.

19 MR. LANDIS: Well, that's not what I'm asking, Judge.

20 What I'm asking is although ultimately on the merits  
21 my client's will take the position they're not responsible  
22 for that. I put in the brief, Judge, that -- and Mr.  
23 Baucom's testified - if he were required by the court to  
24 redeem that property that he's able to do that. And I've  
25 put that in the affidavits to make sure that - cause we're

1 still within the redemption period.

2 THE COURT: You talking about the tax sale. I'm not  
3 concerned about the tax sale.

4 THE COURT: Well, -- Or with the taxes, your Honor.

5 THE COURT: Well that's consideration paid by the  
6 plaintiff for the settlement.

7 MR. LANDIS: But I think you have consideration on  
8 both sides. I mean the seller --

9 THE COURT: Well you're wanting me to wipe out the  
10 consideration that the defendant's agreed to give.

11 MR. LANDIS: North Carolina has done it many times,  
12 your Honor. But to --

13 THE COURT: I don't know if South Carolina is gonna do  
14 it.

15 MR. LANDIS: Okay. Well to the extent that any of  
16 those issues or that there's any prejudice that the court  
17 perceives that our position would be that can be dealt with  
18 on the merits that both sides ought to have the ability to  
19 --

20 THE COURT: So tell me what relief you want.

21 MR. LANDIS: Just simply to deny the motion to compel  
22 settlement and to proceed with the case. There's been no  
23 stipulation of dismissal filed or anything like that. And  
24 so the relief sought is to let all parties preserve all  
25 issues --

1 THE COURT: They want another bite at the apple.

2 MR. LANDIS: They want to litigate the case on the  
3 merits, Judge.

4 THE COURT: All right. Yes, sir, Mr. Griffin.

5 MR. GRIFFIN: Yes, thank you, your Honor.

6 The -- I mean you shouldn't go to the North Carolina  
7 deficiency statute. The case they cited, the *Rockport*  
8 *Smith* case, there is a specific sentence -- it's on my  
9 printer at the office -- but if you read the case what that  
10 case said was and essentially there is no meeting of the  
11 minds is what I gather Judge Cottingham determined but  
12 toward the end of that opinion, your Honor, --

13 THE COURT: Well you're talking about the South  
14 Carolina case.

15 MR. GRIFFIN: Yes, sir.

16 THE COURT: Yeah. Okay.

17 MR. GRIFFIN: Yes, sir, South Carolina case, Supreme  
18 Court case. And toward the end of the opinion it  
19 specifically says that the court does not have authority to  
20 overturn a settlement because the court thinks it's unfair.  
21 That is specifically in that Supreme Court decision that is  
22 cited --

23 THE COURT: Well tell me about the North Carolina  
24 problem. That's the only thing that concerns me.

25 MR. GRIFFIN: Well, that's not a concern clearly as to

1 the - The nuts of this case is David Baucom is the one with  
2 the money who signed the personal guarantee. Under North  
3 Carolina law and under the North Carolina deficiency  
4 statute it doesn't apply to him because he's not the title  
5 holder of the property. And I've got cases to say that --

6 THE COURT: Does anybody -- Has anybody give me a copy  
7 of the statute? I have not read the statute.

8 MR. LANDIS: I believe, Judge, that I've cited it in  
9 -- I'd certainly be glad to provide that to your Honor if I  
10 failed to cite it in the memoranda. But I believe on page  
11 8 of the memo in the binder, I think it's on page 8 of both  
12 because the memo's are basically identical. And the full  
13 text of the statute North Carolina General Statute 45-21.38  
14 is on that page.

15 THE COURT: All right. Hand on a second.

16 Okay. Now what this statute says is requires first of  
17 all that the transaction and question that the deficiency  
18 issue being the context of the foreclosure of a mortgage  
19 under North Carolina law. It says mortgagees or trustees  
20 under power of sale contained in any mortgage, deed of --  
21 mortgage or deed of trust where judgement or decree is  
22 given for the foreclosure of any mortgage executed.

23 This doesn't have anything to do with the mortgage  
24 foreclosure does it?

25 MR. LANDIS: It does. But the North Carolina cases



1 have expanded it beyond that. And so I've basically given  
2 --

3 THE COURT: Well let -- Mr. Griffin, go ahead.

4 MR. GRIFFIN: Yes, sir, your Honor. And under North  
5 Carolina case law as interpreted by North Carolina  
6 authorities and the Fourth Circuit, the -- this anti-  
7 deficiency statute does not apply to a third party  
8 guarantor which is what Mr. Baucom is. Its additional  
9 security for the financing of this transaction. It only  
10 applies to the title holder and, your Honor, I've got --

11 THE COURT: And only as to deficiency.

12 MR. GRIFFIN: Correct.

13 THE COURT: Do we know yet whether there would be a  
14 deficiency?

15 MR. GRIFFIN: Well it wasn't. What we're seeking,  
16 your Honor, is a foreclosure and property to be sold --

17 THE COURT: What you're seeking is enforcement of the  
18 settlement agreement.

19 MR. GRIFFIN: Correct.

20 THE COURT: Which is not foreclosure is it?

21 MR. GRIFFIN: No, sir. We're seeking enforcement of a  
22 settlement agreement where they agreed to enter judgment in  
23 X dollars.

24 THE COURT: Right. Correct.

25 MR. GRIFFIN: That's right. Now clearly it's a

1 settlement terms. That's what we're seeking; the enforce  
2 -- of the settlement in a case that had a number of  
3 allegations in it but it had --

4 THE COURT: If I were to grant the motion what would  
5 -- Are you asking me to enter the judgement that they  
6 failed to confess?

7 MR. GRIFFIN: Yes, your Honor.

8 THE COURT: How much is it?

9 MR. GRIFFIN: It's one -- Your Honor, it is attached  
10 to the motion that the judgment is in the amount of One  
11 Million, Four hundred and twenty-seven thousand, three  
12 hundred and forty-seven dollars and fifty-six cents. As of  
13 October 7, 2014 and it bears an interest rate of Two  
14 Hundred and Seventy-three dollars and seventy-four cents  
15 per day from October 7 to 2014.

16 THE COURT: All right. Now was anything else left --  
17 Was anything else undone by the settlement agreement or  
18 left undone other than the confession of judgment?

19 MR. GRIFFIN: No, your Honor. Well, I mean once they  
20 confess the judgment it gets filed then we dismiss the  
21 action. That's the only ---

22 THE COURT: Okay.

23 MR. GRIFFIN: --- the action is still pending.

24 THE COURT: And it's simply a money judgment.

25 MR. GRIFFIN: That's correct, your Honor.

1 THE COURT: In the settlement agreement?

2 MR. GRIFFIN: That's correct. It's a confession of  
3 judgment.

4 THE COURT: Hang on a minute.

5 THE COURT: So there would in fact not be a  
6 foreclosure? Or is there a foreclosure?

7 MR. GRIFFIN: It's a confession of judgment, your  
8 Honor. And then plaintiff's would go execute on the  
9 judgment obviously.

10 THE COURT: All right. Mr. Landis, if this were  
11 simply a suit on a note, how would that statute apply?

12 MR. LANDIS: The court's, your Honor, have said if  
13 it's a purchase money note, the seller even if it's not a  
14 foreclosure, for example, the case I cited earlier -- I  
15 think the *Barnaby* case -- that was a situation where the  
16 seller had given up the collateral and tried to sue on the  
17 note. And North Carolina has specifically said, look, you  
18 are limited to a return of the property. Not -- You can't  
19 even pledge additional collateral and go after it. It's  
20 just the purchase money note the property for which that  
21 note secured the purchase price that is your exclusive  
22 relief. The court has been clear --

23 THE COURT: The note?

24 MR. LANDIS: No. The property, return of the  
25 property.

1           In *Adams v. Cooper* that I've cited, sellers are  
2 prohibited from pursuing an action on a personal guarantee  
3 in a purchase money situation in North Carolina on a note.  
4 Mr. Baucom didn't sign anything other than the note. He  
5 didn't sign the mortgage.

6           THE COURT: He didn't sign the note either did he?

7           MR. LANDIS: He signed the note.

8           THE COURT: He did sign the note or he's just  
9 personally guaranteed?

10          MR. LANDIS: Well it was signed as guarantor on the  
11 note. There were two --

12          THE COURT: Then he's a guarantor?

13          MR. LANDIS: Right.

14          THE COURT: All right. I'm gonna grant the motion.

15          MR. GRIFFIN: Thank you.

16          THE COURT: Is there any -- The year has expired.  
17 Right?

18          MR. GRIFFIN: Yes, sir. Yes, sir.

19          THE COURT: So that's there's no need to -- All right.  
20 I'm going to grant the motion. I take it that the  
21 defendant's are not willing to sign the confession of  
22 judgment?

23          MR. LANDIS: It depends. If your Honor orders them to  
24 put their signature on it; either way they're obviously not  
25 going to violate a court order.

1 THE COURT: They're either gonna sign it or I'm gonna  
2 enter judgment for a Million, whatever it is.

3 MR. GRIFFIN: Yes, sir. The proposed order, the  
4 confession of judgment is attached to our motion if your  
5 Honor ---

6 THE COURT: I know it is.

7 MR. GRIFFIN: --- enters that order or they signed it,  
8 same effect.

9 THE COURT: Well I think it's the same effect too.  
10 I'm just gonna -- And that's the only uncompleted  
11 portion of the mediated settlement agreement?

12 MR. GRIFFIN: Yes, sir. Once the judgment's entered,  
13 then we've agreed to dismiss the case.

14 THE COURT: All right. I'm gonna order that judgment  
15 be entered by reason of the failure of the defendant's to  
16 sign the confession of judgment, the year having expired.  
17 And it'll be entered in the amount that you -- that you've  
18 told me.

19 MR. GRIFFIN: Yes, sir.

20 THE COURT: Do you want to say it again for the  
21 record?

22 MR. GRIFFIN: Yes, your Honor. It is -- The amount is  
23 One Million, Four hundred and twenty-seven thousand, three  
24 hundred and forty-seven dollars and fifty-six cents. And  
25 then it carries interest at a rate of Two hundred and

1       seventy-three dollars and seventy-four cents per day from  
2       October 7, 2014 and that would be up until today's date.

3               THE COURT: All right. What I want you to do is email  
4       me an order in Word format so that I can tinker with it if  
5       I think I need to ---

6               MR. GRIFFIN: Yes, sir.

7               THE COURT: --- giving that relief.

8               MR. GRIFFIN: Thank you.

9               THE COURT: Thank you.

10              -- END OF TRANSCRIPT OF RECORD --

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CERTIFICATE OF REPORTER

State of South Carolina    )  
                                          )  
County of York                    )

I, Wanda Nelson, Official Court Reporter for the Sixteenth Judicial Circuit for the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Common Pleas Court for York County, South Carolina, on 24th day March, 2016.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

Wanda Nelson  
Wanda Nelson, CVR-M  
Certified Verbatim Reporter,  
Official Court Reporter,  
Notary Public, in and for  
The State of South Carolina.

My Commission Expires: 1/21/2021

DATE: July 25 / 2016

STATE OF SOUTH CAROLINA  
COUNTY OF YORK

IN THE COURT OF COMMON PLEAS  
CASE NO. 2013-CP-46-00440

Robert Clay Sparrow and Mickey Crowe,

Plaintiffs,

vs.

Maurer Holdings, LLC, and David Baucom,

Defendants.

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TRANSCRIPT OF PROCEEDINGS  
BEFORE THE HONORABLE S. JACKSON KIMBALL

---

DATE TAKEN: May 10, 2016

LOCATION: 1 North Congress Street  
York, South Carolina 29745

REPORTED BY: Traci L. Barr, RPR

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THE COURT: This is case -- these are two cases really, 0438 and 0440, Robert Clay Sparrow and Mickey Crowe against Maurer Holdings, LLC, and others, and the same plaintiffs against Maurer Holdings, LLC and others. This is the defendant Mr. Baucom's motion under Rule 59(e).

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

THE COURT: Go ahead.

MR. LANDIS: Okay. May it please the Court?

Your Honor, basically, the gist -- and you'll find, I believe, in my motion to alter, amend, or reconsider that a lot of the same arguments and same principles are set forth as were set forth in the original motion. I don't think there is anything new there. But really the purpose of the motion is to hone in on, I believe in the Court's order Your Honor basically found that it was not necessary to get to the substance of North Carolina law.

THE COURT: That's correct.

MR. LANDIS: And so the basis of the motion to alter, amend, or reconsider is requesting that the Court make a ruling on that issue. As Your Honor is probably aware, a lot of this is an

1 exercise in an abundance of caution.

2 THE COURT: Why is what I said not a ruling? What I  
3 said is it's not necessary to reach the issue  
4 of the North Carolina statute because all we're  
5 dealing with at this point is the enforcement  
6 of a settlement agreement that fully complies  
7 with South Carolina law.

8 MR. LANDIS: And our position, Your Honor, is that  
9 it's my understanding from reading the ruling  
10 or the order that it was basically treated as a  
11 discretionary matter and I believe that's --

12 THE COURT: What was treated as discretionary?

13 MR. LANDIS: The Court exercised the discretion to  
14 determine whether or not it was fundamentally  
15 unfair, the settlement agreement, and I believe  
16 there is a discretionary component which I  
17 think the Court ruled on; and then I think  
18 there is an issue of even if it's otherwise  
19 okay from a discretionary matter, I think there  
20 is a legal issue there where the settlement  
21 agreement is a contract and that this contract  
22 violates public policy, statutory law, and  
23 judicial decisions in North Carolina.

24 THE COURT: Okay.

25 MR. LANDIS: I hope I'm stating that --

1 THE COURT: I understand what you're saying.

2 MR. LANDIS: Okay.

3 THE COURT: I just don't agree with you.

4 MR. LANDIS: And I appreciate that, Your Honor.

5 THE COURT: Go ahead.

6 MR. LANDIS: Sure. And I hope Your Honor has  
7 received the brief. I do want to mention, Your  
8 Honor, there was one point that I put in the  
9 heading that I'm withdrawing. I did not  
10 address it substantively. It's that the Court  
11 considered an improper standard when  
12 determining whether to enforce settlement.  
13 What I was referring there was to the  
14 discretion part. I think under the  
15 discretionary standard that was applied in  
16 determining whether it was unfair, I think that  
17 was an appropriate standard --

18 THE COURT: Let me be sure I understand what you're  
19 talking about when you talk about exercising  
20 discretion. You mean as it applies to the  
21 application of the North Carolina statute?

22 MR. LANDIS: No, Your Honor. I'm talking about the  
23 Court has the discretion to either enforce  
24 settlements or refuse to enforce settlements  
25 based on fairness.

1 THE COURT: Under South Carolina law.

2 MR. LANDIS: Under South Carolina law, that's  
3 correct.

4 THE COURT: Okay.

5 MR. LANDIS: And so what I'm saying, Your Honor, is  
6 that I think the Court did that and the  
7 appropriate standard was applied.

8 THE COURT: All right.

9 MR. LANDIS: Although we would have preferred that  
10 the Court reach a different conclusion, we  
11 accept that, respect it, and move on. So  
12 bullet point number 4 on the first page of the  
13 motion is not something that we're pursuing.  
14 That was accidentally left in, and I did not  
15 address it in the substance of the motion  
16 itself.

17 Then I was sort of on the fence. I believe  
18 Your Honor may have found that the settlement  
19 was consummated. I included a section because  
20 I wasn't sure if that specific issue had been  
21 addressed, but I believe Your Honor has  
22 addressed that. And so we believe that the  
23 settlement was conditioned upon the execution  
24 of formal documents.

25 THE COURT: Let me respond to that this way.

1 Obviously, the settlement was not fully  
2 consummated because the defendant refused to  
3 execute the confession of judgment, but it was  
4 consummated to the extent there was performance  
5 in part by the parties who paid the 70,000 and  
6 change in property taxes, if that makes any  
7 sense.

8 MR. LANDIS: It does and -- right. I would just add,  
9 Your Honor, that they also contemplated that  
10 there would be formal settlement documents  
11 executed, which was never done, and that the  
12 case would be dismissed after execution of the  
13 formal settlement documents in addition to the  
14 contingent confession, so that's another basis.  
15 But really the thrust of it is that even if the  
16 Court, otherwise, doesn't have a problem with  
17 the settlement as a discretionary matter, that  
18 under South Carolina law or North Carolina law  
19 -- under South Carolina law, the settlement  
20 agreement is a contract, and that contracts,  
21 whether you're in South Carolina or North  
22 Carolina, cannot be enforced if they're either  
23 in violation of public policy, violate  
24 statutory law, or violate judicial decisions.  
25 And in this case, Your Honor, we believe that

1       this settlement agreement violates all three  
2       based on the substantive law of North Carolina  
3       that applies.

4       THE COURT: Of North Carolina?

5       MR. LANDIS: Yes, Your Honor. And the promissory  
6       note says that it is governed by North Carolina  
7       law.

8       THE COURT: But I think what you get into is, and  
9       it's been a long time since I took conflict of  
10      laws, but in effect you have a South Carolina  
11      public policy that says we are going to enforce  
12      legitimate settlement agreements. The issues  
13      that were raised in opposition to enforcement  
14      of the settlement agreement were, as you argued  
15      before, if the -- the defendant said if he had  
16      known about the North Carolina law, he wouldn't  
17      have entered the settlement agreement. Well, I  
18      think south -- I don't know whether you want to  
19      call it -- I'm not exactly sure what the right  
20      term is to use, but I believe that it's South  
21      Carolina's policy of enforcing, whether it be  
22      substantive or procedural, valid settlement  
23      agreements trumps that kind of argument.  
24      Otherwise, people could make settlement  
25      agreements in South Carolina that could never

1 be enforced. People have to know what they're  
2 doing.

3 I think that, if you will, the greater damage  
4 from a policy standpoint is to South Carolina.  
5 A settlement agreement is made her, partially  
6 consummated, and sought to be enforced here.  
7 This is the proper forum. The lawsuit was  
8 brought here, jurisdiction with all that,  
9 subject matter. That's sort of my overarching  
10 view of the whole thing.

11 Go ahead.

12 MR. LANDIS: And, Your Honor, I believe that that  
13 covers unless -- I guess I'll briefly mention  
14 that Mr. Griffin had passed up a couple of  
15 issues on North Carolina law that I think those  
16 cases are distinguishable, but I don't think  
17 it's necessary for me to get into that based on  
18 Your Honor's ruling that we basically don't  
19 need to consider the North Carolina law as it  
20 applies.

21 THE COURT: Okay.

22 MR. LANDIS: Thank you, Your Honor.

23 THE COURT: Yes, sir.

24 MR. GRIFFIN: Your Honor, I just want to make a few  
25 points.



1 I understand that, Your Honor, applied a  
2 discretionary standard, and we believe Your  
3 Honor was correct in exercising your discretion  
4 to enforce a settlement, but I just don't -- in  
5 case this goes to the next level, I don't want  
6 to concede that the authority is that you look  
7 behind the fairness of the settlement as long  
8 as everybody understands, agrees, and signs off  
9 on it.

10 THE COURT: I'm not sure what you're saying.

11 MR. GRIFFIN: Well, the case they had cited about  
12 Your Honor's authority to review settlements  
13 and approve them or not enforce them, Rock  
14 Smith Chevrolet versus Smith, we talked about  
15 last time, and I said I left it on my printer.  
16 I'll hand it up, but the issue there and what  
17 the court of appeals said is the judge could  
18 not rule upon the fairness of a settlement;  
19 this was not his province since the agreement  
20 was between adults represented by counsel.  
21 He's asking for you to address the fairness of  
22 the settlement, and Your Honor did, but I just  
23 don't want it to be said --

24 THE COURT: It's a contract.

25 MR. GRIFFIN: Yeah.

1 THE COURT: -- determine what they wanted to do in a  
2 contract.

3 MR. GRIFFIN: Right.

4 THE COURT: Unless it's fraud or -- and that's what I  
5 really meant to address in the question of  
6 dealing with settlement agreements was the  
7 issue of some sort of fraud or other  
8 misbehavior that in the formation of a  
9 settlement agreement, not just the terms of the  
10 settlement agreement.

11 MR. GRIFFIN: Right. And in the Rock Smith case, it  
12 was a pro se person with a sixth grade  
13 education. The judge just basically determined  
14 he didn't really understand what was going on.  
15 That's not the case here. I highlighted the  
16 section.

17 As to the advocacy of North Carolina law,  
18 Your Honor, the first time and again this time,  
19 when they compromised and reached an agreement,  
20 at that point in time, I mean, it was a new  
21 contract entered into, and the defendant had a  
22 year to improve the property, sell the  
23 property, and could very well have made money  
24 on the deal. That was a chance that he  
25 knowingly entered into. And as part of the

1       compromise, the plaintiffs reduced the debt  
2       some \$300,000. So you had a new agreement  
3       entered into in South Carolina under South  
4       Carolina law that replaced some prior  
5       agreement. It was a settlement agreement. It  
6       complied with all the terms of Rule 43(k), and  
7       the policy of the state is you enforce the  
8       settlement agreements if given no reason not  
9       to. Thank you.

10      THE COURT: Tell me what you-all think I need to  
11       clarify, just to be sure, because I want to get  
12       you to do me an order. Tell me what you think  
13       I need to clarify.

14      MR. LANDIS: Yes. Your Honor, I think that the  
15       clarification would need to be that, in our  
16       view, that there is a contract that was  
17       consummated that was -- and this is obviously  
18       not what I'm arguing. I'm just saying, as I  
19       understand Your Honor's ruling, is there was a  
20       contract that was consummated, that it doesn't  
21       matter whether or not if --

22      THE COURT: Did I use the word, consummated?

23      MR. LANDIS: That's me just saying that the contract  
24       was never consummated, that the settlement  
25       agreement was never consummated. I think

1           implicitly you've probably gone there because  
2           you're enforcing it.

3       THE COURT: Hold on one second. I have the order  
4           here. Let me look at it real quick.  
5           No, I didn't, I don't think, either expressly  
6           or impliedly, said it was consummated, because  
7           obviously it was not. That's what we're doing  
8           here. It was not.

9           So do you want me to clarify that; is that what  
10          you're saying?

11       MR. LANDIS: Yes, Your Honor. Our position is there  
12          were never formal settlement documents.

13       THE COURT: There was a settlement agreement. That  
14          is a document, a contract. That's what's  
15          enforced. That was the agreement, you know,  
16          that -- a contract to sell a house is  
17          enforceable even though nobody signed the deed  
18          or somebody hasn't paid the money or somebody  
19          hasn't done an inspection. It's analogous to a  
20          contract to sell a house. You make a contract  
21          that is enforceable by specific performance or  
22          for recovery of damages, even though the  
23          contract has not been fully consummated; i.e.,  
24          fully performed. I see no difference. In  
25          fact, this did involve land.

1 MR. LANDIS: Right.

2 THE COURT: I see no difference in that, so to

3 clarify, that's what I think.

4 MR. GRIFFIN: I can put that in the order. I

5 understand there was argument that since there

6 was no formal execution of a subsequent

7 document -- -

8 THE COURT: That's right.

9 MR. GRIFFIN: -- it is conditional upon that --

10 THE COURT: Yeah, but a contract of sale for a house

11 --

12 MR. GRIFFIN: Right. And our position is they

13 refused to execute it. That's why we had to

14 file a motion.

15 THE COURT: I understand that.

16 MR. GRIFFIN: I'll add that to the order.

17 THE COURT: Go ahead.

18 MR. LANDIS: Right. And then even if there is a

19 binding contract under South Carolina law

20 because settlement agreements are viewed as

21 contracts under South Carolina law, that we

22 have to look at the question of whether or not

23 a contract violates public policy statute or

24 judicial decisions, and our position is that

25 this particular settlement agreement, if there

1 is an agreement, I understand the Court's  
2 ruling on that, that there is, that even if  
3 there is a binding contract, that it violates  
4 public policy, statutes, one statute in  
5 particular, and judicial decisions.

6 THE COURT: Yeah, my view of that is -- of North  
7 Carolina, you said?

8 MR. LANDIS: Yes, that's correct.

9 THE COURT: My view of that is that South Carolina  
10 clearly stated public policy is to enforce  
11 fairly made settlement agreements, and I think  
12 that trumps the North Carolina argument.

13 MR. LANDIS: I think that's it.

14 THE COURT: I did want to ask y'all one thing. If my  
15 memory serves me correctly, North Carolina  
16 statute simply voids, negates an agreement, any  
17 agreement or transaction -- any part of an  
18 agreement or transaction that would provide for  
19 a deficiency judgment.

20 Isn't that what you argued?

21 MR. LANDIS: Well, that's part of it. What has  
22 happened is the North Carolina courts have  
23 extended that and basically said if somebody  
24 gives up the collateral and tries to sue on the  
25 note, they can't do it in a scenario like this

1           and --

2       THE COURT: What does the statute say? Doesn't it  
3       say that -- obviously, I can't quote it, but  
4       essentially, that any part of an agreement that  
5       would result in a deficiency judgment can't be  
6       enforced.

7       MR. LANDIS: You cannot get a deficiency judgment,  
8       you can't get attorney's fees, you can't get  
9       additional collateral, you can't anything other  
10      than a return of the property itself in a  
11      purchase money seller finance situation.

12      THE COURT: In my view, that is contrary to, first of  
13      all, South Carolina statutory law as well as  
14      public policy as it applies to the making and  
15      enforcement of settlement agreements. It's  
16      directly in conflict with South Carolina  
17      statutory law, and I believe that in this  
18      circumstance the courts of South Carolina have  
19      jurisdiction over it all, and to the extent  
20      there is a conflict, South Carolina law wins.  
21      It would be against current South Carolina  
22      public policy as expressed by statute, case  
23      law, and ruling.

24           Does that cover it?

25      MR. LANDIS: Yes, sir.

1 THE COURT: Okay. E-mail me an order in Word format  
2 with that discussion in it, and I will review  
3 it. If I think I need to tweak it to say what  
4 I meant to say, I will, and I'll send y'all a  
5 copy of it.

6 MR. LANDIS: Thank you, Your Honor.

7 MR. GRIFFIN: Thank you, Your Honor.

8 (Proceedings concluded.)  
9  
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CERTIFICATE

I, the undersigned, Traci L. Barr, RPR,  
Notary Public in and for the State of South  
Carolina, do hereby certify that the foregoing  
is an accurate transcription of the hearing on  
May 10, 2016, that all exhibits entered herein  
are attached hereto (if requested by counsel)  
and made a part of this deposition.

I further certify that I am neither  
counsel nor solicitor to any of the parties in  
said suit, nor interested in the event of the  
cause.

In witness whereof, I have hereunto set my  
hand and seal this 14th day of July, 2016.

---

Traci L. Barr, RPR  
Notary Public for South Carolina  
My Commission Expires: 5/24/19

STATE OF SOUTH CAROLINA )  
COUNTY OF YORK )

IN THE COURT OF COMMON PLEAS  
SIXTEENTH JUDICIAL CIRCUIT

Robert Clay Sparrow and )  
Mickey Crowe, )  
Plaintiffs, )

vs. )

Maurer Holdings, LLC, and )  
David Baucom, )  
Defendants. )

MOTION TO COMPEL SETTLEMENT  
CASE NO. 2013-CP46-00440

DAVID BAUCOM  
C. L. O. S.  
YORK COUNTY, SC

2015 DEC 22 PM 1:33  
AUTO-RECEIVED

Robert Clay Sparrow and )  
Mickey Crowe, )  
Plaintiffs, )

vs. )

Fort Mill Holdings, LLC, and )  
David Baucom, )  
Defendants. )

MOTION TO COMPEL SETTLEMENT  
CASE NO. 2013-CP46-00438

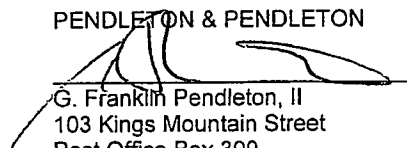
TO: BRIAN S. MCCOY, ATTORNEY FOR DEFENDANTS MAURER HOLDINGS, LLC, FORT MILL HOLDINGS, LLC, AND DAVID BAUCOM

YOU WILL PLEASE TAKE NOTICE that Plaintiffs, Robert Clay Sparrow and Mickey Crowe, will move, in ten days at the York County Courthouse, or at such other time and place as the Court deems proper, for an order pursuant to SCRCP Rule 43(k) compelling Defendants Maurer Holdings, LLC, Fort Mill Holdings, LLC, and David Baucom's compliance with a mediation settlement agreement in this matter. The written agreement between the parties is attached hereto as Exhibit "A". The Defendants agreed to confess a judgment in favor of the plaintiffs to secure payment of a promissory note and mortgage and have failed and refused to do so. Some Defendants refuse to execute the Confession of Judgment and the same should be filed pursuant to the terms of the settlement agreement. Plaintiffs pray for an order of the Court entering judgment against the Defendants in the amount of \$1,427,347.56, plus interest of \$273.74 per day from October 7, 2014, until paid under the terms set out in the Settlement by Mediation attached hereto.

Plead/SpaCroMH.MC2

WHEREFORE the plaintiffs pray for the relief requested herein and for such other relief as the court deems just, prudent, and proper.

PENDLETON & PENDLETON



G. Franklin Pendleton, II  
103 Kings Mountain Street  
Post Office Box 399  
Clover, South Carolina 29710  
(803) 222-3026  
(803) 222-3027 - facsimile  
[pplaw@bellsouth.net](mailto:pplaw@bellsouth.net)

December 22, 2015

Clover, South Carolina

STATE OF SOUTH CAROLINA

COUNTY OF YORK

Robert Clay Sparrow and Mickey Crowe,

Plaintiffs

vs

Fort Mill Holdings, LLC and David Baucom,

Defendants

COURT OF COMMON PLEAS

SIXTEENTH JUDICIAL CIRCUIT

CASE NO. 2013-CP-46-00438

and 2013CP-46-00440

SETTLEMENT BY MEDIATION

This case is settled upon the following terms:

1. The memorandum of settlement attached  
hereto dated 10/7/14, ~~is~~ marked exhibit "A"  
and signed by the parties

2. \_\_\_\_\_

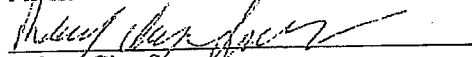
3. \_\_\_\_\_

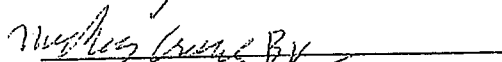
4. Further, Plaintiffs will consent to and counsel will execute a dismissal, with prejudice,  
of the referenced action. upon execution of formal documents.

5. Neither this settlement nor any of its terms shall constitute an admission by any party.

By our signatures below, we hereby agree to and accept the terms of settlement as set forth above this 7th day of October 2014.

**PLAINTIFFS:**

  
Robert Clay Sparrow

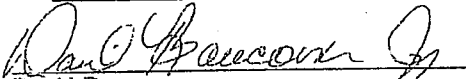
  
Mickey Crowe

**DEFENDANTS:**

Fort Mill Holdings, LLC

BY: \_\_\_\_\_

It's: \_\_\_\_\_

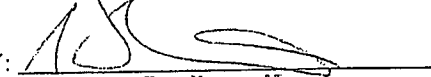
  
David Baucom

**OTHER ATTENDEES, IF ANY:**

\_\_\_\_\_  
\_\_\_\_\_

**ATTORNEYS FOR PLAINTIFFS:**

Pendleton and Pendleton

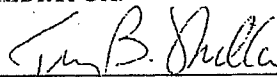
BY:   
G. Franklin Pendleton, II

**ATTORNEYS FOR DEFENDANTS:**

McCoy Law Firm, LLC

BY:   
Brian S. McCoy

**MEDIATOR:**

  
Terry B. Millar

Memorandum of Settlement 10/7/14

Exh. A

, both LLCs and David Broun.

1. Defendants will execute in favor of Plaintiff Sparrow and Crowe a contingent confession of Judgment for the amount of (A) \$1,356,752.10 which represents the principal and interest on the two original notes and mortgages @ 7% interest through 10/7/14; plus, (B) the taxes/real property on the two parcels (which will be paid by Plaintiff Sparrow of \$9,595.46, will be added to the judgment amount (A); hereafter, the compound A+B amount will bear interest at \$273.74 per diem until paid.
2. The confession in Para 1 will remain compiled until the elapse of one year from 10/7/14 or until the sale of the properties resulting in a deficiency, in which case the judgment will ~~give~~ be reduced by the proceeds of the sale paid to Plaintiffs.
3. If sale of properties result in excess proceeds over the judgment + interest due, the Defendants will retain any such proceeds.
4. Plaintiffs will release the mortgages on the two parcels at or before the closing of any confidential sale by the Defendants.
5. Counsel will prepare more formal settlement documents and the contingent confession, whereupon execution by all parties, the two lawsuits 46-00438, and 46-00440, will be dismissed.

- can't on p. 2

BM  
ASB  
DB

p2. Memo. of Settlement 10/7/14

Robert Ely Sparrow  
Robert Ely Sparrow  
date:

David Bauman

Wendy Crowe By Robert Ely Sparrow  
Wendy Crowe  
by R. Ely Sparrow, 14th inf.  
date:

Brian S. McCoy  
AIF atty for Def  
date:

G. Franklin Pendleton, II  
att. for Plaintiff  
date:

Fort Mill Holdings, LLC  
by Tracy Gains, Manager  
date: 10/7/14

Tracy B. Miller  
mediator

David Bauman

Tracy Gains  
Maurer Holdings, LLC.  
by Tracy Gains, Manager  
date: 10/7/14

Tracy Gains

STATE OF SOUTH CAROLINA )  
COUNTY OF YORK )  
Robert Clay Sparrow and Mickey )  
Crowe, )  
)   
Plaintiffs, )  
)   
vs. )  
)   
Fort Mill Holdings, LLC and )  
David Baucom, )  
)   
Defendants. )

IN THE COURT OF COMMON PLEAS  
SIXTEENTH JUDICIAL CIRCUIT

C.A. NO.: 2013-CP-46-00438

DEFENDANTS' MOTION TO ALTER  
OR AMEND JUDGMENT PURSUANT  
TO RULE 59(E), SCRCF

FILED-RECEIVED  
2016 APR 12 AM 8:36  
DAVID BAUCOM  
C. CLAY & S.  
YORK COUNTY, SC

Defendants Fort Mill Holdings, LLC and David Baucom hereby move the Court to Alter, Amend, or Reconsider its Order filed March 30, 2016 and received by Defendants' counsel on April 5, 2016.

Argument

Specifically, Defendants request that the Court consider Defendants' following arguments and alter, amend, or reconsider its Order on these grounds:

1. By its own terms, the Settlement Memorandum was not consummated.
2. The Settlement Agreement is the equivalent of a waiver of the North Carolina anti-deficiency statute, which is prohibited by governing law.
3. Even assuming, *arguendo*, that the Settlement Memorandum otherwise constitutes a binding contract, it is void due to its violation of a statute and public policy.
4. The Court considered an improper standard for determining whether to enforce settlement.
5. Any prejudice to Plaintiffs was of their own making or would have been incurred by them regardless of the Settlement Memorandum.



For these reasons and for the other reasons argued by Defendants' counsel in its memorandum and at the hearing, Defendants request that the Court alter, amend, or reconsider its March 30, 2016 Order and deny Plaintiff's Motion to Compel Settlement in this matter.<sup>1</sup>

#### **I. THE SETTLEMENT WAS NOT CONSUMMATED**

In its Order, the Court failed to consider that the Settlement Memo specifically included conditions precedent to dismissal which were not satisfied. In Paragraph 4 of the first page of the Settlement Memo, it stated "'Plaintiffs will consent to and counsel will execute a dismissal, with prejudice, of the referenced action upon execution of formal documents.'" (Emphasis added). In Paragraph 5 of Exhibit A to the Settlement Memo, it stated "Counsel will prepared more formal settlement documents and the contingent confession, whereupon execution by all parties, the two lawsuits - 46-00438, and 46-00440, will be dismissed" (Emphasis added). No formal settlement document was executed; confessions of judgment were not executed; and no stipulation of dismissal was signed.<sup>2</sup> Accordingly, the Court should find that a settlement was not consummated in this case and, for this and other reasons, alter or amend its Order and deny Plaintiffs' motion to compel settlement.

---

<sup>1</sup> In its Order, the Court exercised its discretion in favor of enforcing the settlement because it found that the settlement complied with Rule 43(k) and did not involve fraud, mistake, unfairness, or substantial injustice. Defendants request that the Court reconsider its decision for the reasons previously argued in Defendants' memorandum and at the hearing. Defendants do not intend to waive that issue by omitting it herein, but it has been raised and ruled upon in the Court's Order and that they are not required to revisit the issue in this Rule 59(e) motion in order to preserve it.

<sup>2</sup> As a matter of factual clarification, the Court noted in its Order that all parties were present at mediation. However, Fort Mill Holdings and Maurer Holdings did not have a representative present. It appears that Tracy Goins signed the Settlement Memorandum after mediation.

**II. THE SETTLEMENT IS VOID BECAUSE A WAIVER OF THE ANTI-DEFICIENCY STATUTE IS PROHIBITED BY APPLICABLE LAW**

It is undisputed that the purchase money notes at issue in this case and its companion case are governed by North Carolina law. In order to decide this matter, North Carolina law must be considered.

The protections provided to purchasers and guarantors under the anti-deficiency statute cannot be waived. See Chemical Bank v. Belk, 41 N.C.App. 356, 255 S.E.2d 421 (1979). "The anti-deficiency statute does not allow the buyer 'to deny himself the protection afforded him' by the statute." Barnaby v. Boardman, 313 N.C. 565, 568, 330 S.E.2d 600, 602 (1985). "[B]ecause anti-deficiency legislation is so narrowly tailored to address specific instances of the public's vulnerability to lender overreach, waiver of this statutory protection as a prerequisite to receipt of a mortgage or as a condition of a guaranty agreement would violate public policy." High Point Bank & Trust Co. v. Highmark Properties, LLC, 368 N.C. 301, 308, 776 S.E.2d 838, 843 (2015).

Assuming *arguendo*, the Settlement Memorandum was otherwise consummated, it is an impermissible waiver of the North Carolina anti-deficiency statute and must be set aside.

**III. THE SETTLEMENT MEMO IS VOID BECAUSE NORTH CAROLINA'S ANTI-DEFICIENCY STATUTE PROHIBITS PLAINTIFFS FROM OBTAINING A MONEY JUDGMENT AGAINST DEFENDANTS**

Assuming *arguendo* that the Settlement Memo has been consummated, South Carolina courts have held that settlement agreements "are viewed as contracts." Pee Dee Stores, Inc. v. Doyle, 381 S.C. 234, 241, 672 S.E.2d 799, 802 (Ct. App. 2009). Furthermore, South Carolina courts have held that contracts will not be enforced if they violate a statute or are against public policy. "The general rule, well established in South Carolina, is that courts will not enforce a contract when the subject matter of the contract or an act required for performance violates public policy as expressed in constitutional provisions, statutory law, or judicial decisions.

Berkebile v. Outen, 311 S.C. 50, 53–54, 426 S.E.2d 760, 762 (1993) (stating [a]n illegal contract has always been unenforceable); Batchelor v. American Health Ins. Co., 234 S.C. 103, 107 S.E.2d 36 (1959) (noting that contracts violating public policy as expressed in constitutional provisions, statutes, or judicial decisions are void).” White v. J.M. Brown Amusement Co., 360 S.C. 366, 371, 601 S.E.2d 342, 345 (2004). If the Settlement Memo is determined to otherwise be a binding contract, it violates an applicable statute and public policy.

The following rules apply:

1. The anti-deficiency statute “effects the broad public purpose of abolishing deficiency judgments in purchase money transactions if foreclosure on the security yields an insufficient fund to satisfy the indebtedness secured.” Chemical Bank v. Belk, 41 N.C.App. 356, 255 S.E.2d 421 (1979) (citing Ross Realty Co. v. First Citizens Bank & Trust Co., 296 N.C. 366, 250 S.E.2d 271 (1979)).
2. Sellers are prohibited from pursuing an action on personal guaranty. Adams v. Cooper, 340 N.C. 242, 460 S.E.2d 120 (1995).
3. Sellers are prohibited from obtaining expenses such as attorney’s fees incurred in foreclosure and are limited to a return of the collateral sold. Merritt v. Ridge, 323 N.C. 330, 372 S.E.2d 559 (1988).
4. The protections provided to purchasers and guarantors under the anti-deficiency statute cannot be waived. Chemical Bank v. Belk, 41 N.C.App. 356, 255 S.E.2d 421 (1979). “The anti-deficiency statute does not allow the buyer ‘to deny himself the protection afforded him’ by the statute.” Barnaby v. Boardman, 313 N.C. 565, 568, 330 S.E.2d 600, 602 (1985). “[B]ecause anti-deficiency legislation is so narrowly tailored to address specific instances of the public’s

vulnerability to lender overreach, waiver of this statutory protection as a prerequisite to receipt of a mortgage or as a condition of a guaranty agreement would violate public policy.” High Point Bank & Trust Co. v. Highmark Properties, LLC, 368 N.C. 301, 308, 776 S.E.2d 838, 843 (2015).

5. The anti-deficiency statute is to be broadly construed in order to give effect to its legislative intent and to prevent evasions of the statute. Adams v. Cooper, 340 N.C. 242, 244, 460 S.E.2d 120, 121 (1995) (citing Realty Co. v. Trust Co., 296 N.C. 366, 250 S.E.2d 271 (1979)).
6. If a purchaser pledges additional collateral in addition to a purchase money mortgage on the property being purchased, the seller is prohibited from foreclosing on the additional collateral. Matter of Foreclosure of Deed of Trust by Goforth Properties, Inc., 334 N.C. 369, 378, 432 S.E.2d 855, 861 (1993).

The Settlement Memorandum is void because it violates a statute and public policy. By way of analogy, a South Carolina court would not be permitted to enforce a settlement agreement that required a supplier of video poker machines to sell or lease the machines to a video poker operator for the purpose of operating them in South Carolina. The reason such a settlement would not be permissible is that it would violate South Carolina statutory law and public policy.

As Defendants’ counsel argued in its memorandum and at the hearing, this situation does not only involve an issue of unfairness. It involves a violation of governing law and public policy. For example, this issue is very different than a plaintiff in an automobile accident agreeing to a settlement and later deciding that the settlement was too low and wanting to rescind it on that basis. There are circumstances where courts could probably refuse to enforce such a settlement on the basis of unfairness (such as a situation where a plaintiff in a clear liability brain

injury case with ample coverage settled for a nominal sum), but those circumstances are probably exceptionally rare. Although Defendants request that the Court reconsider its ruling regarding the fairness of the Settlement Memorandum, the Court should determine that the Settlement Memorandum is void because it violates a statute and public policy. That issue is not one which involves an exercise of discretion.

Accordingly, this Court should find the Settlement Memo is void, and Plaintiff's Motion should be DENIED.<sup>3</sup>

#### IV. THE SETTLEMENT MEMO SHOULD NOT BE ENFORCED ON PREJUDICE GROUNDS

In its Order, the Court finds that there would be prejudice to Plaintiff Sparrow if the settlement were not enforced because he paid property taxes. That should not be a basis for granting Plaintiffs' motion.

First, under North Carolina law, Plaintiffs are limited to a return of the property as their exclusive remedy. Plaintiffs could not recover any sums from Defendants beyond a return of the property. See Merritt v. Ridge, 323 N.C. 330, 372 S.E.2d 559 (1988) (unequivocally holding that sellers cannot recover fees and expenses in addition to a recovery of the collateral). See also Adams v. Cooper, 340 N.C. 242, 460 S.E.2d 120 (1995) (holding that sellers are prohibited from pursuing an action on personal guaranty). Sellers who hold North Carolina purchase money notes can protect themselves against the consequences of a maker's default by requiring a significant down payment, maintaining insurance at the expense of the maker/purchaser, etc. Plaintiffs should expect to bear the risk. Once Defendants Fort Mill Holdings and Maurer Holdings failed to pay under the terms of the note or failed to maintain taxes and insurance as

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<sup>3</sup> Alternatively, if the Court finds that the Settlement Memo is voidable rather than void, Defendants wish to exercise their right to void the same.

required by the mortgages (which occurred in 2012), Plaintiffs knew the risk. In fact, Plaintiffs' counsel, who was also the closing attorney, contacted Defendants in October 2012 requesting that they deed the property back to Plaintiffs, and Defendants agreed to do so. The record is also clear that Plaintiff Sparrow must have known at the time he paid taxes that no formal settlement document had been drafted or executed and no confession of judgment had been signed – both of which were conditions of the Settlement Memorandum. Requiring Defendants to bear any expense beyond a return of the property is not permitted under governing law. Even assuming *arguendo* that there is otherwise a legal basis for requiring Defendants to bear such expense, that issue is preserved for Plaintiffs to argue if the Court will deny Plaintiffs' motion. All issues will be preserved for the parties to argue, and the Court to decide, on the merits.

Furthermore, the issue of prejudice is irrelevant to the fact that the Settlement Memorandum is void because it violates a governing statute and public policy. Defendants request that the Court alter, amend, or reconsider its Order filed March 30, 2016 and deny Plaintiff's Motion to Compel Settlement.

#### Conclusion

For the reasons set forth herein and for such other reasons as may appear in the record, Defendants request that the Court alter, amend, or reconsider its Order granting Plaintiffs' Motion to Compel Settlement, that Plaintiffs' Motion be DENIED, and that the parties be permitted to have the case decided on the merits.

FAYSSOUX LAW FIRM, P.A.



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Attorney for Defendants

April 8, 2016

|                                        |   |                                                                                    |
|----------------------------------------|---|------------------------------------------------------------------------------------|
| STATE OF SOUTH CAROLINA                | ) | IN THE COURT OF COMMON PLEAS                                                       |
|                                        | ) |                                                                                    |
| COUNTY OF YORK                         | ) | SIXTEENTH JUDICIAL CIRCUIT                                                         |
|                                        | ) |                                                                                    |
| Robert Clay Sparrow and Mickey Crowe,  | ) | C.A. NO.: 2013-CP-46-00440                                                         |
|                                        | ) |                                                                                    |
| Plaintiffs,                            | ) |                                                                                    |
|                                        | ) |                                                                                    |
| vs.                                    | ) | <b>DEFENDANTS' MOTION TO ALTER OR AMEND JUDGMENT PURSUANT TO RULE 59(E), SCRCP</b> |
|                                        | ) |                                                                                    |
| Maurer Holdings, LLC and David Baucom, | ) |                                                                                    |
|                                        | ) |                                                                                    |
| Defendants.                            | ) |                                                                                    |

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 COUNTY, SC

Defendants Maurer Holdings, LLC and David Baucom hereby move the Court to Alter, Amend, or Reconsider its Order filed March 30, 2016 and received by Defendants' counsel on April 5, 2016.

**Argument**

Specifically, Defendants request that the Court consider Defendants' following arguments and alter, amend, or reconsider its Order on these grounds:

1. By its own terms, the Settlement Memorandum was not consummated.
2. The Settlement Agreement is the equivalent of a waiver of the North Carolina anti-deficiency statute, which is prohibited by governing law.
3. Even assuming, *arguendo*, that the Settlement Memorandum otherwise constitutes a binding contract, it is void due to its violation of a statute and public policy.
4. The Court considered an improper standard for determining whether to enforce settlement.
5. Any prejudice to Plaintiffs was of their own making or would have been incurred by them regardless of the Settlement Memorandum.



For these reasons and for the other reasons argued by Defendants' counsel in its memorandum and at the hearing, Defendants request that the Court alter, amend, or reconsider its March 30, 2016 Order and deny Plaintiff's Motion to Compel Settlement in this matter.<sup>1</sup>

#### I. THE SETTLEMENT WAS NOT CONSUMMATED

In its Order, the Court failed to consider that the Settlement Memo specifically included conditions precedent to dismissal which were not satisfied. In Paragraph 4 of the first page of the Settlement Memo, it stated "'Plaintiffs will consent to and counsel will execute a dismissal, with prejudice, of the referenced action upon execution of formal documents.'" (Emphasis added). In Paragraph 5 of Exhibit A to the Settlement Memo, it stated "Counsel will prepared more formal/settlement documents and the contingent confession, whereupon execution by all parties, the two lawsuits - 46-00438, and 46-00440, will be dismissed" (Emphasis added). No formal settlement document was executed; confessions of judgment were not executed; and no stipulation of dismissal was signed.<sup>2</sup> Accordingly, the Court should find that a settlement was not consummated in this case and, for this and other reasons, alter or amend its Order and deny Plaintiffs' motion to compel settlement.

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<sup>1</sup> In its Order, the Court exercised its discretion in favor of enforcing the settlement because it found that the settlement complied with Rule 43(k) and did not involve fraud, mistake, unfairness, or substantial injustice. Defendants request that the Court reconsider its decision for the reasons previously argued in Defendants' memorandum and at the hearing. Defendants do not intend to waive that issue by omitting it herein, but it has been raised and ruled upon in the Court's Order and that they are not required to revisit the issue in this Rule 59(e) motion in order to preserve it.

<sup>2</sup> As a matter of factual clarification, the Court noted in its Order that all parties were present at mediation. However, Fort Mill Holdings and Maurer Holdings did not have a representative present. It appears that Tracy Goins signed the Settlement Memorandum after mediation.

## **II. THE SETTLEMENT IS VOID BECAUSE A WAIVER OF THE ANTI-DEFICIENCY STATUTE IS PROHIBITED BY APPLICABLE LAW**

It is undisputed that the purchase money notes at issue in this case and its companion case are governed by North Carolina law. In order to decide this matter, North Carolina law must be considered.

The protections provided to purchasers and guarantors under the anti-deficiency statute cannot be waived. See Chemical Bank v. Belk, 41 N.C.App. 356, 255 S.E.2d 421 (1979). "The anti-deficiency statute does not allow the buyer 'to deny himself the protection afforded him' by the statute." Barnaby v. Boardman, 313 N.C. 565, 568, 330 S.E.2d 600, 602 (1985). "[B]ecause anti-deficiency legislation is so narrowly tailored to address specific instances of the public's vulnerability to lender overreach, waiver of this statutory protection as a prerequisite to receipt of a mortgage or as a condition of a guaranty agreement would violate public policy." High Point Bank & Trust Co. v. Highmark Properties, LLC, 368 N.C. 301, 308, 776 S.E.2d 838, 843 (2015).

Assuming *arguendo*, the Settlement Memorandum was otherwise consummated, it is an impermissible waiver of the North Carolina anti-deficiency statute and must be set aside.

## **III. THE SETTLEMENT MEMO IS VOID BECAUSE NORTH CAROLINA'S ANTI-DEFICIENCY STATUTE PROHIBITS PLAINTIFFS FROM OBTAINING A MONEY JUDGMENT AGAINST DEFENDANTS**

Assuming *arguendo* that the Settlement Memo has been consummated, South Carolina courts have held that settlement agreements "are viewed as contracts." Pee Dee Stores, Inc. v. Doyle, 381 S.C. 234, 241, 672 S.E.2d 799, 802 (Ct. App. 2009). Furthermore, South Carolina courts have held that contracts will not be enforced if they violate a statute or are against public policy. "The general rule, well established in South Carolina, is that courts will not enforce a contract when the subject matter of the contract or an act required for performance violates public policy as expressed in constitutional provisions, statutory law, or judicial decisions.

Berkebile v. Outen, 311 S.C. 50, 53–54, 426 S.E.2d 760, 762 (1993) (stating [a]n illegal contract has always been unenforceable); Batchelor v. American Health Ins. Co., 234 S.C. 103, 107 S.E.2d 36 (1959) (noting that contracts violating public policy as expressed in constitutional provisions, statutes, or judicial decisions are void).” White v. J.M. Brown Amusement Co., 360 S.C. 366, 371, 601 S.E.2d 342, 345 (2004). If the Settlement Memo is determined to otherwise be a binding contract, it violates an applicable statute and public policy.

The following rules apply:

1. The anti-deficiency statute “effects the broad public purpose of abolishing deficiency judgments in purchase money transactions if foreclosure on the security yields an insufficient fund to satisfy the indebtedness secured.” Chemical Bank v. Belk, 41 N.C.App. 356, 255 S.E.2d 421 (1979) (citing Ross Realty Co. v. First Citizens Bank & Trust Co., 296 N.C. 366, 250 S.E.2d 271 (1979)).
2. “Sellers are prohibited from pursuing an action on personal guaranty. Adams v. Cooper, 340 N.C. 242, 460 S.E.2d 120 (1995).
3. Sellers are prohibited from obtaining expenses such as attorney’s fees incurred in foreclosure and are limited to a return of the collateral sold. Merritt v. Ridge, 323 N.C. 330, 372 S.E.2d 559 (1988).
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vulnerability to lender overreach, waiver of this statutory protection as a prerequisite to receipt of a mortgage or as a condition of a guaranty agreement would violate public policy.” High Point Bank & Trust Co. v. Highmark Properties, LLC, 368 N.C. 301, 308, 776 S.E.2d 838, 843 (2015).

5. The anti-deficiency statute is to be broadly construed in order to give effect to its legislative intent and to prevent evasions of the statute. Adams v. Cooper, 340 N.C. 242, 244, 460 S.E.2d 120, 121 (1995) (citing Realty Co. v. Trust Co., 296 N.C. 366, 250 S.E.2d 271 (1979)).
6. If a purchaser pledges additional collateral in addition to a purchase money mortgage on the property being purchased, the seller is prohibited from foreclosing on the additional collateral. Matter of Foreclosure of Deed of Trust by Goforth Properties, Inc., 334 N.C. 369, 378, 432 S.E.2d 855, 861 (1993).

The Settlement Memorandum is void because it violates a statute and public policy. By way of analogy, a South Carolina court would not be permitted to enforce a settlement agreement that required a supplier of video poker machines to sell or lease the machines to a video poker operator for the purpose of operating them in South Carolina. The reason such a settlement would not be permissible is that it would violate South Carolina statutory law and public policy.

As Defendants’ counsel argued in its memorandum and at the hearing, this situation does not only involve an issue of unfairness. It involves a violation of governing law and public policy. For example, this issue is very different than a plaintiff in an automobile accident agreeing to a settlement and later deciding that the settlement was too low and wanting to rescind it on that basis. There are circumstances where courts could probably refuse to enforce such a settlement on the basis of unfairness (such as a situation where a plaintiff in a clear liability brain

injury case with ample coverage settled for a nominal sum), but those circumstances are probably exceptionally rare. Although Defendants request that the Court reconsider its ruling regarding the fairness of the Settlement Memorandum, the Court should determine that the Settlement Memorandum is void because it violates a statute and public policy. That issue is not one which involves an exercise of discretion.

Accordingly, this Court should find the Settlement Memo is void, and Plaintiff's Motion should be DENIED.<sup>3</sup>

#### IV. THE SETTLEMENT MEMO SHOULD NOT BE ENFORCED ON PREJUDICE GROUNDS

In its Order, the Court finds that there would be prejudice to Plaintiff Sparrow if the settlement were not enforced because he paid property taxes. That should not be a basis for granting Plaintiffs' motion.

First, under North Carolina law, Plaintiffs are limited to a return of the property as their exclusive remedy. Plaintiffs could not recover any sums from Defendants beyond a return of the property. See Merritt v. Ridge, 323 N.C. 330, 372 S.E.2d 559 (1988) (unequivocally holding that sellers cannot recover fees and expenses in addition to a recovery of the collateral). See also Adams v. Cooper, 340 N.C. 242, 460 S.E.2d 120 (1995) (holding that sellers are prohibited from pursuing an action on personal guaranty). Sellers who hold North Carolina purchase money notes can protect themselves against the consequences of a maker's default by requiring a significant down payment, maintaining insurance at the expense of the maker/purchaser, etc. Plaintiffs should expect to bear the risk. Once Defendants Fort Mill Holdings and Maurer Holdings failed to pay under the terms of the note or failed to maintain taxes and insurance as

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<sup>3</sup> Alternatively, if the Court finds that the Settlement Memo is voidable rather than void, Defendants wish to exercise their right to void the same.

required by the mortgages (which occurred in 2012), Plaintiffs knew the risk. In fact, Plaintiffs' counsel, who was also the closing attorney, contacted Defendants in October 2012 requesting that they deed the property back to Plaintiffs, and Defendants agreed to do so. The record is also clear that Plaintiff Sparrow must have known at the time he paid taxes that no formal settlement document had been drafted or executed and no confession of judgment had been signed – both of which were conditions of the Settlement Memorandum. Requiring Defendants to bear any expense beyond a return of the property is not permitted under governing law. Even assuming *arguendo* that there is otherwise a legal basis for requiring Defendants to bear such expense, that issue is preserved for Plaintiffs to argue if the Court will deny Plaintiffs' motion. All issues will be preserved for the parties to argue, and the Court to decide, on the merits.

Furthermore, the issue of prejudice is irrelevant to the fact that the Settlement Memorandum is void because it violates a governing statute and public policy. Defendants request that the Court alter, amend, or reconsider its Order filed March 30, 2016 and deny Plaintiff's Motion to Compel Settlement.

#### Conclusion

For the reasons set forth herein and for such other reasons as may appear in the record, Defendants request that the Court alter, amend, or reconsider its Order granting Plaintiffs' Motion to Compel Settlement, that Plaintiffs' Motion be DENIED, and that the parties be permitted to have the case decided on the merits.

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Attorney for Defendants

April 8, 2016

|                                           |   |                                 |
|-------------------------------------------|---|---------------------------------|
| STATE OF SOUTH CAROLINA                   | ) | IN THE COURT OF COMMON PLEAS    |
|                                           | ) |                                 |
| COUNTY OF YORK                            | ) | SIXTEENTH JUDICIAL CIRCUIT      |
|                                           | ) |                                 |
| Robert Clay Sparrow and Mickey Crowe,     | ) | C.A. NO.: 2013-CP-46-00438      |
|                                           | ) |                                 |
| Plaintiffs,                               | ) |                                 |
|                                           | ) |                                 |
| vs.                                       | ) | <b>MEMORANDUM IN OPPOSITION</b> |
|                                           | ) | <b>TO PLAINTIFFS' MOTION TO</b> |
|                                           | ) | <b>COMPEL SETTLEMENT</b>        |
| Fort Mill Holdings, LLC and David Baucom, | ) |                                 |
|                                           | ) |                                 |
| Defendants.                               | ) |                                 |

Defendants Fort Mill Holdings, LLC and David Baucom hereby submit this Memorandum in Opposition to Plaintiffs' Motion to Compel Settlement in the above matter.

In summary, the Settlement Memo that is the subject of Plaintiffs' motion directly violates governing law and public policy and is therefore void. Furthermore, the settlement was never consummated. It would be profoundly unfair and prohibited by applicable law to enforce settlement under the circumstances, and Plaintiffs' motion should be DENIED.

#### **Factual Background and Procedural History**

In the above-captioned action and a companion case, Robert Clay Sparrow and Mickey Crowe vs. Maurer Holdings, LLC and David Baucom, C.A. No.: 2013-CP-46-00440, Plaintiffs seek to foreclose on two adjoining parcels of land in York County ("Subject Property") which were sold by Plaintiffs on December 1, 2011 to Fort Mill Holdings, LLC and Maurer Holdings, LLC for \$907,300.00 and \$284,500.00, respectively. Plaintiffs also seek to obtain deficiency judgments against both LLCs and David Baucom individually. Defendants do not contest foreclosure. Defendants do, however, contest Plaintiffs' ability to obtain money judgments against them for any deficiency and related expenses.



Prior to Plaintiffs selling the Subject Property in December 2011, Defendant David Baucom leased the Subject Property from Plaintiffs for approximately twelve years and made significant improvements to the same. During the pendency of the lease, Plaintiff Clay Sparrow talked to Mr. Baucom about purchasing the property. Mr. Baucom expressed some reluctance, but Mr. Sparrow assured him that if the purchase did not work out, Mr. Baucom could simply return the Subject Property to him. Based on Mr. Sparrow's representation, the parties were able to reach an agreement for a purchase and sale of the property.

The two parcels were sold within a single real estate closing, which was a seller-financed transaction. Upon the recommendation of Plaintiff Clay Sparrow, the transaction was closed on December 1, 2011 by attorney Jeff Smith, who was licensed in North Carolina but not in South Carolina, and the closing took place at Mr. Smith's office in Charlotte, North Carolina. The closing attorney formed two North Carolina LLCs to take title to the two parcels – Fort Mill Holdings, LLC and Maurer Holdings, LLC.

At its core, the transaction consisted of two purchase money promissory notes and two real estate mortgages. In one of the purchase money notes, Fort Mill Holdings, LLC was the borrower and David Baucom signed as "guarantor." In the other promissory note, Maurer Holdings, LLC was the borrower and David Baucom signed as "guarantor." Both notes expressly provide that they are governed by North Carolina law. The transaction was secured by first-priority real estate mortgages on the Subject Property.<sup>1</sup>

Defendants only made full monthly payments on the notes for approximately five months and partial payments for a couple of months thereafter. Mr. Baucom notified Plaintiff Sparrow

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<sup>1</sup> The mortgages were signed by representatives of Fort Mill Holdings and Maurer Holdings but were not signed by David Baucom.

that Defendants could not make the payments and wished to return the Subject Property to Plaintiffs.

On Friday, September 28, 2012, Plaintiffs' attorney, Mr. Smith, contacted Mr. Baucom's daughter, Tracy Goins, who was the managing member of Fort Mill Holdings and who also acted as an agent of Maurer Holdings. In the email, Mr. Smith stated the following:

"Clay has contacted me about the property in South Carolina off Carowinds Blvd. Clay is concerned as he has learned of David's plans to abandon the property. He is concerned that damage may be done to the property. The loan agreement is in default due to the failure to pay property taxes, maintain insurance and to make the payments required under the promissory notes. David signed the notes as a personal guarantor and is personally liable for any damages to the building and for any losses resulting from his abandoning the property [sic]. Please pass this along to David and ask him to contact either Clay or me to discuss this matter. Clay would like to avoid foreclosure of the mortgages and wants to know if David will deed the property back to him."

(Exh. 2, Affidavit of Tracy Goins; Exh. 2, Affidavit of David Baucom).

Ms. Goins consulted with Mr. Baucom on Monday, October 1, 2012 and then notified Mr. Smith on October 2, 2012 that they would deed the property back to Mr. Sparrow.<sup>2</sup> (Exh. 2-3, Affidavit of Tracy Goins; Exh. 2-3, Affidavit of David Baucom).

Mr. Smith emailed Ms. Goins on November 6, 2012 and notified her as follows:

"Clay is concerned about the possibility of contractor liens attaching to the property since he knows substantial work was done there and wants to make sure any possible lien rights are extinguished as he is going forward with foreclosing on his mortgages."

(Exh. 4, Affidavit of Tracy Goins; Exh. 4, Affidavit of David Baucom).

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<sup>2</sup> It is Defendants' understanding that on or about October 1, 2014 Mr. Sparrow purchased or otherwise obtained an assignment of the notes and mortgages from Plaintiff Mickey Crowe and that Mr. Crowe no longer has an interest in the Subject Property.

Plaintiffs filed this action and its companion case on February 8, 2013. In the actions, Plaintiffs seek not only to foreclose but also to obtain deficiency judgments against all Defendants.

Mediation was held on October 7, 2014. Mr. Sparrow and Mr. Baucom were present along with their counsel. At mediation, Mr. Sparrow and Mr. Baucom signed the memorandum of settlement that is the subject of this matter ("Settlement Memo," submitted herewith as Exh. 5 to Affidavit of David Baucom and Exh. 6 to Affidavit of Tracy Goins). Ms. Goins was not present at mediation, but it appears she likely signed later that day. The Settlement Memo provides in part that "Plaintiffs will consent to and counsel will execute a dismissal, with prejudice, of the referenced action, upon execution of formal documents." (Par. 4, Settlement Memo). The portion that says "upon execution of formal documents" is handwritten whereas the remaining portion is typed.

"Exhibit A" to the Settlement Memo provides that "Counsel will prepare more formal settlement documents and the contingent [confession of judgment], whereupon execution by all parties, the two lawsuits - 46-00438, and 46-00440, will be dismissed." (Par. 5 of Exhibit A to Settlement Memo). No formal settlement documents, confessions of judgment, or stipulations of dismissal were ever executed.

After mediation, Defendants learned for the first time that North Carolina has an "anti-deficiency" law that prohibits Plaintiffs from obtaining a deficiency judgment against them. They did not have the benefit of this information at mediation and would not have signed the Settlement Memo if they had understood their rights under the law and what they were giving up by not proceeding and having the case decided on the merits.

Defendants ultimately were informed of the applicable law and, based on that information, refused to consummate the settlement by signing formal settlement documents or confessions of judgment. Based on their refusal to return executed confessions of judgment to Plaintiffs' counsel, Plaintiffs' counsel filed the Motion to Compel Settlement that is pending before this Court.

#### Argument and Citation of Authority

Trial courts are vested with the discretion to enforce – or refuse to enforce – settlements between parties. In this case, the Court should refuse to enforce the settlement as an exercise of its discretion and should find that the mediated Settlement Memo is void as a matter of law. The two purchase money notes that give rise to this action and a companion case are governed by North Carolina law, and North Carolina's "anti-deficiency" law firmly establishes that Plaintiffs are prohibited from seeking a money judgment against Defendants. Furthermore, North Carolina law provides that purchasers, borrowers, and guarantors in seller-financed transactions cannot waive the protections provided to them under North Carolina's anti-deficiency statute. Defendants did not know such North Carolina laws existed until after mediation, and they never would have signed the Settlement Memo if they had that knowledge at the time.

The relief that Defendants are seeking is not extraordinary. They are simply requesting that all parties be provided with access to the courts to have their respective positions decided on the merits. Accordingly, Defendants request that Plaintiffs' Motion to Compel Settlement be DENIED.

#### **I. THIS COURT SHOULD EXERCISE DISCRETION AND REFUSE TO ENFORCE SETTLEMENT**

It is true that courts in South Carolina have the power to enforce settlement agreements. "But even as the court may enforce settlement, it has the inherent power to refuse to enforce

settlements." Rock Smith Chevrolet, Inc. v. Smith, 309 S.C. 91, 93, 419 S.E.2d 841, 842 (Ct. App. 1992) (emphasis added). Here, Defendants signed a Settlement Memo because they did not understand their respective rights and obligations which arose from the transactions that are the subject of this matter and what the potential risks and benefits would be of continuing with the litigation. If settlement is enforced, the Plaintiffs will obtain a result that squarely violates governing law and which will provide them with a windfall that they could never obtain if the case is decided on the merits.

The South Carolina Court of Appeals' decision in Rock Smith Chevrolet case is applicable here. In Rock Smith Chevrolet, the parties' counsel announced to the court immediately before trial that their clients had reached a settlement. Due to confusion that arose regarding the consummation of the settlement, the defendant, Tex Smith, petitioned the court to vacate the settlement and allow the case to proceed to trial. The trial court held a hearing to determine whether to enforce settlement. After hearing the facts and arguments on both sides, the trial judge said that although Mr. Smith had a "preconceived erroneous notion of [his] own making as to what [his] lawyer told [him] the trial judge might do . . . I can understand how Mr. Tex Smith might have misconstrued it and that concerns me somewhat." Id., 309 S.C. at 92-93, 419 S.E.2d at 842. Due to Mr. Smith misconstruing his attorney's advice, the trial judge set aside the settlement and allowed the case to proceed on the merits. The Court should reach the same result here, and Plaintiffs' motion should be DENIED so that the case may be decided on its merits.

Plaintiffs cite Petty v. Timken Corp., 849 F.2d 130, 133 (4th Cir. 1988) which states that "unless the resulting settlement is substantially unfair, judicial economy commands that a party be held to the terms of a voluntary agreement." In that case, the court noted that Mr. Petty, who

sought to set aside the settlement had unrealistic expectations about his case and “offer[ed] little argument against the essential fairness of the settlement.” The court went on to say “[a]t most, Petty appears to have had second thoughts about the level of his recovery. That does not, however, establish unfairness or justify setting aside an otherwise valid agreement.” That situation is distinguishable from the instant case where the result is in clear violation of governing law and profoundly unfair to Defendants.

For the specific reasons set forth in more detail below, North Carolina’s anti-deficiency law specifically prohibits an action against Defendants for a monetary judgment on the note, and the protections afforded by the anti-deficiency statute cannot be waived. In order to determine whether the settlement that Plaintiffs seek to enforce is fair, the Court must consider the substantive law that governs the promissory notes in these cases. North Carolina unequivocally limits Plaintiffs’ recovery to a return of the collateral, and Plaintiffs’ motion must be DENIED.

Furthermore, there is no prejudice to Plaintiffs that is not of their own making. As the emails from Plaintiff Sparrow’s attorney establish, Defendants agreed to return the Subject Property in October 2012 – merely a few months after purchase. Although the property, or a portion thereof, was sold at a tax sale last fall, Clay Sparrow attended the sale but allowed the property to be sold. The redemption period is still pending, so he is able to recover the property. If Plaintiffs’ motion is denied, they are able to retain all claims and defenses that they originally had in this action and to have the case decided on the merits. That is a fundamental right for all parties, and Defendants should be able to have the case decided on the merits as opposed to having a result imposed on them that is not permitted by applicable law.

**II. THE SETTLEMENT MEMO IS VOID BECAUSE NORTH CAROLINA'S ANTI-DEFICIENCY STATUTE PROHIBITS PLAINTIFFS FROM OBTAINING A MONEY JUDGMENT AGAINST DEFENDANTS, AND THAT RIGHT CANNOT BE WAIVED**

The purchase money notes that give rise to this case and its companion case are governed by North Carolina law. North Carolina law provides that a seller in a seller-financed transaction is limited to a return of the property if the purchaser defaults. North Carolina law also provides that its anti-deficiency protection cannot be waived. The statute was enacted for the protection of purchasers and is broadly construed in their favor. Here, Plaintiffs are limited to a return of the Subject Property and are prohibited from seeking a monetary judgment against Defendants.

North Carolina's anti-deficiency statute provides as follows:

"In all sales of real property by mortgagees and/or trustees under powers of sale contained in any mortgage or deed of trust executed after February 6, 1933, or where judgment or decree is given for the foreclosure of any mortgage executed after February 6, 1933, to secure to the seller the payment of the balance of the purchase price of real property, the mortgagee or trustee or holder of the notes secured by such mortgage or deed of trust shall not be entitled to a deficiency judgment on account of such mortgage, deed of trust or obligation secured by the same: Provided, said evidence of indebtedness shows upon the face that it is for balance of purchase money for real estate: Provided, further, that when said note or notes are prepared under the direction and supervision of the seller or sellers, he, it, or they shall cause a provision to be inserted in said note disclosing that it is for purchase money of real estate; in default of which the seller or sellers shall be liable to purchaser for any loss which he might sustain by reason of the failure to insert said provisions as herein set out."

N.C. Gen. Stat. Ann. § 45-21.38

There can be no dispute that the notes at issue in this case are purchase money notes. On a number of occasions, the anti-deficiency statute has been interpreted by North Carolina's courts, which have recognized that the following rules apply in the context of seller-financed transactions such as the transaction at issue in this case:

1. The anti-deficiency statute “effects the broad public purpose of abolishing deficiency judgments in purchase money transactions if foreclosure on the security yields an insufficient fund to satisfy the indebtedness secured.” Chemical Bank v. Belk, 41 N.C.App. 356, 255 S.E.2d 421 (1979) (citing Ross Realty Co. v. First Citizens Bank & Trust Co., 296 N.C. 366, 250 S.E.2d 271 (1979)).
2. Sellers are prohibited from pursuing an action on personal guaranty. Adams v. Cooper, 340 N.C. 242, 460 S.E.2d 120 (1995).
3. Sellers are prohibited from obtaining expenses such as attorney’s fees incurred in foreclosure and are limited to a return of the collateral sold. Merritt v. Ridge, 323 N.C. 330, 372 S.E.2d 559 (1988).
4. The protections provided to purchasers and guarantors under the anti-deficiency statute cannot be waived. Chemical Bank v. Belk, 41 N.C.App. 356, 255 S.E.2d 421 (1979). “The anti-deficiency statute does not allow the buyer ‘to deny himself the protection afforded him’ by the statute.” Barnaby v. Boardman, 313 N.C. 565, 568, 330 S.E.2d 600, 602 (1985). “[B]ecause anti-deficiency legislation is so narrowly tailored to address specific instances of the public’s vulnerability to lender overreach, waiver of this statutory protection as a prerequisite to receipt of a mortgage or as a condition of a guaranty agreement would violate public policy.” High Point Bank & Trust Co. v. Highmark Properties, LLC, 368 N.C. 301, 308, 776 S.E.2d 838, 843 (2015).
5. The anti-deficiency statute is to be broadly construed in order to give effect to its legislative intent and to prevent evasions of the statute. Adams v. Cooper, 340



N.C. 242, 244, 460 S.E.2d 120, 121 (1995) (citing Realty Co. v. Trust Co., 296 N.C. 366, 250 S.E.2d 271 (1979)).

6. If a purchaser pledges additional collateral in addition to a purchase money mortgage on the property being purchased, the seller is prohibited from foreclosing on the additional collateral. Matter of Foreclosure of Deed of Trust by Goforth Properties, Inc., 334 N.C. 369, 378, 432 S.E.2d 855, 861 (1993).

Based on the language of the anti-deficiency statute and the cases interpreting the same, it is clear that Plaintiffs' only recourse in the filing of these actions is to obtain a return of the Subject Property. Plaintiffs are barred from pursuing an action and obtaining a judgment against Defendants on the promissory notes or for expenses related to the foreclosures. Furthermore, the protections provided to Defendants under the anti-deficiency statute cannot be waived by them. Any such waiver is void as contrary to the statute and against public policy.

Here, the Settlement Memo is in clear violation of governing law and essentially operates as an invalid and unenforceable waiver of the anti-deficiency statute. If the document is enforced and Defendants are forced to confess judgment, Plaintiffs will recover a windfall by obtaining relief far greater than anything they could have received if the case were decided on the merits. This result is inconsistent with the general principle of alternative dispute resolution, which typically involves a compromise by the parties for the purpose of avoiding the cost and uncertainty of litigation. If enforced, this result does not represent a negotiated compromise but instead represents a lopsided victory for Plaintiffs that is impermissible under applicable law. For these reasons, Plaintiffs' motion should be DENIED.

### III. NO SETTLEMENT WAS CONSUMMATED IN THIS CASE

As an additional or alternative ground for denying Plaintiffs' motion, the Court should find that a settlement was not consummated in this case. The Settlement Memo specifically included conditions precedent to dismissal which were not satisfied. In Paragraph 4 of the first page of the Settlement Memo, it stated "'Plaintiffs will consent to and counsel will execute a dismissal, with prejudice, of the referenced action upon execution of formal documents." (Emphasis added). In Paragraph 5 of Exhibit A to the Settlement Memo, it stated "Counsel will prepared more formal settlement documents and the contingent confession, whereupon execution by all parties, the two lawsuits - 46-00438, and 46-00440, will be dismissed" (Emphasis added). No formal settlement document was executed; confessions of judgment were not executed; and no stipulation of dismissal was signed. Accordingly, the Court should find that a settlement was not consummated in this case and deny Plaintiffs' motion.

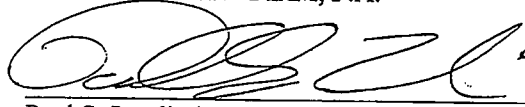
Even assuming *arguendo* that the Settlement Memo has been consummated, South Carolina courts have held that settlement agreements "are viewed as contracts." Pee Dee Stores, Inc. v. Doyle, 381 S.C. 234, 241, 672 S.E.2d 799, 802 (Ct. App. 2009). Furthermore, South Carolina courts have held that contracts will not be enforced if they violate a statute or are against public policy. "The general rule, well established in South Carolina, is that courts will not enforce a contract when the subject matter of the contract or an act required for performance violates public policy as expressed in constitutional provisions, statutory law, or judicial decisions. Berkebile v. Outen, 311 S.C. 50, 53-54, 426 S.E.2d 760, 762 (1993) (stating [a]n illegal contract has always been unenforceable); Batchelor v. American Health Ins. Co., 234 S.C. 103, 107 S.E.2d 36 (1959) (noting that contracts violating public policy as expressed in constitutional provisions, statutes, or judicial decisions are void)." White v. J.M. Brown

Amusement Co., 360 S.C. 366, 371, 601 S.E.2d 342, 345 (2004). If the Settlement Memo is determined to otherwise be a binding contract, it violates a statute and public policy. Accordingly, this Court should find the Settlement Memo is void, and Plaintiff's Motion should be DENIED.<sup>3</sup>

#### Conclusion

For the reasons set forth herein and for such other reasons as may appear in the record, Defendants request that Plaintiffs' Motion to Compel Settlement be DENIED and that the parties be permitted to have the case decided on the merits.

FAYSSOUX LAW FIRM, P.A.



Paul S. Landis / S.C. Bar No. 76120  
209 E. Washington Street (29601)  
P.O. Box 10207  
Greenville, SC 29603  
(864) 233-0445  
(864) 233-4781 (Fax)  
[paul@fayssoulaw.com](mailto:paul@fayssoulaw.com)

Attorney for Defendants

March 23, 2016

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<sup>3</sup> Alternatively, if the Court finds that the Settlement Memo is voidable rather than void, Defendants wish to exercise their right to void the same.

|                                           |   |                              |
|-------------------------------------------|---|------------------------------|
| STATE OF SOUTH CAROLINA                   | ) | IN THE COURT OF COMMON PLEAS |
|                                           | ) |                              |
| COUNTY OF YORK                            | ) | SIXTEENTH JUDICIAL CIRCUIT   |
|                                           | ) |                              |
| Robert Clay Sparrow and Mickey Crowe,     | ) | C.A. NO.: 2013-CP-46-00438   |
|                                           | ) |                              |
| Plaintiffs,                               | ) |                              |
|                                           | ) |                              |
| vs.                                       | ) | AFFIDAVIT OF DAVID BAUCOM    |
|                                           | ) |                              |
| Fort Mill Holdings, LLC and David Baucom, | ) |                              |
|                                           | ) |                              |
| Defendants.                               | ) |                              |

PERSONALLY APPEARING BEFORE ME the undersigned, who after being duly sworn, deposes and states as follows:

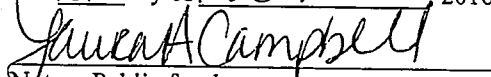
1. My name is David Baucom, and I am a named Defendant in the above-captioned matter. I am and was at all relevant times a resident of the State of North Carolina.
2. I am over the age of eighteen, have personal knowledge of the matters set forth herein (except matters stated upon information and belief, which I believe to be true), and am fully competent to testify as to the same.
3. The above-captioned matter and a related case, Robert Clay Sparrow and Mickey Crowe v. Maurer Holdings, LLC and David Baucom, C.A. No. 2013-CP-46-00440, pertain to the foreclosure of two parcels of real property in York County, South Carolina ("Subject Property") and collection on two North Carolina purchase money promissory notes. A copy of the purchase money note for Fort Mill Holdings, LLC is attached as Exhibit 1.
4. For approximately twelve years prior to Maurer Holdings and Fort Mill Holdings purchasing the Subject Property, I leased the Subject Property. During that period, I made significant improvements to the same.
5. Clay Sparrow approached me to discuss purchasing the Subject Property, and I expressed reluctance to do so.
6. Mr. Sparrow assured me that if we could not make the payments, we could simply turn the property back over to him.
7. Based on that representation, we reached an agreement for the purchase of the Subject Property, and Mr. Sparrow had his attorney, Jeff Smith, draft the documents.

8. Upon information and belief, Mr. Smith was licensed to practice law in North Carolina but not in South Carolina.
9. My daughter, Tracy Goins, and I attended the closing in Charlotte, North Carolina, and upon request of Sparrow's attorney, we signed any documents related to the transaction that he presented to us. The closing took place on or about December 1, 2011.
10. I was always under the belief that if the payments were not made that Sparrow would accept a return of the property and that no deficiency could be sought against me. We only made full payments through May 2012.
11. On Friday, September 28, 2012 my daughter was contacted via email by Jeff Smith. A fair and accurate copy of said email is attached as Exhibit 2. In the email, Mr. Smith requested, on Mr. Sparrow's behalf, that the property be deeded back to Sparrow in lieu of foreclosure.
12. My daughter consulted with me regarding the situation and I instructed her to notify Mr. Smith that we would sign the property back over to Sparrow, which she did on October 1, 2012. A fair and accurate copy of the email thread is attached as Exhibit 3.
13. On November 6, 2012, Mr. Smith notified my daughter that Mr. Sparrow wanted to make sure he was able to extinguish any potential liens on the property so he would proceed with a foreclosure to make sure any liens were extinguished. A fair and accurate copy of said email is attached as Exhibit 4.
14. On February 8, 2013, Plaintiffs filed this action.
15. On October 7, 2014, a mediation was held, and a copy of the resulting "Settlement by Mediation" document is attached as Exhibit 5. Clay Sparrow and I attended mediation along with counsel. Neither Mickey Crowe nor my daughter attended mediation. My daughter signed the document at a later time.
16. "Formal documents" referenced in Paragraph 4 of Exhibit 5 were never executed.
17. Upon information and belief, no settlement hearing was held and no stipulation of dismissal was signed or recorded.
18. I never signed a confession of judgment.
19. Upon information and belief, North Carolina has an anti-deficiency statute which prevents Plaintiffs from seeking a deficiency judgment against me in a seller-financed transaction like the one at issue in this case. I was not aware of this law at the time of mediation and never would have signed the "Settlement by Mediation" document if I had known about it.

20. With regard to the Subject Property, I dispute that I am responsible for any expenses related to the same after the Subject Property was offered back to Plaintiffs in or before October 2012.
21. The portion of the Subject Property owned by Fort Mill Holdings was sold at a tax sale last fall. Plaintiffs were aware of the sale before it occurred, and Plaintiff Clay Sparrow attended the sale. Upon information and belief, he did not bid on the Subject Property.
22. A fair and accurate copy of a redemption letter pertaining to the Fort Mill Holdings property is attached as Exhibit 6. Although I dispute that I owe anything with regard to the Subject Property, I am able to redeem said property if required to do so by the Court.
23. I respectfully request that the Court allow the case to go forward on the merits and that the Court deny Plaintiffs' Motion to Compel Settlement.

  
David Baucom

SWORN TO AND SUBSCRIBED before me  
this 21<sup>st</sup> day of March, 2016

  
Notary Public for the  
State of North Carolina

My commission expires: 7/24/2016

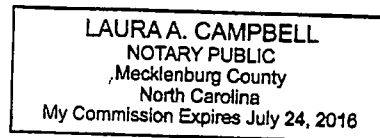


**EXHIBIT 1**

**AFFIDAVIT OF DAVID BAUCOM**

SATISFACTION: The debt evidenced by this  
Note has been satisfied in full this  
day of \_\_\_\_\_

Signed: \_\_\_\_\_

## PURCHASE MONEY PROMISSORY NOTE

\$907,300.00

Charlotte, N.C.  
December 1, 2011

FOR VALUE RECEIVED the undersigned, jointly and severally, promise to pay to Robert Clay Sparrow and Mickey Crowe, or order, the principal sum of NINE HUNDRED SEVEN THOUSAND THREE HUNDRED DOLLARS (\$907,300.00), with interest from December 1, 2011, at the rate of SEVEN per cent (7%) per annum on the unpaid balance until paid or until default, both principal and interest payable in lawful money of the United States of America, at the office of Robert Clay Sparrow, 142 Stoney Point Drive, Blacksburg, SC 29702, or at such place as the legal holder hereof may designate in writing. The principal and interest shall be due and payable as follows:

In 240 consecutive and equal payments of \$7,034.29 each commencing January 1, 2012 and continuing to become due on the first day of each month thereafter until December 1, 2031 when all remaining amounts due hereunder shall be due and payable in full, all as shown on the attached amortization schedule.

All amounts of both principal and interest due hereunder shall be paid in full on or before December 1, 2031.

If payable in installments, each such installment shall, unless otherwise provided, be applied first to payment of interest then accrued and due on the unpaid principal balance, with the remainder applied to the unpaid principal.

Unless otherwise provided, this Note may be prepaid in full or in part at any time without penalty or premium. Partial payments shall be applied to installments due in reverse order of their maturity.

In the event of (a) default in payment of any installment of principal or interest hereof as the same becomes due and such default is not cured within ten (10) days from the due date, or (b) default under the terms of any instrument securing this Note, and such default is not cured within fifteen (15) days after written notice to maker, then in either such event the holder may without further notice, declare the remainder of the principal sum, together with all interest accrued thereon and, the prepayment premium, if any, at once due and payable. Failure to exercise this option shall not constitute a waiver of the right to exercise the same at any other time. The unpaid principal of this Note and any part thereof, accrued interest and all other sums due under this Note and the Deed of Trust or Mortgage, if any, shall bear interest at the rate of Fifteen per cent (15%) per annum after default until paid.

All parties to this Note, including maker and any sureties, endorsers, or guarantors hereby waive protest, presentment; notice of dishonor, and notice of acceleration of maturity and agree to continue to remain bound for the payment of principal, interest and all other sums due under this Note and the Deed of Trust or Mortgage notwithstanding any change or changes by way of release, surrender, exchange, modification or substitution of any security for this Note or by way of any extension or extensions of time for the payment of principal and interest; and all such parties waive all and every kind of notice of such change or changes and agree that the same may be made without notice or consent of any of them.

Upon default the holder of this Note may employ an attorney to enforce the holder's rights and remedies, and the maker, principal, surety, guarantor and endorsers of this Note hereby agree to pay to the holder reasonable attorneys fees not exceeding a sum equal to fifteen percent (15%) of the outstanding balance owing on said Note, plus all other reasonable expenses incurred by the holder in exercising any of the holder's rights and remedies upon default. The rights and remedies of the holder as provided in this Note and any instrument securing this Note shall be cumulative and may be pursued singly, successively, or together against the property described in the Deed of Trust or Mortgage or any other funds, property or security held by the holder for payment or security, in the sole discretion of the holder. The failure to exercise any such right or remedy shall not be a waiver or release of such rights or remedies or the right to exercise any of them at another time.

This Note is to be governed and construed in accordance with the laws of the State of North Carolina.

This Note is given for the balance of purchase price for the property located off Highway 51, Fort Mill, SC, and is secured by a Purchase Money Mortgage or Deed of Trust or Mortgage, which is a first lien upon said property.

IN TESTIMONY WHEREOF, the corporate maker has caused this instrument to be executed in its corporate name by its Manager, by the authority duly given by its managers and members, the day and year first above written.

Fort Mill Holdings, LLC

By: Tracy Goins  
Tracy Goins, Manager

IN TESTIMONY WHEREOF, each individual maker or guarantor has hereunto set his hand and adopted as his seal the word "SEAL" appearing beside his name, the day and year first above written.

B  
L  
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K

I  
N  
K

O  
N

David Baucom (SEAL)  
David Baucom, Guarantor



EXHIBIT 2

AFFIDAVIT OF DAVID BAUCOM

Tracy Goins

---

From: <jsmithlaw@bellsouth.net>  
Date: Friday, September 28, 2012 4:17 PM  
To: "Tracy Goins" <tracy@exotictravelplans.com>  
Subject: Carowinds Property

Tracy,

Clay has contacted me about the property in South Carolina off Carowinds Blvd. Clay is concerned as he has learned of David's plans to abandon the property. He is concerned that damage may be done to the property. The loan agreement is in default due to the failure to pay property taxes, maintain insurance and to make the payments required under the promissory notes. David signed the notes as a personal guarantor and is personally liable for any damages to the building and for any losses resulting from his abandoning the property. Please pass this along to David and ask him to contact either Clay or me to discuss this matter. Clay would like to avoid foreclosure of the mortgages and wants to know if David will deed the property back to him.

Jeff Smith  
704-331-0131

9/9/2014

EXHIBIT 3

AFFIDAVIT OF DAVID BAUCOM

Tracy Goins

---

From: <DBaucom733@aol.com>  
Date: Monday, October 1, 2012 6:00 PM  
To: <tracy@exotictravelplans.com>  
Subject: Re: Fw: Carowinds Property

tell him yes we will sign it back over

In a message dated 10/1/2012 12:00:46 P.M. Eastern Daylight Time, tracy@exotictravelplans.com writes:

----- Original Message -----

From: jsmithlaw@bellsouth.net  
To: Tracy Goins  
Sent: Friday, September 28, 2012 4:17 PM  
Subject: Carowinds Property

Tracy,

Clay has contacted me about the property in South Carolina off Carowinds Blvd. Clay is concerned as he has learned of David's plans to abandon the property. He is concerned that damage may be done to the property. The loan agreement is in default due to the failure to pay property taxes, maintain insurance and to make the payments required under the promissory notes. David signed the notes as a personal guarantor and is personally liable for any damages to the building and for any losses resulting from his abandoning the property.

Please pass this along to David and ask him to contact either Clay or me to discuss this matter.

Clay would like to avoid foreclosure of the mortgages and wants to know if David will deed the property back to him.

Jeff Smith  
704-331-0131

9/9/2014

Tracy Goins

---

From: <jsmithlaw@bellsouth.net>  
Date: Tuesday, November 6, 2012 2:36 PM  
To: "Tracy Goins" <tracy@exotictravelplans.com>  
Subject: Carowinds Property

Hi Tracy,

Clay is concerned about the possibility of contractor liens attaching to the property since he knows substantial work was done there and wants to make sure any possible lien rights are extinguished so he is going forward with foreclosing his mortgages.

Jeff Smith

--- On Tue, 11/6/12, Tracy Goins <tracy@exotictravelplans.com> wrote:

From: Tracy Goins <tracy@exotictravelplans.com>  
Subject: Fw: Carowinds Property  
To: jsmithlaw@bellsouth.net  
Date: Tuesday, November 6, 2012, 2:05 PM

Hi Jeff,  
Never heard back from you on the below mentioned meeting? Please advise?

Thank You,  
Tracy

----- Original Message -----

From: Tracy Goins  
To: jsmithlaw@bellsouth.net  
Cc: David "Slim" Baucom  
Sent: Thursday, October 11, 2012 10:35 AM  
Subject: Re: Carowinds Property

Hi Jeff,  
I'm available anytime that is convenient for you other then next Monday! I'm waiting to hear back from Mr. Maurer as to when he can go. Is this something that can be faxed to him? Since I dont think he ever signed any of the original paperwork. Please advise what works best for you.

Thank You,  
Tracy Goins

----- Original Message -----

From: jsmithlaw@bellsouth.net  
To: Tracy Goins  
Sent: Tuesday, October 09, 2012 3:00 PM  
Subject: Re: Carowinds Property

9/9/2014

Hi Tracy,

When would you and Mr. Mauer like to come in and sign the deeds conveying the properties to Clay Sparrow and Mickey Crowe?

Jeff Smith  
704-331-0131

--- On Wed, 10/3/12, Tracy Goins <[tracy@exotictravelplans.com](mailto:tracy@exotictravelplans.com)> wrote:

From: Tracy Goins <[tracy@exotictravelplans.com](mailto:tracy@exotictravelplans.com)>  
Subject: Re: Carowinds Property  
To: [jsmithlaw@bellsouth.net](mailto:jsmithlaw@bellsouth.net)  
Cc: "David "Slim" Baucom" <[DBaucom733@aol.com](mailto:DBaucom733@aol.com)>  
Date: Wednesday, October 3, 2012, 11:25 AM

Hi Jeff,

Please, let me know if you will need Mr. Maurer I do think he is the manager on the other deed. He has been really sick this week and will not be able to come this week. If we could schedule something for mid-week next week that would be great. Please, let me know what works best for you. Thank You, for all your help.

Thank You,  
Tracy

----- Original Message -----

From: [jsmithlaw@bellsouth.net](mailto:jsmithlaw@bellsouth.net)  
To: Tracy Goins  
Sent: Tuesday, October 02, 2012 2:51 PM  
Subject: Re: Carowinds Property

Hi Tracy,

I can get the new deeds ready tomorrow. Can David come by sometime Thursday? It may not be David who is needed to sign. I need the manager of each LLC. I think you were manager of one and Mauer was the manager of the other. Please let me know who will be signing as manager for each LLC and I will prepare the deeds accordingly.

I'm pretty available most of the day Thursday so please let me know what will work on your end. Please let me know if you have questions or wish to further discuss.

Thanks,

Jeff Smith  
704-331-0131

9/9/2014

--- On Tue, 10/2/12, Tracy Goins <tracy@exotictravelpans.com> wrote:

From: Tracy Goins <tracy@exotictravelpans.com>  
Subject: Re: Carowinds Property  
To: jsmithlaw@bellsouth.net  
Date: Tuesday, October 2, 2012, 2:25 PM

Hi Jeff,  
Spoke with Dad and he will deed the property back to Clay. Please, let me know what needs to be done for this to happen.

Thank You,  
Tracy

----- Original Message -----

From: jsmithlaw@bellsouth.net  
To: Tracy Goins  
Sent: Friday, September 28, 2012 4:17 PM  
Subject: Carowinds Property

Tracy,

Clay has contacted me about the property in South Carolina off Carowinds Blvd. Clay is concerned as he has learned of David's plans to abandon the property.

He is concerned that damage may be done to the property.  
The loan agreement is in default due to the failure to pay property taxes, maintain insurance and to make the payments required under the promissory notes.

David signed the notes as a personal guarantor and is personally liable for any damages to the building and for any losses resulting from his abandoning the property.

Please pass this along to David and ask him to contact either Clay or me to discuss this matter.

Clay would like to avoid foreclosure of the mortgages and wants to know if David will deed the property back to him.

Jeff Smith  
704-331-0131

9/9/2014

EXHIBIT 4

AFFIDAVIT OF DAVID BAUCOM



Tracy Goins

From: <jsmithlaw@bellsouth.net>  
Date: Tuesday, November 6, 2012 2:36 PM  
To: "Tracy Goins" <tracy@exotictravelpans.com>  
Subject: Carowinds Property

Hi Tracy,

Clay is concerned about the possibility of contractor liens attaching to the property since he knows substantial work was done there and wants to make sure any possible lien rights are extinguished so he is going forward with foreclosing his mortgages.

Jeff Smith

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From: Tracy Goins <tracy@exotictravelpans.com>  
Subject: Fw: Carowinds Property  
To: jsmithlaw@bellsouth.net  
Date: Tuesday, November 6, 2012, 2:05 PM

Hi Jeff,  
Never heard back from you on the below mentioned meeting? Please advise?

Thank You,  
Tracy

----- Original Message -----

From: Tracy Goins  
To: jsmithlaw@bellsouth.net  
Cc: David "Slim" Baucom  
Sent: Thursday, October 11, 2012 10:35 AM  
Subject: Re: Carowinds Property

Hi Jeff,  
I'm available anytime that is convenient for you other then next Monday! I'm waiting to hear back from Mr. Maurer as to when he can go. Is this something that can be faxed to him? Since I dont think he ever signed any of the original paperwork. Please advise what works best for you.

Thank You,  
Tracy Goins

----- Original Message -----

From: jsmithlaw@bellsouth.net  
To: Tracy Goins  
Sent: Tuesday, October 09, 2012 3:00 PM  
Subject: Re: Carowinds Property

9/9/2014

Hi Tracy,

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Jeff Smith  
704-331-0131

--- On Wed, 10/3/12, Tracy Goins <[tracy@exotictravelplans.com](mailto:tracy@exotictravelplans.com)> wrote:

From: Tracy Goins <[tracy@exotictravelplans.com](mailto:tracy@exotictravelplans.com)>  
Subject: Re: Carowinds Property  
To: [jsmithlaw@bellsouth.net](mailto:jsmithlaw@bellsouth.net)  
Cc: "David "Slim" Baucom" <[DBaucom733@aol.com](mailto:DBaucom733@aol.com)>  
Date: Wednesday, October 3, 2012, 11:25 AM

Hi Jeff,  
Please, let me know if you will need Mr. Maurer I do think he is the manager on the other deed. He has been really sick this week and will not be able to come this week. If we could schedule something for mid-week next week that would be great. Please, let me know what works best for you. Thank You, for all your help.

Thank You,  
Tracy

----- Original Message -----

From: [jsmithlaw@bellsouth.net](mailto:jsmithlaw@bellsouth.net)  
To: Tracy Goins  
Sent: Tuesday, October 02, 2012 2:51 PM  
Subject: Re: Carowinds Property

Hi Tracy,

I can get the new deeds ready tomorrow. Can David come by sometime Thursday? It may not be David who is needed to sign. I need the manager of each LLC. I think you were manager of one and Mauer was the manager of the other. Please let me know who will be signing as manager for each LLC and I will prepare the deeds accordingly.

I'm pretty available most of the day Thursday so please let me know what will work on your end. Please let me know if you have questions or wish to further discuss.

Thanks,

Jeff Smith  
704-331-0131

9/9/2014

--- On Tue, 10/2/12, Tracy Goins <tracy@exotictravelplans.com> wrote:

From: Tracy Goins <tracy@exotictravelplans.com>  
Subject: Re: Carowinds Property  
To: jsmithlaw@bellsouth.net  
Date: Tuesday, October 2, 2012, 2:25 PM

Hi Jeff,  
Spoke with Dad and he will deed the property back to Clay. Please, let me know what needs to be done for this to happen.

Thank You,  
Tracy

----- Original Message -----

From: jsmithlaw@bellsouth.net  
To: Tracy Goins  
Sent: Friday, September 28, 2012 4:17 PM  
Subject: Carowinds Property

Tracy,

Clay has contacted me about the property in South Carolina off Carowinds Blvd. Clay is concerned as he has learned of David's plans to abandon the property.

He is concerned that damage may be done to the property.

The loan agreement is in default due to the failure to pay property taxes, maintain insurance and to make the payments required under the promissory notes.

David signed the notes as a personal guarantor and is personally liable for any damages to the building and for any losses resulting from his abandoning the property.

Please pass this along to David and ask him to contact either Clay or me to discuss this matter.

Clay would like to avoid foreclosure of the mortgages and wants to know if David will deed the property back to him.

Jeff Smith  
704-331-0131

9/9/2014

EXHIBIT 5

AFFIDAVIT OF DAVID BAUCOM

STATE OF SOUTH CAROLINA

COUNTY OF YORK

Robert Clay Sparrow and Mickey Crowe,

Plaintiffs

vs

Fort Mill Holdings, LLC and David Baucom,

Defendants

COURT OF COMMON PLEAS

SIXTEENTH JUDICIAL CIRCUIT

CASE NO. 2013-CP-46-00438

and 2013CP-46-00440

SETTLEMENT BY MEDIATION

This case is settled upon the following terms:

1. The memorandum of settlement attached

hereto dated 10/7/14, ~~and~~ marked exhibit "A"  
and signed by the parties

2. \_\_\_\_\_

3. \_\_\_\_\_

4. Further, Plaintiffs will consent to and counsel will execute a dismissal, with prejudice, of the referenced action, upon execution of formal documents.

5. Neither this settlement nor any of its terms shall constitute an admission by any party.

By our signatures below, we hereby agree to and accept the terms of settlement as set forth above this 7th day of October 2014.

PLAINTIFFS:

Robert Clay Sparrow  
Robert Clay Sparrow

Mickey Crowe BY  
Mickey Crowe

DEFENDANTS:

Fort Mill Holdings, LLC

BY: \_\_\_\_\_

It's: \_\_\_\_\_

David Baucom  
David Baucom

OTHER ATTENDEES, IF ANY:

\_\_\_\_\_  
\_\_\_\_\_

ATTORNEYS FOR PLAINTIFFS:

Pendleton and Pendleton

BY: G. Franklin Pendleton, II

ATTORNEYS FOR DEFENDANTS:

McCoy Law Firm, LLC

BY: Brian S. McCoy

MEDIATOR:

Terry B. Millar  
Terry B. Millar

Memorandum of Settlement 10/7/14

Exh. A

, with UEs as David Brown.

1. Defendants will execute in favor of Plaintiffs Sparrow and Crowe a contingent confession of Judgment for the amount of (A) \$1,356,752.10 which represents the principal and interest on the two original notes and notes @ 7% interest through 10/7/14; plus, (B) the taxes (real property) on the two parcels (which will be paid by Plaintiff Sparrow of 79,595.46, will be added to the judgment amount (A); hereafter, the combined A+B amount will bear interest at \$273.74 per diem until paid.
2. The confession in Para 1 will remain confidential until the elapse of one year from 10/7/14 or until the sale of the properties resulting in a deficiency, in which case the judgment will ~~give~~ be reduced by the proceeds of the sale paid to Plaintiffs.
3. If sale of properties result in excess proceeds over the judgment + interest due, the Defendants will retain any such proceeds.
4. Plaintiffs will release the mortgages on the two parcels at or before the closing of any confidential sale by the Defendants.
5. Counsel will prepare more formal settlement documents and the contingent confession, whereupon upon execution by all parties, the two lawsuits 46-00438, and 46-00440, will be dismissed.

- con't on p. 2

BPM  
CRL  
JP

p2. Memo. of Settlement 10/7/14

Robert Clay Spurr  
Robert Clay Spurr  
date:

David Bauman

Wendy Crowe By Robert Clay Spurr  
Mickie Crowe  
by Robert Spurr, N.H. Inf.  
date:

B. S. McCray  
B. S. McCray  
AIF acting for Def  
date:

G. Franklin Ponder  
G. Franklin Ponder, Jr.  
acting for Plaintiff  
date:

Fort Mill Holdings, LLC  
by Tracy G. Goss, manager  
date: 10/7/14

Tracy B. Miller  
mediator

David Bauman

Tracy Goss  
Tracy Goss, LLC  
by Tracy Goss, manager  
date: 10/7/14

Tracy Goss



EXHIBIT 6

AFFIDAVIT OF DAVID BAUCOM

YORK COUNTY  
TAX COLLECTOR  
1070 HECKLE BLVD SUITE 101  
ROCK HILL, SC 29732  
803-909-7272

DATE: DECEMBER 11, 2015

TO: FORT MILL HOLDINGS LLC

8001 N TRYON STREET

CHARLOTTE N C 28262

FROM: ROBERT N. KISER  
YORK COUNTY TAX COLLECTOR

RE: SALE OF PROPERTY FOR DELINQUENT TAXES

MAP # 721-00-00-035 DISTRICT 4FH

ITEM# 15-02219

3490 HIGHWAY

HWY 51 LOT 9-H

3490 HWY 51

This letter is to advise you that the property listed above was sold at public auction for delinquent taxes on NOVEMBER 16, 2015. Section 12-51-90 of the South Carolina Code of Laws provides that the defaulting taxpayer, any grantee from the owner or any mortgage or judgement creditor may redeem the above property within (12) months from the date of the delinquent tax sale by paying to this office delinquent taxes, penalties, and costs together with the appropriate percent of interest on the total bid price at the tax sale. If you wish to redeem the above described property, the redemption amount will be as listed below:

|                      |                                                 |
|----------------------|-------------------------------------------------|
| \$ <u>65,217.25</u>  | (03%) due on or before <u>FEBRUARY 17, 2016</u> |
| \$ <u>83,517.25</u>  | (06%) due on or before <u>MAY 17, 2016</u>      |
| \$ <u>101,817.25</u> | (09%) due on or before <u>AUGUST 17, 2016</u>   |
| \$ <u>117,073.88</u> | (12%) due on or before <u>NOVEMBER 17, 2016</u> |

FINAL DATE TO REDEEM THE ABOVE PROPERTY IS ON/BEFORE NOVEMBER 17, 2016 !!!

If you fail to redeem the property by said date, a tax deed will be issued to the successful bidder. No Checks!!! Money Order, Cashiers Check, or Cash Only.

|                                           |   |                              |
|-------------------------------------------|---|------------------------------|
| STATE OF SOUTH CAROLINA                   | ) | IN THE COURT OF COMMON PLEAS |
|                                           | ) |                              |
| COUNTY OF YORK                            | ) | SIXTEENTH JUDICIAL CIRCUIT   |
|                                           | ) |                              |
| Robert Clay Sparrow and Mickey Crowe,     | ) | C.A. NO.: 2013-CP-46-00438   |
|                                           | ) |                              |
| Plaintiffs,                               | ) |                              |
|                                           | ) |                              |
| vs.                                       | ) | AFFIDAVIT OF TRACY GOINS     |
|                                           | ) |                              |
| Fort Mill Holdings, LLC and David Baucom, | ) |                              |
|                                           | ) |                              |
| Defendants.                               | ) |                              |

PERSONALLY APPEARING BEFORE ME the undersigned, who after being duly sworn, deposes and states as follows:

1. My name is Tracy Goins, and I was, at all relevant times, Managing Member of Fort Mill Holdings, LLC, which is a defendant in the above-captioned matter.
2. I am over the age of eighteen, have personal knowledge of the matters set forth herein (except matters stated upon information and belief, which I believe to be true), and am fully competent to testify as to the same.
3. The above-captioned matter and a related case, Robert Clay Sparrow and Mickey Crowe v. Maurer Holdings, LLC and David Baucom, C.A. No. 2013-CP-46-00440, pertain to the foreclosure of two parcels of real property in York County, South Carolina ("Subject Property") and collection on two North Carolina purchase money promissory notes. A copy of the purchase money note for Fort Mill Holdings, LLC is attached as Exhibit 1.
4. For approximately twelve years prior to Maurer Holdings and Fort Mill Holdings purchasing the Subject Property, my father, David Baucom, leased the Subject Property.
5. Clay Sparrow and my father negotiated a purchase of the Subject Property. Mr. Sparrow had his attorney, Jeff Smith, draft the documents.
6. Mr. Smith formed two entities – Fort Mill Holdings, LLC and Maurer Holdings, LLC – to each own one of the two parcels that formed the Subject Property.
7. Upon information and belief, Mr. Smith was licensed to practice law in North Carolina but not in South Carolina.

8. I was always under the belief that if the payments were not made that Sparrow would accept a return of the property and that no deficiency could be sought against Maurer Holdings, LLC or my father. We only made full payments through May 2012.
9. On Friday, September 28, 2012 I was contacted via email by Jeff Smith. A fair and accurate copy of said email is attached as Exhibit 2. In the email, Mr. Smith requested, on Mr. Sparrow's behalf, that the property be deeded back to Sparrow in lieu of foreclosure.
10. I consulted with my father regarding the situation and he instructed me to notify Mr. Smith that we would sign the property back over to Sparrow. A fair and accurate copy of the email thread is attached as Exhibit 3.
11. On October 2, 2012, I notified Mr. Smith that the property would be deeded back and requested that he let me know what needed to be done.
12. On November 6, 2012, Mr. Smith notified me that Mr. Sparrow wanted to make sure he was able to extinguish any potential liens on the property so he would proceed with a foreclosure to make sure any liens were extinguished. A fair and accurate copy of said email is attached as Exhibit 4.
13. On February 8, 2013, Plaintiffs filed this action.
14. On October 7, 2014, a mediation was held, but I did not attend.
15. It is my understanding that Clay Sparrow's attorney recently provided Fort Mill Holdings' attorney with the document attached as Exhibit 6. I do not have an independent recollection of signing Exhibit A to that document, but it does appear to contain my signature in two locations.
16. To the best of my knowledge, I would have signed after the mediation concluded.
17. I was not aware until after I signed that North Carolina prohibits deficiency judgments or enforcement of personal guaranties in seller-financed transactions. If I had known that prior to signing Exhibit 6, I would not have signed.
18. I respectfully request that the Court allow the case to go forward on the merits and that the Court deny Plaintiffs' Motion to Compel Settlement.

Tracy Gomis  
Tracy Gomis

SWORN TO AND SUBSCRIBED before me  
this 21<sup>st</sup> day of March, 2016

Laura A Campbell  
Notary Public for the  
State of North Carolina

LAURA A. CAMPBELL  
NOTARY PUBLIC  
Mecklenburg County  
North Carolina  
My Commission Expires July 24, 2016

My commission expires: 7/24/2016

**EXHIBIT 1**

**AFFIDAVIT OF TRACY GOINS**

SATISFACTION: The debt evidenced by this  
Note has been satisfied in full this

day of \_\_\_\_\_  
Signed: \_\_\_\_\_

## PURCHASE MONEY PROMISSORY NOTE

\$907,300.00

Charlotte, N.C.  
December 1, 2011

FOR VALUE RECEIVED the undersigned, jointly and severally, promise to pay to Robert Clay Sparrow and Mickey Crowe, or order, the principal sum of NINE HUNDRED SEVEN THOUSAND THREE HUNDRED DOLLARS (\$907,300.00), with interest from December 1, 2011, at the rate of SEVEN per cent (7%) per annum on the unpaid balance until paid or until default, both principal and interest payable in lawful money of the United States of America, at the office of Robert Clay Sparrow, 142 Stoney Point Drive, Blacksburg, SC 29702, or at such place as the legal holder hereof may designate in writing. The principal and interest shall be due and payable as follows:

In 240 consecutive and equal payments of \$7,034.29 each commencing January 1, 2012 and continuing to become due on the first day of each month thereafter until December 1, 2031 when all remaining amounts due hereunder shall be due and payable in full, all as shown on the attached amortization schedule.

All amounts of both principal and interest due hereunder shall be paid in full on or before December 1, 2031.

If payable in installments, each such installment shall, unless otherwise provided, be applied first to payment of interest then accrued and due on the unpaid principal balance, with the remainder applied to the unpaid principal.

Unless otherwise provided, this Note may be prepaid in full or in part at any time without penalty or premium. Partial payments shall be applied to installments due in reverse order of their maturity.

In the event of (a) default in payment of any installment of principal or interest hereof as the same becomes due and such default is not cured within ten (10) days from the due date, or (b) default under the terms of any instrument securing this Note, and such default is not cured within fifteen (15) days after written notice to maker, then in either such event the holder may without further notice, declare the remainder of the principal sum, together with all interest accrued thereon and, the prepayment premium, if any, at once due and payable. Failure to exercise this option shall not constitute a waiver of the right to exercise the same at any other time. The unpaid principal of this Note and any part thereof, accrued interest and all other sums due under this Note and the Deed of Trust or Mortgage, if any, shall bear interest at the rate of Fifteen per cent (15%) per annum after default until paid.

All parties to this Note, including maker and any sureties, endorsers, or guarantors hereby waive protest, presentment, notice of dishonor, and notice of acceleration of maturity and agree to continue to remain bound for the payment of principal, interest and all other sums due under this Note and the Deed of Trust or Mortgage notwithstanding any change or changes by way of release, surrender, exchange, modification or substitution of any security for this Note or by way of any extension or extensions of time for the payment of principal and interest; and all such parties waive all and every kind of notice of such change or changes and agree that the same may be made without notice or consent of any of them.

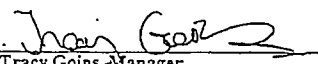
Upon default the holder of this Note may employ an attorney to enforce the holder's rights and remedies, and the maker, principal, surety, guarantor and endorsers of this Note hereby agree to pay to the holder reasonable attorneys fees not exceeding a sum equal to fifteen percent (15%) of the outstanding balance owing on said Note, plus all other reasonable expenses incurred by the holder in exercising any of the holder's rights and remedies upon default. The rights and remedies of the holder as provided in this Note and any instrument securing this Note shall be cumulative and may be pursued singly, successively, or together against the property described in the Deed of Trust or Mortgage or any other funds, property or security held by the holder for payment or security, in the sole discretion of the holder. The failure to exercise any such right or remedy shall not be a waiver or release of such rights or remedies or the right to exercise any of them at another time.

This Note is to be governed and construed in accordance with the laws of the State of North Carolina.

This Note is given for the balance of purchase price for the property located off Highway 51, Fort Mill, SC, and is secured by a Purchase Money Mortgage or Deed of Trust or Mortgage, which is a first lien upon said property.

IN TESTIMONY WHEREOF, the corporate maker has caused this instrument to be executed in its corporate name by its Manager, by the authority duly given by its managers and members, the day and year first above written.

Fort Mill Holdings, LLC

By:   
Tracy Goins, Manager

IN TESTIMONY WHEREOF, each individual maker or guarantor has hereunto set his hand and adopted as his seal the word "SEAL" appearing beside his name, the day and year first above written.

B  
L  
A  
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K  
  
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K  
  
O  
N

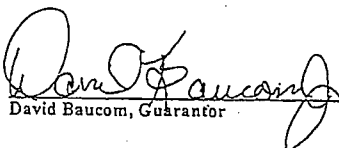
 (SEAL)  
David Baucom, Guarantor

EXHIBIT 2

AFFIDAVIT OF TRACY GOINS



Tracy Goins

---

From: <jsmithlaw@bellsouth.net>  
Date: Friday, September 28, 2012 4:17 PM  
To: "Tracy Goins" <tracy@exotictravelplans.com>  
Subject: Carowinds Property

Tracy,

Clay has contacted me about the property in South Carolina off Carowinds Blvd. Clay is concerned as he has learned of David's plans to abandon the property. He is concerned that damage may be done to the property. The loan agreement is in default due to the failure to pay property taxes, maintain insurance and to make the payments required under the promissory notes. David signed the notes as a personal guarantor and is personally liable for any damages to the building and for any losses resulting from his abandoning the property. Please pass this along to David and ask him to contact either Clay or me to discuss this matter. Clay would like to avoid foreclosure of the mortgages and wants to know if David will deed the property back to him.

Jeff Smith  
704-331-0131

9/9/2014

**EXHIBIT 3**

**AFFIDAVIT OF TRACY GOINS**

Tracy Goins

---

From: <DBaucom733@aol.com>  
Date: Monday, October 1, 2012 6:00 PM  
To: <tracy@exotictravelplans.com>  
Subject: Re: Fw: Carowinds Property

tell him yes we will sign it back over

In a message dated 10/1/2012 12:00:46 P.M. Eastern Daylight Time, tracy@exotictravelplans.com writes:

----- Original Message -----

From: jsmithlaw@bellsouth.net  
To: Tracy Goins  
Sent: Friday, September 28, 2012 4:17 PM  
Subject: Carowinds Property

Tracy,

Clay has contacted me about the property in South Carolina off Carowinds Blvd. Clay is concerned as he has learned of David's plans to abandon the property. He is concerned that damage may be done to the property. The loan agreement is in default due to the failure to pay property taxes, maintain insurance and to make the payments required under the promissory notes. David signed the notes as a personal guarantor and is personally liable for any damages to the building and for any losses resulting from his abandoning the property.

Please pass this along to David and ask him to contact either Clay or me to discuss this matter.

Clay would like to avoid foreclosure of the mortgages and wants to know if David will deed the property back to him.

Jeff Smith  
704-331-0131

9/9/2014

EXHIBIT 4

AFFIDAVIT OF TRACY GOINS

Tracy Goins

---

From: <jsmithlaw@bellsouth.net>  
Date: Tuesday, November 6, 2012 2:36 PM  
To: "Tracy Goins" <tracy@exotictravelplans.com>  
Subject: Carowinds Property

Hi Tracy,

Clay is concerned about the possibility of contractor liens attaching to the property since he knows substantial work was done there and wants to make sure any possible lien rights are extinguished so he is going forward with foreclosing his mortgages.

Jeff Smith

--- On Tue, 11/6/12, Tracy Goins <tracy@exotictravelplans.com> wrote:

From: Tracy Goins <tracy@exotictravelplans.com>  
Subject: Fw: Carowinds Property  
To: jsmithlaw@bellsouth.net  
Date: Tuesday, November 6, 2012, 2:05 PM

Hi Jeff,  
Never heard back from you on the below mentioned meeting? Please advise?

Thank You,  
Tracy

----- Original Message -----

From: Tracy Goins  
To: jsmithlaw@bellsouth.net  
Cc: David "Slim" Baucom  
Sent: Thursday, October 11, 2012 10:35 AM  
Subject: Re: Carowinds Property

Hi Jeff,  
I'm available anytime that is convenient for you other than next Monday! I'm waiting to hear back from Mr. Maurer as to when he can go. Is this something that can be faxed to him? Since I don't think he ever signed any of the original paperwork. Please advise what works best for you.

Thank You,  
Tracy Goins

----- Original Message -----

From: jsmithlaw@bellsouth.net  
To: Tracy Goins  
Sent: Tuesday, October 09, 2012 3:00 PM  
Subject: Re: Carowinds Property

9/9/2014

Hi Tracy,

When would you and Mr. Maurer like to come in and sign the deeds conveying the properties to Clay Sparrow and Mickey Crowe?

Jeff Smith  
704-331-0131

--- On Wed, 10/3/12, Tracy Goins <[tracy@exotictravelplans.com](mailto:tracy@exotictravelplans.com)> wrote:

From: Tracy Goins <[tracy@exotictravelplans.com](mailto:tracy@exotictravelplans.com)>  
Subject: Re: Carowinds Property  
To: [jsmithlaw@bellsouth.net](mailto:jsmithlaw@bellsouth.net)  
Cc: "David "Slim" Baucom" <[DBaucom733@aol.com](mailto:DBaucom733@aol.com)>  
Date: Wednesday, October 3, 2012, 11:25 AM

Hi Jeff,  
Please, let me know if you will need Mr. Maurer I do think he is the manager on the other deed. He has been really sick this week and will not be able to come this week. If we could schedule something for mid-week next week that would be great. Please, let me know what works best for you. Thank You, for all your help.

Thank You,  
Tracy

----- Original Message -----

From: [jsmithlaw@bellsouth.net](mailto:jsmithlaw@bellsouth.net)  
To: Tracy Goins  
Sent: Tuesday, October 02, 2012 2:51 PM  
Subject: Re: Carowinds Property

Hi Tracy,

I can get the new deeds ready tomorrow. Can David come by sometime Thursday? It may not be David who is needed to sign. I need the manager of each LLC. I think you were manager of one and Maurer was the manager of the other. Please let me know who will be signing as manager for each LLC and I will prepare the deeds accordingly.

I'm pretty available most of the day Thursday so please let me know what will work on your end. Please let me know if you have questions or wish to further discuss.

Thanks,

Jeff Smith  
704-331-0131

9/9/2014

--- On Tue, 10/2/12, Tracy Goins <tracy@exotictravelplans.com> wrote:

From: Tracy Goins <tracy@exotictravelplans.com>  
Subject: Re: Carowinds Property  
To: jsmithlaw@bellsouth.net  
Date: Tuesday, October 2, 2012, 2:25 PM

Hi Jeff,  
Spoke with Dad and he will deed the property back to Clay. Please, let me know what needs to be done for this to happen.

Thank You,  
Tracy

----- Original Message -----

From: jsmithlaw@bellsouth.net  
To: Tracy Goins  
Sent: Friday, September 28, 2012 4:17 PM  
Subject: Carowinds Property

Tracy,

Clay has contacted me about the property in South Carolina off Carowinds Blvd. Clay is concerned as he has learned of David's plans to abandon the property.

He is concerned that damage may be done to the property.

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David signed the notes as a personal guarantor and is personally liable for any damages to the building and for any losses resulting from his abandoning the property.

Please pass this along to David and ask him to contact either Clay or me to discuss this matter.

Clay would like to avoid foreclosure of the mortgages and wants to know if David will deed the property back to him.

Jeff Smith  
704-331-0131

9/9/2014

**EXHIBIT 5**

**AFFIDAVIT OF TRACY GOINS**



STATE OF SOUTH CAROLINA

COUNTY OF YORK

Robert Clay Sparrow and Mickey Crowe,

Plaintiffs

vs

Fort Mill Holdings, LLC and David Baucom,

Defendants

COURT OF COMMON PLEAS

SIXTEENTH JUDICIAL CIRCUIT

CASE NO. 2013-CP-46-00438

and 2013CP-46-00440

SETTLEMENT BY MEDIATION

This case is settled upon the following terms:

1. The memorandum of settlement attached

hereto dated 10/7/14, and marked exhibit "A"

and signed by the parties

2. \_\_\_\_\_

3. \_\_\_\_\_

4. Further, Plaintiffs will consent to and counsel will execute a dismissal, with prejudice, of the referenced action. upon execution of formal documents.

5. Neither this settlement nor any of its terms shall constitute an admission by any party.

By our signatures below, we hereby agree to and accept the terms of settlement as set forth above this 7th day of October 2014.

PLAINTIFFS:

Robert Clay Sparrow  
Robert Clay Sparrow

Mickey Crowe BY  
Mickey Crowe

DEFENDANTS:

Fort Mill Holdings, LLC

BY: \_\_\_\_\_

It's: \_\_\_\_\_

David Baucom  
David Baucom

OTHER ATTENDEES, IF ANY:

\_\_\_\_\_  
\_\_\_\_\_

ATTORNEYS FOR PLAINTIFFS:

Pendleton and Pendleton

BY: G. Franklin Pendleton, II

ATTORNEYS FOR DEFENDANTS:

McCoy Law Firm, LLC

BY: Brian S. McCoy

MEDIATOR:

Terry B. Millar  
Terry B. Millar

EXHIBIT 6

AFFIDAVIT OF TRACY GOINS

STATE OF SOUTH CAROLINA

COUNTY OF YORK

Robert Clay Sparrow and Mickey Crowe,

Plaintiffs

vs

Fort Mill Holdings, LLC and David Baucom,

Defendants

COURT OF COMMON PLEAS

SIXTEENTH JUDICIAL CIRCUIT

CASE NO. 2013-CP-46-00438

and 2013CP-46-00440

SETTLEMENT BY MEDIATION

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hereto dated 10/7/14, and marked exhibit "A"

and signed by the parties

2. \_\_\_\_\_

3. \_\_\_\_\_

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By our signatures below, we hereby agree to and accept the terms of settlement as set forth above this 7th day of October 2014.

PLAINTIFFS:

Robert Clay Sparrow  
Robert Clay Sparrow

Mickey Crowe BY Robert Clay Sparrow  
Mickey Crowe

DEFENDANTS:

Fort Mill Holdings, LLC

BY: \_\_\_\_\_

It's: \_\_\_\_\_

David Baucom  
David Baucom

OTHER ATTENDEES, IF ANY:

\_\_\_\_\_  
\_\_\_\_\_

ATTORNEYS FOR PLAINTIFFS:

Pendleton and Pendleton

BY: G. Franklin Pendleton, II

ATTORNEYS FOR DEFENDANTS:

McCoy Law Firm, LLC

BY: Brian S. McCoy

MEDIATOR:

Terry B. Millar  
Terry B. Millar

Memorandum of Settlement 10/7/14

Exh. A

, with LLCs and David Bonebrake.

1. Defendants, will execute in favor of Plaintiffs Sparrow and Crowe a contingent confession of Judgment for the amount of (A) \$1,356,752.10 which represents the principal and interest on the two original notes and ~~notes~~ @ 7% interest through 10/7/14; plus, (B) the taxes (and prouty) on the two parcels (which will be paid by Plaintiff Sparrow of \$9,595.46, will be added to the judgment amount (A); hereafter, the combined A+B amount will bear interest at <sup>A</sup>273.74 per diem until paid.
2. The confession in Para 1 will remain confidential until the earlier of one year from 10/7/14 or until the sale of the properties resulting in a deficiency, in which case the judgment will ~~not~~ be reduced by the proceeds of the sale paid to Plaintiffs.
3. If sale of properties result in excess proceeds over the judgment + interest due, the Defendants will retain any such proceeds.
4. Plaintiffs will release the mortgages on the two parcels at or before the closing of any confidential sale by the Defendants.
5. Counsel will prepare more formal settlement documents and the contingent confession, whereupon upon execution by all parties, the two lawsuits 46-00438, and 46-00440, will be dismissed.

- con't on p. 2

BM  
ENH  
DP

p2. Memo. of Settlement 10/7/14

Robert Ely Sparrow  
Robert Ely Sparrow  
date:

Danriel Baucum

Wendy Crowe By Robert Ely Sparrow  
Mickey Crowe  
by R. Ely Sparrow, Htg. Invt.  
date:

B. S. McCarty  
AIF acting for Def  
date:

G. Franklin Penick, Jr.  
G. Franklin Penick, Jr.  
acting for Plaintiff  
date:

Fort Mill Holdings, LLC.  
by Tracy Gains, manager  
date: 10/7/14

Tracy Gains  
mediator

Tracy Gains  
Fort Mill Holdings, LLC.  
by Tracy Gains, manager  
date: 10/7/14

Dan Baucum

Tracy Gains

|                                        |   |                                 |
|----------------------------------------|---|---------------------------------|
| STATE OF SOUTH CAROLINA                | ) | IN THE COURT OF COMMON PLEAS    |
|                                        | ) |                                 |
| COUNTY OF YORK                         | ) | SIXTEENTH JUDICIAL CIRCUIT      |
|                                        | ) |                                 |
| Robert Clay Sparrow and Mickey Crowe,  | ) | C.A. NO.: 2013-CP-46-00440      |
|                                        | ) |                                 |
| Plaintiffs,                            | ) |                                 |
|                                        | ) |                                 |
| vs.                                    | ) | <b>MEMORANDUM IN OPPOSITION</b> |
|                                        | ) | <b>TO PLAINTIFFS' MOTION TO</b> |
|                                        | ) | <b>COMPEL SETTLEMENT</b>        |
| Maurer Holdings, LLC and David Baucom, | ) |                                 |
|                                        | ) |                                 |
| Defendants.                            | ) |                                 |

Defendants Maurer Holdings, LLC and David Baucom hereby submit this Memorandum in Opposition to Plaintiffs' Motion to Compel Settlement in the above matter.

In summary, the Settlement Memo that is the subject of Plaintiffs' motion directly violates governing law and public policy and is therefore void. Furthermore, the settlement was never consummated. It would be profoundly unfair and prohibited by applicable law to enforce settlement under the circumstances, and Plaintiffs' motion should be DENIED.

#### **Factual Background and Procedural History**

In the above-captioned action and a companion case, Robert Clay Sparrow and Mickey Crowe vs. Fort Mill Holdings, LLC and David Baucom, C.A. No.: 2013-CP-46-00438, Plaintiffs seek to foreclose on two adjoining parcels of land in York County ("Subject Property") which were sold by Plaintiffs on December 1, 2011 to Fort Mill Holdings, LLC and Maurer Holdings, LLC for \$907,300.00 and \$284,500.00, respectively. Plaintiffs also seek to obtain deficiency judgments against both LLCs and David Baucom individually. Defendants do not contest foreclosure. Defendants do, however, contest Plaintiffs' ability to obtain money judgments against them for any deficiency and related expenses.



Prior to Plaintiffs selling the Subject Property in December 2011, Defendant David Baucom leased the Subject Property from Plaintiffs for approximately twelve years and made significant improvements to the same. During the pendency of the lease, Plaintiff Clay Sparrow talked to Mr. Baucom about purchasing the property. Mr. Baucom expressed some reluctance, but Mr. Sparrow assured him that if the purchase did not work out, Mr. Baucom could simply return the Subject Property to him. Based on Mr. Sparrow's representation, the parties were able to reach an agreement for a purchase and sale of the property.

The two parcels were sold within a single real estate closing, which was a seller-financed transaction. Upon the recommendation of Plaintiff Clay Sparrow, the transaction was closed on December 1, 2011 by attorney Jeff Smith, who was licensed in North Carolina but not in South Carolina, and the closing took place at Mr. Smith's office in Charlotte, North Carolina. The closing attorney formed two North Carolina LLCs to take title to the two parcels – Fort Mill Holdings, LLC and Maurer Holdings, LLC.

At its core, the transaction consisted of two purchase money promissory notes and two real estate mortgages. In one of the purchase money notes, Fort Mill Holdings, LLC was the borrower and David Baucom signed as "guarantor." In the other promissory note, Maurer Holdings, LLC was the borrower and David Baucom signed as "guarantor." Both notes expressly provide that they are governed by North Carolina law. The transaction was secured by first-priority real estate mortgages on the Subject Property.<sup>1</sup>

Defendants only made full monthly payments on the notes for approximately five months and partial payments for a couple of months thereafter. Mr. Baucom notified Plaintiff Sparrow

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<sup>1</sup> The mortgages were signed by representatives of Fort Mill Holdings and Maurer Holdings but were not signed by David Baucom.

that Defendants could not make the payments and wished to return the Subject Property to Plaintiffs.

On Friday, September 28, 2012, Plaintiffs' attorney, Mr. Smith, contacted Mr. Baucom's daughter, Tracy Goins, who was the managing member of Fort Mill Holdings and who also acted as an agent of Maurer Holdings. In the email, Mr. Smith stated the following:

"Clay has contacted me about the property in South Carolina off Carowinds Blvd. Clay is concerned as he has learned of David's plans to abandon the property. He is concerned that damage may be done to the property. The loan agreement is in default due to the failure to pay property taxes, maintain insurance and to make the payments required under the promissory notes. David signed the notes as a personal guarantor and is personally liable for any damages to the building and for any losses resulting from his abandoning the property [sic]. Please pass this along to David and ask him to contact either Clay or me to discuss this matter. Clay would like to avoid foreclosure of the mortgages and wants to know if David will deed the property back to him."

(Exh. 2, Affidavit of Tracy Goins; Exh. 2, Affidavit of David Baucom).

Ms. Goins consulted with Mr. Baucom on Monday, October 1, 2012 and then notified Mr. Smith on October 2, 2012 that they would deed the property back to Mr. Sparrow.<sup>2</sup> (Exh. 2-3, Affidavit of Tracy Goins; Exh. 2-3, Affidavit of David Baucom).

Mr. Smith emailed Ms. Goins on November 6, 2012 and notified her as follows:

"Clay is concerned about the possibility of contractor liens attaching to the property since he knows substantial work was done there and wants to make sure any possible lien rights are extinguished as he is going forward with foreclosing on his mortgages."

(Exh. 4, Affidavit of Tracy Goins; Exh. 4, Affidavit of David Baucom).

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<sup>2</sup> It is Defendants' understanding that on or about October 1, 2014 Mr. Sparrow purchased or otherwise obtained an assignment of the notes and mortgages from Plaintiff Mickey Crowe and that Mr. Crowe no longer has an interest in the Subject Property.

Plaintiffs filed this action and its companion case on February 8, 2013. In the actions, Plaintiffs seek not only to foreclose but also to obtain deficiency judgments against all Defendants.

Mediation was held on October 7, 2014. Mr. Sparrow and Mr. Baucom were present along with their counsel. At mediation, Mr. Sparrow and Mr. Baucom signed the memorandum of settlement that is the subject of this matter ("Settlement Memo," submitted herewith as Exh. 5 to Affidavit of David Baucom and Exh. 6 to Affidavit of Tracy Goins). Ms. Goins was not present at mediation, but it appears she likely signed later that day. The Settlement Memo provides in part that "Plaintiffs will consent to and counsel will execute a dismissal, with prejudice, of the referenced action, upon execution of formal documents." (Par. 4, Settlement Memo). The portion that says "upon execution of formal documents" is handwritten whereas the remaining portion is typed.

"Exhibit A" to the Settlement Memo provides that "Counsel will prepare more formal settlement documents and the contingent [confession of judgment], whereupon execution by all parties, the two lawsuits - 46-00438, and 46-00440, will be dismissed." (Par. 5 of Exhibit A to Settlement Memo). No formal settlement documents, confessions of judgment, or stipulations of dismissal were ever executed.

After mediation, Defendants learned for the first time that North Carolina has an "anti-deficiency" law that prohibits Plaintiffs from obtaining a deficiency judgment against them. They did not have the benefit of this information at mediation and would not have signed the Settlement Memo if they had understood their rights under the law and what they were giving up by not proceeding and having the case decided on the merits.

Defendants ultimately were informed of the applicable law and, based on that information, refused to consummate the settlement by signing formal settlement documents or confessions of judgment. Based on their refusal to return executed confessions of judgment to Plaintiffs' counsel, Plaintiffs' counsel filed the Motion to Compel Settlement that is pending before this Court.

#### Argument and Citation of Authority

Trial courts are vested with the discretion to enforce – or refuse to enforce – settlements between parties. In this case, the Court should refuse to enforce the settlement as an exercise of its discretion and should find that the mediated Settlement Memo is void as a matter of law. The two purchase money notes that give rise to this action and a companion case are governed by North Carolina law, and North Carolina's "anti-deficiency" law firmly establishes that Plaintiffs are prohibited from seeking a money judgment against Defendants. Furthermore, North Carolina law provides that purchasers, borrowers, and guarantors in seller-financed transactions cannot waive the protections provided to them under North Carolina's anti-deficiency statute. Defendants did not know such North Carolina laws existed until after mediation, and they never would have signed the Settlement Memo if they had that knowledge at the time.

The relief that Defendants are seeking is not extraordinary. They are simply requesting that all parties be provided with access to the courts to have their respective positions decided on the merits. Accordingly, Defendants request that Plaintiffs' Motion to Compel Settlement be DENIED.

#### **I. THIS COURT SHOULD EXERCISE DISCRETION AND REFUSE TO ENFORCE SETTLEMENT**

It is true that courts in South Carolina have the power to enforce settlement agreements. "But even as the court may enforce settlement, it has the inherent power to refuse to enforce

settlements." Rock Smith Chevrolet, Inc. v. Smith, 309 S.C. 91, 93, 419 S.E.2d 841, 842 (Ct. App. 1992) (emphasis added). Here, Defendants signed a Settlement Memo because they did not understand their respective rights and obligations which arose from the transactions that are the subject of this matter and what the potential risks and benefits would be of continuing with the litigation. If settlement is enforced, the Plaintiffs will obtain a result that squarely violates governing law and which will provide them with a windfall that they could never obtain if the case is decided on the merits.

The South Carolina Court of Appeals' decision in Rock Smith Chevrolet case is applicable here. In Rock Smith Chevrolet, the parties' counsel announced to the court immediately before trial that their clients had reached a settlement. Due to confusion that arose regarding the consummation of the settlement, the defendant, Tex Smith, petitioned the court to vacate the settlement and allow the case to proceed to trial. The trial court held a hearing to determine whether to enforce settlement. After hearing the facts and arguments on both sides, the trial judge said that although Mr. Smith had a "preconceived erroneous notion of [his] own making as to what [his] lawyer told [him] the trial judge might do . . . I can understand how Mr. Tex Smith might have misconstrued it and that concerns me somewhat." Id., 309 S.C. at 92-93, 419 S.E.2d at 842. Due to Mr. Smith misconstruing his attorney's advice, the trial judge set aside the settlement and allowed the case to proceed on the merits. The Court should reach the same result here, and Plaintiffs' motion should be DENIED so that the case may be decided on its merits.

Plaintiffs cite Petty v. Timken Corp., 849 F.2d 130, 133 (4th Cir. 1988) which states that "unless the resulting settlement is substantially unfair, judicial economy commands that a party be held to the terms of a voluntary agreement." In that case, the court noted that Mr. Petty, who

sought to set aside the settlement had unrealistic expectations about his case and “offer[ed] little argument against the essential fairness of the settlement.” The court went on to say “[a]t most, Petty appears to have had second thoughts about the level of his recovery. That does not, however, establish unfairness or justify setting aside an otherwise valid agreement.” That situation is distinguishable from the instant case where the result is in clear violation of governing law and profoundly unfair to Defendants.

For the specific reasons set forth in more detail below, North Carolina’s anti-deficiency law specifically prohibits an action against Defendants for a monetary judgment on the note, and the protections afforded by the anti-deficiency statute cannot be waived. In order to determine whether the settlement that Plaintiffs seek to enforce is fair, the Court must consider the substantive law that governs the promissory notes in these cases. North Carolina unequivocally limits Plaintiffs’ recovery to a return of the collateral, and Plaintiffs’ motion must be DENIED.

Furthermore, there is no prejudice to Plaintiffs that is not of their own making. As the emails from Plaintiff Sparrow’s attorney establish, Defendants agreed to return the Subject Property in October 2012 – merely a few months after purchase. Although the property, or a portion thereof, was sold at a tax sale last fall, Clay Sparrow attended the sale but allowed the property to be sold. The redemption period is still pending, so he is able to recover the property. If Plaintiffs’ motion is denied, they are able to retain all claims and defenses that they originally had in this action and to have the case decided on the merits. That is a fundamental right for all parties, and Defendants should be able to have the case decided on the merits as opposed to having a result imposed on them that is not permitted by applicable law.

**II. THE SETTLEMENT MEMO IS VOID BECAUSE NORTH CAROLINA'S ANTI-DEFICIENCY STATUTE PROHIBITS PLAINTIFFS FROM OBTAINING A MONEY JUDGMENT AGAINST DEFENDANTS, AND THAT RIGHT CANNOT BE WAIVED**

The purchase money notes that give rise to this case and its companion case are governed by North Carolina law. North Carolina law provides that a seller in a seller-financed transaction is limited to a return of the property if the purchaser defaults. North Carolina law also provides that its anti-deficiency protection cannot be waived. The statute was enacted for the protection of purchasers and is broadly construed in their favor. Here, Plaintiffs are limited to a return of the Subject Property and are prohibited from seeking a monetary judgment against Defendants.

North Carolina's anti-deficiency statute provides as follows:

"In all sales of real property by mortgagees and/or trustees under powers of sale contained in any mortgage or deed of trust executed after February 6, 1933, or where judgment or decree is given for the foreclosure of any mortgage executed after February 6, 1933, to secure to the seller the payment of the balance of the purchase price of real property, the mortgagee or trustee or holder of the notes secured by such mortgage or deed of trust shall not be entitled to a deficiency judgment on account of such mortgage, deed of trust or obligation secured by the same: Provided, said evidence of indebtedness shows upon the face that it is for balance of purchase money for real estate: Provided, further, that when said note or notes are prepared under the direction and supervision of the seller or sellers, he, it, or they shall cause a provision to be inserted in said note disclosing that it is for purchase money of real estate; in default of which the seller or sellers shall be liable to purchaser for any loss which he might sustain by reason of the failure to insert said provisions as herein set out."

N.C. Gen. Stat. Ann. § 45-21.38

There can be no dispute that the notes at issue in this case are purchase money notes. On a number of occasions, the anti-deficiency statute has been interpreted by North Carolina's courts, which have recognized that the following rules apply in the context of seller-financed transactions such as the transaction at issue in this case:

1. The anti-deficiency statute “effects the broad public purpose of abolishing deficiency judgments in purchase money transactions if foreclosure on the security yields an insufficient fund to satisfy the indebtedness secured.” Chemical Bank v. Belk, 41 N.C.App. 356, 255 S.E.2d 421 (1979) (citing Ross Realty Co. v. First Citizens Bank & Trust Co., 296 N.C. 366, 250 S.E.2d 271 (1979)).
2. Sellers are prohibited from pursuing an action on personal guaranty. Adams v. Cooper, 340 N.C. 242, 460 S.E.2d 120 (1995).
3. Sellers are prohibited from obtaining expenses such as attorney’s fees incurred in foreclosure and are limited to a return of the collateral sold. Merritt v. Ridge, 323 N.C. 330, 372 S.E.2d 559 (1988).
4. The protections provided to purchasers and guarantors under the anti-deficiency statute cannot be waived. Chemical Bank v. Belk, 41 N.C.App. 356, 255 S.E.2d 421 (1979). “The anti-deficiency statute does not allow the buyer ‘to deny himself the protection afforded him’ by the statute.” Barnaby v. Boardman, 313 N.C. 565, 568, 330 S.E.2d 600, 602 (1985). “[B]ecause anti-deficiency legislation is so narrowly tailored to address specific instances of the public’s vulnerability to lender overreach, waiver of this statutory protection as a prerequisite to receipt of a mortgage or as a condition of a guaranty agreement would violate public policy.” High Point Bank & Trust Co. v. Highmark Properties, LLC, 368 N.C. 301, 308, 776 S.E.2d 838, 843 (2015).
5. The anti-deficiency statute is to be broadly construed in order to give effect to its legislative intent and to prevent evasions of the statute. Adams v. Cooper, 340



N.C. 242, 244, 460 S.E.2d 120, 121 (1995) (citing Realty Co. v. Trust Co., 296 N.C. 366, 250 S.E.2d 271 (1979)).

6. If a purchaser pledges additional collateral in addition to a purchase money mortgage on the property being purchased, the seller is prohibited from foreclosing on the additional collateral. Matter of Foreclosure of Deed of Trust by Goforth Properties, Inc., 334 N.C. 369, 378, 432 S.E.2d 855, 861 (1993).

Based on the language of the anti-deficiency statute and the cases interpreting the same, it is clear that Plaintiffs' only recourse in the filing of these actions is to obtain a return of the Subject Property. Plaintiffs are barred from pursuing an action and obtaining a judgment against Defendants on the promissory notes or for expenses related to the foreclosures. Furthermore, the protections provided to Defendants under the anti-deficiency statute cannot be waived by them. Any such waiver is void as contrary to the statute and against public policy.

Here, the Settlement Memo is in clear violation of governing law and essentially operates as an invalid and unenforceable waiver of the anti-deficiency statute. If the document is enforced and Defendants are forced to confess judgment, Plaintiffs will recover a windfall by obtaining relief far greater than anything they could have received if the case were decided on the merits. This result is inconsistent with the general principle of alternative dispute resolution, which typically involves a compromise by the parties for the purpose of avoiding the cost and uncertainty of litigation. If enforced, this result does not represent a negotiated compromise but instead represents a lopsided victory for Plaintiffs that is impermissible under applicable law. For these reasons, Plaintiffs' motion should be DENIED.

### III. NO SETTLEMENT WAS CONSUMMATED IN THIS CASE

As an additional or alternative ground for denying Plaintiffs' motion, the Court should find that a settlement was not consummated in this case. The Settlement Memo specifically included conditions precedent to dismissal which were not satisfied. In Paragraph 4 of the first page of the Settlement Memo, it stated "'Plaintiffs will consent to and counsel will execute a dismissal, with prejudice, of the referenced action upon execution of formal documents." (Emphasis added). In Paragraph 5 of Exhibit A to the Settlement Memo, it stated "Counsel will prepared more formal settlement documents and the contingent confession, whereupon execution by all parties, the two lawsuits - 46-00438, and 46-00440, will be dismissed" (Emphasis added). No formal settlement document was executed; confessions of judgment were not executed; and no stipulation of dismissal was signed. Accordingly, the Court should find that a settlement was not consummated in this case and deny Plaintiffs' motion.

Even assuming *arguendo* that the Settlement Memo has been consummated, South Carolina courts have held that settlement agreements "are viewed as contracts." Pee Dee Stores, Inc. v. Doyle, 381 S.C. 234, 241, 672 S.E.2d 799, 802 (Ct. App. 2009). Furthermore, South Carolina courts have held that contracts will not be enforced if they violate a statute or are against public policy. "The general rule, well established in South Carolina, is that courts will not enforce a contract when the subject matter of the contract or an act required for performance violates public policy as expressed in constitutional provisions, statutory law, or judicial decisions. Berkebile v. Outen, 311 S.C. 50, 53-54, 426 S.E.2d 760, 762 (1993) (stating [a]n illegal contract has always been unenforceable); Batchelor v. American Health Ins. Co., 234 S.C. 103, 107 S.E.2d 36 (1959) (noting that contracts violating public policy as expressed in constitutional provisions, statutes, or judicial decisions are void)." White v. J.M. Brown

Amusement Co., 360 S.C. 366, 371, 601 S.E.2d 342, 345 (2004). If the Settlement Memo is determined to otherwise be a binding contract, it violates a statute and public policy. Accordingly, this Court should find the Settlement Memo is void, and Plaintiff's Motion should be DENIED.<sup>3</sup>

**Conclusion**

For the reasons set forth herein and for such other reasons as may appear in the record, Defendants request that Plaintiffs' Motion to Compel Settlement be DENIED and that the parties be permitted to have the case decided on the merits.

FAYSSOUX LAW FIRM, P.A.



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Attorney for Defendants

March 23, 2016

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<sup>3</sup> Alternatively, if the Court finds that the Settlement Memo is voidable rather than void, Defendants wish to exercise their right to void the same.

|                                        |   |                              |
|----------------------------------------|---|------------------------------|
| STATE OF SOUTH CAROLINA                | ) | IN THE COURT OF COMMON PLEAS |
|                                        | ) |                              |
| COUNTY OF YORK                         | ) | SIXTEENTH JUDICIAL CIRCUIT   |
|                                        | ) |                              |
| Robert Clay Sparrow and Mickey Crowe,  | ) | C.A. NO.: 2013-CP-46-00440   |
|                                        | ) |                              |
| Plaintiffs,                            | ) |                              |
|                                        | ) |                              |
| vs.                                    | ) | AFFIDAVIT OF DAVID BAUCOM    |
|                                        | ) |                              |
| Maurer Holdings, LLC and David Baucom, | ) |                              |
|                                        | ) |                              |
| Defendants.                            | ) |                              |

PERSONALLY APPEARING BEFORE ME the undersigned, who after being duly sworn, deposes and states as follows:

1. My name is David Baucom, and I am a named Defendant in the above-captioned matter. I am and was at all relevant times a resident of the State of North Carolina.
2. I am over the age of eighteen, have personal knowledge of the matters set forth herein (except matters stated upon information and belief, which I believe to be true), and am fully competent to testify as to the same.
3. The above-captioned matter and a related case, Robert Clay Sparrow and Mickey Crowe v. Fort Mill Holdings, LLC and David Baucom, C.A. No. 2013-CP-46-00438, pertain to the foreclosure of two parcels of real property in York County, South Carolina ("Subject Property") and collection on two North Carolina purchase money promissory notes. A copy of the purchase money note for Maurer Holdings, LLC is attached as Exhibit 1.
4. For approximately twelve years prior to Maurer Holdings and Fort Mill Holdings purchasing the Subject Property, I leased the Subject Property. During that period, I made significant improvements to the same.
5. Clay Sparrow approached me to discuss purchasing the Subject Property, and I expressed reluctance to do so.
6. Mr. Sparrow assured me that if we could not make the payments, we could simply turn the property back over to him.
7. Based on that representation, we reached an agreement for the purchase of the Subject Property, and Mr. Sparrow had his attorney, Jeff Smith, draft the documents.

8. Upon information and belief, Mr. Smith was licensed to practice law in North Carolina but not in South Carolina.
9. My daughter, Tracy Goins, and I attended the closing in Charlotte, North Carolina, and upon request of Sparrow's attorney, we signed any documents related to the transaction that he presented to us. The closing took place on or about December 1, 2011.
10. I was always under the belief that if the payments were not made that Sparrow would accept a return of the property and that no deficiency could be sought against me. We only made full payments through May 2012.
11. On Friday, September 28, 2012 my daughter was contacted via email by Jeff Smith. A fair and accurate copy of said email is attached as Exhibit 2. In the email, Mr. Smith requested, on Mr. Sparrow's behalf, that the property be deeded back to Sparrow in lieu of foreclosure.
12. My daughter consulted with me regarding the situation and I instructed her to notify Mr. Smith that we would sign the property back over to Sparrow, which she did on October 1, 2012. A fair and accurate copy of the email thread is attached as Exhibit 3.
13. On November 6, 2012, Mr. Smith notified my daughter that Mr. Sparrow wanted to make sure he was able to extinguish any potential liens on the property so he would proceed with a foreclosure to make sure any liens were extinguished. A fair and accurate copy of said email is attached as Exhibit 4.
14. On February 8, 2013, Plaintiffs filed this action.
15. On October 7, 2014, a mediation was held, and a copy of the resulting "Settlement by Mediation" document is attached as Exhibit 5. Clay Sparrow and I attended mediation along with counsel. Neither Mickey Crowe nor my daughter attended mediation. My daughter signed the document at a later time.
16. "Formal documents" referenced in Paragraph 4 of Exhibit 5 were never executed.
17. Upon information and belief, no settlement hearing was held and no stipulation of dismissal was signed or recorded.
18. I never signed a confession of judgment.
19. Upon information and belief, North Carolina has an anti-deficiency statute which prevents Plaintiffs from seeking a deficiency judgment against me in a seller-financed transaction like the one at issue in this case. I was not aware of this law at the time of mediation and never would have signed the "Settlement by Mediation" document if I had known about it.

20. With regard to the Subject Property, I dispute that I am responsible for any expenses related to the same after the Subject Property was offered back to Plaintiffs in or before October 2012.
21. The portion of the Subject Property owned by Fort Mill Holdings was sold at a tax sale last fall. Plaintiffs were aware of the sale before it occurred, and Plaintiff Clay Sparrow attended the sale. Upon information and belief, he did not bid on the Subject Property.
22. A fair and accurate copy of a redemption letter pertaining to the Fort Mill Holdings property is attached as Exhibit 6. Although I dispute that I owe anything with regard to the Subject Property, I am able to redeem said property if required to do so by the Court.
23. I respectfully request that the Court allow the case to go forward on the merits and that the Court deny Plaintiffs' Motion to Compel Settlement.

\_\_\_\_\_  
David Baucom

SWORN TO AND SUBSCRIBED before me  
this \_\_\_\_ day of \_\_\_\_\_, 2016

\_\_\_\_\_  
Notary Public for the  
State of \_\_\_\_\_

My commission expires: \_\_\_\_\_

**EXHIBIT 1**

**AFFIDAVIT OF DAVID BAUCOM**

SATISFACTION: The debt evidenced by this  
Note has been satisfied in full this  
\_\_\_\_ day of \_\_\_\_\_

Signed: \_\_\_\_\_

## PURCHASE MONEY PROMISSORY NOTE

\$284,500.00

Charlotte, N.C.  
December 1, 2011

FOR VALUE RECEIVED the undersigned, jointly and severally, promise to pay to Robert Clay Sparrow and Mickey Crowe, or order, the principal sum of TWO HUNDRED EIGHTY FOUR THOUSAND FIVE HUNDRED DOLLARS (\$284,500.00), with interest from December 1, 2011, at the rate of SEVEN per cent (7%) per annum on the unpaid balance until paid or until default, both principal and interest payable in lawful money of the United States of America, at the office of Robert Clay Sparrow, 142 Stoney Point Drive, Blacksburg, SC 29702, or at such place as the legal holder hereof may designate in writing. The principal and interest shall be due and payable as follows:

In 240 consecutive and equal payments of \$2,205.73 each commencing January 1, 2012 and continuing to become due on the first day of each month thereafter until December 1, 2031 when all remaining amounts due hereunder shall be due and payable in full, all as shown on the attached amortization schedule.

All amounts of both principal and interest due hereunder shall be paid in full on or before December 1, 2031.

If payable in installments, each such installment shall, unless otherwise provided, be applied first to payment of interest then accrued and due on the unpaid principal balance, with the remainder applied to the unpaid principal.

Unless otherwise provided, this Note may be prepaid in full or in part at any time without penalty or premium. Partial payments shall be applied to installments due in reverse order of their maturity.

In the event of (a) default in payment of any installment of principal or interest hereof as the same becomes due and such default is not cured within ten (10) days from the due date, or (b) default under the terms of any instrument securing this Note, and such default is not cured within fifteen (15) days after written notice to maker, then in either such event the holder may without further notice, declare the remainder of the principal sum, together with all interest accrued thereon and, the prepayment premium, if any, at once due and payable. Failure to exercise this option shall not constitute a waiver of the right to exercise the same at any other time. The unpaid principal of this Note and any part thereof, accrued interest and all other sums due under this Note and the Deed of Trust or Mortgage, if any, shall bear interest at the rate of Fifteen per cent (15%) per annum after default until paid.

All parties to this Note, including maker and any sureties, endorsers, or guarantors hereby waive protest, presentment, notice of dishonor, and notice of acceleration of maturity and agree to continue to remain bound for the payment of principal, interest and all other sums due under this Note and the Deed of Trust or Mortgage notwithstanding any change or changes by way of release, surrender, exchange, modification or substitution of any security for this Note or by way of any extension or extensions of time for the payment of principal and interest; and all such parties waive all and every kind of notice of such change or changes and agree that the same may be made without notice or consent of any of them.

Upon default the holder of this Note may employ an attorney to enforce the holder's rights and remedies, and the maker, principal, surety, guarantor and endorsers of this Note hereby agree to pay to the holder reasonable attorneys fees not exceeding a sum equal to fifteen percent (15%) of the outstanding balance owing on said Note, plus all other reasonable expenses incurred by the holder in exercising any of the holder's rights and remedies upon default. The rights and remedies of the holder as provided in this Note and any instrument securing this Note shall be cumulative and may be pursued singly, successively, or together against the property described in the Deed of Trust or Mortgage or any other funds, property or security held by the holder for payment or security, in the sole discretion of the holder. The failure to exercise any such right or remedy shall not be a waiver or release of such rights or remedies or the right to exercise any of them at another time.

This Note is to be governed and construed in accordance with the laws of the State of North Carolina.

This Note is given for the balance of purchase price for the property located off Highway 51, Fort Mill, SC, and is secured by a Purchase Money Mortgage or Deed of Trust or Mortgage, which is a first lien upon said property.

IN TESTIMONY WHEREOF, the corporate maker has caused this instrument to be executed in its corporate name by its Manager, by the authority duly given by its managers and members, the day and year first above written.

Maurer Holdings, LLC

By: Tracy Goins  
Tracy Goins, Manager

IN TESTIMONY WHEREOF, each individual maker or guarantor has hereunto set his hand and adopted as his seal the word "SEAL" appearing beside his name, the day and year first above written.

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N

David Baucom (SEAL)  
David Baucom, Guarantor



**EXHIBIT 2**

**AFFIDAVIT OF DAVID BAUCOM**

Tracy Goins

---

From: <jsmithlaw@bellsouth.net>  
Date: Friday, September 28, 2012 4:17 PM  
To: "Tracy Goins" <tracy@exotictravelplans.com>  
Subject: Carowinds Property

Tracy,

Clay has contacted me about the property in South Carolina off Carowinds Blvd. Clay is concerned as he has learned of David's plans to abandon the property. He is concerned that damage may be done to the property. The loan agreement is in default due to the failure to pay property taxes, maintain insurance and to make the payments required under the promissory notes. David signed the notes as a personal guarantor and is personally liable for any damages to the building and for any losses resulting from his abandoning the property. Please pass this along to David and ask him to contact either Clay or me to discuss this matter. Clay would like to avoid foreclosure of the mortgages and wants to know if David will deed the property back to him.

Jeff Smith  
704-331-0131

9/9/2014

EXHIBIT 3

AFFIDAVIT OF DAVID BAUCOM

**Tracy Goins**

---

From: <DBaucom733@aol.com>  
Date: Monday, October 1, 2012 6:00 PM  
To: <tracy@exotictravelplans.com>  
Subject: Re: Fw: Carowinds Property

tell him yes we will sign it back over

In a message dated 10/1/2012 12:00:46 P.M. Eastern Daylight Time, tracy@exotictravelplans.com writes:

----- Original Message -----

From: [jsmithlaw@bellsouth.net](mailto:jsmithlaw@bellsouth.net)  
To: Tracy Goins  
Sent: Friday, September 28, 2012 4:17 PM  
Subject: Carowinds Property

Tracy,

Clay has contacted me about the property in South Carolina off Carowinds Blvd. Clay is concerned as he has learned of David's plans to abandon the property. He is concerned that damage may be done to the property.

The loan agreement is in default due to the failure to pay property taxes, maintain insurance and to make the payments required under the promissory notes.

David signed the notes as a personal guarantor and is personally liable for any damages to the building and for any losses resulting from his abandoning the property.

Please pass this along to David and ask him to contact either Clay or me to discuss this matter.

Clay would like to avoid foreclosure of the mortgages and wants to know if David will deed the property back to him.

Jeff Smith  
704-331-0131

9/9/2014

**EXHIBIT 4**

**AFFIDAVIT OF DAVID BAUCOM**

**Tracy Goins**

---

From: <jsmithlaw@bellsouth.net>  
Date: Tuesday, November 6, 2012 2:36 PM  
To: "Tracy Goins" <tracy@exotictravelplans.com>  
Subject: Carowinds Property

Hi Tracy,

Clay is concerned about the possibility of contractor liens attaching to the property since he knows substantial work was done there and wants to make sure any possible lien rights are extinguished so he is going forward with foreclosing his mortgages.

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To: jsmithlaw@bellsouth.net  
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Never heard back from you on the below mentioned meeting? Please advise?

Thank You,  
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To: jsmithlaw@bellsouth.net  
Cc: David "Slim" Baucom  
Sent: Thursday, October 11, 2012 10:35 AM  
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I'm available anytime that is convenient for you other than next Monday! I'm waiting to hear back from Mr. Maurer as to when he can go. Is this something that can be faxed to him? Since I don't think he ever signed any of the original paperwork. Please advise what works best for you.

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9/9/2014



**EXHIBIT 5**

**AFFIDAVIT OF DAVID BAUCOM**

STATE OF SOUTH CAROLINA

COUNTY OF YORK

Robert Clay Sparrow and Mickey Crowe,

Plaintiffs

vs

Fort Mill Holdings, LLC and David Baucom,

Defendants

COURT OF COMMON PLEAS

SIXTEENTH JUDICIAL CIRCUIT

CASE NO. 2013-CP-46-00438

and 2013CP-46-00440

SETTLEMENT BY MEDIATION

This case is settled upon the following terms:

1. The memorandum of settlement attached  
hereto dated 10/7/14, ~~has~~ marked exhibit "A"  
and signed by the parties

2. \_\_\_\_\_

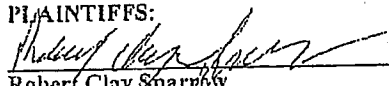
3. \_\_\_\_\_

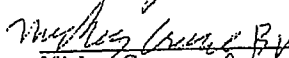
4. Further, Plaintiffs will consent to and counsel will execute a dismissal, with prejudice, of the referenced action, upon execution of formal documents.

5. Neither this settlement nor any of its terms shall constitute an admission by any party.

By our signatures below, we hereby agree to and accept the terms of settlement as set forth above this 7th day of October 2014.

**PLAINTIFFS:**

  
Robert Clay Sparrow

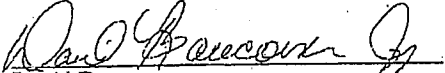
 BY  
Mickey Crowe

**DEFENDANTS:**

Fort Mill Holdings, LLC

BY: \_\_\_\_\_

It's: \_\_\_\_\_

  
David Baucom

**OTHER ATTENDEES, IF ANY:**

\_\_\_\_\_  
\_\_\_\_\_

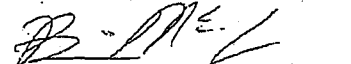
**ATTORNEYS FOR PLAINTIFFS:**

Pendleton and Pendleton

BY:   
G. Franklin Pendleton, II

**ATTORNEYS FOR DEFENDANTS:**

McCoy Law Firm, LLC

BY:   
Brian S. McCoy

**MEDIATOR:**

  
Terry B. Millar

Memorandum of Settlement 10/7/14  
Exh. A

with LLCs and David Brown.

1. Defendants, will execute in favor of Plaintiffs Sparrow and Crowe a contingent confession of Judgment for the amount of (A) \$1,356,752.10 which represents the principal and interest on the two original notes and ~~notes~~ (B) the taxes (and prouty) on the two parcels (which will be paid by Plaintiff Sparrow of 70,595.46, will be added to the judgment amount (A); hereafter, the combined A+B amount will bear interest at 273.74 per diem until paid.
2. The confession in Para 1 will remain confidential until the elapse of one year from 10/7/14 or until the sale of the properties resulting in a deficiency, in which case the judgment will ~~not~~ be reduced by the proceeds of the sale paid to Plaintiffs.
3. If sale of properties result in excess proceeds over the judgment + interest due, the Defendants will retain any such proceeds.
4. Plaintiffs will release the mortgages on the two parcels at or before the closing of any bona fide sale by the Defendants.
5. Counsel will prepare more formal settlement documents and the contingent confession, whereupon upon vacation by all parties, the two lawsuits 46-00438, and 46-00440, will be dismissed.

- con't on p. 2

BM  
CBA  
QB

P2. Memo. of Settlement 10/7/14

Robert Ely Sparrow  
Robert Ely Sparrow  
date:

David Bauman

Wesley Crowe By Robert Ely Sparrow  
Wesley Crowe  
by R. Ely Sparrow, Atty in fact.  
date:

Brian S. McCray  
AIF atty for D & F  
date:

G. Franklin Panklata, II  
atty for Plaintiff  
date:

Fort Mill Holdings, LLC  
by Tracy G. Gino, manager  
date: 10/7/14

Tracy B. Miller  
mediator

Tracy G. Gino  
Mancos Holdings, LLC.  
by Tracy G. Gino, manager  
date: 10/7/14

David Bauman

Tracy G. Gino

EXHIBIT 6

AFFIDAVIT OF DAVID BAUCOM

YORK COUNTY  
TAX COLLECTOR  
1070 HECKLE BLVD SUITE 101  
ROCK HILL, SC 29732  
803-909-7272

DATE: DECEMBER 11, 2015

TO: FORT MILL HOLDINGS LLC

8001 N TRYON STREET

CHARLOTTE N C 28262

FROM: ROBERT N. KISER  
YORK COUNTY TAX COLLECTOR

RE: SALE OF PROPERTY FOR DELINQUENT TAXES

MAP # 721-00-00-035 DISTRICT 4FH

ITEM# 15-02219

3490 HIGHWAY

HWY 51 LOT 9-H

3490 HWY 51

This letter is to advise you that the property listed above was sold at public auction for delinquent taxes on NOVEMBER 16, 2015. Section 12-51-90 of the South Carolina Code of Laws provides that the defaulting taxpayer, any grantee from the owner or any mortgage or judgement creditor may redeem the above property within (12) months from the date of the delinquent tax sale by paying to this office delinquent taxes, penalties, and costs together with the appropriate percent of interest on the total bid price at the tax sale. If you wish to redeem the above described property, the redemption amount will be as listed below:

|                      |                                                 |
|----------------------|-------------------------------------------------|
| \$ <u>65,217.25</u>  | (03%) due on or before <u>FEBRUARY 17, 2016</u> |
| \$ <u>83,517.25</u>  | (06%) due on or before <u>MAY 17, 2016</u>      |
| \$ <u>101,817.25</u> | (09%) due on or before <u>AUGUST 17, 2016</u>   |
| \$ <u>117,073.88</u> | (12%) due on or before <u>NOVEMBER 17, 2016</u> |

FINAL DATE TO REDEEM THE ABOVE PROPERTY IS ON/BEFORE NOVEMBER 17, 2016 !!!

If you fail to redeem the property by said date, a tax deed will be issued to the successful bidder. No Checks!!! Money Order, Cashiers Check, or Cash Only.

|                                       |   |                              |
|---------------------------------------|---|------------------------------|
| STATE OF SOUTH CAROLINA               | ) | IN THE COURT OF COMMON PLEAS |
|                                       | ) |                              |
| COUNTY OF YORK                        | ) | SIXTEENTH JUDICIAL CIRCUIT   |
|                                       | ) |                              |
| Robert Clay Sparrow and Mickey Crowe, | ) | C.A. NO.: 2013-CP-46-00440   |
|                                       | ) |                              |
| Plaintiffs,                           | ) |                              |
|                                       | ) |                              |
| vs.                                   | ) | AFFIDAVIT OF TRACY GOINS     |
|                                       | ) |                              |
| Maurer Holdings, LLC and              | ) |                              |
| David Baucom,                         | ) |                              |
|                                       | ) |                              |
| Defendants.                           | ) |                              |

PERSONALLY APPEARING BEFORE ME the undersigned, who after being duly sworn, deposes and states as follows:

1. My name is Tracy Goins, and I am and was at all relevant times a citizen and resident of North Carolina. I am over the age of eighteen, have personal knowledge of the matters set forth herein (except matters stated upon information and belief, which I believe to be true), and am fully competent to testify as to the same.
2. The above-captioned matter and a related case, Robert Clay Sparrow and Mickey Crowe v. Fort Mill Holdings, LLC and David Baucom, C.A. No. 2013-CP-46-00438, pertain to the foreclosure of two parcels of real property in York County, South Carolina ("Subject Property") and collection on two North Carolina purchase money promissory notes. A copy of the purchase money note for Maurer Holdings, LLC is attached as Exhibit 1.
3. For approximately twelve years prior to Maurer Holdings and Fort Mill Holdings purchasing the Subject Property, my father, David Baucom, leased the Subject Property.
4. Clay Sparrow and my father negotiated a purchase of the Subject Property. Mr. Sparrow had his attorney, Jeff Smith, draft the documents.
5. Mr. Smith formed two North Carolina entities – Fort Mill Holdings, LLC and Maurer Holdings, LLC – to each own one of the two parcels that formed the Subject Property.
6. Upon information and belief, Mr. Smith was licensed to practice law in North Carolina but not in South Carolina.
7. My father and I attended the closing in Charlotte, North Carolina, and upon request of Sparrow's attorney, we signed any documents related to the transaction that he presented to us. The closing took place on or about December 1, 2011.



8. My father and I attended the closing in Charlotte, North Carolina, and upon request of Sparrow's attorney, we signed any documents related to the transaction that he presented to us. The closing took place on or about December 1, 2011.
9. I was always under the belief that if the payments were not made that Sparrow would accept a return of the property and that no deficiency could be sought against Fort Mill Holdings, LLC or my father. We only made full payments through May 2012.
10. On Friday, September 28, 2012 I was contacted via email by Jeff Smith. A fair and accurate copy of said email is attached as Exhibit 2. In the email, Mr. Smith requested, on Mr. Sparrow's behalf, that the property be deeded back to Sparrow in lieu of foreclosure.
11. I consulted with my father regarding the situation and he instructed me to notify Mr. Smith that we would sign the property back over to Sparrow. A fair and accurate copy of the email thread is attached as Exhibit 3.
12. On October 2, 2012, I notified Mr. Smith that the property would be deeded back and requested that he let me know what needed to be done.
13. On November 6, 2012, Mr. Smith notified me that Mr. Sparrow wanted to make sure he was able to extinguish any potential liens on the property so he would proceed with a foreclosure to make sure any liens were extinguished. A fair and accurate copy of said email is attached as Exhibit 4.
14. On February 8, 2013, Plaintiffs filed this action.
15. On October 7, 2014, a mediation was held, but I did not attend.
16. I do not recall signing the "Settlement by Mediation" document attached as Exhibit 5.
17. It is my understanding that Clay Sparrow's attorney recently provided Fort Mill Holdings' attorney, Paul Landis, with the document attached as Exhibit 6. I also do not have an independent recollection of signing Exhibit A to that document, but it does appear to contain my signature in two locations.
18. To the best of my knowledge, I would have signed after the mediation concluded.
19. I was not aware until after I signed that North Carolina prohibits deficiency judgments or enforcement of personal guaranties in seller-financed transactions. If I had known that prior to signing Exhibit 6, I would not have signed.
20. I respectfully request that the Court allow the case to go forward on the merits and that the Court deny Plaintiffs' Motion to Compel Settlement.

Tracy Goins  
Tracy Goins

SWORN TO AND SUBSCRIBED before me  
this 21<sup>st</sup> day of March, 2016

Laura A Campbell  
Notary Public for the  
State of North Carolina

My commission expires: 7/24/16

LAURA A. CAMPBELL  
NOTARY PUBLIC  
Mecklenburg County  
North Carolina  
My Commission Expires July 24, 2016

EXHIBIT 1

AFFIDAVIT OF TRACY GOINS

SATISFACTION: The debt evidenced by this  
Note has been satisfied in full this  
\_\_\_\_ day of \_\_\_\_\_

Signed: \_\_\_\_\_

## PURCHASE MONEY PROMISSORY NOTE

\$284,500.00

Charlotte, N.C.  
December 1, 2011

FOR VALUE RECEIVED the undersigned, jointly and severally, promise to pay to Robert Clay Sparrow and Mickey Crowe, or order, the principal sum of TWO HUNDRED EIGHTY FOUR THOUSAND FIVE HUNDRED DOLLARS (\$284,500.00), with interest from December 1, 2011, at the rate of SEVEN per cent (7%) per annum on the unpaid balance until paid or until default, both principal and interest payable in lawful money of the United States of America, at the office of Robert Clay Sparrow, 142 Stoney Point Drive, Blacksburg, SC 29702, or at such place as the legal holder hereof may designate in writing. The principal and interest shall be due and payable as follows:

In 240 consecutive and equal payments of \$2,205.73 each commencing January 1, 2012 and continuing to become due on the first day of each month thereafter until December 1, 2031 when all remaining amounts due hereunder shall be due and payable in full, all as shown on the attached amortization schedule.

All amounts of both principal and interest due hereunder shall be paid in full on or before December 1, 2031.

If payable in installments, each such installment shall, unless otherwise provided, be applied first to payment of interest then accrued and due on the unpaid principal balance, with the remainder applied to the unpaid principal.

Unless otherwise provided, this Note may be prepaid in full or in part at any time without penalty or premium. Partial payments shall be applied to installments due in reverse order of their maturity.

In the event of (a) default in payment of any installment of principal or interest hereof as the same becomes due and such default is not cured within ten (10) days from the due date, or (b) default under the terms of any instrument securing this Note, and such default is not cured within fifteen (15) days after written notice to maker, then in either such event the holder may without further notice, declare the remainder of the principal sum, together with all interest accrued thereon and, the prepayment premium, if any, at once due and payable. Failure to exercise this option shall not constitute a waiver of the right to exercise the same at any other time. The unpaid principal of this Note and any part thereof, accrued interest and all other sums due under this Note and the Deed of Trust or Mortgage, if any, shall bear interest at the rate of Fifteen per cent (15%) per annum after default until paid.

All parties to this Note, including maker and any sureties, endorsers, or guarantors hereby waive protest, presentment, notice of dishonor, and notice of acceleration of maturity and agree to continue to remain bound for the payment of principal, interest and all other sums due under this Note and the Deed of Trust or Mortgage notwithstanding any change or changes by way of release, surrender, exchange, modification or substitution of any security for this Note or by way of any extension or extensions of time for the payment of principal and interest; and all such parties waive all and every kind of notice of such change or changes and agree that the same may be made without notice or consent of any of them.

Upon default the holder of this Note may employ an attorney to enforce the holder's rights and remedies, and the maker, principal, surety, guarantor and endorsers of this Note hereby agree to pay to the holder reasonable attorneys fees not exceeding a sum equal to fifteen percent (15%) of the outstanding balance owing on said Note, plus all other reasonable expenses incurred by the holder in exercising any of the holder's rights and remedies upon default. The rights and remedies of the holder as provided in this Note and any instrument securing this Note shall be cumulative and may be pursued singly, successively, or together against the property described in the Deed of Trust or Mortgage or any other funds, property or security held by the holder for payment or security, in the sole discretion of the holder. The failure to exercise any such right or remedy shall not be a waiver or release of such rights or remedies or the right to exercise any of them at another time.

This Note is to be governed and construed in accordance with the laws of the State of North Carolina.

This Note is given for the balance of purchase price for the property located off Highway 51, Fort Mill, SC, and is secured by a Purchase Money Mortgage or Deed of Trust or Mortgage, which is a first lien upon said property.

IN TESTIMONY WHEREOF, the corporate maker has caused this instrument to be executed in its corporate name by its Manager, by the authority duly given by its managers and members. the day and year first above written.

Maurer Holdings, LLC

By: Tracy Gault  
Tracy Gault, Manager

IN TESTIMONY WHEREOF, each individual maker or guarantor has hereunto set his hand and adopted as his seal the word "SEAL" appearing beside his name, the day and year first above written.

B

L

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C

K

I

N

K

O

N

David Baucom (SEAL)  
David Baucom, Guarantor

**EXHIBIT 2**

**AFFIDAVIT OF TRACY GOINS**

Tracy Goins

---

From: <jsmithlaw@bellsouth.net>  
Date: Friday, September 28, 2012 4:17 PM  
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9/9/2014

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The loan agreement is in default due to the failure to pay property taxes, maintain insurance and to make the payments required under the promissory notes.

David signed the notes as a personal guarantor and is personally liable for any damages to the building and for any losses resulting from his abandoning the property.

Please pass this along to David and ask him to contact either Clay or me to discuss this matter.

Clay would like to avoid foreclosure of the mortgages and wants to know if David will deed the property back to him.

Jeff Smith  
704-331-0131

9/9/2014

**EXHIBIT 5**

**AFFIDAVIT OF TRACY GOINS**

STATE OF SOUTH CAROLINA

COUNTY OF YORK

Robert Clay Sparrow and Mickey Crowe,

Plaintiffs

vs

Fort Mill Holdings, LLC and David Baucom,

Defendants

COURT OF COMMON PLEAS

SIXTEENTH JUDICIAL CIRCUIT

CASE NO. 2013-CP-46-00438

and 2013CP-46-00440

SETTLEMENT BY MEDIATION

This case is settled upon the following terms:

1. The memorandum of settlement attached

hereto dated 10/7/14, ~~is~~ marked exhibit "A"

and signed by the parties

2. \_\_\_\_\_

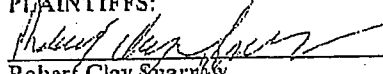
3. \_\_\_\_\_

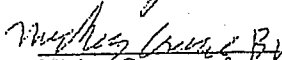
4. Further, Plaintiffs will consent to and counsel will execute a dismissal, with prejudice, of the referenced action, upon execution of formal documents.

5. Neither this settlement nor any of its terms shall constitute an admission by any party.

By our signatures below, we hereby agree to and accept the terms of settlement as set forth above this 7th day of October 2014.

PLAINTIFFS:

  
Robert Clay Sparrow

  
Mickey Crowe

DEFENDANTS:

Fort Mill Holdings, LLC

BY: \_\_\_\_\_

It's: \_\_\_\_\_

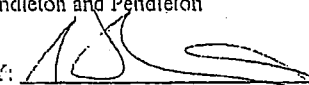
  
David Baucom

OTHER ATTENDEES, IF ANY:

\_\_\_\_\_  
\_\_\_\_\_

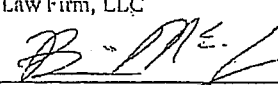
ATTORNEYS FOR PLAINTIFFS:

Pendleton and Pendleton

BY:   
G. Franklin Pendleton, II

ATTORNEYS FOR DEFENDANTS:

McCoy Law Firm, LLC

BY:   
Brian S. McCoy

MEDIATOR:

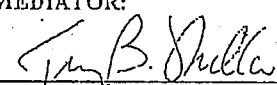
  
Terry B. Millar

EXHIBIT 6

AFFIDAVIT OF TRACY GOINS



STATE OF SOUTH CAROLINA

COUNTY OF YORK

Robert Clay Sparrow and Mickey Crowe,

Plaintiffs

vs

Fort Mill Holdings, LLC and David Baucom,

Defendants

COURT OF COMMON PLEAS

SIXTEENTH JUDICIAL CIRCUIT

CASE NO. 2013-CP-46-00438

and 2013CP-46-00440

SETTLEMENT BY MEDIATION

This case is settled upon the following terms:

1. The memorandum of settlement attached  
hereto dated 10/7/14, ~~RE~~ marked exhibit "A"  
and signed by the parties

2. \_\_\_\_\_

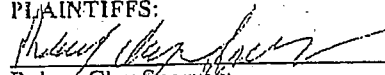
3. \_\_\_\_\_

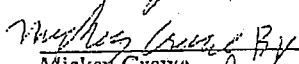
4. Further, Plaintiffs will consent to and counsel will execute a dismissal, with prejudice,  
of the referenced action. upon execution of formal documents.

5. Neither this settlement nor any of its terms shall constitute an admission by any party.

By our signatures below, we hereby agree to and accept the terms of settlement as set forth above this 7th day of October 2014.

PLAINTIFFS:

  
Robert Clay Sparrow

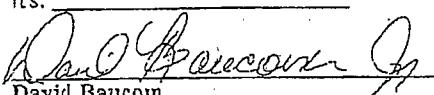
  
Mickey Crowe

DEFENDANTS:

Fort Mill Holdings, LLC

BY: \_\_\_\_\_

It's: \_\_\_\_\_

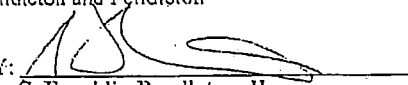
  
David Baucom

OTHER ATTENDEES, IF ANY:

\_\_\_\_\_  
\_\_\_\_\_

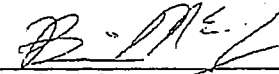
ATTORNEYS FOR PLAINTIFFS:

Pendleton and Pendleton

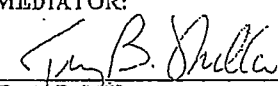
BY:   
G. Franklin Pendleton, II

ATTORNEYS FOR DEFENDANTS:

McCoy Law Firm, LLC

BY:   
Brian S. McCoy

MEDIATOR:

  
Terry B. Millar

Memorandum of Settlement 10/7/14  
Exh. A

, both LLCs and David Brinson.

1. Defendants, will execute in favor of Plaintiffs Sparrow and Crowe a contingent confession of Judgment for the amount of (A) \$1,356,752.10 which represents the principal and interest on the two original notes and ~~notes~~ (B) @ 7% interest through 10/7/14; plus, (B) the taxes (and property) on the two parcels (which will be paid by Plaintiff Sparrow of 70,595.46, will be added to the judgment amount (A); hereafter, the combined A+B amount will bear interest at \$273.74 per diem until paid.
2. The confession in Para 1 will remain unpaid until the elapse of one year from 10/7/14 or until the sale of the properties resulting in a deficiency, in which case the judgment will ~~give~~ be reduced by the proceeds of the sale paid to Plaintiffs.
3. If sale of properties result in excess proceeds over the judgment + interest due, the Defendants will retain any such proceeds.
4. Plaintiffs will release the mortgages on the two parcels at or before the closing of any lawful sale by the Defendants.
5. Counsel will prepare more formal settlement documents and the contingent confession, whereupon upon execution by all parties, the two lawsuits 46-00438, and 46-00440, will be dismissed.

- con't on p. 2

BM  
BNA  
JP

p2. Memo. of Settlement 10/7/14

Robert City Sparrow  
Robert City Sparrow  
date:

David Bauman

Wesley Crowe By Robert City Sparrow  
Wesley Crowe  
by Robert City Sparrow, Attorney  
date:

Brian S. McCray  
A/F acting for D/F  
date:

G. Franklin Pendergast, Jr.  
G. Franklin Pendergast, Jr.  
attorney for Plaintiff  
date:

Fort Mill Holdings, LLC  
by Tracy Gorman, Manager  
date: 10/7/14

Tracy Gorman  
mediator

Tracy Gorman  
Manager Holdings, LLC  
by Tracy Gorman, Manager  
date: 10/7/14

David Bauman

Tracy Gorman

STATE OF SOUTH CAROLINA  
COUNTY OF YORK

)  
)  
)

IN THE COURT OF COMMON PLEAS  
SIXTEENTH JUDICIAL CIRCUIT

Robert Clay Sparrow and  
Mickey Crowe,

Plaintiffs,

v.

Fort Mill Holdings, LLC, and  
David Baucom,

Defendants.

Civil Case Nos. 2013-CP-46-00438

STATE OF SOUTH CAROLINA  
COUNTY OF YORK

)  
)  
)

IN THE COURT OF COMMON PLEAS  
SIXTEENTH JUDICIAL CIRCUIT

Robert Clay Sparrow and  
Mickey Crowe,

Plaintiffs,

v.

Maurer Holdings, LLC, and  
David Baucom,

Defendants.

Civil Case Nos. 2013-CP-46-00440

Plaintiffs Robert Clay Sparrow and Mickey Crowe ("Plaintiffs") hereby file their joint Memorandum in Support of Plaintiffs' Motion to Compel Settlement with the Defendants in the above-captioned actions. The parties and their counsel voluntarily entered into and executed a settlement agreement in which Defendants agreed to confess judgment in favor of the Plaintiffs to secure payment of a debt owed by Defendants to Plaintiffs on two promissory notes and Plaintiffs agreed to forgo filing the confession of judgment for a year so as to enable the Defendants an opportunity to repay the debt owed to Plaintiffs. Despite the unambiguous terms of the agreement and the passage of a year without repayment of the promissory notes, Defendants have failed to and continue to refuse to confess judgment in favor of the Plaintiffs in the amount owed per the terms of the settlement agreement. Accordingly, Plaintiffs move this

Court for an Order enforcing the terms of the settlement agreement and entering judgment in favor of Plaintiffs in the amount of \$1,427,347.56 plus interest of \$273.74 per day from October 7, 2017 until paid in full under the terms of the settlement agreement.

#### FACTUAL STATEMENT & PROCEDURAL HISTORY

On December 1, 2011, Plaintiffs sold separate parcels of land to the above-named Defendants. Defendant Fort Mill Holdings, LLC executed a promissory note to Plaintiffs in the sum of \$907,300.00 in exchange for certain property secured by the purchase money mortgage recorded December 30, 2011, in Record Book 12360, Page 239, RMC Office for York County, South Carolina (hereinafter "Note 1"). 438 Ver. Compl., ¶¶ 8-10, attached hereto as **Exhibit 1**. Defendant Maurer Holdings, LLC executed a promissory note to Plaintiff in the sum of \$284,500.00 in exchange for certain property secured by the purchase money mortgage recorded December 30, 2011, in Record Book 12360, Page 230, RMC Office for York County, South Carolina (hereinafter "Note 2"). 440 Ver. Compl., ¶¶ 8-10, attached hereto as **Exhibit 2**.<sup>1</sup> Defendant David Baucom executed Note 1 and Note 2 (hereinafter the "Notes") as guarantor. See 438 & 440 Ver. Compls., Ex. A. The sum of the Notes bore an interest rate of 7% per annum until paid or until default. Id. In the event of default, the Notes accrued interest at a rate of 15% per annum until paid. Id.

Defendants made timely payments to Plaintiffs on the Notes through May 1, 2012. Exs. 1 & 2, ¶ 13. Defendants made partial payments of one-half the monthly amount due for the installments due the first day of June, July, and August 2012 and were therefore in default on the Notes. Id. Plaintiffs thereafter notified Defendants Fort Mill Holdings, LLC and Maurer Holdings, LLC (hereinafter the "Corporate Defendants") of Plaintiffs' election to demand

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<sup>1</sup> Each complaint was filed with the following additional documents: Lis Pendens, Summons, Certificate of Exemption from ADR, Affidavit of Home Affordable Modification Program, and Certificate of Exemption from Administrative Order. However, to limit the size of Exhibits 1 and 2, only the complaints and exhibits thereto have been included.

immediate payment of the principal amount remaining on the Notes as of August 1, 2012, with applicable interest. Id. Plaintiffs' also demanded the same from Defendant Baucom as personal guarantor for the Notes. Id. ¶ 22. As a result of Defendants' failure to pay Plaintiffs' demands on the Notes, Plaintiffs filed the above-captioned actions on February 8, 2013, seeking judgment against the Defendants and foreclosure in the amounts due and owing to Plaintiffs under the Notes, together with taxes and insurance premiums, and costs and attorneys fees. See Id. ¶¶ 14-16, 23-24.

In response, Defendants filed a Motion to Dismiss Defendant Baucom, Answer and Counterclaims in the above-captioned actions. See 438 Defs. Mot. to Dismiss, Ans. & CC, attached hereto as Exhibit 3; 440 Defs. Mot. to Dismiss, Ans. & CC, attached hereto as Exhibit 4. Defendants sought dismissal of Plaintiffs' claims against Defendant Baucom on the grounds his liability under the Notes was contingent and therefore, until Plaintiff pled and inability to obtain the recovery from the Corporate Defendants, a claim had not been made against him. See Exs. 3 & 4, at p. 1. The Corporate Defendants denied the allegations of Plaintiffs' Complaints and asserted counterclaims against the Plaintiffs for breach of contract, breach of contract accompanied by a fraudulent act, unclean hands and invalid note and mortgage, unfair trade practices and negligent misrepresentation. Id. at pp. 5-8 ¶¶ 3-26. Notably, Defendants asserted Plaintiffs' breach a contract between the parties in which Plaintiffs, in the event of default by Defendants, would accept return of the properties from Defendants as cancellation of the debts and forgo filing a deficiency judgment against Defendants. Id. at pp. 3-4 ¶¶ 2, 5, 7; pp. 5-8 ¶¶ 1, 4-5. Additionally, Defendants' closing attorney was not licensed in South Carolina and therefore, Defendants asserted Plaintiffs' North Carolina counsel engaged in the authorized practice of law as a result of the transaction. Id. pp. 5-8 ¶¶ 2, 13-15. Based on these counterclaims, Defendants sought actual, punitive and treble damages from the Plaintiffs', as well as cancellation of the Notes and mortgage, and costs and attorneys' fees. Id. at p. 8.

Plaintiffs' answered the counterclaims denying ever having a written or oral contract with the Defendants and denying knowledge that the counsel chosen by Defendants to close on the properties and prepare the Notes was not licensed in South Carolina. See 438 Pls.' Am. Reply at pp. 2-3, attached hereto as **Exhibit 5**; 440 Pls.' Am. Reply at pp. 2-3, attached hereto as **Exhibit 6**. Prior to the present actions reaching trial, the parties and counsel all participated in mediation on October 7, 2014 and reached an agreement to settle all parties' then pending claims. G. Franklin Pendleton, II Aff., ¶¶ 3-4, attached hereto as **Exhibit 7**. Pursuant to the terms of the settlement agreement, Plaintiffs agreed to pay the outstanding real estate taxes on the property so that the property would not be sold at a tax sale and the Defendants agreed to execute a contingent confession of judgment in favor of the Plaintiffs as follows: (1) Principle and Interest under the Notes for \$1,356,752.10 (at 7% interest through October 7, 2014); (2) Real Property Taxes of \$70,595.46; and (3) the combined amount of (1) & (2) bore interest at a rate of \$273.74 per diem until Defendants paid Plaintiffs in full. Id. at Ex. A. Plaintiffs agreed not to file the confession of judgment by Defendants until the earlier of October 7, 2015 or until the sale of the properties by the Defendants resulted in a deficiency – in which case the confession of judgment would be reduced by the proceeds of the sales paid to Plaintiffs. Id. If the sale of the properties resulted in excess proceeds over the judgment, the excess belonged to the Defendants. Id. Additionally, Plaintiffs would release the mortgages on the two properties prior to closing of any bonafide sale of the property by the Defendants. Id. The settlement agreement was signed on October 7, 2014 by all parties, the parties' counsel, and the mediator.<sup>2</sup> Id.

Plaintiff Sparrow in reliance on the settlement agreement paid the outstanding real estate taxes of \$70,595.46. However Defendants and not sold the property and have refused to execute

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<sup>2</sup> On October 1, 2014, for value received, Plaintiff Crowe assigned his interests in the Notes and mortgages securing the same to Plaintiff Sparrow; thus, Sparrow executed the settlement agreement on behalf of Plaintiff Crowe. See Assignment of Mtgs., attached hereto as **Exhibit 8**.



a confession of judgment as required by the terms of the settlement agreement. Furthermore, the property has since been sold by the York County tax auditor for subsequent unpaid property taxes that accrued after the settlement agreement was reached. Accordingly, Plaintiffs filed the instant motion seeking to compel Defendants' compliance with the settlement agreement.

#### STANDARD OF REVIEW

In South Carolina, settlement agreements are viewed as contracts and a settlement to which all parties agree is valid and binding. Pee Dee Stores, Inc. v. Doyle, 672 S.E.2d 799, 802-803 (S.C. Ct. App. 2009); see 6 S.C. Jur. Compromise & Settlement §19. Where the terms of a settlement agreement are not ambiguous, the Court has the inherent authority to enforce a settlement agreement reached between parties. Id. "Absent fraud or mistake, where attorneys of record for a party agree to settle a case, the party cannot later repudiate the settlement." Shelton v. Bressant, 439 S.E.2d 833, 834 (S.C. 1993) (quoting Arnold v. Yarborough, 316 S.E.2d 416, 417 (S.C. Ct. App. 1984)); see Petty v. Timken Corp., 849 F.2d 130 (4th Cir. 1988) ("Unless the resulting settlement is substantially unfair, judicial economy commands that a party be held to the terms of a voluntary agreement.") Furthermore, when a litigant voluntarily accepts an offer of settlement the integrity of the settlement cannot be attacked on the basis of inadequate representation by the litigants attorney. In such cases, any remaining dispute is purely between the party and his attorney. Petty v. Timken Corp., 849 F.2d 130,133 (4<sup>th</sup> Cir. 1988).

#### ARGUMENT

The Court should enforce the terms of the settlement agreement because its terms are unambiguous. Additionally, the agreement was not a product of fraud and was reduced to writing and signed by all parties and their counsel as required by Rule 43(k), S.C.R.Civ.P. Therefore, the Court should grant Plaintiffs' Motion to Enforce the Settlement Agreement.

The terms of the settlement agreement are not ambiguous. Rather, it is abundantly clear from the face of the agreement that the parties agreed that Defendants' would execute a confession of judgment in favor of Plaintiffs in a specified amount, accruing a specified rate of interest until the debts were repaid. See Ex. 7. Plaintiffs agreed the confession of judgment would remain unfiled for one year, until October 7, 2015. Id. at Ex. A. If during the year, Defendants were able to sell the properties and repay Plaintiffs the amount owed, Plaintiffs would forgo filing the judgment. Id. However, if the Defendants were unable to repay Plaintiffs \$1,427,347.56, with interest, prior to October 7, 2015, then Plaintiffs were entitled to file the confession of judgment. Id. Given the clarity of the terms of the settlement agreement, the Court should enforce the same. See Pee Dee Stores, Inc., 672 S.E.2d at 802-803.

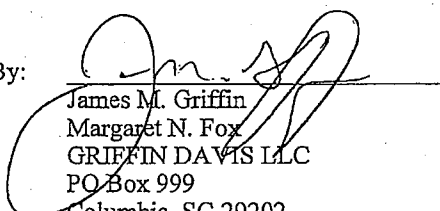
Additionally, there is no evidence of fraud or mistake inducing Defendants to enter into the settlement agreement. See Shelton, 672 S.E.2d at 802-803 (S.C. Ct. App. 2009). Rather, the fact that Plaintiffs, Defendants, and their counsel were present at the mediation, participated in the mediation, and voluntarily executed the settlement agreement illustrates that all parties were apprised of the terms of the agreement when it was executed. Ex. 7, ¶¶ 3-5. Furthermore, Defendants cannot argue that it would be substantially unfair to the Defendants for the Court to enforce the settlement agreement. See Petty 849 F.2d at 133. To the contrary, it would be substantially unfair to Plaintiffs if the settlement agreement were not enforced. As set forth in the mortgages on the properties, Defendants were responsible for paying all property taxes on the mortgaged properties. See Exs. 1 & 2, ¶ 12 & Ex. B. In the event Defendants failed to timely pay the same, and Plaintiffs' incurred the expense, such monies were also secured by the mortgages. Id. at Ex. B. As part of the settlement agreement, Plaintiffs agreed to pay \$70,595.46 in property taxes owed by Defendants on the properties in exchange for Defendants' agreement to abide by the terms of the settlement agreement. See Ex. 7 at Ex. A. Following Defendants' execution of the settlement agreement and in reliance on its terms, Plaintiffs paid

the taxes. However, Defendants refused and continue to refuse to sign the confession of judgment that was the critical component in Plaintiffs' acceptance to the terms of the settlement agreement. Ex. 7, ¶ 7.

As the terms of the settlement agreement are not ambiguous, there is no evidence that substantial injustice would occur to Defendants in enforcing the agreement, and the agreement complies with Rule 43(k), the Court should summarily enforce the settlement agreement.

#### CONCLUSION

Based on the foregoing, Plaintiffs request the Court enforce the terms of the settlement agreement and enter judgment in favor of Plaintiffs in the amount of \$1,427,347.56 plus interest of \$273.74 per day from October 7, 2017 until paid in full under the terms of the settlement agreement.

By: 

James M. Griffin  
Margaret N. Fox  
GRIFFIN DAVIS LLC  
PO Box 999  
Columbia, SC 29202  
803.744.0800  
jgriffin@griffindavislaw.com  
mfox@griffindavislaw.com

Attorneys for Plaintiffs

March 22, 2016  
Columbia, South Carolina

## Exhibit 1

STATE OF SOUTH CAROLINA

COUNTY OF YORK

Robert Clay Sparrow and Mickey Crowe,

Plaintiff(s)

vs.

Fort MH Holdings, LLC, and David Baucom

Defendant(s)

IN THE COURT OF COMMON PLEAS

CIVIL ACTION COVERSHEET

DAVID HAMILTON  
CLERK, C.P. & G.S.  
YORK COUNTY, SC

2013 - CP - 46 - 00138

(Please Print)

Submitted By: G. Franklin Pendleton, II  
Address: 103 Kings Mountain Street

Clover, S.C. 29710

SC Bar #:

4406

Telephone #:

803-222-3026

Fax #:

803-222-3027

Other:

E-mail:

pplaw@bellsouth.net

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

DOCKETING INFORMATION (Check all that apply)

\*If Action Is Judgment/Settlement do not complete

- ☐ JURY TRIAL demanded in complaint. ☒ NON-JURY TRIAL demanded in complaint.  
☐ This case is subject to ARBITRATION pursuant to the Circuit Court Alternative Dispute Resolution Rules.  
☐ This case is subject to MEDIATION pursuant to the Circuit Court Alternative Dispute Resolution Rules.  
☒ This case is exempt from ADR (certificate attached).

NATURE OF ACTION (Check One Box Below)

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

Submitting Party Signature: 

Date: 1/31/13

Note: Frivolous civil proceedings may be subject to sanctions pursuant to SCRCP, Rule 11, and the South Carolina Frivolous Civil Proceedings Sanctions Act, S.C. Code Ann. §15-36-10 et. seq.

**FOR MANDATED ADR COUNTIES ONLY**

Florence, Horry, Lexington, Richland, Greenville\*\*, and Anderson\*\*

\*\* Contact Respective County Clerk of Court for modified ADR Program Rules

**SUPREME COURT RULES REQUIRE THE SUBMISSION OF ALL CIVIL CASES TO AN ALTERNATIVE DISPUTE RESOLUTION PROCESS, UNLESS OTHERWISE EXEMPT.**

**You are required to take the following action(s):**

1. The parties shall select a neutral within 210 days of filing of this action, and the Plaintiff shall file a "Stipulation of Neutral Selection" on or before the 224<sup>th</sup> day after the filing of the action. If the parties cannot agree upon the selection of the neutral within 210 days, the Plaintiff shall notify the Court by filing a written "Request for the Appointment of a Neutral" on or before the 224<sup>th</sup> day after the filing of this action. The Court shall then appoint a neutral from the Court-approved mediator/arbitrator list.
2. The initial ADR conference must be held within 300 days after the filing of the action.
3. Cases are exempt from ADR only upon the following grounds:
  - a. Special proceeding, or actions seeking extraordinary relief such as mandamus, habeas corpus, or prohibition;
  - b. Cases which are appellate in nature such as appeals or writs of certiorari;
  - c. Post Conviction relief matters;
  - d. Contempt of Court proceedings;
  - e. Forfeiture proceedings brought by the State;
  - f. Cases involving mortgage foreclosures; and
  - g. Cases that have been submitted to mediation with a certified mediator prior to the filing of this action.
4. Motion of a party to be exempt from payment of neutral fees due to indigency should be filed with the Court within ten (10) days after the ADR conference had been concluded.

**Please Note: You must comply with the Supreme Court Rules regarding ADR.  
Failure to do so may affect your case or may result in sanctions.**

STATE OF SOUTH CAROLINA )  
COUNTY OF YORK )

IN THE COURT OF COMMON PLEAS  
SIXTEENTH JUDICIAL CIRCUIT

Robert Clay Sparrow and )  
Mickey Crowe, )

Plaintiffs, )

-vs- )

Fort Mill Holdings, LLC, and )  
David Baucom, )

Defendants. )

S U M M O N S  
(Suit on Note)  
(Foreclosure of Mortgage)  
(Deficiency Judgment Demanded)  
(Breach of Guaranty Agreement)  
(Non-Jury)

2013-CP46- 00738

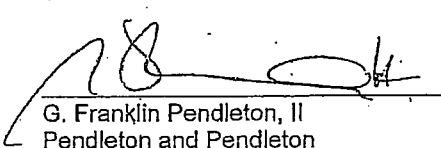
FILED-RECEIVED  
2013 FEB - 8 PM 4:22  
DAVID HAMILTON  
C.C.P. & S.  
YORK COUNTY, SC

TO THE DEFENDANTS ABOVE NAMED:

You are required to answer the Complaint in this action and to serve a copy of your answer on the subscriber of this Summons at 103 Kings Mountain Street, Clover, South Carolina, within thirty (30) days after service of this Summons, exclusive of the day of service. If you fail to answer the Complaint within thirty (30) days after service of this Summons, judgment will be granted against you by default for the relief demanded in the Complaint.

Clover, South Carolina

January 31, 2013

  
G. Franklin Pendleton, II  
Pendleton and Pendleton  
Attorneys for Plaintiff  
103 Kings Mountain Street  
P. O. Box 399  
Clover, South Carolina 29710  
(803) 222-3026  
(803) 222-3027 - Facsimile

STATE OF SOUTH CAROLINA )  
COUNTY OF YORK )

IN THE COURT OF COMMON PLEAS  
SIXTEENTH JUDICIAL CIRCUIT

Robert Clay Sparrow and  
Mickey Crowe,

Plaintiffs,

vs.

Fort Mill Holdings, LLC, and  
David Baucom,

Defendants.

COMPLAINT  
(Suit on Note)  
(Foreclosure of Mortgage)  
(Deficiency Judgment Demanded)  
(Breach of Guaranty Agreement)  
(Non-Jury)

2013-CP46-00438

FILED-RECEIVED  
2013 FEB -8 PM 4:22  
DAVID HAMILTON  
C.C.P. & S.  
YORK COUNTY, SC

The Plaintiffs allege as follows:

PARTIES AND JURISDICTION

1. The Plaintiff, Robert Clay Sparrow, is a citizen and resident of Mecklenburg County, North Carolina, and the Plaintiff, Mickey Crowe, is a citizen and resident of York County, South Carolina.

2. The Defendant, Fort Mill Holdings, LLC, on information and belief, is a North Carolina limited liability company doing business in South Carolina.

3. The Defendant, David Baucom, on information and belief, is a citizen and resident of Mecklenburg County, North Carolina, and is not in the military service of the United States of America pursuant to the provisions of the Servicemembers Civil Relief Act (2003).

4. The Plaintiffs are the owners and holders of the mortgage covering real property, which is the subject of the foreclosure action herein, located in the County of York, State of South Carolina.

5. The Plaintiffs are the owners and holders of the note securing the mortgage



which is the subject of the foreclosure action herein, located in the County of York, State of South Carolina.

6. The Defendants named herein have an interest in the property that is the subject of this action.

FOR A FIRST CAUSE OF ACTION  
(Suit on Note)  
(Foreclosure of Mortgage)  
(Deficiency Judgment Demanded)

7. To the extent that they are not inconsistent, the allegations contained in the preceding paragraphs are repeated and re-alleged herein as if in verbatim.

8. On or about December 1, 2011, for value received, the Defendant, Fort Mill Holdings, LLC, by and through its Manager, Tracy Goins, executed and delivered to Plaintiffs a certain promissory note in the sum of \$907,300.00, together with interest thereon at seven (7%) percent per annum until paid or until default. After default, the promissory note accrues interest thereon at fifteen (15%) percent per annum until paid. The Defendant, David Baucom, executed the promissory note dated on or about December 1, 2011, as its guarantor. (See Exhibit A, attached hereto and made a part hereof.)

9. To secure the payment of the said note and debt, secured thereby, and in accordance with the terms and conditions thereof, on December 1, 2011, the Defendant, Fort Mill Holdings, LLC, by and through its Manager, Tracy Goins, executed and delivered to the Plaintiffs, their heirs and assigns, a mortgage covering the following described property:

All that certain piece, parcel or lot of land lying, being and situate on the southern side of S.C. Highway 51, and being shown and designated as Lot 9H on Plat of Property of Dynamic Properties, a Partnership, by John Quinn

Hall, dated April 24, 1984, being more particularly described according to said plat as follows: Beginning at an iron in the right of way for S.C. Highway 51, running thence with line of property of the Estate of W.B. Roddey, S. 13-33-26 E. 425.77 feet to a new iron; thence S. 79-40-15 W. 93.85 feet; thence running with line of property previously conveyed to Southern Utilities, Inc., N. 15-59-19 W. 427.17 feet to an iron in right of way for S.C. Highway 51, thence running in said right of way N. 79-40-25 E. 112 feet to the point of beginning. LESS AND EXCEPT that certain piece, parcel or log of land consisting of 0.05 acres which has been conveyed to the South Carolina Department of Transportation by Deed dated December 28, 1993, recorded in Record Book 1129 at Page 112, on November 4, 1994.

This is the identical property conveyed to Fort Mill Holdings, LLC, by deed recorded December 30, 2011, in Record Book 12360, Page 79, RMC Office for York County, South Carolina.

10. Thereafter the mortgage was recorded in the Office of the Clerk of Court for York County in Record Book 12360, at Page 239, on December 30, 2011. (See Exhibit B, attached hereto and made a part hereof.)

11. The mortgage constitutes a purchase money first mortgage lien on the subject property.

12. Pursuant to the terms of the mortgage, any sums paid by the Plaintiffs for inspecting and securing the subject property, for fire and other hazard insurance, taxes and assessments for the mortgaged premises, and any costs of collection, including reasonable attorney's fees, are secured by the mortgage.

13. The last full monthly payment of \$7,034.29 made by Defendant, Fort Mill Holdings, LLC, was for the installment due May 1, 2012. The Defendant, Fort Mill Holdings, LLC, made partial payments of one-half the monthly amount due for the installments due the first day of June, July, and August, 2012. The monthly installments due on said note and mortgage are in default since September 1, 2012, plus one-half of the installments not

paid on the first day of the months of June, July, and August, 2012. Demand for payment thereof has been made and the Plaintiffs, as the holders of the said note and mortgage, after providing all required notices, elect to, and do declare the entire balance of said indebtedness due and payable, and that there is due on said note and mortgage as of August 1, 2012, the principal sum of \$895,783.90, plus with interest at the rate of Seven (7%) percent per annum from August 1, 2012, through December 19, 2012, and interest at the rate of Fifteen (15%) percent per annum from December 20, 2012, and thereafter, and also for the costs and disbursements of this action, including reasonable attorney's fees not to exceed fifteen (15%) percent of the outstanding balance owing on said note.

14. Pursuant to Sections 37-3-105, South Carolina Code of Laws (1976 as amended), the mortgage lien, which is the subject of this action, is a first lien on real estate and is not a '*consumer loan*' for the purposes of the South Carolina Consumer Protection Code. Any notice of right to cure has been given as required.

15. The Plaintiffs specifically demand their right to a deficiency judgment against Defendant, Fort Mill Holdings, LLC, and further demand an immediate entry of judgment against Defendant, Fort Mill Holdings, LLC, pursuant to S.C. Code Ann. § 29-3-650.

16. Upon information and belief, certain costs for the preservation of the subject property may have been incurred by the Plaintiffs as a result of this delinquency, and Plaintiffs are informed and believe they are entitled to reimbursement for such charges, if any.

17. The Plaintiffs are not participating member of the Home Affordable Modification Program, and therefore the Plaintiffs are not subject to the restrictions and requirements of the Home Affordable Modification Program.

18. Further, since this foreclosure action involves a commercial note and mortgage, and the subject property, upon information and belief, is not owner-occupied by the Mortgagor, this foreclosure action is not subject to the provisions of the Administrative Order issued on May 2, 2011, by the honorable Jean H. Toal of The Supreme Court of South Carolina.

FOR A SECOND CAUSE OF ACTION AGAINST  
DEFENDANTS FORT MILL HOLDINGS, LLC,  
AND DAVID BAUCOM

19. To the extent that they are not inconsistent, the allegations contained in the preceding paragraphs are repeated and re-alleged herein as if in verbatim.

20. On or about December 1, 2011, Defendant, David Baucom, ("Guarantor") executed and delivered that certain guaranty agreement on the Note dated December 1, 2011, in favor of Plaintiffs, wherein and whereby the Guarantor individually guaranteed payment of all sums due by Defendant, Fort Mill Holdings, LLC, to the Plaintiffs under the Note and any extensions thereof.

21. The guaranty agreement is the absolute, unconditional and continuing obligation of the Guarantor and constitutes a binding contract between the parties thereto.

22. The Guarantor has failed to pay all sums due and owing to Plaintiffs pursuant to the guaranty agreement, and after all notices and demands have been made therefor, Guarantor has continued to fail and refuse to pay the sum due under the guaranty agreement, and is thereby in default.

23. Plaintiffs have elected, as a result of the default of the Guarantor, as aforesaid, to declare pursuant to the guaranty agreement, the entire indebtedness due under the Fort

Mill Holdings, LLC, note immediately due and payable.

24. Therefore, Plaintiffs are entitled, pursuant to S.C. Code Ann. § 29-3-650, to an Order rendering an immediate judgment against the Guarantor, namely Defendant, David Baucom, for the amount due under the Note, together with interest at the rate set forth in the Note, plus all costs of collection, including attorney's fees, all as is provided in the Note and guaranty agreement.

WHEREFORE, having fully set forth their Complaint, the Plaintiffs pray that this Honorable Court inquire into the matters set forth herein and that:

1. The amount due upon the said note and mortgage held by Plaintiffs be ascertained and determined under the direction of this Court, together with attorney's fees and the costs of this action.

2. The said Plaintiffs' Mortgage be declared a first mortgage lien and that the Plaintiffs have judgment of foreclosure for the amount so found to be due and owing thereon, together with any taxes or insurance premiums which may be due, with a reasonable sum as attorney's fees and for the costs of this action.

3. The mortgaged premises be sold under the direction of this Court, the equity of redemption be barred, and that the proceeds of sale be applied as follows:

First, to the costs and expenses of the within action and sale.

Second, to the payment and discharge of the amount due on Plaintiffs' note and mortgage, together with the attorney's fees as aforesaid;

Third, the surplus, if any be distributed according to law, and

Fourth, if there is no surplus, that Plaintiffs have a money judgment against the Defendants for any amount due Plaintiffs after the application of the net proceeds of its

security to the amount due the Plaintiffs from the Defendants.

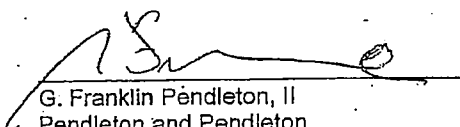
4. An Order be entered directing and empowering the Sheriff of York County, South Carolina, to place the successful purchaser at said foreclosure sale in possession of the property hereinabove described should the same become necessary.

5. An Order be entered for the ejectment of the Defendant in possession herein and all persons claiming thereunder and the removal therefrom of all furnishings, fixtures and items not subject to the lien of the Plaintiffs' mortgage, which personal property if not removed shall be deemed abandoned and shall be removed by the Plaintiffs or their agents from the subject property by placing said property on the public street or highway or by any other means.

6. An Order be entered for reimbursement of all costs for inspecting and securing the property incurred by the Plaintiffs as a result of the delinquency.

7. An Order be entered for such other and further relief as may be just and proper.

January 31, 2013



G. Franklin Pendleton, II  
Pendleton and Pendleton  
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(803) 222-3026  
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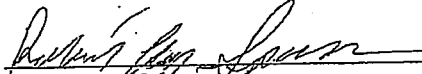
STATE OF SOUTH CAROLINA )  
COUNTY OF YORK )

VERIFICATION

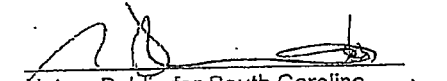
PERSONALLY appeared before me Robert Clay Sparrow and Mickey Crowe, who being duly sworn, deposes and says that they are the Plaintiffs in the foregoing Complaint; that they have read the within Complaint and the matters and things alleged therein are true to their own knowledge and belief, except those on information and belief and as to those they believe them to be true.

SWORN to before me this

31 day of January, 2013.

  
Robert Clay Sparrow

  
Mickey Crowe

  
Notary Public for South Carolina  
My Commission Expires: 3/20/13

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2013 FEB -8 PM 4:22  
DAVID HAMILTON  
C.C.P. & S.  
YORK COUNTY, SC

EXHIBIT "A"

SATISF/ TJON: The debt evidenced by this  
Note has been satisfied in full this  
\_\_\_\_\_, 2011.

PURCHASE MONEY PROMISSORY NOTE

Signed: \_\_\_\_\_

Charlotte, N.C.  
December 1, 2011

\$907,300.00

FOR VALUE RECEIVED the undersigned, jointly and severally, promise to pay to Robert Clay Sparrow and Mickey Crowe, or order, the principal sum of NINE HUNDRED SEVEN THOUSAND THREE HUNDRED DOLLARS (\$907,300.00), with interest from December 1, 2011, at the rate of SEVEN per cent (7%) per annum on the unpaid balance until paid or until default, both principal and interest payable in lawful money of the United States of America, at the office of Robert Clay Sparrow, 142 Stoney Point Drive, Blacksburg, SC 29702, or at such place as the legal holder hereof may designate in writing. The principal and interest shall be due and payable as follows:

In 240 consecutive and equal payments of \$7,034.29 each commencing January 1, 2012 and continuing to become due on the first day of each month thereafter until December 1, 2031 when all remaining amounts due hereunder shall be due and payable in full, all as shown on the attached amortization schedule.

All amounts of both principal and interest due hereunder shall be paid in full on or before December 1, 2031.

If payable in installments, each such installment shall, unless otherwise provided, be applied first to payment of interest then accrued and due on the unpaid principal balance, with the remainder applied to the unpaid principal.

Unless otherwise provided, this Note may be prepaid in full or in part at any time without penalty or premium. Partial payments shall be applied to installments due in reverse order of their maturity.

In the event of (a) default in payment of any installment of principal or interest hereof as the same becomes due and such default is not cured within ten (10) days from the due date, or (b) default under the terms of any instrument securing this Note, and such default is not cured within fifteen (15) days after written notice to maker, then in either such event the holder may, without further notice, declare the remainder of the principal sum, together with all interest accrued thereon and, the prepayment premium, if any, at once due and payable. Failure to exercise this option shall not constitute a waiver of the right to exercise the same at any other time. The unpaid principal of this Note and any part thereof, accrued interest and all other sums due under this Note and the Deed of Trust or Mortgage, if any, shall bear interest at the rate of Fifteen per cent (15%) per annum after default until paid.

All parties to this Note, including maker and any sureties, endorsers, or guarantors hereby waive protest, presentment, notice of dishonor, and notice of acceleration of maturity and agree to continue to remain bound for the payment of principal, interest and all other sums due under this Note and the Deed of Trust or Mortgage notwithstanding any change or changes by way of release, surrender, exchange, modification or substitution of any security for this Note or by way of any extension or extensions of time for the payment of principal and interest; and all such parties waive all and every kind of notice of such change or changes and agree that the same may be made without notice or consent of any of them.

Upon default the holder of this Note may employ an attorney to enforce the holder's rights and remedies, and the maker, principal, surety, guarantor and endorsers of this Note hereby agree to pay to the holder reasonable attorneys fees not exceeding a sum equal to fifteen percent (15%) of the outstanding balance owing on said Note, plus all other reasonable expenses incurred by the holder in exercising any of the holder's rights and remedies upon default. The rights and remedies of the holder as provided in this Note and any instrument securing this Note shall be cumulative and may be pursued singly, successively, or together against the property described in the Deed of Trust or Mortgage or any other funds, property or security held by the holder for payment or security, in the sole discretion of the holder. The failure to exercise any such right or remedy shall not be a waiver or release of such rights or remedies or the right to exercise any of them at another time.

This Note is to be governed and construed in accordance with the laws of the State of North Carolina.  
This Note is given for the balance of purchase price for the property located off Highway 51, Fort Mill, SC, and is secured by a Purchase Money Mortgage or Deed of Trust or Mortgage, which is a first lien upon said property.

IN TESTIMONY WHEREOF, the corporate maker has caused this instrument to be executed in its corporate name by its Manager, by the authority duly given by its managers and members, the day and year first above written.

IN TESTIMONY WHEREOF, each individual maker or guarantor has hereunto set his hand and adopted as his seal the word "SEAL" appearing beside his name, the day and year first above written.

Fort Mill Holdings, LLC

By: Tracy Goins  
Tracy Goins, Manager

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David Baucom (SEAL)  
David Baucom, Guarantor



Amortization Schedule generated by the [www.amortization-schedule.info](http://www.amortization-schedule.info) website.

### Amortization Schedule

The monthly payment for a \$907,300.00 loan at 7.00% annual interest rate will be \$7,034.29 per payment. This amount should be paid to the lender, bank or lending institution for 20 years. The loan amortization table below shows your monthly payment divided into two portions. One portion is put towards interest (interest paid), while the other portion goes towards principal (principal paid). As you can see, initially a larger amount is applied towards interest and as the loan matures the portion applied towards the outstanding principal balance gets larger and larger.

Please note that if you are calculating a mortgage loan, property taxes, property insurance and private mortgage insurance is neglected in the calculation, they will increase the amount of your regular periodic payments.

| period: | date:      | interest paid: | principal paid: | remaining balance: |
|---------|------------|----------------|-----------------|--------------------|
| 1       | 01/01/2012 | \$5,292.58     | \$1,741.71      | \$905,558.29       |
| 2       | 02/01/2012 | \$5,282.42     | \$1,751.87      | \$903,806.42       |
| 3       | 03/01/2012 | \$5,272.20     | \$1,762.09      | \$902,044.33       |
| 4       | 04/01/2012 | \$5,261.93     | \$1,772.36      | \$900,271.97       |
| 5       | 05/01/2012 | \$5,251.69     | \$1,782.70      | \$898,489.27       |
| 6       | 06/01/2012 | \$5,241.19     | \$1,793.10      | \$896,696.17       |
| 7       | 07/01/2012 | \$5,230.73     | \$1,803.56      | \$894,892.61       |
| 8       | 08/01/2012 | \$5,220.21     | \$1,814.08      | \$893,078.53       |
| 9       | 09/01/2012 | \$5,209.62     | \$1,824.67      | \$891,253.86       |
| 10      | 10/01/2012 | \$5,198.98     | \$1,835.31      | \$889,418.55       |
| 11      | 11/01/2012 | \$5,188.27     | \$1,846.02      | \$887,572.53       |
| 12      | 12/01/2012 | \$5,177.51     | \$1,856.78      | \$885,715.75       |

Loan amortization schedule for year 1 (2012):  
You will spend \$62,827.23 on interest and \$21,584.25 on principal.

| period: | date:      | interest paid: | principal paid: | remaining balance: |
|---------|------------|----------------|-----------------|--------------------|
| 13      | 01/01/2013 | \$5,166.88     | \$1,867.61      | \$883,848.14       |
| 14      | 02/01/2013 | \$5,155.78     | \$1,878.51      | \$881,969.63       |
| 15      | 03/01/2013 | \$5,144.82     | \$1,889.47      | \$880,080.16       |
| 16      | 04/01/2013 | \$5,133.80     | \$1,900.49      | \$878,179.67       |
| 17      | 05/01/2013 | \$5,122.71     | \$1,911.58      | \$876,268.09       |
| 18      | 06/01/2013 | \$5,111.56     | \$1,922.73      | \$874,345.36       |
| 19      | 07/01/2013 | \$5,100.35     | \$1,933.94      | \$872,411.42       |
| 20      | 08/01/2013 | \$5,089.07     | \$1,945.22      | \$870,466.20       |
| 21      | 09/01/2013 | \$5,077.72     | \$1,956.57      | \$868,509.63       |
| 22      | 10/01/2013 | \$5,066.31     | \$1,967.98      | \$866,541.65       |
| 23      | 11/01/2013 | \$5,054.83     | \$1,979.46      | \$864,562.19       |
| 24      | 12/01/2013 | \$5,043.28     | \$1,991.01      | \$862,571.18       |

Loan amortization schedule for year 2 (2013):  
You will spend \$61,286.91 on interest and \$23,144.67 on principal.

| period: | date:      | interest paid: | principal paid: | remaining balance: |
|---------|------------|----------------|-----------------|--------------------|
| 25      | 01/01/2014 | \$5,031.67     | \$2,002.62      | \$860,568.56       |
| 26      | 02/01/2014 | \$5,019.98     | \$2,014.31      | \$858,554.25       |
| 27      | 03/01/2014 | \$5,008.23     | \$2,026.06      | \$856,528.19       |
| 28      | 04/01/2014 | \$4,996.41     | \$2,037.88      | \$854,490.31       |
| 29      | 05/01/2014 | \$4,984.63     | \$2,049.76      | \$852,440.55       |
| 30      | 06/01/2014 | \$4,972.57     | \$2,061.72      | \$850,378.83       |
| 31      | 07/01/2014 | \$4,960.54     | \$2,073.75      | \$848,305.08       |
| 32      | 08/01/2014 | \$4,948.45     | \$2,085.84      | \$846,219.24       |
| 33      | 09/01/2014 | \$4,936.28     | \$2,098.01      | \$844,121.23       |
| 34      | 10/01/2014 | \$4,924.04     | \$2,110.25      | \$842,010.98       |
| 35      | 11/01/2014 | \$4,911.73     | \$2,122.56      | \$839,888.42       |
| 36      | 12/01/2014 | \$4,899.35     | \$2,134.94      | \$837,763.48       |

<http://www.amortization-schedule.info/calculator>

11/30/2011

Loan amortization schedule for year 3 (2014):  
You will spend \$59,593.78 on interest and \$24,817.70 on principal.

| period: | date:      | interest paid: | principal paid: | remaining balance: |
|---------|------------|----------------|-----------------|--------------------|
| 37      | 01/01/2015 | \$4,886.90     | \$2,147.39      | \$835,606.09       |
| 38      | 02/01/2015 | \$4,874.37     | \$2,159.92      | \$833,446.17       |
| 39      | 03/01/2015 | \$4,861.77     | \$2,172.52      | \$831,273.66       |
| 40      | 04/01/2015 | \$4,849.10     | \$2,185.19      | \$829,088.46       |
| 41      | 05/01/2015 | \$4,836.35     | \$2,197.94      | \$826,890.52       |
| 42      | 06/01/2015 | \$4,823.53     | \$2,210.76      | \$824,679.76       |
| 43      | 07/01/2015 | \$4,810.63     | \$2,223.66      | \$822,456.10       |
| 44      | 08/01/2015 | \$4,797.66     | \$2,236.63      | \$820,219.47       |
| 45      | 09/01/2015 | \$4,784.61     | \$2,249.68      | \$817,969.79       |
| 46      | 10/01/2015 | \$4,771.49     | \$2,262.80      | \$815,706.99       |
| 47      | 11/01/2015 | \$4,758.29     | \$2,276.00      | \$813,430.99       |
| 48      | 12/01/2015 | \$4,745.01     | \$2,289.28      | \$811,141.71       |

Loan amortization schedule for year 4 (2016):  
You will spend \$57,793.71 on interest and \$26,511.77 on principal.

| period: | date:      | interest paid: | principal paid: | remaining balance: |
|---------|------------|----------------|-----------------|--------------------|
| 49      | 01/01/2016 | \$4,731.66     | \$2,302.63      | \$808,839.08       |
| 50      | 02/01/2016 | \$4,718.23     | \$2,316.06      | \$806,523.02       |
| 51      | 03/01/2016 | \$4,704.72     | \$2,329.57      | \$804,193.45       |
| 52      | 04/01/2016 | \$4,691.13     | \$2,343.16      | \$801,850.29       |
| 53      | 05/01/2016 | \$4,677.46     | \$2,356.83      | \$799,493.46       |
| 54      | 06/01/2016 | \$4,663.71     | \$2,370.68      | \$797,122.88       |
| 55      | 07/01/2016 | \$4,649.88     | \$2,384.41      | \$794,738.47       |
| 56      | 08/01/2016 | \$4,635.97     | \$2,398.32      | \$792,340.15       |
| 57      | 09/01/2016 | \$4,621.88     | \$2,412.31      | \$789,927.84       |
| 58      | 10/01/2016 | \$4,607.91     | \$2,426.38      | \$787,501.46       |
| 59      | 11/01/2016 | \$4,593.76     | \$2,440.53      | \$785,060.93       |
| 60      | 12/01/2016 | \$4,579.62     | \$2,454.77      | \$782,606.16       |

Loan amortization schedule for year 5 (2017):  
You will spend \$55,875.93 on interest and \$28,535.55 on principal.

| period: | date:      | interest paid: | principal paid: | remaining balance: |
|---------|------------|----------------|-----------------|--------------------|
| 61      | 01/01/2017 | \$4,555.20     | \$2,469.09      | \$780,137.07       |
| 62      | 02/01/2017 | \$4,550.80     | \$2,483.49      | \$777,653.58       |
| 63      | 03/01/2017 | \$4,536.31     | \$2,497.90      | \$775,155.60       |
| 64      | 04/01/2017 | \$4,521.74     | \$2,512.65      | \$772,643.05       |
| 65      | 05/01/2017 | \$4,507.08     | \$2,527.21      | \$770,115.84       |
| 66      | 06/01/2017 | \$4,492.34     | \$2,541.95      | \$767,573.89       |
| 67      | 07/01/2017 | \$4,477.51     | \$2,556.78      | \$765,017.11       |
| 68      | 08/01/2017 | \$4,462.50     | \$2,571.69      | \$762,445.42       |
| 69      | 09/01/2017 | \$4,447.50     | \$2,586.69      | \$759,858.73       |
| 70      | 10/01/2017 | \$4,432.51     | \$2,601.78      | \$757,256.95       |
| 71      | 11/01/2017 | \$4,417.33     | \$2,616.96      | \$754,639.99       |
| 72      | 12/01/2017 | \$4,402.07     | \$2,632.22      | \$752,007.77       |

Loan amortization schedule for year 6 (2017):  
You will spend \$53,813.09 on interest and \$30,598.39 on principal.

| period: | date:      | interest paid: | principal paid: | remaining balance: |
|---------|------------|----------------|-----------------|--------------------|
| 73      | 01/01/2018 | \$4,386.71     | \$2,647.56      | \$749,360.19       |
| 74      | 02/01/2018 | \$4,371.27     | \$2,663.02      | \$746,697.17       |
| 75      | 03/01/2018 | \$4,355.73     | \$2,678.56      | \$744,018.61       |
| 76      | 04/01/2018 | \$4,340.11     | \$2,694.18      | \$741,324.43       |
| 77      | 05/01/2018 | \$4,324.39     | \$2,709.90      | \$738,614.53       |
| 78      | 06/01/2018 | \$4,308.58     | \$2,725.71      | \$735,888.82       |
| 79      | 07/01/2018 | \$4,292.68     | \$2,741.61      | \$733,147.21       |

|    |            |            |            |              |
|----|------------|------------|------------|--------------|
| 30 | 08/01/2018 | \$4,276.69 | \$2,757.60 | \$730,389.61 |
| 31 | 09/01/2018 | \$4,260.61 | \$2,773.68 | \$727,615.93 |
| 32 | 10/01/2018 | \$4,244.43 | \$2,789.86 | \$724,826.07 |
| 33 | 11/01/2018 | \$4,228.15 | \$2,806.14 | \$722,019.93 |
| 34 | 12/01/2018 | \$4,211.78 | \$2,822.51 | \$719,197.42 |

## Loan amortization schedule for year 7 (2018):

You will spend \$51,601.13 on interest and \$32,810.35 on principal.

| period: | date:      | interest paid: | principal paid: | remaining balance: |
|---------|------------|----------------|-----------------|--------------------|
| 35      | 01/01/2019 | \$4,195.32     | \$2,838.97      | \$716,358.45       |
| 36      | 02/01/2019 | \$4,178.76     | \$2,855.63      | \$713,502.32       |
| 37      | 03/01/2019 | \$4,162.10     | \$2,872.19      | \$710,630.73       |
| 38      | 04/01/2019 | \$4,145.35     | \$2,888.94      | \$707,741.79       |
| 39      | 05/01/2019 | \$4,128.49     | \$2,905.80      | \$704,835.99       |
| 40      | 06/01/2019 | \$4,111.54     | \$2,922.75      | \$701,913.24       |
| 41      | 07/01/2019 | \$4,094.40     | \$2,939.80      | \$698,973.44       |
| 42      | 08/01/2019 | \$4,077.35     | \$2,956.94      | \$696,016.50       |
| 43      | 09/01/2019 | \$4,060.10     | \$2,974.19      | \$693,042.31       |
| 44      | 10/01/2019 | \$4,042.75     | \$2,991.54      | \$690,050.77       |
| 45      | 11/01/2019 | \$4,025.30     | \$3,008.99      | \$687,041.78       |
| 46      | 12/01/2019 | \$4,007.74     | \$3,026.55      | \$684,016.23       |

## Loan amortization schedule for year 8 (2019):

You will spend \$49,229.29 on interest and \$35,182.19 on principal.

| period: | date:      | interest paid: | principal paid: | remaining balance: |
|---------|------------|----------------|-----------------|--------------------|
| 47      | 01/01/2020 | \$3,990.09     | \$3,044.20      | \$680,971.03       |
| 48      | 02/01/2020 | \$3,972.33     | \$3,061.96      | \$677,909.07       |
| 49      | 03/01/2020 | \$3,954.47     | \$3,079.82      | \$674,829.25       |
| 50      | 04/01/2020 | \$3,936.60     | \$3,097.79      | \$671,731.46       |
| 51      | 05/01/2020 | \$3,918.43     | \$3,115.86      | \$668,615.60       |
| 52      | 06/01/2020 | \$3,900.26     | \$3,134.03      | \$665,481.57       |
| 53      | 07/01/2020 | \$3,881.88     | \$3,152.31      | \$662,329.26       |
| 54      | 08/01/2020 | \$3,863.59     | \$3,170.70      | \$659,158.56       |
| 55      | 09/01/2020 | \$3,845.09     | \$3,189.20      | \$655,969.36       |
| 56      | 10/01/2020 | \$3,826.49     | \$3,207.80      | \$652,761.56       |
| 57      | 11/01/2020 | \$3,807.78     | \$3,226.51      | \$649,535.05       |
| 58      | 12/01/2020 | \$3,788.96     | \$3,245.34      | \$646,289.71       |

## Loan amortization schedule for year 9 (2020):

You will spend \$46,685.96 on interest and \$37,725.52 on principal.

| period: | date:      | interest paid: | principal paid: | remaining balance: |
|---------|------------|----------------|-----------------|--------------------|
| 109     | 01/01/2021 | \$3,770.02     | \$3,264.27      | \$643,025.44       |
| 110     | 02/01/2021 | \$3,750.98     | \$3,283.31      | \$639,742.13       |
| 111     | 03/01/2021 | \$3,731.83     | \$3,302.46      | \$636,439.67       |
| 112     | 04/01/2021 | \$3,712.56     | \$3,321.73      | \$633,117.94       |
| 113     | 05/01/2021 | \$3,693.19     | \$3,341.10      | \$629,776.84       |
| 114     | 06/01/2021 | \$3,673.70     | \$3,360.59      | \$626,416.25       |
| 115     | 07/01/2021 | \$3,654.09     | \$3,380.20      | \$623,036.05       |
| 116     | 08/01/2021 | \$3,634.38     | \$3,399.91      | \$619,636.14       |
| 117     | 09/01/2021 | \$3,614.54     | \$3,419.78      | \$616,216.39       |
| 118     | 10/01/2021 | \$3,594.80     | \$3,439.69      | \$612,776.70       |
| 119     | 11/01/2021 | \$3,574.53     | \$3,459.76      | \$609,316.94       |
| 120     | 12/01/2021 | \$3,554.35     | \$3,479.94      | \$605,837.00       |

## Loan amortization schedule for year 10 (2021):

You will spend \$43,858.77 on interest and \$40,452.71 on principal.

| period: | date:      | interest paid: | principal paid: | remaining balance: |
|---------|------------|----------------|-----------------|--------------------|
| 121     | 01/01/2022 | \$3,534.05     | \$3,500.24      | \$602,336.76       |
| 122     | 02/01/2022 | \$3,513.63     | \$3,520.66      | \$598,816.10       |

|     |            |            |            |              |
|-----|------------|------------|------------|--------------|
| 133 | 03/01/2022 | \$3,493.09 | \$3,541.20 | \$696,274.90 |
| 134 | 04/01/2022 | \$3,472.44 | \$3,561.85 | \$691,713.06 |
| 135 | 05/01/2022 | \$3,451.66 | \$3,582.63 | \$686,130.42 |
| 136 | 06/01/2022 | \$3,430.78 | \$3,603.53 | \$680,526.89 |
| 137 | 07/01/2022 | \$3,409.74 | \$3,624.55 | \$674,902.34 |
| 138 | 08/01/2022 | \$3,388.60 | \$3,645.69 | \$669,256.65 |
| 139 | 09/01/2022 | \$3,367.33 | \$3,666.96 | \$663,589.69 |
| 140 | 10/01/2022 | \$3,345.94 | \$3,688.35 | \$657,901.34 |
| 141 | 11/01/2022 | \$3,324.42 | \$3,709.87 | \$652,191.47 |
| 142 | 12/01/2022 | \$3,302.78 | \$3,731.51 | \$646,459.96 |

## Loan amortization schedule for year 11 (2022):

You will spend \$41,054.44 on interest and \$43,377.04 on principal.

| period: | date:      | interest paid: | principal paid: | remaining balance: |
|---------|------------|----------------|-----------------|--------------------|
| 133     | 01/01/2023 | \$3,281.02     | \$3,753.27      | \$596,706.69       |
| 134     | 02/01/2023 | \$3,259.12     | \$3,775.17      | \$591,931.52       |
| 135     | 03/01/2023 | \$3,237.10     | \$3,797.19      | \$587,134.33       |
| 136     | 04/01/2023 | \$3,214.95     | \$3,819.34      | \$582,314.99       |
| 137     | 05/01/2023 | \$3,192.67     | \$3,841.62      | \$577,473.37       |
| 138     | 06/01/2023 | \$3,170.26     | \$3,864.03      | \$572,609.34       |
| 139     | 07/01/2023 | \$3,147.72     | \$3,886.57      | \$567,722.77       |
| 140     | 08/01/2023 | \$3,125.05     | \$3,909.24      | \$562,813.53       |
| 141     | 09/01/2023 | \$3,102.25     | \$3,932.04      | \$557,881.49       |
| 142     | 10/01/2023 | \$3,079.31     | \$3,954.98      | \$552,926.51       |
| 143     | 11/01/2023 | \$3,056.24     | \$3,978.05      | \$547,948.46       |
| 144     | 12/01/2023 | \$3,033.03     | \$4,001.26      | \$542,947.20       |

## Loan amortization schedule for year 12 (2023):

You will spend \$37,898.72 on interest and \$46,512.76 on principal.

| period: | date:      | interest paid: | principal paid: | remaining balance: |
|---------|------------|----------------|-----------------|--------------------|
| 145     | 01/01/2024 | \$3,009.89     | \$4,024.60      | \$537,922.60       |
| 146     | 02/01/2024 | \$2,988.22     | \$4,046.07      | \$532,874.53       |
| 147     | 03/01/2024 | \$2,966.60     | \$4,071.69      | \$527,802.84       |
| 148     | 04/01/2024 | \$2,938.85     | \$4,096.44      | \$522,707.40       |
| 149     | 05/01/2024 | \$2,914.96     | \$4,119.33      | \$517,588.07       |
| 150     | 06/01/2024 | \$2,890.93     | \$4,143.36      | \$512,444.71       |
| 151     | 07/01/2024 | \$2,868.78     | \$4,167.53      | \$507,277.18       |
| 152     | 08/01/2024 | \$2,842.45     | \$4,191.84      | \$502,085.34       |
| 153     | 09/01/2024 | \$2,818.00     | \$4,216.29      | \$496,869.05       |
| 154     | 10/01/2024 | \$2,793.40     | \$4,240.89      | \$491,628.16       |
| 155     | 11/01/2024 | \$2,768.66     | \$4,265.63      | \$486,362.53       |
| 156     | 12/01/2024 | \$2,743.78     | \$4,290.51      | \$481,072.02       |

## Loan amortization schedule for year 13 (2024):

You will spend \$34,536.30 on interest and \$49,875.18 on principal.

| period: | date:      | interest paid: | principal paid: | remaining balance: |
|---------|------------|----------------|-----------------|--------------------|
| 157     | 01/01/2025 | \$2,718.76     | \$4,316.54      | \$476,756.48       |
| 158     | 02/01/2025 | \$2,693.68     | \$4,340.71      | \$471,415.77       |
| 159     | 03/01/2025 | \$2,668.26     | \$4,365.03      | \$466,049.74       |
| 160     | 04/01/2025 | \$2,642.79     | \$4,391.50      | \$460,658.24       |
| 161     | 05/01/2025 | \$2,617.17     | \$4,417.12      | \$455,241.12       |
| 162     | 06/01/2025 | \$2,591.41     | \$4,442.88      | \$449,798.24       |
| 163     | 07/01/2025 | \$2,565.49     | \$4,468.80      | \$444,329.44       |
| 164     | 08/01/2025 | \$2,539.42     | \$4,494.87      | \$438,834.57       |
| 165     | 09/01/2025 | \$2,513.20     | \$4,521.09      | \$433,313.48       |
| 166     | 10/01/2025 | \$2,488.83     | \$4,547.46      | \$427,766.02       |
| 167     | 11/01/2025 | \$2,460.30     | \$4,573.99      | \$422,192.03       |
| 168     | 12/01/2025 | \$2,433.62     | \$4,600.67      | \$416,591.36       |

## Loan amortization schedule for year 14 (2025):

You will spend \$30,930.02 on interest and \$63,400.66 on principal.

| period: | date:      | interest paid: | principal paid: | remaining balance: |
|---------|------------|----------------|-----------------|--------------------|
| 165     | 01/01/2025 | \$2,406.78     | \$4,627.51      | \$407,963.86       |
| 170     | 02/01/2026 | \$2,379.79     | \$4,664.60      | \$403,309.36       |
| 171     | 03/01/2026 | \$2,352.64     | \$4,681.65      | \$398,627.70       |
| 172     | 04/01/2026 | \$2,326.33     | \$4,708.96      | \$393,918.74       |
| 173     | 05/01/2026 | \$2,297.86     | \$4,736.43      | \$389,182.31       |
| 174     | 06/01/2026 | \$2,270.23     | \$4,764.06      | \$384,418.26       |
| 175     | 07/01/2026 | \$2,242.44     | \$4,791.85      | \$379,626.40       |
| 176     | 08/01/2026 | \$2,214.49     | \$4,819.80      | \$374,806.60       |
| 177     | 09/01/2026 | \$2,186.37     | \$4,847.92      | \$369,958.68       |
| 178     | 10/01/2026 | \$2,158.09     | \$4,876.20      | \$365,082.48       |
| 179     | 11/01/2026 | \$2,129.65     | \$4,904.64      | \$360,177.84       |
| 180     | 12/01/2026 | \$2,101.04     | \$4,933.26      | \$355,244.59       |

## Loan amortization schedule for year 15 (2026):

You will spend \$27,064.71 on interest and \$57,346.77 on principal.

| period: | date:      | interest paid: | principal paid: | remaining balance: |
|---------|------------|----------------|-----------------|--------------------|
| 181     | 01/01/2027 | \$2,072.26     | \$4,962.03      | \$350,282.56       |
| 182     | 02/01/2027 | \$2,043.31     | \$4,990.98      | \$345,291.58       |
| 183     | 03/01/2027 | \$2,014.20     | \$5,020.09      | \$340,271.49       |
| 184     | 04/01/2027 | \$1,984.92     | \$5,049.37      | \$335,222.12       |
| 185     | 05/01/2027 | \$1,955.46     | \$5,078.83      | \$330,143.29       |
| 186     | 06/01/2027 | \$1,925.84     | \$5,108.45      | \$325,034.84       |
| 187     | 07/01/2027 | \$1,896.04     | \$5,138.25      | \$319,896.59       |
| 188     | 08/01/2027 | \$1,866.06     | \$5,168.23      | \$314,728.36       |
| 189     | 09/01/2027 | \$1,835.92     | \$5,198.37      | \$309,529.99       |
| 190     | 10/01/2027 | \$1,805.59     | \$5,228.70      | \$304,301.29       |
| 191     | 11/01/2027 | \$1,775.09     | \$5,259.20      | \$299,042.09       |
| 192     | 12/01/2027 | \$1,744.41     | \$5,289.88      | \$293,752.21       |

## Loan amortization schedule for year 16 (2027):

You will spend \$22,913.10 on interest and \$41,492.38 on principal.

| period: | date:      | interest paid: | principal paid: | remaining balance: |
|---------|------------|----------------|-----------------|--------------------|
| 193     | 01/01/2028 | \$1,713.65     | \$5,320.74      | \$288,431.47       |
| 194     | 02/01/2028 | \$1,682.62     | \$5,351.77      | \$283,079.70       |
| 195     | 03/01/2028 | \$1,651.30     | \$5,382.99      | \$277,696.71       |
| 196     | 04/01/2028 | \$1,619.90     | \$5,414.39      | \$272,282.32       |
| 197     | 05/01/2028 | \$1,588.31     | \$5,446.98      | \$266,836.34       |
| 198     | 06/01/2028 | \$1,556.55     | \$5,477.74      | \$261,358.60       |
| 199     | 07/01/2028 | \$1,524.59     | \$5,509.70      | \$255,848.90       |
| 200     | 08/01/2028 | \$1,492.46     | \$5,541.84      | \$250,307.06       |
| 201     | 09/01/2028 | \$1,460.12     | \$5,574.17      | \$244,732.89       |
| 202     | 10/01/2028 | \$1,427.61     | \$5,606.68      | \$239,126.21       |
| 203     | 11/01/2028 | \$1,394.90     | \$5,639.39      | \$233,486.82       |
| 204     | 12/01/2028 | \$1,362.01     | \$5,672.28      | \$227,814.54       |

## Loan amortization schedule for year 17 (2028):

You will spend \$18,473.81 on interest and \$35,937.67 on principal.

| period: | date:      | interest paid: | principal paid: | remaining balance: |
|---------|------------|----------------|-----------------|--------------------|
| 205     | 01/01/2029 | \$1,328.92     | \$5,705.37      | \$222,109.17       |
| 206     | 02/01/2029 | \$1,295.64     | \$5,738.55      | \$216,370.52       |
| 207     | 03/01/2029 | \$1,262.16     | \$5,772.13      | \$210,598.39       |
| 208     | 04/01/2029 | \$1,228.49     | \$5,806.80      | \$204,792.59       |
| 209     | 05/01/2029 | \$1,194.62     | \$5,839.67      | \$198,952.92       |
| 210     | 06/01/2029 | \$1,160.66     | \$5,873.73      | \$193,079.19       |
| 211     | 07/01/2029 | \$1,126.30     | \$5,907.99      | \$187,171.20       |

|     |            |            |            |              |
|-----|------------|------------|------------|--------------|
| 212 | 08/01/2029 | \$1,091.83 | \$5,942.46 | \$181,228.74 |
| 213 | 09/01/2029 | \$1,057.17 | \$5,977.12 | \$175,251.62 |
| 214 | 10/01/2029 | \$1,022.30 | \$6,011.89 | \$169,239.63 |
| 215 | 11/01/2029 | \$987.23   | \$6,047.06 | \$163,182.57 |
| 216 | 12/01/2029 | \$951.98   | \$6,082.33 | \$157,110.24 |

Loan amortization schedule for year 18 (2029):

You will spend \$13,707.18 on interest and \$70,704.30 on principal.

| period: | date:      | interest paid: | principal paid: | remaining balance: |
|---------|------------|----------------|-----------------|--------------------|
| 217     | 01/01/2030 | \$816.48       | \$6,117.81      | \$150,982.43       |
| 218     | 02/01/2030 | \$880.79       | \$6,153.50      | \$144,838.93       |
| 219     | 03/01/2030 | \$844.89       | \$6,189.40      | \$138,649.53       |
| 220     | 04/01/2030 | \$808.79       | \$6,225.50      | \$132,424.03       |
| 221     | 05/01/2030 | \$772.47       | \$6,261.82      | \$126,162.21       |
| 222     | 06/01/2030 | \$735.95       | \$6,298.34      | \$119,863.87       |
| 223     | 07/01/2030 | \$699.21       | \$6,335.08      | \$113,528.79       |
| 224     | 08/01/2030 | \$662.25       | \$6,372.04      | \$107,156.75       |
| 225     | 09/01/2030 | \$625.08       | \$6,409.21      | \$100,747.54       |
| 226     | 10/01/2030 | \$587.69       | \$6,446.60      | \$94,300.94        |
| 227     | 11/01/2030 | \$550.09       | \$6,484.20      | \$87,816.74        |
| 228     | 12/01/2030 | \$512.26       | \$6,522.03      | \$81,294.71        |

Loan amortization schedule for year 19 (2030):

You will spend \$8,595.95 on interest and \$75,815.53 on principal.

| period: | date:      | interest paid: | principal paid: | remaining balance: |
|---------|------------|----------------|-----------------|--------------------|
| 229     | 01/01/2031 | \$474.22       | \$6,550.07      | \$74,734.64        |
| 230     | 02/01/2031 | \$435.95       | \$6,588.34      | \$68,136.30        |
| 231     | 03/01/2031 | \$397.46       | \$6,636.83      | \$61,499.47        |
| 232     | 04/01/2031 | \$358.75       | \$6,675.64      | \$54,823.83        |
| 233     | 05/01/2031 | \$319.81       | \$6,714.48      | \$48,109.48        |
| 234     | 06/01/2031 | \$280.64       | \$6,753.65      | \$41,355.80        |
| 235     | 07/01/2031 | \$241.24       | \$6,783.05      | \$34,562.75        |
| 236     | 08/01/2031 | \$201.62       | \$6,832.67      | \$27,730.08        |
| 237     | 09/01/2031 | \$161.76       | \$6,872.63      | \$20,857.55        |
| 238     | 10/01/2031 | \$121.67       | \$6,912.92      | \$13,944.63        |
| 239     | 11/01/2031 | \$81.35        | \$6,952.94      | \$6,991.69         |
| 240     | 12/01/2031 | \$40.79        | \$6,991.99      | \$0.00             |

Loan amortization schedule for year 20 (2031):

You will spend \$3,115.23 on interest and \$81,294.71 on principal.

### Loan payoff summary

| Loan details:         |              | Loan payoff details: |              |
|-----------------------|--------------|----------------------|--------------|
| Loan amount:          | \$907,300.00 | Monthly payment:     | \$7,034.29   |
| Annual interest rate: | 7.00%        | Loan start date:     | 12/01/2011   |
| Loan length:          | 20 years     | Loan payoff date:    | 12/01/2031   |
| Pay periodicity:      | monthly      | Interest paid:       | \$780,928.09 |

On a \$907,300.00 loan you will spend \$1,688,228.09.  
From this \$780,928.09 goes towards interest and \$907,300.00 will be applied to the principal.

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EXHIBIT "B"

201100156180  
Filed for Record in  
YORK COUNTY, SC  
DAVID HAMILTON, CLERK OF COURTS  
12-30-2011 At 02:33 pm.  
MORTGAGE 12.00  
OR Vol 12360 Page 239 - 244

STATE OF SOUTH CAROLINA  
COUNTY OF YORK

MORTGAGE

WHEREAS, Fort Mill Holdings, LLC, (hereafter called Mortgagor), in and by their certain Note of even date, stands firmly held and bound unto Robert Clay Sparrow (hereafter referred to as Mortgagee) for payment of the full and just sum of Nine Hundred Seven Thousand Three Hundred Dollars (\$907,300.00) payable per terms of Note, with the entire balance, if not sooner paid, being due per terms of Note, with interest, if any, as in and by the Note, reference being had thereto, will more fully appear.

KNOW ALL MEN BY THESE PRESENTS: That the Mortgagor, for and inconsideration of the debt or sum of money aforesaid, and to better secure its payment to the Mortgagee according to the conditions of the Note, and also in consideration of the further sum of \$3.00 to the Mortgagor in hand well and truly paid by the Mortgagee at and before the sealing and delivery of these presents the receipt and sufficiency whereof is hereby acknowledged, have granted, bargained, sold and released, and by these Presents do grant, bargain, sell and release unto said unto the Mortgagee, his heirs and assigns, the real property described below:

SEE EXHIBIT "A" ATTACHED HERETO.

MORTGAGEE'S ADDRESS:

Robert Clay Sparrow  
142 Stoney Point Drive  
Blacksburg, SC 29702

TOGETHER with all and singular, the rights, members, hereditaments and appurtenances to said Premises belonging, or in any ways incident or appertaining.

BK 12360 PG 239

TO HAVE AND TO HOLD, all and singular the premises unto the mortgagee, his heirs and assigns, forever.

AND THE MORTGAGOR does hereby bind himself and his heirs and successors to warrant and forever defend all and singular the premises unto the mortgagee, his heirs and assigns, from and against himself and his heirs and successors, lawfully claiming, or to claim the same, or any part thereof.

AND IT IS AGREED by and between the parties that the Mortgagor, his heirs and assigns, shall keep any building erected on the premises insured against loss and damage by fire for the benefit of the Mortgagee, for an amount not less than the sum shown above, with such company as shall be approved by the Mortgagee, his successors, heirs and assigns, and shall deliver the policy to the Mortgagee; and in default thereof, the Mortgagee, his successors, heirs and assigns may effect such insurance and reimburse themselves under this Mortgage to the expense thereof, together with interest thereon at the rate provided in the Note from the date of its payment.

AND IT IS FURTHER AGREED in the event of other insurance and contribution between the insurers that the Mortgagee, his successors, heirs and assigns, shall be entitled to receive from the aggregate of the insurance monies to be paid a sum equal to the amount of the debt secured by this Mortgage.

AND IT IS AGREED by and between the parties, that if the Mortgagor, his heirs and successors or assigns, shall fail to pay all taxes and assessments upon the premises when they shall first become payable, then the Mortgagee, his heirs or assigns, may cause the same to be paid, together with all penalties and costs incurred thereon, and reimburse herself under this Mortgage for the sum so paid, with interest thereon at the rate provided in the Note from the date of such payment.

AND IT IS AGREED by and between the parties that upon any default being made in the payment of the Note or of the insurance premiums, or of the taxes, or of the assessments hereinabove mentioned, or failure to pay any other indebtedness which constitutes a lien upon the real property when the same shall severally become payable, then the entire amount of the debt secured or intended to be secured hereby shall become due, at the option of the Mortgagee, his successors, heirs or assigns, although the period for the payment thereof may not then have expired.

AND IT IS AGREED by and between the parties that should legal proceedings be instituted for the collection of the debt secured hereby, then the Mortgagee, his successors, heirs or assigns, shall have the right to have a receiver appointed of the rents and profits of the premises, who, after deducting all charges and expenses attending such proceedings, and the execution of the trust as receiver, shall apply the residue of the rents and profits towards the payment of the debt secured hereby.

BK 12360 PGO 240



AND IT IS FURTHER AGREED by and between the parties that should legal proceedings be instituted for the foreclosure of this Mortgage, or should the Mortgagees become a party to any action by reason of this Mortgage, or should the debt secured hereby be placed in the hands of an attorney at law for collection, by suit or otherwise, all costs and expenses incurred by the Mortgagees, including a reasonable attorney's fee, shall thereupon become due and payable as a part of the debt secured hereby, and may be recovered and collected hereunder.

PROVIDED ALWAYS, NEVERTHELESS, and it is the true intent and meaning of the parties, that if the Mortgagor does and shall well and truly pay, or cause to be paid, unto the Mortgagees, their successors, heirs and assigns, the debt or sum of money aforesaid, with interest thereon, and if any shall be due, according to the true intent and meaning of the Note and this Mortgage, then this Mortgage shall cease, determine and be utterly null and void; otherwise it shall remain in full force and virtue.

IN THE EVENT of sale of the mortgaged property or the transfer of any interest therein to any transferee, excepting only the creation of lien or encumbrance junior

to the lien of this Mortgage, Mortgagor agrees that the Mortgagees may, at their sole option, declare all sums secured by this Mortgage immediately due and payable in full. If the Mortgagee exercises its option to declare the entire amounts so secured to be paid in full, its shall give written notice to Mortgagor who shall have a period of thirty(30) days after the date such notice is mailed to pay the amount declared to be due. If Mortgagor fails to pay such sum prior to the expiration of such period, Mortgagees may without further notice or demand invoke all remedies permitted by this Mortgage.

AND IT IS AGREED by and between the said parties, that the Mortgagor should hold and enjoy the premises until default of payment shall be made.

RX 12360 PG0241

WITNESS Grantors' hands and seals this the 1<sup>st</sup> day of December, 2011.

SIGNED, SEALED AND DELIVERED IN THE PRESENCE OF:

Fort Mill Holdings, LLC

Tracy Goins (SEAL)  
By: Tracy Goins, Manager

William A. Rees  
Witness # 1

Michael J. Taylor  
Witness # 2

8K12360 PD0242

State of North Carolina  
County of Mecklenburg

Personally appeared before me the undersigned witness and made oath that he/she saw the within named Grantors, sign, seal and as Grantors' acts and deeds delivery the within Mortgage, and that he/she with the other witness subscribed above, witnessed the execution thereof.

William L. Reese  
Witness # 1 signature William L. Reese

Sworn to before me this 1<sup>st</sup> day of December, 2011.

Mary D. Smith  
Notary Public  
Iredell County, NC

My commission expires: 12-18-13

OK-12860 PB0243

Exhibit A

All that certain piece, parcel or lot of land lying, being and situate on the southern side of S.C. Highway 51, and being shown and designated as Lot 2H, on Plat of Property of Dynamic Properties, a Partnership, by John Quinn Hall, dated April 24, 1984, being more particularly described according to said plat as follows: BEGINNING at an iron in the right of way for S.C. Highway 51, running thence with line of property of the Estate of W.B. Roddey, S. 13-22-26 E. 423.77 feet to a new iron; thence S. 79-40-15 W. 93.85 feet; thence running with line of property previously conveyed to Southern Utilities, Inc., N. 15-59-19 W. 427.17 feet to an iron in right of way for S.C. Highway 51, thence running in said right of way N. 79-40-25 E. 112 feet to the point of beginning; LESS AND EXCEPT that certain piece, parcel or lot of and consisting of 0.05 acres which has been conveyed to the South Carolina Department of Transportation by Deed dated December 28, 1993, recorded in Record Book 1129 at page 112 on November 4, 1994.

Being the property conveyed to  
Fort Mill Holdings, LLC by deed  
recorded December 30, 2011 in  
Book 12360 at page 79.

BAD ORIGINAL

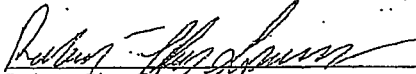
EX-12360-P00244

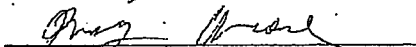
STATE OF SOUTH CAROLINA )  
COUNTY OF YORK )

VERIFIED STATEMENT OF ACCOUNT

THE UNDERSIGNED, ROBERT CLAY SPARROW AND MICKEY CROWE,  
HEREBY CERTIFY that there currently exists outstanding on that certain Note dated December  
1, 2011, a principal balance of Eight Hundred Ninety-five Thousand, Seven Hundred Eighty-  
three and 90/100 (\$895,783.90) Dollars, plus interest at the rate of seven (7%) percent per  
annum from August 1, 2012, through December 19, 2012, at which time outstanding principal  
draws interest at the rate of Fifteen (15%) per annum until paid.

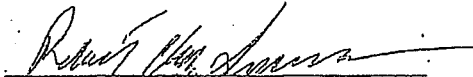
This 31 day of January, 2013.

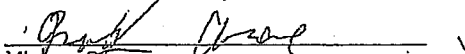
  
Robert Clay Sparrow

  
Mickey Crowe

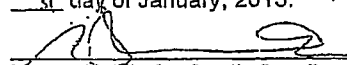
STATE OF SOUTH CAROLINA )  
COUNTY OF YORK )

I, C. Franklin Pickett, a Notary Public of the aforesaid County and State  
certify that Robert Clay Sparrow and Mickey Crowe personally appeared before me this day  
and acknowledged the execution of the foregoing instrument.

  
Robert Clay Sparrow

  
Mickey Crowe

SWORN TO before me this  
31 day of January, 2013.

  
Notary Public for South Carolina

My Commission Expires: 3/20/13

FILED-RECEIVED  
2013 FEB -8 PM 4:22  
DAVID HAMILTON  
C.C.P. & G.S.  
YORK COUNTY, SC

NOTICE REQUIRED BY THE  
FAIR DEBT COLLECTION PRACTICES ACT  
15 U.S.C. SECTION 1601 AS AMENDED

1. The amount of the debt is Eight Hundred Ninety-five Thousand, Seven Hundred Eighty-three and 90/100 (\$895,783.90) Dollars, plus interest at the rate of seven (7%) percent per annum from August 1, 2012, through December 19, 2012, at which time outstanding principal will draw interest at the rate of Fifteen (15%) percent per annum until paid.

2. Robert Clay Sparrow and Mickey Crowe are named in the attached letter dated January 2, 2012, as the creditors to whom the debt is owed.

3. The debt as described herein will be assumed to be valid by the creditors' law firm, unless the debtor, within thirty days after the receipt of this notice, disputes, in writing, the validity of the debt or some portion thereof.

4. If the debtor notifies the creditors' law firm in writing within thirty (30) days of the receipt of this notice that the debt or any portion thereof is disputed, the creditors' law firm will obtain a verification of the debt, and a copy of the verification will be mailed to the debtor by the creditors' law firm.

5. Written requests should be addressed to G. Franklin Pendleton, II, attorney at law, PO Box 399, Clover, South Carolina, 29710.

6. This notice shall not be construed as a thirty (30) day grace period or an extension.

7. This is an attempt to collect a debt, and any information obtained will be used for that purpose.

## Exhibit 2

STATE OF SOUTH CAROLINA

COUNTY OF YORK

Robert Clay Sparrow and Mickey Crowe,

Plaintiff(s)

vs.

Maurer Holdings, LLC, and David Baucom

Defendant(s)

(Please Print)

Submitted By: G. Franklin Pendleton, II

Address: 103 Kings Mountain Street

Clover, S.C. 29710

SC Bar #: 4406

Telephone #: 803-222-3026

Fax #: 803-222-3027

Other:

E-mail: pplaw@bellsouth.net

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

DOCKETING INFORMATION (Check all that apply)

\*If Action is Judgment/Settlement do not complete

- ☐ JURY TRIAL demanded in complaint. ☒ NON-JURY TRIAL demanded in complaint.  
☐ This case is subject to ARBITRATION pursuant to the Circuit Court Alternative Dispute Resolution Rules.  
☐ This case is subject to MEDIATION pursuant to the Circuit Court Alternative Dispute Resolution Rules.  
☒ This case is exempt from ADR (certificate attached).

NATURE OF ACTION (Check One Box Below)

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

Submitting Party Signature: 

Date: 1/31/13

Note: Frivolous civil proceedings may be subject to sanctions pursuant to SCRCR, Rule 11, and the South Carolina Frivolous Civil Proceedings Sanctions Act, S.C. Code Ann. §15-36-10 et. seq.



**FOR MANDATED ADR COUNTIES ONLY**

Florence, Horry, Lexington, Richland, Greenville\*\*, and Anderson\*\*

\*\* Contact Respective County Clerk of Court for modified ADR Program Rules

**SUPREME COURT RULES REQUIRE THE SUBMISSION OF ALL CIVIL CASES TO AN ALTERNATIVE DISPUTE RESOLUTION PROCESS, UNLESS OTHERWISE EXEMPT.**

**You are required to take the following action(s):**

1. The parties shall select a neutral within 210 days of filing of this action, and the Plaintiff shall file a "Stipulation of Neutral Selection" on or before the 224<sup>th</sup> day after the filing of the action. If the parties cannot agree upon the selection of the neutral within 210 days, the Plaintiff shall notify the Court by filing a written "Request for the Appointment of a Neutral" on or before the 224<sup>th</sup> day after the filing of this action. The Court shall then appoint a neutral from the Court-approved mediator/arbitrator list.
2. The initial ADR conference must be held within 300 days after the filing of the action.
3. Case are exempt from ADR only upon the following grounds:
  - a. Special proceeding, or actions seeking extraordinary relief such as mandamus, habeas corpus, or prohibition;
  - b. Cases which are appellate in nature such as appeals or writs of certiorari;
  - c. Post Conviction relief matters;
  - d. Contempt of Court proceedings;
  - e. Forfeiture proceedings brought by the State;
  - f. Cases involving mortgage foreclosures; and
  - g. Cases that have been submitted to mediation with a certified mediator prior to the filing of this action.
4. Motion of a party to be exempt from payment of neutral fees due to indigency should be filed with the Court within ten (10) days after the ADR conference had been concluded.

**Please Note: You must comply with the Supreme Court Rules regarding ADR.  
Failure to do so may affect your case or may result in sanctions.**

STATE OF SOUTH CAROLINA )  
COUNTY OF YORK )

IN THE COURT OF COMMON PLEAS  
SIXTEENTH JUDICIAL CIRCUIT

Robert Clay Sparrow and  
Mickey Crowe,

Plaintiffs,

-vs-

Maurer Holdings, LLC, and  
David Baucom,

Defendants. )

S U M M O N S  
(Suit on Note)  
(Foreclosure of Mortgage)  
(Deficiency Judgment Demanded)  
(Breach of Guaranty Agreement)  
(Non-Jury)

2013-CP46- 00440

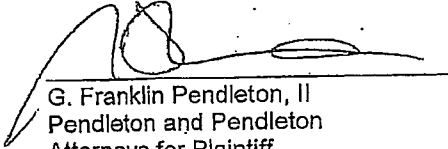
FILED-RECEIVED  
2013 FEB -8 PM 4:30  
DAVID HAMILTON  
S.C. JUDGE  
YORK COUNTY, S.C.

TO THE DEFENDANTS ABOVE NAMED:

You are required to answer the Complaint in this action and to serve a copy of your answer on the subscriber of this Summons at 103 Kings Mountain Street, Clover, South Carolina, within thirty (30) days after service of this Summons, exclusive of the day of service. If you fail to answer the Complaint within thirty (30) days after service of this Summons, judgment will be granted against you by default for the relief demanded in the Complaint.

Clover, South Carolina

January 24, 2013

  
G. Franklin Pendleton, II  
Pendleton and Pendleton  
Attorneys for Plaintiff  
103 Kings Mountain Street  
P. O. Box 399  
Clover, South Carolina 29710  
(803) 222-3026  
(803) 222-3027 - Facsimile

STATE OF SOUTH CAROLINA )  
COUNTY OF YORK )

Robert Clay Sparrow and  
Mickey Crowe,

Plaintiffs,

vs.

Maurer Holdings, LLC, and  
David Baucom,

Defendants. )

IN THE COURT OF COMMON PLEAS  
SIXTEENTH JUDICIAL CIRCUIT

COMPLAINT  
(Suit on Note)  
(Foreclosure of Mortgage)  
(Deficiency Judgment Demanded)  
(Breach of Guaranty Agreement)  
(Non-Jury)

2013-CP46-00740

FILED-RECEIVED  
2013 FEB -8 PM 4:31  
DAVID HAMILTON  
C.C.B. & ASS. SCS  
YORK COUNTY, SC

The Plaintiffs allege as follows:

PARTIES AND JURISDICTION

1. The Plaintiff, Robert Clay Sparrow, is a citizen and resident of Mecklenburg County, North Carolina, and the Plaintiff, Mickey Crowe, is a citizen and resident of York County, South Carolina.
2. The Defendant, Maurer Holdings, LLC, on information and belief, is a North Carolina limited liability company doing business in South Carolina.
3. The Defendant, David Baucom, on information and belief, is a citizen and resident of Mecklenburg County, North Carolina, and is not in the military service of the United States of America pursuant to the provisions of the Servicemembers Civil Relief Act (2003).
4. The Plaintiffs are the owners and holders of the mortgage covering real property, which is the subject of the foreclosure action herein, located in the County of York, State of South Carolina.
5. The Plaintiffs are the owners and holders of the note securing the mortgage

which is the subject of the foreclosure action herein, located in the County of York, State of South Carolina.

6. The Defendants named herein have an interest in the property that is the subject of this action.

FOR A FIRST CAUSE OF ACTION  
(Suit on Note)  
(Foreclosure of Mortgage)  
(Deficiency Judgment Demanded)

7. To the extent that they are not inconsistent, the allegations contained in the preceding paragraphs are repeated and re-alleged herein as if in verbatim.

8. On or about December 1, 2011, for value received, the Defendant, Maurer Holdings, LLC, by and through its Manager, Tracy Goins, executed and delivered to Plaintiffs a certain promissory note in the sum of \$284,500.00, together with interest thereon at seven (7%) percent per annum until paid or until default. After default, the promissory note accrues interest thereon at fifteen (15%) percent per annum until paid. The Defendant, David Baucom, executed the promissory note dated on or about December 1, 2011, as its guarantor. (See Exhibit A, attached hereto and made a part hereof.)

9. To secure the payment of the said note and debt, secured thereby, and in accordance with the terms and conditions thereof, on December 1, 2011, the Defendant, Maurer Holdings, LLC, by and through its Manager, Tracy Goins, executed and delivered to the Plaintiffs, their heirs and assigns, a mortgage covering the following described property:

All that certain piece, parcel or lot of land lying, being and situate on the in Fort Mill Township, being shown and designated on Boundary Survey for Robert Clay Sparrow, drawn by A. Alan Wallwork, S.C.R.L.S., dated

November 12, 1998, containing 5.75 acres, more or less, and being recorded contemporaneously herewith in Plat Book B-55, at Page 2, said plat showing the following courses and distances, to wit: Beginning at an iron, joint corner with A.E. Stone property and right of way for road and running thence, N. 35-27-22 E. 200.80 feet to an iron; thence N. 43-36-40 E. 109.33 feet to an iron; thence N. 43-30-13 E. 128.33 feet to an iron; thence, N. 74-00-08 E. 206.34 feet to an iron; thence N. 79-39-22 E. 121.04 feet to an iron; thence S. 12-55-47 E. 231.11 feet to an iron; thence N. 73-38-36 E. 85.00 feet to an iron; thence S. 10-06 W. 450.00 feet to an iron; thence S. 79-02-30 E. 188.49 feet to an iron; thence N. 11-04-58 E. 192.79 feet to an iron; thence S. 78-36-50 E. 200.69 feet to an iron; thence N. 37-00-02 E. 153.07 feet to an iron; thence N. 78-38-38 W. 74.01 feet to an iron; thence, along a clockwise curving arc (radius = 256.48 feet) 107.88 feet to an iron; thence N. 54-32-38 W. 51.73 feet to an iron, the point of beginning. This is the identical property conveyed to Maurer Holdings, LLC by deed recorded December 30, 2011, in Record Book 12360, Page 226, RMC Office for York County, South Carolina.

10. Thereafter the mortgage was recorded in the Office of the Clerk of Court for York County in Record Book 12360, at Page 230, on December 30, 2011. (See Exhibit B, attached hereto and made a part hereof.)

11. The mortgage constitutes a purchase money first mortgage lien on the subject property.

12. Pursuant to the terms of the mortgage, any sums paid by the Plaintiffs for inspecting and securing the subject property, for fire and other hazard insurance, taxes and assessments for the mortgaged premises, and any costs of collection, including reasonable attorney's fees, are secured by the mortgage.

13. The last full monthly payment of \$2,205.73 made by Defendant, Maurer Holdings, LLC, was for the installment due May 1, 2012. The Defendant, Maurer Holdings, LLC, made partial payments of one-half the monthly amount due for the installments due the first day of June, July, and August, 2012. The monthly installments due on said note

and mortgage are in default since September 1, 2012, plus one-half of the installments not paid on the first day of the months of June, July, and August, 2012. Demand for payment thereof has been made and the Plaintiffs, as the holders of the said note and mortgage, after providing all required notices, elect to, and do, declare the entire balance of said indebtedness due and payable, and that there is due on said note and mortgage as of August 1, 2012, the principal sum of \$280,888.90, plus with interest at the rate of Seven (7%) percent per annum from August 1, 2012, through December 19, 2012, and interest at the rate of Fifteen (15%) percent per annum from December 20, 2012, and thereafter, and also for the costs and disbursements of this action, including reasonable attorney's fees not to exceed fifteen (15%) percent of the outstanding balance owing on said note.

14. Pursuant to Sections 37-3-105, South Carolina Code of Laws (1976 as amended), the mortgage lien, which is the subject of this action, is a first lien on real estate and is not a '*consumer loan*' for the purposes of the South Carolina Consumer Protection Code. Any notice of right to cure has been given as required.

15. The Plaintiffs specifically demand their right to a deficiency judgment against Defendant, Maurer Holdings, LLC, and further demand an immediate entry of judgment against Defendant, Fort Mill Holdings, LLC, pursuant to S.C. Code Ann. § 29-3-650.

16. Upon information and belief, certain costs for the preservation of the subject property may have been incurred by the Plaintiffs as a result of this delinquency, and Plaintiffs are informed and believe they are entitled to reimbursement for such charges, if any.

17. The Plaintiffs are not participating member of the Home Affordable Modification Program, and therefore the Plaintiffs are not subject to the restrictions and requirements of

the Home Affordable Modification Program.

18. Further, since this foreclosure action involves a commercial note and mortgage, and the subject property, upon information and belief, is not owner-occupied by the Mortgagor, this foreclosure action is not subject to the provisions of the Administrative Order issued on May 2, 2011, by the honorable Jean H. Toal of The Supreme Court of South Carolina.

FOR A SECOND CAUSE OF ACTION AGAINST  
DEFENDANTS MAURER HOLDINGS, LLC,  
AND DAVID BAUCOM

19. To the extent that they are not inconsistent, the allegations contained in the preceding paragraphs are repeated and re-alleged herein as if in verbatim.

20. On or about December 1, 2011, Defendant, David Baucom, ("Guarantor") executed and delivered that certain guaranty agreement on the Note dated December 1, 2011, in favor of Plaintiffs, wherein and whereby the Guarantor individually guaranteed payment of all sums due by Defendant, Maurer Holdings, LLC, to the Plaintiffs under the Note and any extensions thereof.

21. The guaranty agreement is the absolute, unconditional and continuing obligation of the Guarantor and constitutes a binding contract between the parties thereto.

22. The Guarantor has failed to pay all sums due and owing to Plaintiffs pursuant to the guaranty agreement, and after all notices and demands have been made therefor, Guarantor has continued to fail and refuse to pay the sum due under the guaranty agreement, and is thereby in default.

23. Plaintiffs have elected, as a result of the default of the Guarantor, as aforesaid,

to declare pursuant to the guaranty agreement, the entire indebtedness due under the Maurer Holdings, LLC, note immediately due and payable.

24. Therefore, Plaintiffs are entitled, pursuant to S.C. Code Ann. § 29-3-650, to an Order rendering an immediate judgment against the Guarantor, namely Defendant, David Baucom, for the amount due under the Note, together with interest at the rate set forth in the Note, plus all costs of collection, including attorney's fees, all as is provided in the Note and guaranty agreement.

WHEREFORE, having fully set forth their Complaint, the Plaintiffs pray that this Honorable Court inquire into the matters set forth herein and that:

1. The amount due upon the said note and mortgage held by Plaintiffs be ascertained and determined under the direction of this Court, together with attorney's fees and the costs of this action.

2. The said Plaintiffs' Mortgage be declared a first mortgage lien and that the Plaintiffs have judgment of foreclosure for the amount so found to be due and owing thereon, together with any taxes or insurance premiums which may be due, with a reasonable sum as attorney's fees and for the costs of this action.

3. The mortgaged premises be sold under the direction of this Court, the equity of redemption be barred, and that the proceeds of sale be applied as follows:

First, to the costs and expenses of the within action and sale.

Second, to the payment and discharge of the amount due on Plaintiffs' note and mortgage, together with the attorney's fees as aforesaid,

Third, the surplus, if any be distributed according to law; and

Fourth, if there is no surplus, that Plaintiffs have a money judgment against the



Defendants for any amount due Plaintiffs after the application of the net proceeds of its security to the amount due the Plaintiffs from the Defendants.

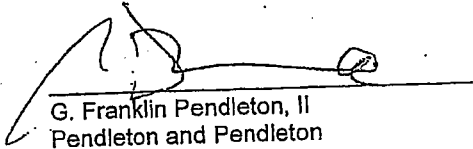
4. An Order be entered directing and empowering the Sheriff of York County, South Carolina, to place the successful purchaser at said foreclosure sale in possession of the property hereinabove described should the same become necessary.

5. An Order be entered for the ejectment of the Defendant in possession herein and all persons claiming thereunder and the removal therefrom of all furnishings, fixtures and items not subject to the lien of the Plaintiffs' mortgage, which personal property if not removed shall be deemed abandoned and shall be removed by the Plaintiffs or their agents from the subject property by placing said property on the public street or highway or by any other means.

6. An Order be entered for reimbursement of all costs for inspecting and securing the property incurred by the Plaintiffs as a result of the delinquency.

7. An Order be entered for such other and further relief as may be just and proper.

January 31, 2013



G. Franklin Pendleton, II  
Pendleton and Pendleton  
Attorneys for Plaintiff  
Post Office Box 399  
Clover, South Carolina 29710  
(803) 222-3026  
(803) 222-3027 (facsimile)

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF YORK )

VERIFICATION

PERSONALLY appeared before me Robert Clay Sparrow and Mickey Crowe,  
who being duly sworn, deposes and says that they are the Plaintiffs in the foregoing  
Complaint; that they have read the within Complaint and the matters and things alleged  
therein are true to their own knowledge and belief, except those on information and belief  
and as to those they believe them to be true.

SWORN to before me this

31 day of January, 2013.

[Signature]  
Notary Public for South Carolina  
My Commission Expires: 3/20/13

[Signature]  
Robert Clay Sparrow

[Signature]  
Mickey Crowe

FILED-RECEIVED  
2013 FEB -8 PM 4:31  
DAVID HAMILTON  
C.C.P. & S.S.  
YORK COUNTY, SC

EXHIBIT "A"

SAFETY The debt evidenced by this Note, has been satisfied in full this \_\_\_\_\_ day of \_\_\_\_\_, 2011.

Signed \_\_\_\_\_

PURCHASE MONEY PROMISSORY NOTE

Charlotte, N.C.  
December 1, 2011

284,500.00

FOR VALUE RECEIVED the undersigned, jointly and severally, promise to pay to Robert Clay Sparrow and Mickey Crowe, in order, the principal sum of TWO HUNDRED EIGHTY FOUR THOUSAND FIVE HUNDRED DOLLARS (\$284,500.00), with interest from December 1, 2011, at the rate of SEVEN per cent (7%) per annum on the unpaid balance until paid or until default, both principal and interest payable in lawful money of the United States of America, at the office of Robert Clay Sparrow, 142 Stony Point Drive, Blacksburg, SC 29702, or at such place as the legal holder hereof may designate in writing. The principal and interest shall be due and payable as follows:

in 240 consecutive and equal payments of \$2,205.73 each commencing January 1, 2012 and continuing to become due on the first day of each month thereafter until December 1, 2031 when all remaining amounts due hereunder shall be due and payable in full, all as shown on the attached amortization schedule.

All amounts of both principal and interest due hereunder shall be paid in full on or before December 1, 2031.

If payable in installments, each such installment shall, unless otherwise provided, be applied first to payment of interest then accrued and due on the unpaid principal balance, with the remainder applied to the unpaid principal.

Unless otherwise provided, this Note may be prepaid in full or in part at any time without penalty or premium. Partial payments shall be applied to installments due in reverse order of their maturity.

In the event of (a) default in payment of any installment of principal or interest hereof as the same becomes due and such default is not cured within ten (10) days from the due date, or (b) default under the terms of any instrument securing this Note, and such default is not cured within fifteen (15) days after written notice to maker, then in either such event the holder may without further notice, declare the remainder of the principal sum, together with all interest accrued thereon and, the prepayment premium, if any, at once due and payable. Failure to exercise this option shall not constitute a waiver of the right to exercise the same at any other time. The unpaid principal of this Note and any part thereof, accrued interest and all other sums due under this Note and the Deed of Trust or Mortgage, if any, shall bear interest at the rate of Fifteen per cent (15%) per annum after default until paid.

All parties to this Note, including maker and any sureties, endorsers, or guarantors hereby waive protest, presentment, notice of dishonor, and notice of acceleration of maturity and agree to continue to remain bound for the payment of principal, interest and all other sums due under this Note and the Deed of Trust or Mortgage notwithstanding any change or changes by way of release, surrender, exchange, modification or substitution of any security for this Note or by way of any extension or extensions of time for the payment of principal and interest; and all such parties waive all and every kind of notice of such change or changes and agree that the same may be made without notice or consent of any of them.

Upon default the holder of this Note may employ an attorney to enforce the holder's rights and remedies, and the maker, principal, surety, guarantor and endorsers of this Note hereby agree to pay to the holder reasonable attorneys fees not exceeding a sum equal to fifteen percent (15%) of the outstanding balance owing on said Note, plus all other reasonable expenses incurred by the holder in exercising any of the holder's rights and remedies upon default. The rights and remedies of the holder as provided in this Note and any instrument securing this Note shall be cumulative and may be pursued singly, successively, or together against the property described in the Deed of Trust or Mortgage or any other funds, property or security held by the holder for payment or security, in the sole discretion of the holder. The failure to exercise any such right or remedy shall not be a waiver or release of such rights or remedies or the right to exercise any of them at another time.

This Note is to be governed and construed in accordance with the laws of the State of North Carolina.

This Note is given for the balance of purchase price for the property located off Highway 51, Fort Mill, SC, and is secured by a Purchase Money Mortgage or Deed of Trust or Mortgage, which is a first lien upon said property.

IN TESTIMONY WHEREOF, the corporate maker has caused this instrument to be executed in its corporate name by its Manager, by the authority duly given by its managers and members, the day and year first above written.

Maurer Holdings, LLC

By: \_\_\_\_\_

Tracy Goigs, Manager

IN TESTIMONY WHEREOF, each individual maker or guarantor has hereunto set his hand and adopted as his seal the word "SEAL" appearing beside his name, the day and year first above written.

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David Baucum, Guarantor (SEAL)

Amortization Schedule generated by the [www.amortization-schedule.info](http://www.amortization-schedule.info) website.**Amortization Schedule**

The monthly payment for a \$284,500.00 loan at 7% annual interest rate will be \$2,205.73 per payment. This amount should be paid to the lender, bank or lending institution for 20 years. The loan amortization table below shows your monthly payment divided into two portions. One portion is put towards interest (interest paid), while the other portion goes towards principal (principal paid). As you can see, initially a larger amount is applied towards interest and as the loan matures the portion applied towards the outstanding principal balance gets larger and larger.

Please note that if you are calculating a mortgage loan, property taxes, property insurance and private mortgage insurance is neglected in the calculation, they will increase the amount of your regular periodic payments.

| period: | date:      | interest paid: | principal paid: | remaining balance: |
|---------|------------|----------------|-----------------|--------------------|
| 1       | 01/01/2012 | \$1,659.58     | \$546.16        | \$283,953.85       |
| 2       | 02/01/2012 | \$1,656.40     | \$549.33        | \$283,404.52       |
| 3       | 03/01/2012 | \$1,653.19     | \$552.54        | \$282,851.98       |
| 4       | 04/01/2012 | \$1,649.97     | \$555.76        | \$282,298.22       |
| 5       | 05/01/2012 | \$1,646.73     | \$559.00        | \$281,737.22       |
| 6       | 06/01/2012 | \$1,643.47     | \$562.26        | \$281,174.96       |
| 7       | 07/01/2012 | \$1,640.19     | \$565.54        | \$280,609.42       |
| 8       | 08/01/2012 | \$1,636.89     | \$568.84        | \$280,040.58       |
| 9       | 09/01/2012 | \$1,633.67     | \$572.16        | \$279,468.42       |
| 10      | 10/01/2012 | \$1,630.23     | \$575.50        | \$278,892.92       |
| 11      | 11/01/2012 | \$1,626.88     | \$578.85        | \$278,314.07       |
| 12      | 12/01/2012 | \$1,623.50     | \$582.23        | \$277,731.84       |

Loan amortization schedule for year 1 (2012):

You will spend \$19,700.60 on interest and \$6,768.16 on principal.

| period: | date:      | interest paid: | principal paid: | remaining balance: |
|---------|------------|----------------|-----------------|--------------------|
| 13      | 01/01/2013 | \$1,620.10     | \$585.63        | \$277,146.21       |
| 14      | 02/01/2013 | \$1,616.69     | \$589.04        | \$276,567.17       |
| 15      | 03/01/2013 | \$1,613.25     | \$592.48        | \$275,964.69       |
| 16      | 04/01/2013 | \$1,609.79     | \$595.94        | \$275,368.75       |
| 17      | 05/01/2013 | \$1,606.32     | \$599.41        | \$274,769.34       |
| 18      | 06/01/2013 | \$1,602.82     | \$602.91        | \$274,166.43       |
| 19      | 07/01/2013 | \$1,599.30     | \$606.43        | \$273,560.00       |
| 20      | 08/01/2013 | \$1,595.77     | \$609.96        | \$272,950.04       |
| 21      | 09/01/2013 | \$1,592.21     | \$613.52        | \$272,336.52       |
| 22      | 10/01/2013 | \$1,588.63     | \$617.10        | \$271,719.42       |
| 23      | 11/01/2013 | \$1,585.03     | \$620.70        | \$271,098.72       |
| 24      | 12/01/2013 | \$1,581.41     | \$624.32        | \$270,474.40       |

Loan amortization schedule for year 2 (2013):

You will spend \$19,211.32 on interest and \$7,267.44 on principal.

| period: | date:      | interest paid: | principal paid: | remaining balance: |
|---------|------------|----------------|-----------------|--------------------|
| 25      | 01/01/2014 | \$1,577.77     | \$627.96        | \$269,846.44       |
| 26      | 02/01/2014 | \$1,574.10     | \$631.63        | \$269,214.81       |
| 27      | 03/01/2014 | \$1,570.42     | \$635.31        | \$268,579.50       |
| 28      | 04/01/2014 | \$1,566.71     | \$639.02        | \$267,940.48       |
| 29      | 05/01/2014 | \$1,562.99     | \$642.74        | \$267,297.74       |
| 30      | 06/01/2014 | \$1,559.24     | \$646.49        | \$266,651.25       |
| 31      | 07/01/2014 | \$1,555.47     | \$650.26        | \$266,000.99       |
| 32      | 08/01/2014 | \$1,551.67     | \$654.06        | \$265,346.93       |
| 33      | 09/01/2014 | \$1,547.88     | \$657.87        | \$264,689.06       |
| 34      | 10/01/2014 | \$1,544.02     | \$661.71        | \$264,027.35       |
| 35      | 11/01/2014 | \$1,540.16     | \$665.57        | \$263,361.78       |
| 36      | 12/01/2014 | \$1,536.28     | \$669.45        | \$262,692.33       |

## Loan amortization schedule for year 3 (2014):

You will spend \$18,686.63 on interest and \$7,782.07 on principal.

| period: | date:      | interest paid: | principal paid: | remaining balance: |
|---------|------------|----------------|-----------------|--------------------|
| 37      | 01/01/2015 | \$1,532.37     | \$673.36        | \$262,018.97       |
| 38      | 02/01/2015 | \$1,528.44     | \$677.29        | \$261,341.68       |
| 39      | 03/01/2015 | \$1,524.49     | \$681.24        | \$260,660.44       |
| 40      | 04/01/2015 | \$1,520.52     | \$685.21        | \$259,975.23       |
| 41      | 05/01/2015 | \$1,516.52     | \$689.21        | \$259,286.02       |
| 42      | 06/01/2015 | \$1,512.50     | \$693.23        | \$258,592.79       |
| 43      | 07/01/2015 | \$1,508.46     | \$697.27        | \$257,895.52       |
| 44      | 08/01/2015 | \$1,504.39     | \$701.34        | \$257,194.18       |
| 45      | 09/01/2015 | \$1,500.30     | \$705.43        | \$256,488.75       |
| 46      | 10/01/2015 | \$1,496.18     | \$709.55        | \$255,779.20       |
| 47      | 11/01/2015 | \$1,492.05     | \$713.68        | \$255,065.52       |
| 48      | 12/01/2015 | \$1,487.88     | \$717.85        | \$254,347.67       |

## Loan amortization schedule for year 4 (2015):

You will spend \$10,124.10 on interest and \$8,344.66 on principal.

| period: | date:      | interest paid: | principal paid: | remaining balance: |
|---------|------------|----------------|-----------------|--------------------|
| 49      | 01/01/2016 | \$1,463.69     | \$722.04        | \$253,625.63       |
| 50      | 02/01/2016 | \$1,479.48     | \$726.26        | \$252,898.36       |
| 51      | 03/01/2016 | \$1,475.25     | \$730.48        | \$252,168.90       |
| 52      | 04/01/2016 | \$1,470.99     | \$734.74        | \$251,434.16       |
| 53      | 05/01/2016 | \$1,466.70     | \$739.03        | \$250,695.13       |
| 54      | 06/01/2016 | \$1,462.39     | \$743.34        | \$249,951.79       |
| 55      | 07/01/2016 | \$1,458.05     | \$747.68        | \$249,204.11       |
| 56      | 08/01/2016 | \$1,453.69     | \$752.04        | \$248,452.07       |
| 57      | 09/01/2016 | \$1,449.30     | \$756.43        | \$247,695.64       |
| 58      | 10/01/2016 | \$1,444.89     | \$760.84        | \$246,934.80       |
| 59      | 11/01/2016 | \$1,440.45     | \$765.28        | \$246,169.52       |
| 60      | 12/01/2016 | \$1,435.99     | \$769.74        | \$245,399.78       |

## Loan amortization schedule for year 5 (2016):

You will spend \$17,520.07 on interest and \$8,947.89 on principal.

| period: | date:      | interest paid: | principal paid: | remaining balance: |
|---------|------------|----------------|-----------------|--------------------|
| 61      | 01/01/2017 | \$1,431.60     | \$774.23        | \$244,625.55       |
| 62      | 02/01/2017 | \$1,426.98     | \$778.76        | \$243,846.80       |
| 63      | 03/01/2017 | \$1,422.44     | \$783.29        | \$243,063.51       |
| 64      | 04/01/2017 | \$1,417.87     | \$787.86        | \$242,276.65       |
| 65      | 05/01/2017 | \$1,413.27     | \$792.46        | \$241,483.19       |
| 66      | 06/01/2017 | \$1,408.66     | \$797.08        | \$240,686.11       |
| 67      | 07/01/2017 | \$1,404.00     | \$801.73        | \$239,884.38       |
| 68      | 08/01/2017 | \$1,399.33     | \$806.40        | \$239,077.98       |
| 69      | 09/01/2017 | \$1,394.62     | \$811.11        | \$238,266.87       |
| 70      | 10/01/2017 | \$1,389.89     | \$815.84        | \$237,451.03       |
| 71      | 11/01/2017 | \$1,385.13     | \$820.60        | \$236,630.43       |
| 72      | 12/01/2017 | \$1,380.34     | \$825.39        | \$235,805.04       |

## Loan amortization schedule for year 6 (2017):

You will spend \$16,074.02 on interest and \$9,594.74 on principal.

| period: | date:      | interest paid: | principal paid: | remaining balance: |
|---------|------------|----------------|-----------------|--------------------|
| 73      | 01/01/2018 | \$1,375.53     | \$830.20        | \$234,974.84       |
| 74      | 02/01/2018 | \$1,370.69     | \$835.04        | \$234,139.80       |
| 75      | 03/01/2018 | \$1,365.82     | \$839.94        | \$233,299.89       |
| 76      | 04/01/2018 | \$1,360.92     | \$844.81        | \$232,455.00       |
| 77      | 05/01/2018 | \$1,355.99     | \$849.74        | \$231,605.34       |
| 78      | 06/01/2018 | \$1,351.03     | \$854.70        | \$230,750.64       |
| 79      | 07/01/2018 | \$1,346.05     | \$859.68        | \$229,890.96       |

|    |            |            |          |              |
|----|------------|------------|----------|--------------|
| 80 | 08/01/2018 | \$1,341.03 | \$884.70 | \$229,026.26 |
| 81 | 09/01/2018 | \$1,335.99 | \$869.74 | \$228,156.52 |
| 82 | 10/01/2018 | \$1,330.91 | \$874.82 | \$227,281.70 |
| 83 | 11/01/2018 | \$1,325.81 | \$879.82 | \$226,401.78 |
| 84 | 12/01/2018 | \$1,320.68 | \$885.05 | \$225,516.73 |

Loan amortization schedule for year 7 (2018):

You will spend \$15,180.45 on interest and \$10,288.31 on principal.

| period: | date:      | interest paid: | principal paid: | remaining balance: |
|---------|------------|----------------|-----------------|--------------------|
| 85      | 01/01/2019 | \$1,315.51     | \$890.22        | \$224,626.51       |
| 86      | 02/01/2019 | \$1,310.32     | \$895.41        | \$223,731.10       |
| 87      | 03/01/2019 | \$1,305.10     | \$900.63        | \$222,830.47       |
| 88      | 04/01/2019 | \$1,299.84     | \$905.89        | \$221,924.58       |
| 89      | 05/01/2019 | \$1,294.58     | \$911.17        | \$221,013.41       |
| 90      | 06/01/2019 | \$1,289.24     | \$916.49        | \$220,096.92       |
| 91      | 07/01/2019 | \$1,283.90     | \$921.83        | \$219,175.09       |
| 92      | 08/01/2019 | \$1,278.52     | \$927.21        | \$218,247.88       |
| 93      | 09/01/2019 | \$1,273.11     | \$932.62        | \$217,315.26       |
| 94      | 10/01/2019 | \$1,267.67     | \$938.06        | \$216,377.20       |
| 95      | 11/01/2019 | \$1,262.20     | \$943.53        | \$215,433.67       |
| 96      | 12/01/2019 | \$1,256.70     | \$949.03        | \$214,484.64       |

Loan amortization schedule for year 8 (2019):

You will spend \$15,438.67 on interest and \$11,032.09 on principal.

| period: | date:      | interest paid: | principal paid: | remaining balance: |
|---------|------------|----------------|-----------------|--------------------|
| 97      | 01/01/2020 | \$1,251.16     | \$954.57        | \$213,530.07       |
| 98      | 02/01/2020 | \$1,245.69     | \$960.14        | \$212,569.93       |
| 99      | 03/01/2020 | \$1,239.99     | \$965.74        | \$211,604.19       |
| 100     | 04/01/2020 | \$1,234.36     | \$971.37        | \$210,632.82       |
| 101     | 05/01/2020 | \$1,228.69     | \$977.04        | \$209,655.78       |
| 102     | 06/01/2020 | \$1,222.89     | \$982.74        | \$208,673.04       |
| 103     | 07/01/2020 | \$1,217.26     | \$988.47        | \$207,684.57       |
| 104     | 08/01/2020 | \$1,211.49     | \$994.24        | \$206,690.33       |
| 105     | 09/01/2020 | \$1,205.89     | \$1,000.04      | \$205,690.29       |
| 106     | 10/01/2020 | \$1,199.86     | \$1,005.87      | \$204,684.42       |
| 107     | 11/01/2020 | \$1,193.89     | \$1,011.74      | \$203,672.68       |
| 108     | 12/01/2020 | \$1,188.09     | \$1,017.64      | \$202,655.04       |

Loan amortization schedule for year 9 (2020):

You will spend \$14,639.16 on interest and \$11,829.60 on principal.

| period: | date:      | interest paid: | principal paid: | remaining balance: |
|---------|------------|----------------|-----------------|--------------------|
| 109     | 01/01/2021 | \$1,182.15     | \$1,023.58      | \$201,631.46       |
| 110     | 02/01/2021 | \$1,176.18     | \$1,029.65      | \$200,601.91       |
| 111     | 03/01/2021 | \$1,170.18     | \$1,035.65      | \$199,568.36       |
| 112     | 04/01/2021 | \$1,164.14     | \$1,041.59      | \$198,524.77       |
| 113     | 05/01/2021 | \$1,158.06     | \$1,047.67      | \$197,477.10       |
| 114     | 06/01/2021 | \$1,151.95     | \$1,053.78      | \$196,423.32       |
| 115     | 07/01/2021 | \$1,145.80     | \$1,059.93      | \$195,363.39       |
| 116     | 08/01/2021 | \$1,139.62     | \$1,066.11      | \$194,297.28       |
| 117     | 09/01/2021 | \$1,133.40     | \$1,072.33      | \$193,224.95       |
| 118     | 10/01/2021 | \$1,127.16     | \$1,078.58      | \$192,146.37       |
| 119     | 11/01/2021 | \$1,120.88     | \$1,084.88      | \$191,061.49       |
| 120     | 12/01/2021 | \$1,114.53     | \$1,091.20      | \$189,970.29       |

Loan amortization schedule for year 10 (2021):

You will spend \$13,784.01 on interest and \$12,584.75 on principal.

| period: | date:      | interest paid: | principal paid: | remaining balance: |
|---------|------------|----------------|-----------------|--------------------|
| 121     | 01/01/2022 | \$1,108.16     | \$1,097.57      | \$188,872.72       |
| 122     | 02/01/2022 | \$1,101.78     | \$1,103.97      | \$187,768.75       |

|     |            |            |            |              |
|-----|------------|------------|------------|--------------|
| 123 | 03/01/2022 | \$1,095.32 | \$1,110.41 | \$186,668.34 |
| 124 | 04/01/2022 | \$1,096.84 | \$1,116.89 | \$185,541.45 |
| 125 | 05/01/2022 | \$1,082.33 | \$1,123.40 | \$184,418.06 |
| 126 | 06/01/2022 | \$1,075.77 | \$1,129.98 | \$183,288.09 |
| 127 | 07/01/2022 | \$1,089.18 | \$1,136.55 | \$182,151.64 |
| 128 | 08/01/2022 | \$1,082.65 | \$1,143.18 | \$181,008.36 |
| 129 | 09/01/2022 | \$1,055.88 | \$1,149.85 | \$179,858.51 |
| 130 | 10/01/2022 | \$1,049.17 | \$1,156.56 | \$178,701.95 |
| 131 | 11/01/2022 | \$1,042.43 | \$1,163.30 | \$177,538.65 |
| 132 | 12/01/2022 | \$1,035.64 | \$1,170.09 | \$176,368.56 |

Loan amortization schedule for year 11 (2022):

You will spend \$12,867.03 on interest and \$13,601.73 on principal.

| period: | date:      | interest paid: | principal paid: | remaining balance: |
|---------|------------|----------------|-----------------|--------------------|
| 133     | 01/01/2023 | \$1,028.82     | \$1,176.91      | \$175,191.65       |
| 134     | 02/01/2023 | \$1,021.85     | \$1,183.78      | \$174,007.87       |
| 135     | 03/01/2023 | \$1,015.05     | \$1,190.68      | \$172,817.19       |
| 136     | 04/01/2023 | \$1,008.10     | \$1,197.63      | \$171,619.56       |
| 137     | 05/01/2023 | \$1,001.11     | \$1,204.62      | \$170,414.94       |
| 138     | 06/01/2023 | \$994.09       | \$1,211.64      | \$169,203.30       |
| 139     | 07/01/2023 | \$987.02       | \$1,218.71      | \$167,984.59       |
| 140     | 08/01/2023 | \$979.91       | \$1,225.82      | \$166,758.77       |
| 141     | 09/01/2023 | \$972.78       | \$1,232.97      | \$165,525.80       |
| 142     | 10/01/2023 | \$965.57       | \$1,240.15      | \$164,285.64       |
| 143     | 11/01/2023 | \$958.33       | \$1,247.40      | \$163,038.24       |
| 144     | 12/01/2023 | \$951.06       | \$1,254.67      | \$161,783.57       |

Loan amortization schedule for year 12 (2023):

You will spend \$11,883.77 on interest and \$14,584.99 on principal.

| period: | date:      | interest paid: | principal paid: | remaining balance: |
|---------|------------|----------------|-----------------|--------------------|
| 145     | 01/01/2024 | \$943.74       | \$1,261.88      | \$160,521.58       |
| 146     | 02/01/2024 | \$936.38       | \$1,269.35      | \$159,252.23       |
| 147     | 03/01/2024 | \$928.97       | \$1,276.76      | \$157,975.47       |
| 148     | 04/01/2024 | \$921.52       | \$1,284.21      | \$156,691.26       |
| 149     | 05/01/2024 | \$914.03       | \$1,291.70      | \$155,399.56       |
| 150     | 06/01/2024 | \$906.60       | \$1,299.23      | \$154,100.33       |
| 151     | 07/01/2024 | \$899.92       | \$1,306.81      | \$152,793.52       |
| 152     | 08/01/2024 | \$891.30       | \$1,314.43      | \$151,479.09       |
| 153     | 09/01/2024 | \$883.63       | \$1,322.10      | \$150,156.99       |
| 154     | 10/01/2024 | \$875.92       | \$1,329.81      | \$148,827.18       |
| 155     | 11/01/2024 | \$868.18       | \$1,337.57      | \$147,489.61       |
| 156     | 12/01/2024 | \$860.38       | \$1,345.37      | \$146,144.24       |

Loan amortization schedule for year 13 (2024):

You will spend \$10,829.43 on interest and \$15,639.33 on principal.

| period: | date:      | interest paid: | principal paid: | remaining balance: |
|---------|------------|----------------|-----------------|--------------------|
| 157     | 01/01/2025 | \$852.51       | \$1,353.22      | \$144,791.02       |
| 158     | 02/01/2025 | \$844.81       | \$1,361.12      | \$143,429.90       |
| 159     | 03/01/2025 | \$836.67       | \$1,369.06      | \$142,060.84       |
| 160     | 04/01/2025 | \$828.69       | \$1,377.04      | \$140,683.80       |
| 161     | 05/01/2025 | \$820.08       | \$1,385.07      | \$139,298.73       |
| 162     | 06/01/2025 | \$812.69       | \$1,393.16      | \$137,905.58       |
| 163     | 07/01/2025 | \$804.45       | \$1,401.28      | \$136,504.30       |
| 164     | 08/01/2025 | \$796.28       | \$1,409.45      | \$135,094.85       |
| 165     | 09/01/2025 | \$788.05       | \$1,417.68      | \$133,677.17       |
| 166     | 10/01/2025 | \$779.78       | \$1,425.85      | \$132,251.22       |
| 167     | 11/01/2025 | \$771.47       | \$1,434.26      | \$130,816.96       |
| 168     | 12/01/2025 | \$763.10       | \$1,442.63      | \$129,374.33       |

Loan amortization schedule for year 14 (2025):  
You will spend \$9,595.85 on interest and \$16,769.91 on principal.

| period: | date:      | interest paid: | principal paid: | remaining balance: |
|---------|------------|----------------|-----------------|--------------------|
| 169     | 01/01/2026 | \$754.88       | \$1,451.05      | \$127,923.28       |
| 170     | 02/01/2026 | \$745.22       | \$1,459.51      | \$126,463.77       |
| 171     | 03/01/2026 | \$737.71       | \$1,466.02      | \$124,995.75       |
| 172     | 04/01/2026 | \$729.14       | \$1,475.59      | \$123,519.16       |
| 173     | 05/01/2026 | \$720.53       | \$1,485.20      | \$122,033.96       |
| 174     | 06/01/2026 | \$711.86       | \$1,493.87      | \$120,540.09       |
| 175     | 07/01/2026 | \$703.15       | \$1,502.69      | \$119,037.51       |
| 176     | 08/01/2026 | \$694.39       | \$1,511.34      | \$117,526.17       |
| 177     | 09/01/2026 | \$685.57       | \$1,520.16      | \$116,006.01       |
| 178     | 10/01/2026 | \$676.70       | \$1,529.03      | \$114,476.98       |
| 179     | 11/01/2026 | \$667.78       | \$1,537.95      | \$112,939.03       |
| 180     | 12/01/2026 | \$658.81       | \$1,546.92      | \$111,392.11       |

Loan amortization schedule for year 15 (2026):  
You will spend \$8,488.54 on interest and \$17,902.22 on principal.

| period: | date:      | interest paid: | principal paid: | remaining balance: |
|---------|------------|----------------|-----------------|--------------------|
| 181     | 01/01/2027 | \$649.79       | \$1,555.94      | \$109,836.17       |
| 182     | 02/01/2027 | \$640.71       | \$1,565.02      | \$108,271.15       |
| 183     | 03/01/2027 | \$631.58       | \$1,574.16      | \$106,697.00       |
| 184     | 04/01/2027 | \$622.40       | \$1,583.33      | \$105,113.67       |
| 185     | 05/01/2027 | \$613.16       | \$1,592.57      | \$103,521.10       |
| 186     | 06/01/2027 | \$603.87       | \$1,601.88      | \$101,918.24       |
| 187     | 07/01/2027 | \$594.53       | \$1,611.20      | \$100,308.04       |
| 188     | 08/01/2027 | \$585.13       | \$1,620.50      | \$98,687.44        |
| 189     | 09/01/2027 | \$575.68       | \$1,630.05      | \$97,057.39        |
| 190     | 10/01/2027 | \$566.17       | \$1,639.56      | \$95,417.83        |
| 191     | 11/01/2027 | \$556.60       | \$1,649.13      | \$93,768.70        |
| 192     | 12/01/2027 | \$546.98       | \$1,658.76      | \$92,109.95        |

Loan amortization schedule for year 16 (2027):  
You will spend \$7,186.80 on interest and \$19,282.16 on principal.

| period: | date:      | interest paid: | principal paid: | remaining balance: |
|---------|------------|----------------|-----------------|--------------------|
| 193     | 01/01/2028 | \$537.31       | \$1,668.42      | \$80,441.53        |
| 194     | 02/01/2028 | \$527.58       | \$1,678.15      | \$78,763.38        |
| 195     | 03/01/2028 | \$517.79       | \$1,687.94      | \$77,075.44        |
| 196     | 04/01/2028 | \$507.94       | \$1,697.79      | \$75,377.65        |
| 197     | 05/01/2028 | \$498.04       | \$1,707.59      | \$73,669.96        |
| 198     | 06/01/2028 | \$488.07       | \$1,717.86      | \$71,952.30        |
| 199     | 07/01/2028 | \$478.06       | \$1,727.67      | \$70,224.63        |
| 200     | 08/01/2028 | \$467.98       | \$1,737.75      | \$68,486.88        |
| 201     | 09/01/2028 | \$457.84       | \$1,747.89      | \$66,738.99        |
| 202     | 10/01/2028 | \$447.64       | \$1,758.09      | \$64,980.90        |
| 203     | 11/01/2028 | \$437.39       | \$1,768.34      | \$63,212.56        |
| 204     | 12/01/2028 | \$427.07       | \$1,778.58      | \$61,433.90        |

Loan amortization schedule for year 17 (2028):  
You will spend \$5,792.71 on interest and \$20,575.05 on principal.

| period: | date:      | interest paid: | principal paid: | remaining balance: |
|---------|------------|----------------|-----------------|--------------------|
| 205     | 01/01/2029 | \$415.70       | \$1,789.03      | \$39,644.07        |
| 206     | 02/01/2029 | \$405.28       | \$1,799.47      | \$37,844.60        |
| 207     | 03/01/2029 | \$395.78       | \$1,809.97      | \$36,035.43        |
| 208     | 04/01/2029 | \$385.21       | \$1,820.52      | \$34,214.91        |
| 209     | 05/01/2029 | \$374.59       | \$1,831.14      | \$32,383.77        |
| 210     | 06/01/2029 | \$363.91       | \$1,841.82      | \$30,541.95        |
| 211     | 07/01/2029 | \$353.16       | \$1,852.57      | \$28,689.38        |



|     |            |          |            |             |
|-----|------------|----------|------------|-------------|
| 212 | 08/01/2029 | \$342.36 | \$1,863.38 | \$56,826.00 |
| 213 | 09/01/2029 | \$331.49 | \$1,874.24 | \$54,951.76 |
| 214 | 10/01/2029 | \$320.55 | \$1,885.18 | \$53,066.58 |
| 215 | 11/01/2029 | \$308.56 | \$1,896.17 | \$51,170.41 |
| 216 | 12/01/2029 | \$296.49 | \$1,907.24 | \$49,263.17 |

Loan amortization schedule for year 18 (2029):

You will spend \$4,296.03 on interest and \$22,170.73 on principal.

| period: | date:      | interest paid: | principal paid: | remaining balance: |
|---------|------------|----------------|-----------------|--------------------|
| 217     | 01/01/2030 | \$287.37       | \$1,918.36      | \$47,344.81        |
| 218     | 02/01/2030 | \$276.18       | \$1,929.56      | \$45,415.26        |
| 219     | 03/01/2030 | \$264.82       | \$1,940.81      | \$43,474.45        |
| 220     | 04/01/2030 | \$253.60       | \$1,952.13      | \$41,522.32        |
| 221     | 05/01/2030 | \$242.21       | \$1,963.62      | \$39,568.00        |
| 222     | 06/01/2030 | \$230.76       | \$1,974.97      | \$37,603.83        |
| 223     | 07/01/2030 | \$219.24       | \$1,986.49      | \$35,637.34        |
| 224     | 08/01/2030 | \$207.65       | \$1,998.08      | \$33,669.26        |
| 225     | 09/01/2030 | \$196.00       | \$2,009.73      | \$31,689.53        |
| 226     | 10/01/2030 | \$184.27       | \$2,021.46      | \$29,698.07        |
| 227     | 11/01/2030 | \$172.48       | \$2,033.25      | \$27,694.82        |
| 228     | 12/01/2030 | \$160.62       | \$2,045.11      | \$25,689.71        |

Loan amortization schedule for year 19 (2030):

You will spend \$2,695.30 on interest and \$23,773.46 on principal.

| period: | date:      | interest paid: | principal paid: | remaining balance: |
|---------|------------|----------------|-----------------|--------------------|
| 229     | 01/01/2031 | \$148.69       | \$2,057.04      | \$23,632.67        |
| 230     | 02/01/2031 | \$136.69       | \$2,069.04      | \$21,563.63        |
| 231     | 03/01/2031 | \$124.62       | \$2,081.11      | \$19,482.52        |
| 232     | 04/01/2031 | \$112.48       | \$2,093.25      | \$17,389.27        |
| 233     | 05/01/2031 | \$100.27       | \$2,105.46      | \$15,283.81        |
| 234     | 06/01/2031 | \$87.99        | \$2,117.74      | \$13,166.07        |
| 235     | 07/01/2031 | \$75.64        | \$2,130.09      | \$11,035.98        |
| 236     | 08/01/2031 | \$63.21        | \$2,142.82      | \$8,893.16         |
| 237     | 09/01/2031 | \$50.71        | \$2,155.02      | \$6,738.14         |
| 238     | 10/01/2031 | \$38.14        | \$2,167.69      | \$4,570.45         |
| 239     | 11/01/2031 | \$25.60        | \$2,180.23      | \$2,389.82         |
| 240     | 12/01/2031 | \$12.78        | \$2,192.62      | \$0.00             |

Loan amortization schedule for year 20 (2031):

You will spend \$978.72 on interest and \$25,489.71 on principal.

### Loan payoff summary

| Loan details:         |              | Loan payoff details: |              |
|-----------------------|--------------|----------------------|--------------|
| Loan amount:          | \$284,500.00 | Monthly payment:     | \$2,205.73   |
| Annual interest rate: | 7.00%        | Loan start date:     | 12/01/2011   |
| Loan length:          | 20 years     | Loan payoff date:    | 12/01/2031   |
| Pay periodicity:      | monthly      | Interest paid:       | \$244,872.87 |

On a \$284,500.00 loan you will spend \$529,372.87.  
From this \$244,872.87 goes towards interest and \$284,500.00 will be applied to the principal.

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EXHIBIT "B"

201100156178  
Filed for Record in  
YORK COUNTY, SC  
DAVID HAMILTON, CLERK OF COURTS  
12-30-2011 At 02:31 pm.  
MORTGAGE 12.00  
OR Vol 12360 Page 230 - 235

STATE OF SOUTH CAROLINA

MORTGAGE

COUNTY OF YORK

WHEREAS, Maurer Holdings, LLC, a North Carolina limited liability company (hereafter called Mortgagor), in and by their certain Note of even date, stands firmly held and bound unto Robert Clay Sparrow (hereafter referred to as Mortgagee) for payment of the full and just sum of Two Hundred Eighty Four Thousand Five Hundred Dollars (\$284,500.00) payable per terms of Note, with the entire balance, if not sooner paid, being due per terms of Note, with interest, if any, as in and by the Note, reference being had thereto, will more fully appear.

KNOW ALL MEN BY THESE PRESENTS: That the Mortgagor, for and inconsideration of the debt or sum of money aforesaid, and to better secure its payment to the Mortgagee according to the conditions of the Note, and also in consideration of the further sum of \$3.00 to the Mortgagor in hand well and truly paid by the Mortgagee at and before the sealing and delivery of these presents the receipt and sufficiency whereof is hereby acknowledged, have granted, bargained, sold and released, and by these Presents do grant, bargain, sell and release unto said unto the Mortgagee, his heirs and assigns, the real property described below:

SEE EXHIBIT "A" ATTACHED HERETO.

MORTGAGEE'S ADDRESS:

Robert Clay Sparrow  
142 Stoney Point Drive  
Blacksburg, SC 29702

TOGETHER with all and singular, the rights, members, hereditaments and appurtenances to said Premises belonging, or in any ways incident or appertaining.

BX12360 P00230

TO HAVE AND TO HOLD, all and singular the premises unto the mortgagee, his heirs and assigns, forever.

AND THE MORTGAGOR does hereby bind himself and his heirs and successors to warrant and forever defend all and singular the premises unto the mortgagee, his heirs and assigns, from and against himself and his heirs and successors, lawfully claiming, or to claim the same, or any part thereof.

AND IT IS AGREED by and between the parties that the Mortgagor, his heirs and assigns, shall keep any building erected on the premises insured against loss and damage by fire for the benefit of the Mortgagee, for an amount not less than the sum shown above, with such company as shall be approved by the Mortgagee, his successors, heirs and assigns, and shall deliver the policy to the Mortgagee; and in default thereof, the Mortgagee, his successors, heirs and assigns may effect such insurance and reimburse themselves under this Mortgage to the expense thereof, together with interest thereon at the rate provided in the Note from the date of its payment.

AND IT IS FURTHER AGREED in the event of other insurance and contribution between the insurers that the Mortgagee, his successors, heirs and assigns, shall be entitled to receive from the aggregate of the insurance monies to be paid a sum equal to the amount of the debt secured by this Mortgage.

AND IT IS AGREED by and between the parties, that if the Mortgagor, his heirs and successors or assigns, shall fail to pay all taxes and assessments upon the premises when they shall first become payable, then the Mortgagee, his heirs or assigns, may cause the same to be paid, together with all penalties and costs incurred thereon, and reimburse herself under this Mortgage for the sum so paid, with interest thereon at the rate provided in the Note from the date of such payment.

AND IT IS AGREED by and between the parties that upon any default being made in the payment of the Note or of the insurance premiums, or of the taxes, or of the assessments hereinabove mentioned, or failure to pay any other indebtedness which constitutes a lien upon the real property when the same shall severally become payable, then the entire amount of the debt secured or intended to be secured hereby shall become due, at the option of the Mortgagee, his successors, heirs or assigns, although the period for the payment thereof may not then have expired.

AND IT IS AGREED by and between the parties that should legal proceedings be instituted for the collection of the debt secured hereby, then the Mortgagee, his successors, heirs or assigns, shall have the right to have a receiver appointed of the rents and profits of the premises, who, after deducting all charges and expenses attending such proceedings, and the execution of the trust as receiver, shall apply the residue of the rents and profits towards the payment of the debt secured hereby.

BX 12360 PG0231

AND IT IS FURTHER AGREED by and between the parties that should legal proceedings be instituted for the foreclosure of this Mortgage, or should the Mortgagees become a party to any action by reason of this Mortgage, or should the debt secured hereby be placed in the hands of an attorney at law for collection, by suit or otherwise, all costs and expenses incurred by the Mortgagee, including a reasonable attorney's fee, shall thereupon become due and payable as a part of the debt secured hereby, and may be recovered and collected hereunder.

PROVIDED ALWAYS, NEVERTHELESS, and it is the true intent and meaning of the parties, that if the Mortgagor does and shall well and truly pay, or cause to be paid, unto the Mortgagees, their successors, heirs and assigns, the debt or sum of money aforesaid, with interest thereon, and if any shall be due, according to the true intent and meaning of the Note and this Mortgage, then this Mortgage shall cease, determine and be utterly null and void; otherwise it shall remain in full force and virtue.

IN THE EVENT of sale of the mortgaged property or the transfer of any interest therein to any transferee, excepting only the creation of lien or encumbrance junior

to the lien of this Mortgage, Mortgagor agrees that the Mortgagees may, at their sole option, declare all sums secured by this Mortgage immediately due and payable in full. If the Mortgagee exercises its option to declare the entire amounts so secured to be paid in full, it shall give written notice to Mortgagor who shall have a period of thirty(30) days after the date such notice is mailed to pay the amount declared to be due. If Mortgagor fails to pay such sum prior to the expiration of such period, Mortgagees may without further notice or demand invoke all remedies permitted by this Mortgage.

AND IT IS AGREED by and between the said parties, that the Mortgagor should hold and enjoy the premises until default of payment shall be made.

BK 12360 PG0232

WITNESS Grantors' hands and seals this the 1<sup>st</sup> day of December, 2011.

SIGNED, SEALED AND DELIVERED IN THE PRESENCE OF :

Maurer Holdings, LLC

Tracy Goins (SEAL)  
By: Tracy Goins, Manager

William A. Reese  
Witness # 1

Paul W. Kelly  
Witness # 2

OK 12360 P00233

State of North Carolina  
County of Mecklenburg

Personally appeared before me the undersigned witness and made oath that he/she saw the within named Grantors, sign, seal and as Grantors' acts and deeds delivery the within Mortgage, and that he/she with the other witness subscribed above, witnessed the execution thereof.

William L. Reece  
Witness # 1 signature William L. Reece

Sworn to before me this 1<sup>st</sup> day of December, 2011.

Notary Public  
Iredell County, NC

My commission expires: 12-18-13

BK 12360 PD0234

EXHIBIT A

ALL that certain piece, parcel or tract of land lying, being and situate  
in Fort Mill Township, being shown and designated on *Boundary  
Survey for Robert Clay Sparrow*, drawn by A. Alan Wallwork,  
S.C.R.L.S., dated 11-12-98, containing 5.75 acres, more or less, and  
being recorded contemporaneously herewith in Plat Book 1255,  
at page 2, said plat showing the following courses and  
distances, to-wit: BEGINNING at an Iron, Joint corner with A.E.  
Stone property and right of way for road and running thence, N. 35-  
27-22 E. 200.80 feet to an iron; thence N. 43-36-40 E. 109.33 feet to  
an iron, thence N. 43-50-13 E. 128.33 feet to an iron, thence N. 74-  
00-08 E. 206.34 feet to an iron, thence N. 79-59-22 E. 121.04 feet to  
an iron, thence S. 12-55-47 E. 231.11 feet to an iron, thence N. 73-38-  
36 E. 85.00 feet to an iron, thence S. 10-06 W. 450.00 feet to an iron,  
thence S. 79-02-30 E. 188.49 feet to an iron, thence N. 11-04-58 E.  
191.79 feet to an iron, thence S. 78-56-50 E. 200.69 feet to an iron,  
thence N. 37-00-02 E. 153.07 feet to an iron, thence N. 78-38-38 W.  
74.01 feet to an iron, thence along a clockwise curving arc (radius =  
256.48') 107.88 feet to an iron, thence N. 54-32-38 W. 51.73 feet to  
an iron, the point of beginning.

Being the property conveyed  
to Maunere Holdings, LLC  
by deed recorded December 30,  
2011 in Book 12360 at page 226

8K12360 P00235

201100156180  
Filed for Record in  
YORK COUNTY, SC  
DAVID HAMILTON, CLERK OF COURTS  
12-30-2011 At 02:33 pm.  
MORTGAGE 12.00  
OR Vol 12360 Page 239 - 244

STATE OF SOUTH CAROLINA  
COUNTY OF YORK

MORTGAGE

WHEREAS, Fort Mill Holdings, LLC, (hereafter called Mortgagor), in and by their certain Note of even date, stands firmly held and bound unto Robert Clay Sparrow (hereafter referred to as Mortgagee) for payment of the full and just sum of Nine Hundred Seven Thousand Three Hundred Dollars (\$907,300.00) payable per terms of Note, with the entire balance, if not sooner paid, being due per terms of Note, with interest, if any, as in and by the Note, reference being had thereto, will more fully appear.

KNOW ALL MEN BY THESE PRESENTS: That the Mortgagor, for and in consideration of the debt or sum of money aforesaid, and to better secure its payment to the Mortgagee according to the conditions of the Note, and also in consideration of the further sum of \$3.00 to the Mortgagor in hand well and truly paid by the Mortgagees at and before the sealing and delivery of these presents the receipt and sufficiency whereof is hereby acknowledged, have granted, bargained, sold and released, and by these Presents do grant, bargain, sell and release unto said unto the Mortgagee, his heirs and assigns, the real property described below:

SEE EXHIBIT "A" ATTACHED HERETO.

MORTGAGEE'S ADDRESS:

Robert Clay Sparrow  
142 Stoney Point Drive  
Blacksburg, SC 29702

TOGETHER with all and singular, the rights, members, hereditaments and appurtenances to said Premises belonging, or in any ways incident or appertaining.

BK12360 PG0239



TO HAVE AND TO HOLD, all and singular the premises unto the mortgagee, his heirs and assigns, forever.

AND THE MORTGAGOR does hereby bind himself and his heirs and successors to warrant and forever defend all and singular the premises unto the mortgagee, his heirs and assigns, from and against himself and his heirs and successors, lawfully claiming, or to claim the same, or any part thereof.

AND IT IS AGREED by and between the parties that the Mortgagor, his heirs and assigns, shall keep any building erected on the premises insured against loss and damage by fire for the benefit of the Mortgagee, for an amount not less than the sum shown above, with such company as shall be approved by the Mortgagee; his successors, heirs and assigns, and shall deliver the policy to the Mortgagee; and in default thereof, the Mortgagee, his successors, heirs and assigns may effect such insurance and reimburse themselves under this Mortgage to the expense thereof, together with interest thereon at the rate provided in the Note from the date of its payment.

AND IT IS FURTHER AGREED in the event of other insurance and contribution between the insurers that the Mortgagee, his successors, heirs and assigns, shall be entitled to receive from the aggregate of the insurance monies to be paid a sum equal to the amount of the debt secured by this Mortgage.

AND IT IS AGREED by and between the parties, that if the Mortgagor, his heirs and successors or assigns, shall fail to pay all taxes and assessments upon the premises when they shall first become payable, then the Mortgagee, his heirs or assigns, may cause the same to be paid, together with all penalties and costs incurred thereon, and reimburse herself under this Mortgage for the sum so paid, with interest thereon at the rate provided in the Note from the date of such payment.

AND IT IS AGREED by and between the parties that upon any default being made in the payment of the Note or of the insurance premiums, or of the taxes, or of the assessments hereinabove mentioned, or failure to pay any other indebtedness which constitutes a lien upon the real property when the same shall severally become payable, then the entire amount of the debt secured or intended to be secured hereby shall become due, at the option of the Mortgagee, his successors, heirs or assigns, although the period for the payment thereof may not then have expired.

AND IT IS AGREED by and between the parties that should legal proceedings be instituted for the collection of the debt secured hereby, then the Mortgagee, his successors, heirs or assigns, shall have the right to have a receiver appointed of the rents and profits of the premises, who, after deducting all charges and expenses attending such proceedings, and the execution of the trust as receiver, shall apply the residue of the rents and profits towards the payment of the debt secured hereby.

AND IT IS FURTHER AGREED by and between the parties that should legal proceedings be instituted for the foreclosure of this Mortgage, or should the Mortgagees become a party to any action by reason of this Mortgage, or should the debt secured hereby be placed in the hands of an attorney at law for collection, by suit or otherwise, all costs and expenses incurred by the Mortgagee, including a reasonable attorney's fee, shall thereupon become due and payable as a part of the debt secured hereby, and may be recovered and collected hereunder.

PROVIDED ALWAYS, NEVERTHELESS, and it is the true intent and meaning of the parties, that if the Mortgagor does and shall well and truly pay, or cause to be paid, unto the Mortgagees, their successors, heirs and assigns, the debt or sum of money aforesaid, with interest thereon, and if any shall be due, according to the true intent and meaning of the Note and this Mortgage, then this Mortgage shall cease, determine and be utterly null and void; otherwise it shall remain in full force and virtue.

IN THE EVENT of sale of the mortgaged property or the transfer of any interest therein to any transferee, excepting only the creation of lien or encumbrance junior

to the lien of this Mortgage, Mortgagor agrees that the Mortgagees may, at their sole option, declare all sums secured by this Mortgage immediately due and payable in full. If the Mortgagee exercises its option to declare the entire amounts so secured to be paid in full, it shall give written notice to Mortgagor who shall have a period of thirty(30) days after the date such notice is mailed to pay the amount declared to be due. If Mortgagor fails to pay such sum prior to the expiration of such period, Mortgagees may without further notice or demand invoke all remedies permitted by this Mortgage.

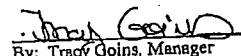
AND IT IS AGREED by and between the said parties, that the Mortgagor should hold and enjoy the premises until default of payment shall be made.

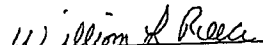
BK 12360 PG 241

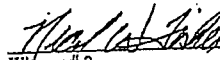
WITNESS Grantors' hands and seals this the 1<sup>st</sup> day of December, 2011.

SIGNED, SEALED AND DELIVERED IN THE PRESENCE OF:

Fort Mill Holdings, LLC

 (SEAL)  
By: Tracy Goins, Manager

  
Witness # 1

  
Witness # 2

BK12360 P80242

State of North Carolina  
County of Mecklenburg

Personally appeared before me the undersigned witness and made oath that he/she saw the within named Grantors, sign, seal and as Grantors' acts and deeds delivery the within Mortgage, and that he/she with the other witness subscribed above, witnessed the execution thereof.

William L. Reese  
Witness #1 signature William L. Reese

Sworn to before me this 1<sup>st</sup> day of December, 2011.

Notary Public  
Notary Public  
Iredell County, NC

My commission expires: 12-18-13

EX-12360 00243

Exh. b. + A

All that certain pieces, parcel or lot of land lying, being and situate on the southern side of S.C. Highway 51, and being shown and designated as Lot 2H, on Plat of Property of Dynamic Properties, a Partnership, by John Quinn Hall, dated April 24, 1984, being more particularly described according to said plat as follows: BEGINNING at an iron in the right of way for S.C. Highway 51, running thence with line of property of the Estate of W.B. Roddey, S. 13-33-26 E. 425.77 feet to a new iron; thence S. 79-40-45 W. 93.83 feet; thence running with line of property previously conveyed to Southern Utilities, Inc., N. 15-59-19 W. 427.17 feet to an iron in right of way for S.C. Highway 51, thence running in said right of way N. 79-40-25 E. 112 feet to the point of beginning; LESS AND EXCEPT that certain piece, parcel or lot of land consisting of 0.05 acres which has been conveyed to the South Carolina Department of Transportation by Deed dated December 28, 1993, recorded in Record Book 1129 at page 112 on November 4, 1994.

Being the property conveyed to  
Font Mill Holdings, LLC by deed  
recorded December 30, 2011 in  
Book 12360 at page 79

BAD ORIGINAL

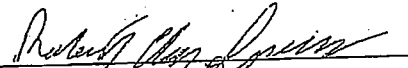
DK-12360-000244

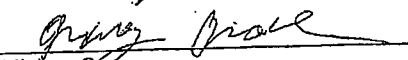
STATE OF SOUTH CAROLINA )  
COUNTY OF YORK )

VERIFIED STATEMENT OF ACCOUNT

THE UNDERSIGNED, ROBERT CLAY SPARROW AND MICKEY CROWE,  
HEREBY CERTIFY that there currently exists outstanding on that certain Note dated December  
1, 2011, a principal balance of Two Hundred Eighty Thousand, Eight Hundred Eighty-eight and  
90/100 (\$280,888.90) Dollars, plus interest at the rate of seven (7%) percent per annum from  
August 1, 2012; through December 19, 2012, at which time outstanding principal draws interest  
at the rate of Fifteen (15%) per annum until paid.

This 31 day of January, 2013.

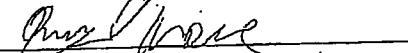
  
Robert Clay Sparrow

  
Mickey Crowe

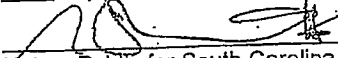
STATE OF SOUTH CAROLINA )  
COUNTY OF YORK )

I, DeFranklin Pullin, a Notary Public of the aforesaid County and State  
certify that Robert Clay Sparrow and Mickey Crowe personally appeared before me this day  
and acknowledged the execution of the foregoing instrument.

  
Robert Clay Sparrow

  
Mickey Crowe

SWORN TO before me this  
31 day of January, 2013.

  
Notary Public for South Carolina

My Commission Expires: 3/20/13

FILED-RECEIVED  
2013 FEB -8 PM 4:31  
DAVID HAMILTON  
C.C.P. & S.  
YORK COUNTY, SC

NOTICE REQUIRED BY THE  
FAIR DEBT COLLECTION PRACTICES ACT  
15 U.S.C. SECTION 1601 AS AMENDED

1. The amount of the debt is Two Hundred Eighty Thousand, Eight Hundred Eighty-eight and 90/100 (\$280,888.90) Dollars, plus interest at the rate of seven (7%) percent per annum from August 1, 2012, through December 19, 2012, at which time outstanding principal will draw interest at the rate of Fifteen (15%) percent per annum until paid.

2. Robert Clay Sparrow and Mickey Crowe are named in the attached letter dated January 2, 2012, as the creditors to whom the debt is owed.

3. The debt as described herein will be assumed to be valid by the creditors' law firm, unless the debtor, within thirty days after the receipt of this notice, disputes, in writing, the validity of the debt or some portion thereof.

4. If the debtor notifies the creditors' law firm in writing within thirty (30) days of the receipt of this notice that the debt or any portion thereof is disputed, the creditors' law firm will obtain a verification of the debt, and a copy of the verification will be mailed to the debtor by the creditors' law firm.

5. Written requests should be addressed to G. Franklin Pendleton, II, attorney at law, PO Box 399, Clover, South Carolina, 29710.

6. This notice shall not be construed as a thirty (30) day grace period or an extension.

7. This is an attempt to collect a debt, and any information obtained will be used for that purpose.

## Exhibit 3



STATE OF SOUTH CAROLINA  
COUNTY OF YORK

IN THE COURT OF COMMON PLEAS  
CASE NUMBER: 2013-CP-46-00438

ROBERT CLAY SPARROW and MIKEY  
CROWE,  
Plaintiff,  
vs.  
FORT MILL HOLDINGS, LLC, and  
DAVID BAUCOM,  
Defendants.

**MOTION TO DISMISS OF  
BAUCOM, AND  
ANSWER AND COUNTERCLAIMS  
OF DEFENDANTS  
(JURY DEMANDED)**

Defendant David Baucom hereby moves to dismiss the Complaint against him,  
and alleges:

**MOTION TO DISMISS**

Defendant David Baucom ("Baucom") moves pursuant to Rule 12, South Carolina Rules of Civil Procedure, for dismissal of him from the lawsuit for failure to state a claim against him as guarantor. Specifically, the face of the Complaint and attached Promissory Note reveal that Baucom is not a primary obligor under said note, but, at most, is a guarantor with contingent and secondary liability. The Plaintiffs must first pursue recovery from the primary obligor, and from the mortgaged property. Only after those primary sources of recovery are pursued, and if it is then determined that part of the obligation remains unsatisfied, can the Plaintiffs attempt to collect from Baucom as a contingent guarantor. Thus, the Complaint fails to state a claim against Baucom, and must be dismissed.

ANSWER

Defendants, Fort Mill Holdings, LLC, and David Baucom, ("Defendants") answer the Complaint filed by Robert Clay Sparrow and Mikey Crowe, ("Plaintiffs"), and allege as follows:

All allegations that are not expressly admitted to herein are denied. Fort Mill Holdings, LLC, and David Baucom respond to the number paragraphs of the complaint below.

1. Defendants lack information to admit or deny the allegations of paragraph 1, and therefore deny same and demand strict proof thereof.
2. Admitted.
3. Admitted.
4. Defendants lack information to admit or deny the allegations of paragraph 4, and therefore deny same and demand strict proof thereof.
5. Defendants lack information to admit or deny the allegations of paragraph 5, and therefore deny same and demand strict proof thereof.
6. Admitted.
7. The preceding allegations of the Answer are repeated and re-alleged herein.
8. Defendants admit that a promissory note was executed, and that the terms of the document speak for themselves and are the best evidence thereof. Any allegations inconsistent with the terms themselves are denied.
9. Defendants admit that a mortgage was executed, and that the terms of the document speak for themselves and are the best evidence thereof. Any allegations inconsistent with the terms themselves are denied.
10. Admitted.
11. Defendants lack information to admit or deny the allegations of paragraph 11, and therefore deny same and demand strict proof thereof.

12. Defendants admit that a mortgage was executed, and that the terms of the document speak for themselves and are the best evidence thereof. Any allegations inconsistent with the terms themselves are denied.

13. Admitted, and Defendants further assert that the one-half payments that were made were done with the express consent of the Plaintiffs.

14. The allegations of paragraph 14 require a legal conclusion and therefore are denied.

15. To the extent the allegation of paragraph 15 require a response, they are denied.

16. Denied.

17. The allegations of paragraph 17 require a legal conclusion and therefore are denied.

18. The allegations of paragraph 18 require a legal conclusion and therefore are denied.

19. The preceding allegations of the Answer are repeated and re-alleged herein.

20. Defendants admit that a guaranty was executed, and that the terms of the document speak for themselves and are the best evidence thereof. Any allegations inconsistent with the terms themselves are denied.

21. Defendants admit that a promissory note was executed, and that the terms of the document speak for themselves and are the best evidence thereof. Any allegations inconsistent with the terms themselves are denied.

22. Denied.

23. To the extent the allegation of paragraph 23 require a response, they are denied.

24. Denied

#### AFFIRMATIVE DEFENSES

1. Plaintiffs have failed to state a claim for which relief can be granted.
2. Plaintiffs' claim may be bared by the doctrines of waiver, estoppel, laches, release and/or unclean hands. More specifically, the plaintiff and Defendant entered into a subsequent agreement, either expressly or

impliedly, allowing Defendant forbearance, and allowing the Defendants, upon the event of default, to return the property to the Plaintiffs in full satisfaction of the debts.

3. Plaintiff's claim may be barred by the applicable statute of limitations by failing to file said action as required by applicable law.
4. Plaintiff's claim may be barred by the applicable statute of frauds by failure to have aspects thereof in writing as required by applicable law.
5. Plaintiff's claim may be barred by the doctrine of novation. More specifically, the Plaintiffs and Defendants entered into a subsequent agreement, either expressly or impliedly, allowing Defendants to return the property upon default in full satisfaction of all debt.
6. Plaintiff's claim may be barred by the intervening acts of the Plaintiffs, as set forth in the Counterclaims below, which are incorporated herein by reference.
7. Plaintiff's claim may be barred by the doctrine of payment. More specifically, the Plaintiffs and Defendants entered into a subsequent agreement whether expressly or impliedly, allowing Defendants to return the property in full satisfaction of the debt.
8. Plaintiff's claim is barred by the Plaintiffs' breaches of contract(s), as set forth herein and in the counterclaims below, which are incorporated herein by reference.

### COUNTERCLAIMS

The previous allegations of the Answer are incorporated herein by reference to the extent not inconsistent with the allegations of the counterclaims.

1. Contemporaneous with or subsequent to the execution of the Note and Mortgage attached to the Complaint, Plaintiffs entered into an agreement with the Defendants whereby Plaintiffs specifically promised and agreed that Plaintiffs would not seek a deficiency if the Defendants ever defaulted on the Note. Defendants had invested a significant amount of money into the property in issue for expansion and improvement to the premises. Such improvements inured to the benefit of the Plaintiffs and increased the business revenues and rents received for the premises.
2. There was not a licensed South Carolina attorney involved with the Note and Mortgage transaction underlying this lawsuit.

#### FIRST COUNTERCLAIM (Breach of Contract)

3. To the extent not inconsistent with the allegations herein, the preceding allegations are incorporated herein by reference.
4. As set forth above, the parties entered into a binding contract relating to the cancellation of the debt upon default and return of the property, and not to seek a deficiency judgment.
5. Plaintiffs have breached the contract, by failing to comply with the terms thereof, and by its wrongful conduct, and by the filing of the complaint seeking a deficiency.

6. As a direct and proximate result of Plaintiffs' breaches of contract, Defendants have suffered actual damages, incidental and consequential damages in an amount to be proven at trial.

SECOND COUNTERCLAIM

(Breach of Contract Accompanied by Fraudulent Act)

7. To the extent not inconsistent with the allegations herein, the preceding allegations are incorporated herein by reference.
8. As set forth above, Plaintiffs committed breaches of contract(s).
9. In connection with and relating to the breaches, Plaintiff displayed fraudulent intent, including dishonesty in fact, and unfair dealing.
10. In addition, Plaintiffs committed fraudulent acts with respect to the Defendants related to the breach, as set forth herein.
11. As a direct and proximate result of Plaintiffs' breaches of contract accompanied by fraudulent act, Defendants have suffered damages in an amount to be proven at trial to the jury, and Defendant is entitled to punitive damages.

THIRD COUNTERCLAIM

(Unclean Hands and Invalid Note and Mortgage Due to Unauthorized Practice of Law)

12. To the extent not inconsistent with the allegations herein, the preceding allegations are incorporated herein by reference.
13. Representatives of the Plaintiffs made binding promises, assurances and misrepresentations to Defendant regarding the Note and Mortgage.

14. Plaintiffs, through its authorized representatives, engaged in the unauthorized practice of law relating to the Note and Mortgage.
15. Pursuant to South Carolina law, the Plaintiffs have unclean hands and are not entitled to foreclose its purported mortgage, and both the note and mortgage are invalid, null and void.

**FOURTH COUNTERCLAIM**  
(Unfair Trade Practices)

16. To the extent not inconsistent with the allegations herein, the preceding allegations are incorporated herein by reference.
17. Plaintiffs are a "person" as defined by S.C. Code section 39-5-10 engaged in "trade" and "commerce" as defined by S.C. Code section 39-5-10.
18. Plaintiff's conduct as set forth herein constitutes unfair and deceptive acts in the conduct of trade or commerce which affect the public interest.
19. Plaintiff's conduct is capable of repetition.
20. Plaintiff's unfair and deceptive acts have caused and continue to cause damage to Defendants.
21. Plaintiff's conduct is a willing and knowing violation of S.C. Code section 39-5-20 thereby entitling Defendants to treble damages, in an amount to be proven at trial to the jury, plus costs and attorneys' fees.

**FIFTH COUNTERCLAIM**  
(Negligent Misrepresentation)

22. To the extent not inconsistent with the allegations herein, the preceding allegations are incorporated herein by reference.

23. Plaintiffs made false representations to Defendants, as set forth herein. Plaintiff had a pecuniary interest in making the false statements.
24. Plaintiffs owed a duty of care to Defendants to see that they communicated truthful information to the Defendants regarding the loan.
25. Plaintiffs breached its duty of care, and Defendants justifiably relied on the representation by, *inter alia*, proceeding with the transaction and investing in the underlying property.
26. Defendants suffered a pecuniary loss as a direct and proximate result of their reliance on Plaintiff's misrepresentations, in an amount to be proven at trial.

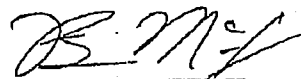
WHEREFORE, defendants pray for dismissal of this action, a cancellation of the note and mortgage, judgment in their favor, for recovery under the counterclaims of actual and punitive damages, for treble damages as provided by statute, for the costs of this action and attorneys' fees, and for such other and further relief as the Court deems just and proper.

**JURY TRIAL DEMANDED.**

WHEREFORE, defendants Fort Mill Holdings, LLC, and David Baucom pray for dismissal of this action, judgment in its favor, for the costs of this action, and for such other and further relief as the Court deems just and proper.



Respectfully submitted this 28th day of March, 2013.



Brian S. McCoy, Esq.  
McCOY LAW FIRM, LLC  
378 E. Main St.  
Rock Hill, SC 29730  
(803) 366-2280  
ATTORNEY FOR DEFENDANTS  
Fort Mill Holdings, LLC, and David Baucom

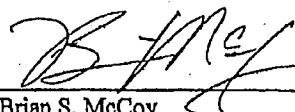
**CERTIFICATE OF SERVICE BY MAILING**

The undersigned does hereby certify that a copy of the foregoing and attached ANSWER, was served upon the attorney of record in this action by depositing in the U.S. mail, with sufficient postage attached thereto and addressed as follows:

G. Frank Pendleton, II  
Pendleton and Pendleton  
Attorneys for Plaintiffs  
Post Office Box 399  
Clover, South Carolina 29710.

This the 28<sup>th</sup> day of March, 2013

By:



Brian S. McCoy  
Attorney for Defendants

## Exhibit 4

STATE OF SOUTH CAROLINA  
COUNTY OF YORK

IN THE COURT OF COMMON PLEAS  
CASE NUMBER: 2013-CP-46-00440

ROBERT CLAY SPARROW and MIKEY  
CROWE,

Plaintiff,

vs.

MAURER HOLDINGS, LLC, and DAVID  
BAUCOM

Defendants.

**MOTION TO DISMISS OF  
BAUCOM, AND  
ANSWER AND COUNTERCLAIMS  
OF DEFENDANTS  
(JURY DEMANDED)**

Defendant David Baucom hereby moves to dismiss the Complaint against him,  
and alleges:

**MOTION TO DISMISS**

Defendant David Baucom ("Baucom") moves pursuant to Rule 12, South Carolina Rules of Civil Procedure, for dismissal of him from the lawsuit for failure to state a claim against him as guarantor. Specifically, the face of the Complaint and attached Promissory Note reveal that Baucom is not a primary obligor under said note, but, at most, is a guarantor with contingent and secondary liability. The Plaintiffs must first pursue recovery from the primary obligor, and from the mortgaged property. Only after those primary sources of recovery are pursued, and if it is then determined that part of the obligation remains unsatisfied, can the Plaintiffs attempt to collect from Baucom as a contingent guarantor. Thus, the Complaint fails to state a claim against Baucom, and must be dismissed.

ANSWER

Defendants, Maurer Holdings, LLC, and David Baucom, ("Defendants") answer the Complaint filed by Robert Clay Sparrow and Mikey Crowe, ("Plaintiffs"), and allege as follows:

All allegations that are not expressly admitted to herein are denied. Maurer Holdings, LLC, and David Baucom respond to the number paragraphs of the complaint below.

1. Defendants lack information to admit or deny the allegations of paragraph 1, and therefore deny same and demand strict proof thereof.
2. Admitted.
3. Admitted.
4. Defendants lack information to admit or deny the allegations of paragraph 4, and therefore deny same and demand strict proof thereof.
5. Defendants lack information to admit or deny the allegations of paragraph 5, and therefore deny same and demand strict proof thereof.
6. Admitted.
7. The preceding allegations of the Answer are repeated and re-alleged herein.
8. Defendants admit that a promissory note was executed, and that the terms of the document speak for themselves and are the best evidence thereof. Any allegations inconsistent with the terms themselves are denied.
9. Defendants admit that a mortgage was executed, and that the terms of the document speak for themselves and are the best evidence thereof. Any allegations inconsistent with the terms themselves are denied.
10. Admitted.
11. Defendants lack information to admit or deny the allegations of paragraph 11, and therefore deny same and demand strict proof thereof.
12. Defendants admit that a mortgage was executed, and that the terms of the document speak for themselves and are the best evidence thereof. Any allegations inconsistent with the terms themselves are denied.

13. Admitted, and Defendants further assert that the one-half payments that were made were done with the express consent of the Plaintiffs.

14. The allegations of paragraph 14 require a legal conclusion and therefore are denied.

15. To the extent the allegation of paragraph 15 require a response, they are denied.

16. Denied.

17. The allegations of paragraph 17 require a legal conclusion and therefore are denied.

18. The allegations of paragraph 18 require a legal conclusion and therefore are denied.

19. The preceding allegations of the Answer are repeated and re-alleged herein.

20. Defendants admit that a guaranty was executed, and that the terms of the document speak for themselves and are the best evidence thereof. Any allegations inconsistent with the terms themselves are denied.

21. Defendants admit that a promissory note was executed, and that the terms of the document speak for themselves and are the best evidence thereof. Any allegations inconsistent with the terms themselves are denied.

22. Denied.

23. To the extent the allegation of paragraph 23 require a response, they are denied.

24. Denied.

#### AFFIRMATIVE DEFENSES

1. Plaintiffs have failed to state a claim for which relief can be granted.
2. Plaintiffs' claim may be bared by the doctrines of waiver, estoppel, laches, release and/or unclean hands. More specifically, the plaintiff and Defendant entered into a subsequent agreement, either expressly or impliedly, allowing Defendant forbearance, and allowing the Defendants,

upon the event of default, to return the property to the Plaintiffs in full satisfaction of the debts.

3. Plaintiff's claim may be barred by the applicable statute of limitations by failing to file said action as required by applicable law.
4. Plaintiff's claim may be barred by the applicable statute of frauds by failure to have aspects thereof in writing as required by applicable law.
5. Plaintiff's claim may be barred by the doctrine of novation. More specifically, the Plaintiffs and Defendants entered into a subsequent agreement, either expressly or impliedly, allowing Defendants to return the property upon default in full satisfaction of all debt.
6. Plaintiff's claim may be barred by the intervening acts of the Plaintiffs, as set forth in the Counterclaims below, which are incorporated herein by reference.
7. Plaintiff's claim may be barred by the doctrine of payment. More specifically, the Plaintiffs and Defendants entered into a subsequent agreement whether expressly or impliedly, allowing Defendants to return the property in full satisfaction of the debt.
8. Plaintiff's claim is barred by the Plaintiffs' breaches of contract(s), as set forth herein and in the counterclaims below, which are incorporated herein by reference.

#### COUNTERCLAIMS

The previous allegations of the Answer are incorporated herein by reference to the extent not inconsistent with the allegations of the counterclaims.

1. Contemporaneous with or subsequent to the execution of the Note and Mortgage attached to the Complaint, Plaintiffs entered into an agreement with the Defendants whereby Plaintiffs specifically promised and agreed that Plaintiffs would not seek a deficiency if the Defendants ever defaulted on the Note. Defendants had invested a significant amount of money into the property in issue for expansion and improvement to the premises. Such improvements inured to the benefit of the Plaintiffs and increased the business revenues and rents received for the premises.
2. There was not a licensed South Carolina attorney involved with the Note and Mortgage transaction underlying this lawsuit.

FIRST COUNTERCLAIM  
(Breach of Contract)

3. To the extent not inconsistent with the allegations herein, the preceding allegations are incorporated herein by reference.
4. As set forth above, the parties entered into a binding contract relating to the cancellation of the debt upon default and return of the property, and not to seek a deficiency judgment.
5. Plaintiffs have breached the contract, by failing to comply with the terms thereof, and by its wrongful conduct, and by the filing of the complaint seeking a deficiency.

6. As a direct and proximate result of Plaintiffs' breaches of contract, Defendants have suffered actual damages, incidental and consequential damages in an amount to be proven at trial.

SECOND COUNTERCLAIM  
(Breach of Contract Accompanied by Fraudulent Act)

7. To the extent not inconsistent with the allegations herein, the preceding allegations are incorporated herein by reference.
8. As set forth above, Plaintiffs committed breaches of contract(s).
9. In connection with and relating to the breaches, Plaintiff displayed fraudulent intent, including dishonesty in fact, and unfair dealing.
10. In addition, Plaintiffs committed fraudulent acts with respect to the Defendants related to the breach, as set forth herein.
11. As a direct and proximate result of Plaintiffs' breaches of contract accompanied by fraudulent act, Defendants have suffered damages in an amount to be proven at trial to the jury, and Defendant is entitled to punitive damages.

THIRD COUNTERCLAIM  
(Unclean Hands and Invalid Note and Mortgage Due to Unauthorized Practice of Law)

12. To the extent not inconsistent with the allegations herein, the preceding allegations are incorporated herein by reference.
13. Representatives of the Plaintiffs made binding promises, assurances and misrepresentations to Defendant regarding the Note and Mortgage.



14. Plaintiffs, through its authorized representatives, engaged in the unauthorized practice of law relating to the Note and Mortgage.

15. Pursuant to South Carolina law, the Plaintiffs have unclean hands and are not entitled to foreclose its purported mortgage, and both the note and mortgage are invalid, null and void.

**FOURTH COUNTERCLAIM**  
(Unfair Trade Practices)

16. To the extent not inconsistent with the allegations herein, the preceding allegations are incorporated herein by reference.

17. Plaintiffs are a "person" as defined by S.C. Code section 39-5-10 engaged in "trade" and "commerce" as defined by S.C. Code section 39-5-10.

18. Plaintiff's conduct as set forth herein constitutes unfair and deceptive acts in the conduct of trade or commerce which affect the public interest.

19. Plaintiff's conduct is capable of repetition.

20. Plaintiff's unfair and deceptive acts have caused and continue to cause damage to Defendants.

21. Plaintiff's conduct is a willing and knowing violation of S.C. Code section 39-5-20 thereby entitling Defendants to treble damages, in an amount to be proven at trial to the jury, plus costs and attorneys' fees.

**FIFTH COUNTERCLAIM**  
(Negligent Misrepresentation)

22. To the extent not inconsistent with the allegations herein, the preceding allegations are incorporated herein by reference.

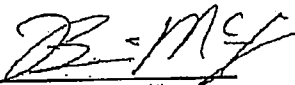
23. Plaintiffs made false representations to Defendants, as set forth herein. Plaintiff had a pecuniary interest in making the false statements.
24. Plaintiffs owed a duty of care to Defendants to see that they communicated truthful information to the Defendants regarding the loan.
25. Plaintiffs breached its duty of care, and Defendants justifiably relied on the representation by, *inter alia*, proceeding with the transaction and investing in the underlying property.
26. Defendants suffered a pecuniary loss as a direct and proximate result of their reliance on Plaintiff's misrepresentations, in an amount to be proven at trial.

WHEREFORE, defendants pray for dismissal of this action, a cancellation of the note and mortgage, judgment in their favor, for recovery under the counterclaims of actual and punitive damages, for treble damages as provided by statute, for the costs of this action and attorneys' fees, and for such other and further relief as the Court deems just and proper.

**JURY TRIAL DEMANDED.**

WHEREFORE, defendants Maurer Holdings, LLC, and David Baucom pray for dismissal of this action, judgment in its favor, for the costs of this action, and for such other and further relief as the Court deems just and proper.

Respectfully submitted this 28th day of March, 2013.

  
\_\_\_\_\_  
Brian S. McCoy, Esq  
McCOY LAW FIRM, LLC  
378 E. Main St.  
Rock Hill, SC 29730  
(803) 366-2280  
ATTORNEY FOR DEFENDANTS  
Maurer Holdings, LLC, and David Baucom

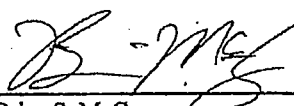
**CERTIFICATE OF SERVICE BY MAILING**

The undersigned does hereby certify that a copy of the foregoing and attached ANSWER, was served upon the attorney of record in this action by depositing in the U.S. mail, with sufficient postage attached thereto and addressed as follows:

G. Frank Pendleton, II  
Pendleton and Pendleton  
Attorneys for Plaintiffs  
Post Office Box 399  
Clover, South Carolina 29710

This the 28<sup>th</sup> day of March, 2013

By: \_\_\_\_\_

  
\_\_\_\_\_  
Brian S. McCoy  
Attorney for Defendants

## Exhibit 5

STATE OF SOUTH CAROLINA )  
COUNTY OF YORK )

Robert Clay Sparrow and )  
Mickey Crowe, )

Plaintiffs, )

vs. )

Fort Mill Holdings, LLC, and )  
David Baucom, )

Defendants. )

IN THE COURT OF COMMON PLEAS  
SIXTEENTH JUDICIAL CIRCUIT

AMENDED  
REPLY

2013-CP46-00438

DAVID HAMILTON  
C.C.P. & GS  
YORK COUNTY, SC

FILED - RECEIVED  
2013 AUG -5 AM 10:04

The Plaintiffs, pursuant to Order Denying Plaintiffs' Motion to Strike dated July 22, 2013, reply to the allegations contained in the Defendants' Counterclaims and Affirmative Defenses and would respectfully show unto the Court that:

1. The Plaintiffs deny each and every allegation of the Counterclaims and Affirmative Defenses not hereinafter specifically admitted, qualified, or explained.

2. Plaintiffs admit so much of the allegations of paragraph 1 of the Counterclaim that alleges the Defendants attempted to make "improvements" to the premises, but on information and belief, the "improvements" were not properly done, were not done in compliance with the York County building code, and were condemned by the York County building inspector making the structures on the premises uninhabitable for any purpose. Plaintiffs are further informed and believe the actions of the Defendants have greatly decreased the value of the property and will cause great sums of money to have to be spent to correct the actions of the

Defendants. The remaining allegations of paragraph 1 of the Counterclaim are denied.

3. As to the allegations of paragraph 2 and further answering the allegations of paragraphs 14 and 15 of the Counterclaim, Plaintiffs knew the Defendants' closing attorney was a North Carolina licensed attorney but had no knowledge that the attorney the Defendants chose to close their purchase of the subject premises and prepare the note and mortgage for their financing of the purchase price was not licensed in South Carolina.

4. Plaintiffs deny paragraphs 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 18, 19, 20, 21, 22, 23, 24, 25, 25, and 26 of the Counterclaim and paragraphs 1, 2, 3, 4, 5, 6, 7, and 8 of the Affirmative Defenses.

5. The allegations of paragraph 17 of the Counterclaim require a legal conclusion and therefore are denied.

#### AFFIRMATIVE DEFENSES

1. Further answering the allegations of Defendants' Counterclaims herein and as an affirmative defense thereto, Plaintiffs are informed and believe that the Counterclaims of the Defendants may be barred by the doctrines of waiver, estoppel, laches, release and/or unclean hands as the Defendants, a North Carolina limited liability company and a North Carolina resident, knew or should have known that the attorney they chose to close their purchase and finance of the subject real property was an attorney licensed in the State of North Carolina and not licensed in the State

of South Carolina and their choice of the closing attorney should not allow them to avoid, setoff, or cancel their debt or the security instrument for their debt to Plaintiffs.

2. Further answering the allegations of Defendants' Counterclaims herein and as an affirmative defense thereto, Plaintiffs deny the Defendants' allegations that:

- 1) "...the plaintiff and Defendant entered into a subsequent agreement, either expressly or impliedly, allowing Defendant forbearance, and allowing the Defendants, upon the event of default, to return the property to the Plaintiffs in full satisfaction of the debts";
- 2) "...Plaintiffs specifically promised and agreed that Plaintiffs would not seek a deficiency if the Defendants ever defaulted on the Note"; and,
- 3) "...the parties entered into a binding contract relating to the cancellation of the debt upon default and return of the property, and not to seek a deficiency judgment".

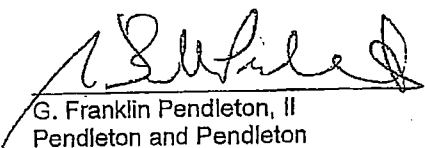
Plaintiffs vehemently deny the allegations ever existed, were discussed, or were considered by the parties; furthermore, such allegations are barred by the statute of frauds as they are not in writing as required by applicable law.

3. Further answering the allegations of Defendants' Counterclaims herein and as an affirmative defense thereto, Plaintiffs are informed and believe that the Counterclaims of the Defendants with respect to their allegations, as above set forth, of unwritten oral agreements, which the Plaintiffs vehemently deny ever existed, discussed, or considered, may be barred by the doctrines of waiver, estoppel, laches, release and/or unclean hands as the Defendants knew or should have known that the alleged unwritten oral agreements should have and could have been reduced to writing by the Defendants.

WHEREFORE, Plaintiffs having fully replied to the Counterclaim of the Defendants, the Plaintiffs pray that same be dismissed with costs and that Plaintiffs be granted judgment on the Complaint.

Clover, South Carolina

August 2, 2013



G. Franklin Pendleton, II  
Pendleton and Pendleton  
103 Kings Mountain Street  
PO Box 399  
Clover, South Carolina 29710  
(803)222-3026  
Attorneys for Plaintiffs



## Exhibit 6

FILED-RECEIVED  
 2013 AUG 5 AM 8:41  
 STATE OF SOUTH CAROLINA ) IN THE COURT OF COMMON PLEAS  
 COUNTY OF YORK ) SIXTEENTH JUDICIAL CIRCUIT  
 DAVID HAMILTON  
 C.C.P. & G.S.  
 YORK COUNTY, SC  
 Robert Clay Sparrow and  
 Mickey Crowe,  
 )  
 Plaintiffs, )  
 )  
 vs. ) AMENDED  
 ) REPLY  
 )  
 Maurer Holdings, LLC, and )  
 David Baucom, ) 2013-CP46-00440  
 )  
 Defendants. )

The Plaintiffs, pursuant to Order Denying Plaintiffs' Motion to Strike dated July 22, 2013, reply to the allegations contained in the Defendants' Counterclaims and Affirmative Defenses and would respectfully show unto the Court that:

1. The Plaintiffs deny each and every allegation of the Counterclaims and Affirmative Defenses not hereinafter specifically admitted, qualified, or explained.
2. Plaintiffs admit so much of the allegations of paragraph 1 of the Counterclaim that alleges the Defendants attempted to make "improvements" to the premises, but on information and belief, the "improvements" were not properly done, were not done in compliance with the York County building code, and were condemned by the York County building inspector making the structures on the premises uninhabitable for any purpose. Plaintiffs are further informed and believe the actions of the Defendants have greatly decreased the value of the property and will cause great sums of money to have to be spent to correct the actions of the

Defendants. The remaining allegations of paragraph 1 of the Counterclaim are denied.

3. As to the allegations of paragraph 2 and further answering the allegations of paragraphs 14 and 15 of the Counterclaim, Plaintiffs knew the Defendants' closing attorney was a North Carolina licensed attorney but had no knowledge that the attorney the Defendants chose to close their purchase of the subject premises and prepare the note and mortgage for their financing of the purchase price was not licensed in South Carolina.

4. Plaintiffs deny paragraphs 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 18, 19, 20, 21, 22, 23, 24, 25, 25, and 26 of the Counterclaim and paragraphs 1, 2, 3, 4, 5, 6, 7, and 8 of the Affirmative Defenses.

5. The allegations of paragraph 17 of the Counterclaim require a legal conclusion and therefore are denied.

#### AFFIRMATIVE DEFENSES

1. Further answering the allegations of Defendants' Counterclaims herein and as an affirmative defense thereto, Plaintiffs are informed and believe that the Counterclaims of the Defendants may be barred by the doctrines of waiver, estoppel, laches, release and/or unclean hands as the Defendants, a North Carolina limited liability company and a North Carolina resident, knew or should have known that the attorney they chose to close their purchase and finance of the subject real property was an attorney licensed in the State of North Carolina and not licensed in the State

of South Carolina and their choice of the closing attorney should not allow them to avoid, setoff, or cancel their debt or the security instrument for their debt to Plaintiffs.

2. Further answering the allegations of Defendants' Counterclaims herein and as an affirmative defense thereto, Plaintiffs deny the Defendants' allegations that:

1) "...the plaintiff and Defendant entered into a subsequent agreement, either expressly or impliedly, allowing Defendant forbearance, and allowing the Defendants, upon the event of default, to return the property to the Plaintiffs in full satisfaction of the debts";

2) "...Plaintiffs specifically promised and agreed that Plaintiffs would not seek a deficiency if the Defendants ever defaulted on the Note"; and,

3) "...the parties entered into a binding contract relating to the cancellation of the debt upon default and return of the property, and not to seek a deficiency judgment".

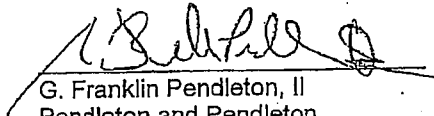
Plaintiffs vehemently deny the allegations ever existed, were discussed, or were considered by the parties; furthermore, such allegations are barred by the statute of frauds as they are not in writing as required by applicable law.

3. Further answering the allegations of Defendants' Counterclaims herein and as an affirmative defense thereto, Plaintiffs are informed and believe that the Counterclaims of the Defendants with respect to their allegations, as above set forth, of unwritten oral agreements, which the Plaintiffs vehemently deny ever existed, discussed, or considered, may be barred by the doctrines of waiver, estoppel, laches, release and/or unclean hands as the Defendants knew or should have known that the alleged unwritten oral agreements should have and could have been reduced to writing by the Defendants.

WHEREFORE, Plaintiffs having fully replied to the Counterclaim of the Defendants, the Plaintiffs pray that same be dismissed with costs and that Plaintiffs be granted judgment on the Complaint.

Clover, South Carolina

August 2, 2013

  
G. Franklin Pendleton, II  
Pendleton and Pendleton  
103 Kings Mountain Street  
PO Box 399  
Clover, South Carolina 29710  
(803)222-3026  
Attorneys for Plaintiffs

## Exhibit 7

STATE OF SOUTH CAROLINA  
COUNTY OF YORK

)  
)  
)

IN THE COURT OF COMMON PLEAS  
SIXTEENTH JUDICIAL CIRCUIT

Robert Clay Sparrow and  
Mickey Crowe,

Plaintiffs,

v.

Fort Mill Holdings, LLC, and  
David Baucom,

Defendants.

Civil Case No. 2013-CP-46-00438

STATE OF SOUTH CAROLINA  
COUNTY OF YORK

)  
)  
)

IN THE COURT OF COMMON PLEAS  
SIXTEENTH JUDICIAL CIRCUIT

Robert Clay Sparrow and  
Mickey Crowe,

Plaintiffs,

v.

Maurer Holdings, LLC, and  
David Baucom,

Defendants.

Civil Case No. 2013-CP-46-00440

**AFFIDAVIT OF G. FRANKLIN PENDLETON, II**

Personally appearing before me, G. Franklin Pendleton, II, after being duly sworn deposes  
and states:

1. I am a licensed attorney in the State of South Carolina and admitted to the South  
Carolina Bar.

2. I represented Plaintiffs Robert Clay Sparrow and Mickey Crowe in a lawsuit  
brought on their behalf in the York County Court of Common Pleas.

3. On October 7, 2014, I participated in mediation along with Mr. Sparrow with Terry B. Millar serving as the mediator.

4. At the mediation, Defendants Maurer Holdings, LLC, Fort Mill Holdings, LLC and David Baucom were represented by counsel Brian S. McCoy. Mr. Baucom was present on his own behalf and on behalf of the corporate Defendant.

5. As a result of the mediation, the parties entered into a written settlement agreement which was signed by counsel and all parties.

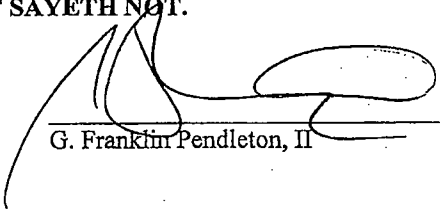
6. The written settlement agreement between the parties is attached hereto as Exhibit A.

7. As part of the settlement, the Defendants agreed to confess a judgment in favor of the Plaintiffs to secure payment of a promissory note and mortgage and have failed and refused to do so.

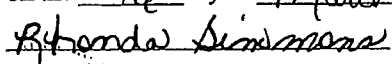
8. Under the confession of judgment, Plaintiffs are entitled to a judgment against the Defendants in the amount of \$1,427,347.56 plus interest of \$273.74 per day from October 7, 2014 until paid under the terms of the settlement agreement attached as Exhibit A.

**FURTHER AFFIANT SAYETH NOT.**

Date: 3-16-16

  
G. Franklin Pendleton, II

Sworn to and subscribed before me  
on the 16 day of March, 2016.

  
Rhonda Simmons  
Notary Public for South Carolina  
My Commission Expires 3-19-23



## Exhibit A

STATE OF SOUTH CAROLINA

COURT OF COMMON PLEAS

COUNTY OF YORK

SIXTEENTH JUDICIAL CIRCUIT

Robert Chy Sparrow and Mickey Crowe,

CASE NO. 2013-CP-46-00438

Plaintiffs

and 2013CP-46-00440

vs

Fort Mill Holdings, LLC and David Baucum,

SETTLEMENT BY MEDIATION

Defendants

This case is settled upon the following terms:

1. The memorandum of settlement attached hereto dated 10/7/14, ~~has~~ marked exhibit "A" and signed by the parties.

2.

3.

4. Further, Plaintiffs will consent to and counsel will execute a dismissal, with prejudice, of the referenced action, ~~upon execution of formal documents.~~

5. Neither this settlement nor any of its terms shall constitute an admission by any party.

By our signatures below, we hereby agree to and accept the terms of settlement as set forth above this 7th day of October 2014.

PLAINTIFFS:

Robert Clay Sparrow  
Robert Clay Sparrow

Michael Crowe  
Michael Crowe

DEFENDANTS:

Fort Mill Holdings, LLC

BY: \_\_\_\_\_

It's: \_\_\_\_\_

David Baucum  
David Baucum

OTHER ATTENDEES, IF ANY:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

ATTORNEYS FOR PLAINTIFFS:

Pendleton and Pendleton

BY: G. Franklin Pendleton, II

ATTORNEYS FOR DEFENDANTS:

McCoy Law Firm, LLC

BY: Brian S. McCoy

MEDIATOR:

Terry B. Miller  
Terry B. Miller

Sent By: NEAL FISHER / JEFF SMITH;

7043766733;

Feb-17-16 3:04PM;

Page 7

FORTMILL HOLDINGS, LLC

(Witness)

By:

(Witness)

Its:

(Witness)

David Baucom

(Witness)

Memorandum of Settlement 10/7/14

Exh. A

1. Defendants, with the sole intent in favor of Plaintiff Sparrow and issue a contingent confession of judgment for the amount of \$1,356,753.10 which represents the principal and interest on the two original notes and notes (i) 7% interest through 10/7/14; plus, (B) the farm force property on the two parcels (which will be paid by Plaintiff Sparrow of \$9,585.46, will be added to the judgment amount (A); hereafter, the compound A+B amount will bear interest at 12.75% per annum until paid.
2. The confession in Para 1 will remain unpaid until the earlier of one year from 10/7/14 or until the sale of the properties, regularly in a deficiency, in which case the judgment will be reduced by the proceeds of the sale paid to Plaintiff.
3. If sale of properties result in excess proceeds over the judgment + interest due, the Defendant's will retain any such proceeds.
4. Plaintiff will release the mortgages on the two parcels at or before the closing of any confirmed sale by the Defendants.
5. Counsel will prepare more formal settlement documents based on the contingent confession, which upon execution by all parties, the two lawsuits 46-00935, and 46-00940, will be dismissed.

con't on p. 2

BM  
PS: JH  
JH

P2. 11/23/15 Sec 11/24/15

Robert City Spent  
Robert City Spent  
date

David Bance

Robert City Spent  
Robert City Spent  
by Robert City Spent, 11/24/15  
date

Robert City Spent  
Robert City Spent  
AIF  
date

Robert City Spent  
Robert City Spent  
date

Robert City Spent  
Robert City Spent  
date

Robert City Spent  
Robert City Spent  
date

Robert City Spent  
Robert City Spent  
date

Robert City Spent  
Robert City Spent  
date

## Exhibit 8

STATE OF SOUTH CAROLINA )  
COUNTY OF YORK ) ASSIGNMENT OF MORTGAGE  
IN MORTGAGE BOOK 12360, PAGE 235

FOR VALUE RECEIVED, the receipt whereof is hereby acknowledged, the undersigned Mickey Crowe does hereby transfer, assign, set over and convey to Robert Clay Sparrow, his heirs and assigns, that certain mortgage executed by Fort Mill Holdings, LLC, to Robert Clay Sparrow and Mickey Crowe which mortgage is dated December 1, 2011, and recorded December 30, 2011, in Mortgage Book 12360, Page 235, RMC Office for York County, South Carolina, together with the Note and indebtedness secured by said mortgage; and the undersigned does hereby remise, release, quit claim and convey to the transferee herein all right, title and interest of the undersigned in and to the property described in and conveyed by said mortgage. The undersigned is now the joint owner of said debt and mortgage.

IN WITNESS WHEREOF, the undersigned Mickey Crowe has hereunto set his hand and seal this 1 day of <sup>October</sup> ~~September~~, 2014.

Signed, sealed and delivered  
in the presence of:

R. Brenda Sigmon  
[Signature]

Mickey Crowe  
Mickey Crowe

201400272969  
Filed for Record in  
YORK COUNTY, SC  
DAVID HAMILTON, CLERK OF COURTS  
10-03-2014 At 09:08 am.  
ASSIGNMENT 7.00  
OR Vol 14419 Page 40 - 41

Instrument  
201400272969 OR 14419 40



STATE OF SOUTH CAROLINA )  
COUNTY OF YORK )

PROBATE

PERSONALLY appeared before me the undersigned witness who made oath that s/he saw the within named Mickey Crowe, execute, seal and as his act and deed, deliver the within Assignment of Mortgage, and that s/he with the other witness witnessed the execution thereof.

SWORN TO BEFORE ME THIS  
1 day of September, 2014.

Brandi Siskman

[Signature]  
Notary Public for South Carolina  
My Commission Expires: 3/19/20

Instrument  
201400272969 OR  
Vol Page  
14419 41

STATE OF SOUTH CAROLINA )  
COUNTY OF YORK )

ASSIGNMENT OF MORTGAGE  
IN MORTGAGE BOOK 12360, PAGE 230

FOR VALUE RECEIVED, the receipt whereof is hereby acknowledged, the undersigned Mickey Crowe does hereby transfer, assign, set over and convey to Robert Clay Sparrow, his heirs and assigns, that certain mortgage executed by Maurer Holdings, LLC, to Robert Clay Sparrow and Mickey Crowe which mortgage is dated December 1, 2011, and recorded December 30, 2011, in Mortgage Book 12360, Page 230, RMC Office for York County, South Carolina, together with the Note and indebtedness secured by said mortgage; and the undersigned does hereby remise, release, quit claim and convey to the transferee herein all right, title and interest of the undersigned in and to the property described in and conveyed by said mortgage. The undersigned is now the joint owner of said debt and mortgage.

IN WITNESS WHEREOF, the undersigned Mickey Crowe has hereunto set his hand and seal this 1 day of ~~September~~ <sup>October</sup>, 2014.

Signed, sealed and delivered  
in the presence of:

Shonda Simmons  
[Signature]

Mickey Crowe  
Mickey Crowe

201400272970  
Filed for Record in  
YORK COUNTY, SC  
DAVID HAMILTON, CLERK OF COURTS  
10-03-2014 At 09:08 am.  
ASSIGNMENT 7.00  
OR Vol 14419 Page 42 - 43

Instrument Vol Page  
201400272970 OR 14419 42.

STATE OF SOUTH CAROLINA )  
COUNTY OF YORK )

PROBATE

PERSONALLY appeared before me the undersigned witness who made oath that s/he saw the within named Mickey Crowe, execute, seal and as his act and deed, deliver the within Assignment of Mortgage, and that s/he with the other witness witnessed the execution thereof.

SWORN TO BEFORE ME THIS  
1 day of September, 2014.

Rhonda Simmons

[Signature]  
Notary Public for South Carolina  
My Commission Expires: 3/19/23

Instrument  
20140072970 OR  
Vol Page  
1449 43

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

---

APPEAL FROM YORK COUNTY  
Court of Common Pleas  
S. Jackson Kimball, Circuit Court Judge

---

Case No. 2013-CP-46-00440

---

Robert Clay Sparrow and Mickey Crowe.....Respondents,

vs.

Maurer Holdings, LLC and David Baucom.....Appellants.

---

AMENDED NOTICE OF APPEAL

---

Maurer Holdings, LLC and David Baucom appeal the order for judgment entered by the Honorable S. Jackson Kimball on March 30, 2016 and order denying motion to alter or amend judgment entered by the Honorable S. Jackson Kimball on May 23, 2016. Appellants received written notice of entry of Judge Kimball's order by email from the Clerk of Court's Office on June 14, 2016.

June 21, 2016



Paul S. Landis  
FAYSSOUX & LANDIS, PA  
209 E. Washington Street  
Greenville, SC 29601  
(864) 233-0445  
(864) 233-4781 (Fax)  
Attorney for Appellants

Other Counsel of Record:

James M. Griffin  
Griffin & Davis, LLC  
P.O. Box 999  
Columbia, SC 29202  
(803) 744-0800  
Attorney for Respondents