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THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

The Honorable Tanya A. Gee
Circuit Court Judge

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SC Court of Appeals

Case No. 2014-CP-40-07917

Appellate Case No. 2015-001845

John M. McIntyre and Silver Oak Land Management LLC, ... Appellants,

v.

Securities Commissioner of South Carolina, ... Respondent.

RECORD ON APPEAL
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A There's no reference to expenses, I believe, in any form in the operating agreements.

Q So where is this definition that you're giving me? Where does it come from? Does it come from the stratosphere? Does it come from your experience? Where does it come from?

A Partly and mostly or mainly from my experience in the investment management world, yes.

Q So we're taking your word for whether that's . . .

A Oh, you can verify that with anybody you want to in the investment management world.

Q I see.

A Please do, in fact.

Q The investment management world?

A And that's what these products are. They're investment products.

Q Do people in the investment management world ordinarily read the documents that they sign?

A Usually yes, because you're dealing with arm's length transactions and not a close friend just saying let's invest, do you want to buy some of these shares that I'm offering you in a company I'm forming to buy some timberland.

Q You hold two degrees, don't you?

A I do.

Q Doesn't the law presuppose that you'll read your agreements?

A The law presuppose?

Q Yes.

A I'm not a lawyer. I don't know what the law presupposes.

Q So you're sitting here saying that you're basically entitled to be treated as an innocent babe in the woods because you didn't read your agreement.

A I'm sitting here saying that I did not read the agreements to my own shame, that I trusted my friend based on what he told me and what was in the offering documents only.

Q So, if I'm correct and there perhaps is something in one of these agreements that authorizes some of the conduct that you find nefarious, you unwittingly participated in your own undoing by not reading the documents, didn't you?

A I disagree that there's anything in the language in those agreement that would have provided him the right to take our money in improper ways, what I call improper ways.

Q Before you started discussing this matter with the attorney general's office had you read all the agreements?

A I don't remember when I had my first conversation with anyone in the attorney general's office. But I think that after the initial issues were raised and I got involved in doing some investigative work, I believe I then pulled out the operating agreements right away and read one or two of them, yes.

Q And, again, was that before or after you had interaction with the attorney general's office?

A I'm guessing it was before. I don't remember the sequence.

Q Do you remember when you had your first interaction with the attorney general's office?

A I have no recollection about it.

Q None at all?

A No recollection as to dates, no.

Q I see.

A It was a little over a year probably.

Q Probably. But you don't have that date written down in your book there?

A No, this is my accounting analysis. This isn't a day book.

Q With whom did you interact, or do you not remember that either?

A I interacted, I believe, only with Sandra Matthews.

I forget if it was anybody else that -- no, I don't think there was anybody else that I ever interacted with at the attorney general's office.

Q Well, I'm certain at some juncture you had to speak to my colleague here, Mr. Crapps, didn't you?

A Oh, only after -- I never heard of Mr. Crapps until after the order was issued.

Q Okay. I think I understood you to say that you didn't really rely on the eleven percent figure that was quoted. Is that correct?

A I read it out of interest, but again, having had experience in the investment world, I know that any quote of previous rates of return in any investment product cannot be relied upon for an expected future rate of return. It's certainly not a guarantee of a rate of return.

Q Do you know whether the eleven percent was a rate of return on investment or was a rate of growth of the timber?

A I believe it was referred to as a rate of return on the investment. I don't know how it was quoted in the offering document.

Q But you didn't rely on it under any set of circumstances?

A Not on a precise number, no. I was told that, you

know, that's the historical number. I would have been happy with even a five or six percent average annual rate of return on the current return plus a payoff someday of the disposition of the property. My entire return over five years in Silver Oak IV, not average annual, entire return in terms of distributions I received was about seven percent which works out to an average annual of one point something or two point something. And that's the highest of all the Silver Oaks.

Q Are you telling me you that invested because you expected cash flow out of the timber companies?

A That was one part of the investment, yes.

Q You know how long it takes a stand of trees to grow?

A No, I do not. I don't know anything about the timber business.

Q Do you know whether eighteen to twenty years is the average or not?

A I do not know that one way or the other.

Q Do you know how many times you can timber a typical Southern Yellow Pine forest in a period of twenty years?

A No. You can ask me a thousand questions about the timber industry and my answer is going to be I

don't know.

Q Then why would you expect any cash flow?

A Based on how the -- my knowledge of trees is irrelevant to an investment in timber partnerships that I were told provide a return from the cutting of timber. And the fact that I didn't rely on an exact rate of eleven percent is irrelevant. I expected a return from the cutting of timber. That's how the product was described to me by my good friend Jack McIntyre.

Q Are the SOLT properties that have not been sold, that is I, II, IV, V, are those on the market presently?

A I is listed --

MR. CRAPPS: Excuse me. We're back on information under Mr. Silver now.

THE COURT: I sustain. We need to . . .

MR. MATHISON: Again, he testified there is an investment component, a capital gain as part and parcel of what he bought. I'm trying to find out what it is.

MR. CRAPPS: No representation was made in connection with the offer of the security, and the management of Mr. Silver has no basis.

MR. MATHISON: I'm not asking him anything about the management. He said whether or not they're listed.

MR. CRAPPS: Currently.

MR. MATHISON: He's not taking credit for managing anything. He's going to a committee and getting them to approve them.

MR. CRAPPS: Mr. McIntyre ceased being manager of these over a year ago or about a year ago now. So whether they're currently listed or not is beyond the scope of this hearing.

THE COURT: I sustain.

Q Well, let's put it this way. You can't tell what your return on investment is until you find out what you can sell the property for, can you?

A That would be true.

Q Yes. So without knowing how much it's listed for, we have no way of knowing how much you could sell it for and how much your return would be, can we?

MR. CRAPPS: Again, I mean, Mr. Silver's remedial measures since his management of these companies is, regardless of the representation made in connection with the sale of the

security and the management of Mr. McIntyre.
THE COURT: I sustain the objection.
MR. MATHISON: If it sold at 100 percent markup, then all of these representations would not only be true but would be welcome. How could that possibly be irrelevant? It's only irrelevant because they want it to be. If all of these are golden, they've got no complaint. They're sitting here complaining about literally the furniture moving around on the Titanic.
MR. CRAPPS: Your Honor, we're proving that securities fraud that occurred on the offer and sale of the security. Certain representations were made. Mr. McIntyre's management of the companies was contrary to that, and that's what we're here to prove. We're not here to prove anything that Mr. Silver has done to remediate Mr. McIntyre's --
MR. MATHISON: I'm not talking about Mr. Silver in the context of remediation. I'm talking about what the value of the investment is currently.
MR. CRAPPS: Again, it's irrelevant to the evidence of violation.
THE COURT: I sustain the objection.

MR. MATHISON: Well, then how would be possibly know what the value of the security is? There is no evidence in the record as to what it was on the day of the alleged misrepresentation. None.

MR. CRAPPS: We're not proving damages, a gain or a loss on the securities. It's irrelevant to the fraud that occurred at the outset proven by Mr. McIntyre's management.

THE COURT: I sustain the objection.

MR. CRAPPS: Thank you.

MR. MATHISON: Forgive me, but I'm still -- it's irrelevant. If that's the case, exactly what is the case about?

MR. CRAPPS: Our case is laid out clearly in the cease and desist order.

MR. MATHISON: There are fourteen pages of what I would consider morbus bologna in that order. You could find anything in it if you looked hard enough. I'm asking --

MR. CRAPPS: Can we move on? The objection has been sustained.

THE COURT: We do -- I've sustained the objection. We do need to move on.

Q I believe you testified that you expected to be a passive investor in your Silver Oak Land Trust investments, that is in the investments that were made in the companies that held timber. Is that correct?

A As well as the energy company, yes.

Q When did you change your expectations, become something other than just a passive investor in Silver Oak Energy, LLC?

A I never really changed my expectations. The one I mentioned under direct testimony, I think, that at one point knowing as part of conversations we were having about the need to raise capital to make the business into an operating business from a startup business, that having met someone through a tennis match that I knew was in the private equity business, I asked Jack if would be worthwhile if I contact that person, which I did at Jack's approval. And basically that was my only active role ever, if you want to call it. I don't call that an active role. I was just trying to find a source for revenue once. Source of capital, I should say.

Q Did you, Mr. Silver, authorize the use of your name and credentials as part of the business plan

updated on December 10, 2010 that was disseminated to potential customers and investors?

A We talked about giving each of us titles of some sort so that when and if we could raise capital and become an operating company, we could, if necessary, have official roles in the company. So I said I believe I'd serve as the initial chief financial officer until we get the company really up going at which point I would want to retire again.

Q So you were going to be the chief financial officer and --

A Only subject to the raising of capital to make it an operating company.

Q And in the business plan, which has been admitted as Respondent's Exhibit No. 5, that's you which is described on page nine, Richard A. Silver. Is that correct?

A Yep.

Q And you authorized that?

A Jack ran it by me. I penned in some details for him and I said, okay, go ahead and use it. And I guess I wasn't being called the chief financial officer, just a financial advisor.

Q And who was it that you were attempting to raise

money with?

A Who was the party?

Q Yes.

A I don't even remember his name. It was somebody who visited Daufuskie Island that I had a tennis match with who I found out from conversation was in the private equity business. And I think I had had his phone number from scheduling the tennis match and reached out to him when Jack said, yeah, go ahead and do it. That's my recollection of how that happened. I'm trying to think of a name.

Q The company was trying to raise between ten and $20 million. Is that correct?

A We talked for a long time about 20 million. I think at some point we may have lowered our expectations that we would have settled for 10 million or something along those lines.

Q And that's your email that I just handed you to Mr. McIntyre discussing that?

A I believe. Yes, this is my email, yeah. It refers to a range of ten to 20 million, yes.

Q And you were working on getting that capital?

A I was not working on anything. I reached out to one party that I had met that I thought might be able to help us. He expressed no interest in it,

and that was the extent my involvement.

Q And this is a party whose name you can't recall?

A I think his name -- Now I'm thinking about it. It was a tennis player. I think his last name might have been Rizzi, something like that.

Q And did you ascertain ways that new investors could be taken in by diluting the participations of the existing investors? Was that one of the things that you were charged with doing?

A Charged with doing? I don't recall being charged with doing anything. I think we obviously said if we bring in new capital it will dilute our interest. It's a fact. You can't give a new owner part of a company without it still adding to 100 percent ownership interest.

Q The email that I showed you, did you send that to Mr. McIntyre?

A Is this the same one you just sent me?

Q Yes, sir.

A I believe it is, yes.

Q Did he respond as the email below it indicates?

A It looks like he did.

MR. MATHISON: I move that in evidence.

Q Did you --

THE COURT: Do you have objection?

MR. CRAPPS: What exactly is that email there? The one he wrote or both emails?

MR. MATHISON: Both. He said that he received it from Jack.

A I said it look like one I received, yes.

MR. CRAPPS: He can admit it for his knowledge of it, not for the truth of the lower half.

THE COURT: Right.

MR. CRAPPS: We have no objection to it.

THE COURT: We admit it as Respondent's Exhibit No. 16.

(Whereupon, Respondents' Exhibit No. 16 was marked and received into evidence.)

Q Did you take it upon yourself to come up with a plan for readjusting the equity in Silver Oak Energy in order to take in these new investors?

A I don't recall a plan. But, again, it's simple arithmetic, so I might have worked out something on

an Excel spreadsheet. I have no recollection of doing that, but I might have.

Q I'm sending you an email that you prepared on Wednesday, January 12, 2011 and ask if you can identify for me, please.

A It looks like one I wrote, yes.

Q Would any of that arithmetical calculation or recalculation had been necessary unless you raised additional capital and took in new investors?

A No. I think this whole thing was based on what would happen if we took in new investors. Why would we need to adjust the capital without the -- why would we need to adjust ownership percentages unless we had capital come in?

Q Okay. So you were not only working in getting the new capital, you were also --

A I was not working on anything. You can keep putting words in other people's mouths, but I was not working on anything. I made one reach out to one person I had met at a tennis match because I knew he was in the private equity business and asked Jack if he thought it would be worth our while for me to contact him to see if he had any interest. That was the only -- I wasn't working on anything. So you can keep asking the same question

and try to put words in my mouth the same way. I'm going to answer it the same way every time.

Q The words on the page, sir, while they didn't come out of your mouth, did they come off your fingers?

A They did.

Q And if you weren't interested in this company in some kind of management capacity, why would you ever come up with this plan?

A We needed to raise capital to make the company work. I was doing whatever I could in just helping Jack. Jack didn't know how to work out the formulas for what would happen when capital came in.

MR. MATHISON: Objection?

MR. CRAPPS: Are you admitting it?

MR. MATHISON: I'm offering it, yes.

MR. MATHISON: Again, there's a second email there. We have no objection to the one Mr. Silver has claimed to have written. If you're going to admit the lower half for Mr. Silver's notice of it, but not for any truth asserted therein.

MR. MATHISON: The second email starts out "Happy New Year MXG Growers." I don't think we'll need that.

THE COURT: So we're admitting the first email only?
MR. MATHISON: And we're going to leave out the felicitations for the MXG Growers.
THE COURT: Mark this one as Respondents' Exhibit No. 17.

(Whereupon, Respondents' Exhibit No. 17 was marked and received into evidence.)

THE COURT: And do you want to physically redact it?
MR. MATHISON: If Jordan does.
THE COURT: Do you want to do that, Jordan?
MR. MATHISON: It's innocuous. I'm not trying to use it is what I'm saying.
MR. CRAPPS: Parkin, we would agree to keep it separate.

Q You didn't make any of the trips that Mr. Finn and Mr. Mone did with the objective of finding and executing off-take agreements, did you?
A No, I did not. I don't even think I knew about them until after the fact, nor would I have gone even if I had been asked to go.
Q How did you first learn that Mr. Finn had a problem with Mr. McIntyre?

A I believe, as I testified under direct, I received a phone call on August 24, 2012 from Mr. Finn.
Q And he said what?
A I can't repeat the conversation. It was a long one. But he explained to me the issue with the $25,000 loan that he had made under what he described as false pretenses based on his research after the fact and the fact that he had received multiple explanations over time as to how that money was actually used. Each of which, after doing additional research, he determined was a fabrication of the truth.
Q And do you know what any of those misrepresentations were?
A The only one I recall -- I recall two of them. I believe he said the first, at the time of the initial request, it was to clean up the farm or do some work up at the farm to make it more presentable or to clean it up or needed weeding. I don't even remember the details. And then I believe he was later told that after another conversation with Jack that Jack had told him that Jack would match the $25,000 because they had an opportunity to buy all of the remaining plants at Speedling in Florida where they had previously

bought some plants in 2010 that were legitimate. And that it would take $50,000 to do it. That was my understanding of what Paul explained to me at the time.

Q Did he tell you why he thought that was false or deceptive?

A He told me that --

MR. CRAPPS: Excuse me, Paul was just here. I guess I object to continuing the questioning of Mr. Silver as to what Paul just testified to earlier today.

MR. MATHISON: Actually, he didn't. He didn't testify to it except when I asked him. He simply testified to something that he hadn't documented in any of his email beforehand, which is what Mr. Crapps asked him about. I'm the one that asked him about Speedling.

MR. CRAPPS: Well, even more reason not to have to ask Mr. Silver to try to determine Mr. Finn's understanding of the situation.

THE COURT: Well, I'll let it in for Mr. Silver's knowledge that Mr. Finn had problems with Mr. McIntyre for notice, but not to the truth that's asserted in the statements.

A Repeat the question, please.

Q You answered the last question I had. The next question is, do you know whether Mr. Short made a trip in an effort to locate the rhizomes that they believed to have been purchased and planted?

A I think I remember Dave Short saying something at some point in time about having gone up to the farm to see if there were rhizomes planted there.

Q This is the farm in Clio? Is that right?

A Yes.

Q And do you know whether there were in fact rhizomes planted there?

A Well, the farm had already been planted with some rhizomes. I think he came back and reported that there were no new rhizomes planted there, which Paul had been told there were from these plants that had been bought in Florida, based on what Paul told me. And, again, you seem to be very interested in hearsay evidence when it benefits you but object quickly to hearsay evidence when it doesn't.

Q I can't do anything other than that at this point, Mr. Silver, because so much has been let in. I pretty much have to do it myself. I mean, if we

were both to disarm, I'd be happy to. It's a little late for that now.

THE COURT: Let's stick to questions and answers.

Q I think you also did a little moaning about not having access to financial information. Is that right? Is that correct?

A I don't moan. What was your specific question?

Q You said you didn't have any access to financial information. Is that right?

A Are you talking about after I took over as manager and requested documentation?

Q No, sir. I'm talking about when you were a passive investor in the two SOLT or the three SOLT entities and you were an active participant in Silver Oak Energy, during that period.

A I was never an active participant Silver Oak Energy. I made one reach out for capital raising events. And you keep putting words in other people's mouths. And, yes, I did -- I might have said, and would say again, that I never got any financial information from any of these companies other than some proformas I think Jack did run from time to time on the energy business as to how it

would financially if we were able to sign off-take agreements.

Q And you got K1s, too, didn't you?

A K1s are useless pieces of information for understanding the financial workings of an entity.

Q But they're good signposts to point you in the direction of where you can find that financial information, aren't they?

A No, they're not, actually.

Q Oh, because, you know, Carey & Company are certified public accountants. You wouldn't want to go there --

A Carey & Company never did an audit of the books. They were not hired to be an auditor. They are a tax preparer.

Q Did you ever contact Carey & Company in an effort to look at the books that they had?

A They didn't have the books. And they would have no reason to have the books. They are a tax preparer, not an auditor.

Q So you're saying that you never contacted them because you didn't think they could give you good information?

A I knew they couldn't give me good information. They don't audit the books and records of the

company. They've never seen the books and records of the company.

Q Do you know whether or not these loans about which you profess to be so shocked appeared on every single tax return that was filed by the entities during the period that you weren't paying any attention?

A Say that again. What was it I'm paying attention to?

Q The loans to Silver Oak Land Management.

A I didn't know about the loans until I became manager and got my hands on the books and records.

Q But do you know whether or not they appeared on the tax returns every single year?

A I know that many of the loans did appear on tax returns. I think there were some that were not properly accounted for.

Q So you could have learned of the loans simply by going to Carey & Company?

A No, Carey & Company would not have shared any information with me. When I took over as manager I had to request Jack to write a letter to Carey & Company to then turn over access to the tax records to me.

Q Do you know whether Carey & Company maintained a

trial balance for each of these entities on a monthly ending quarterly basis?

A **I don't think they -- I don't know, but I don't believe that they ever held -- did anything on a monthly reporting basis. My understanding is at the end of each year they received a one page printout from Jack's Quicken records that was a cash flow statement of inflows and outflows for the year for each company. And that was all they received in order to prepare tax returns.**

Q Well, maybe that's what they told you. Did you threaten them the way you threatened Mr. McIntyre?

A **I never threatened anybody. I'm passive.**

Q Thank you.

MR. MATHISON: Now, I'd like to be able to impeach him with the documents that he previously ruled out.

THE COURT: What do you say, Mr. Crapps?

MR. CRAPPS: I still feel like we're -- any kind of threats made to anybody is kind of irrelevant. And it has no bearing in this case.

MR. MATHISON: The threats are highly relevant. They go to his state of his mind. They go to his character. He just testified he never

made a threat to anyone. I've got six letters in which threats are made. Explicit threats.

THE COURT: Well, let's proceed and see if they are as you characterize them.

MR. MATHISON: Thank you, Your Honor. May we have a break just for about ten minutes?

THE COURT: Yes.

(Off the Record)

Q Mr. Silver, on September 25th did you, in writing, explicitly threaten Jack McIntyre that unless he resigned, you would have criminal charges brought against him?

A You may word it as a threat, but it was a request that he resign because we had discovered that there were a great deal of alleged malfeasance that took place that we believe arose to the criminal level, yes.

Q Specifically, was the language, "This is your last chance before criminal charges are brought." Did you say that?

A I may have worded it that way, yes.

Q Did you also say --

A We were pleading with Jack to sit down with us and

work out a restitution plan to save him from more dire circumstances.

Q Well, I'm going to hand you your email.

MR. CRAPPS: May I see it?

MR. MATHISON: Sure.

MR. CRAPPS: Your Honor, it's our position that this whole line of questioning of alleged threats is irrelevant to the case. We feel these documents are being admitted to show that are also irrelevant. And so again renew our objection as the relevance of all this.

THE COURT: Well, it sounds like they are in the relevant time period. And I think they do go to the credibility of the witness. I'd think I have to let them in.

MR. CRAPPS: We'd also object to let the record and Mr. Silver state what he said as opposed to Mr. Mathison paraphrasing and characterizing his statements as things that may or may not be . . .

MR. MATHISON: I'll have him read the letter. Would that satisfy you?

THE COURT: Let's proceed.

MR. MATHISON: I move the introduction as the next

Respondents' exhibit.

(Whereupon, Respondents' Exhibit No. 18 was marked and received into evidence.)

Q Mr. Silver, would you now read your email starting with the salutation "Jack."

A (As read) Jack, you have told Jim a number of times you will resign from all SOLTs as manager and that you will turn over all records to me, yet you continue to do either one. This is your last chance before criminal charges are brought. You are to deliver via email by ten p.m. tonight a resignation letter to every member of every SOLT in which you resign as manager, and for SOLTs I, II, III you name Murray Reed as interim manager and you name me as treasurer. And for SOLTs IV, V and VII you name me as interim manager. Do you want me to continue?

Q Yes.

A (As read) You are not to put anything in the resignation letters other than that you are resigning for personal reasons. No bullshit stories of any kind. Plain and simple for personal reasons you resign. If you put anything else in

that tries to paint you in a good light, I will then send to all members of all SOLTs some of the glaring examples of your outright theft of SOE monies, including examples of how you recorded many personal expenses under different payee names to cover up your theft showing intentional fraud. I'm not asking you to admit any guilt in these letters, but you are not to put anything in that sheds a good light on you or on anything you've done for these entities over time. You are to deliver to me by five p.m. tomorrow, Wednesday, 9/26/12 every record you have for Silver Oak Energy and every SOLT as previously requested. You are to include copies of all monthly bank statements for SOLM since the establishment of SOLT I through the end of last month. You are to include all QuickBooks history since inception of each entity in a file that I can upload into my Quicken or QuickBooks application. This is your final chance before much more dire circumstances befall you.

Q What dire circumstances were you referring to, sir?

A We had been pleading with Jack for weeks to admit he had violated the trust of his close friends, to sit down with us and work out a restitution plan which we were perfectly happy to do to turn over

the records so we could figure out the extent of the alleged malfeasance and to try to get all of this behind us. And that if he continued to stonewall, that we'd have no other choice other than to go to the governing authorities to see if they could hold him accountable.

Q And he resigned, didn't he?

A He did eventually resign, yes.

Q He resigned on the 25th, didn't he?

A I don't remember the date.

Q And y'all reported him, anyway, to the governmental authorities, isn't that right?

A I did not, no, not initially.

Q Well, who did?

A Well, I think you asked Mr. Finn if he's the one that contacted the attorney general's office earlier today, and I think he said yes.

Q But notwithstanding the fact that he resigned, he still didn't do everything you wanted, did he?

A He did some of what I had been asking for, in terms of delivering bank statements and Quicken records. I never got the supporting documentation I asked for.

Q Did you, thereafter, write an email to Mr. McIntyre's wife, Judith Costello, threatening to

put Jack in jail unless he did what you wanted?

A Well, you can use the word "threat" all you want. I was responding to a hysterical wife who pleaded with me to do everything humanly possible to keep her husband and father of her daughter out of jail. And I told her I would do everything I could possibly but that Jack needed to cooperate.

MR. CRAPPS: Your Honor, we renew our objection. We would argue this is irrelevant, really a waste of our time here, so.

THE COURT: Well, I overrule the objection. I think it's as on the first one.

MR. MATHISON: May it please the court, Your Honor, there are a couple of things that probably are objectionable here. They made a settlement proposal to Mr. McIntyre. And this was written in anger because he had not accepted that proposal. I'm not offering it for anything having to do with what the proposal was about. I don't feel that's relevant. The only thing that's relevant is he was angry because he wouldn't do it.

THE COURT: I accept it for that purpose only.

Q I'm showing you this document and ask you if that is the email that you sent to Mr. McIntyre's wife.
A It looks like it, yes.
Q And lest we discuss things that I just said that I didn't think should be discussed, would you start reading that letter at the third paragraph, please.
A Again, this was a response to his wife's hysterical pleas with me -- to me to try to help keep her husband out of jail. I begged him to work with us to sit down with us and make an offer. So this says, (As read) I also informed Jack that this will be his last opportunity to get the slate wiped clean so that he can avoid having to spend significant amounts of money defending himself against lawsuits and against civil and criminal charges which may be brought by both state and federal law enforcement agencies. I promised you that I would do whatever I could for Alex's sake - Which is Jacks's daughter - to help Jack stay out of jail. I told Jack that the only way I will help in that regard is if he accepts the settlement offer. Should I keep going?
Q Yes.
A (As read) Since Jack apparently is determined to fight this, things are going to get much worse.

Federal law enforcement officials are about to become involved in addition to the state officials already investigating. These investigations are not limited to the energy company. The attorney general's office already has copies of all of the records for all of the land trusts and has been digging through those records for many weeks. I will now do everything in my power to see that Jack goes to jail.

Q Do I understand your testimony to be that this letter or this email was written to reassure a hysterical wife?

A It was to respond to her pleas to me to help keep her husband out of jail only because of the impact it would have on their daughter. I had told her that I would do whatever I could to do that, but that Jack needed to cooperate with us.

Q And that is your email, you can identify as your email?

A Yes.

MR. MATHISON: I move the introduction to that as Respondents' Exhibit No. 19.

MR. CRAPPS: Just a renewal of our objection.

THE COURT: Objection is noted, but I will admit it.

MR. MATHISON: Excuse me, it's already in for identification as Exhibit No. 15. Just move it over.

THE COURT: So show it was admitted now.

(Whereupon, Respondents' Exhibit No. 15 previously marked for identification is now received into evidence.)

Q The email dated September 25th, Respondents' Exhibit No. 18, did you send that to anyone other than Mr. McIntyre?

A This is the one you showed me earlier?

Q Yes, sir.

A I copied in Murray Reed and Jim Paris.

Q Did you have any BCCs on there that wouldn't necessarily show? That's not your computer, that's somebody else's computer that downloaded that.

A I have no recollection.

Q You don't know whether you did? So you could, you just don't --

A I don't think I did in this case. The reason I would have copied in Murray and Jim is that Murray and Jim were Jack's two closest friends. For 20 years in the case of Murray and 25 years in the

case of Jim. They were the ones that I was using as what I would call a go between to try to plea with Jack to sit down with us, admit he had violated the trust of his friends and to work out a settlement plan with us.

Q So two other people received this that you know of?

A The two that were involved in trying to get Jack to work out a settlement plan, yes.

Q And with respect to what's now been remitted to Respondents' Exhibit No. 15, which is your email to Mr. McIntyre's wife, did you send that to anyone other than Ms. Costello, as she prefers to be known?

A I sent it to Jack, it looks like.

Q Were there any BCCs on that one, sir?

A Not that I recall.

Q But you'd still have that in your computer, wouldn't you, so we could find it if we needed to?

A Probably. I don't know which ones I saved and didn't save at the time. I also had a computer that crashed and got fried at one point somewhere a year ago. I don't remember.

Q And in Respondents' Exhibit No. 18, specifically in the second paragraph on the second page, did you threaten that you would use the monies out of the

sale of the SOLT VII property to wage additional lawsuits against Mr. McIntyre?

MR. CRAPPS: We'd like to object. We've gone from one item we feel is irrelevant to something that is being deemed irrelevant.

THE COURT: Well, this is a different context, and I'm going to overrule the objection.

Q Would you read that paragraph for me, please?

A (As read) We are close to a sale of one of the SOLT's property which will provide significant monies to file additional lawsuits against Jack. Some of his offenses call for triple damages, so he and you will end up with no interest in any of the companies and a fortune will have been spent on legal fees. There is ample smoking gun evidence to put him in jail.

Q And, again, I ask you how would a hysterical wife find anything in that paragraph reassuring?

A At this point, I was informing her that in trying to help her keep her husband out of -- I won't even call it her husband -- her daughter's father out of jail, which is the context I was trying to help her in, that I had exhausted all avenues that were left

to me because he refused to cooperate.

Q May I ask in what connection you wrote those letters with respect to entities in which you had no interest, for example, SOLT III, SOLT II?

A Once I became manager of -- I became manager of all the entities, including the two that I did not have an investment in, SOLTs II and III.

Q So that would be the case, obviously, with respect to the second of the two letters, which is actually Respondents' Exhibit No. 15. But that wasn't the case on the 25th, was it? You weren't manager of anything --

A Actually, I was because before Jack resigned, I had already been elected by the members to serve as manager. His resignation was just an additional legal formality so that he couldn't come back later and challenge the fact that he had already been replaced as manager.

Q Where are those documents? You have documents that establish that you had already been elected his successor before he resigned?

A I believe once he resigned and we did new resolutions, I didn't save the old ones that had elected me as manager, but I may have them in a folder at home somewhere.

Q You're saying that there were temporary or ad hoc documents that were created to make you manager in some capacity for all of these entities and then that once he resigned you created new documents? Is that what you're telling me?

A What happened was I went to the attorney that Jack had used at McNair Law Firm to create these companies. I asked her her advice as to what is necessary absent any specific language in the operating agreements to replace the manager. And she explained to me that under South Carolina law absent any language in the agreement or anything to the contrary that it would take a vote of a simple majority by percentage owned of the owners to remove Jack and replace Jack. So I did an email, which I believe you had me read earlier or I did under direct, where I introduced myself to all of the owners, explained what I had found during the earlier stages of my investigation and asked the owners to vote by email or verbally, - I don't even remember. - which I was told by the attorney was also okay, to get a majority vote to have Jack removed and to have me named as manager. I then filed the documents with the Secretary of State to show that whatever that technical title is,

registered agent or something like that, was now me instead of Jack. And then I went back to the attorney and she said we ought to get this done in a more formal way, and she drew up new resolutions that were in writing that each person would then be asked to sign again that named me as the manager.

Q So the McNair Firm ought to have a record of you having attained your role in the one capacity and then having attained it through the resignation?

MR. CRAPPS: Your Honor, I feel we have somehow gone beyond the scope of impeachment and we're back into the appropriateness of Mr. Silver's management of the company which again is subject to lawsuits beyond this forum and not relevant to this hearing.

THE COURT: I'm letting these in because of the credibility of the witness based on his prior statements. And for that reason, I'm going to overrule the objection and not letting them in for the truth of what McNair advised or anything else.

Q Subsequently, Mr. Silver, did you and Mr. Short, the latter on behalf of Silver Oak Energy, LLC make

a "non-negotiable" demand" dated December 17, 2012 and threaten continued prosecution by the South Carolina Attorney General's office unless you got what you wanted?

A **I believe what happened was after that investor meeting that we had in late November, very end of November of 2012 where all the investors were brought together either in person or by conference call, at least most of them were, there might have been two or three that did not participate, I was requested by the investors to make a non-negotiable final demand to Mr. McIntyre to settle things with us. So, that's what I did at their request.**

MR. CRAPPS: That's clearly settlement offers. And, again, Mr. Silver's attempts to remediate the problems, it's all beyond the scope of this hearing. So, we renew our objection.

THE COURT: Understood. And just don't ask him to go into the terms of any proposed settlement.

MR. MATHISON: I'm not, Your Honor.

THE COURT: I don't think the fact of a settlement offer is excludible.

MR. CRAPPS: Your Honor, this entire letter is, the whole purpose and the entire content of it is

an offer to settle these items and the terms of the settlement. And this is the most clear form yet of a settlement offer.

MR. MATHISON: And I don't want any of that in. What I want in is I want the Mr. Silver tail wagging the attorney general dog, which is the first paragraph on the last page. And it says while I --

MR. CRAPPS: Can we get a ruling on the --

THE COURT: Hold on a second. I'll agree that the settlement offer can't come in, but if the rest of it can be truncated out, bifurcated out . . .

MR. CRAPPS: The whole thing -- The intent of the whole document as an offer of settlement.

MR. MATHISON: And a threat.

MR. CRAPPS: For him to try to impose a threat on a settlement offer is, we think, we've gone way beyond --

THE COURT: Well, it depends on what the language says.

Q I'm handing you your letter dated December 17, 2012.

MR. CRAPPS: Can we receive the ruling on our objection?
THE COURT: Portions that are a settlement offer can't be --
MR. CRAPPS: The whole thing is a settlement, Your Honor.
THE COURT: There seems to be disagreement about that. Let me look at it.
MR. MATHISON: These two paragraphs are what I want right here.
MS. GRAY: You got the whole letter?
THE COURT: I've got the last page.
MR. MATHISON: That's all I gave him.
MS. GRAY: I think he needs to read it in context to see.
MR. CRAPPS: It's our claim that this is a settlement offer. To admit one paragraph in terms of a settlement.
THE COURT: You know, I believe the two paragraphs on the last page can be construed as Mr. Mathison has just represented them. Now, we can either just let in those two paragraphs or if you want the whole thing in, we can let in the whole thing.
MR. MATHISON: It doesn't matter to me, Your Honor.

But I just as soon not have the settlement offer in if they're objecting to it on the basis -- the portion that's settlement. I'd rather have it out.

THE COURT: Mr. Crapps, if you believe the entire settlement offer is necessary, we can let it in. But, otherwise, I do agree that it is within the context of the other letters we've just let in that these last two paragraphs can come in.

MR. CRAPPS: May I see it? It's our argument that this whole letter, including the paragraphs Mr. Mathison has indicated, are part of a settlement offer. And if you, Mr. Hunter, feel the last two paragraphs are admissible, then we would like the whole document admitted as opposed to taking a couple paragraphs of a settlement out of context.

THE COURT: I understand from you, Mr. Mathison, you don't object to the entire document?

MR. MATHISON: If he wants to put it in and feels it's better in that form, that's fine with me.

THE COURT: I understand your objection, but I'll admit it. And the document is Respondents' Exhibit No. 19.

(Whereupon, Respondents' Exhibit No. 19 was marked and received into evidence.)

Q And I'm handing you the letter dated December 17, 2012 and ask whether you and Mr. Short prepared that letter.

A I believe I prepared the letter. I think I showed it to Mr. Short to make sure he was okay with it because he was the manager of the energy company and I was the manager of the six land trusts. And this was an extension of the settlement offer on behalf of all seven companies.

Q Okay. And would you read the top two paragraphs of the third page into the record, please?

A (As read) While I cannot promises with regard to the ongoing investigation being conducted by the South Carolina Attorney General's office, I did ask the woman leading the investigation if she would drop it if we informed her that we had reached a settlement with you. She indicated that although there is no guarantee, they have on many occasions terminated investigations when the injured parties inform them that they have received restitution and finalized the settlement agreement. As indicated,

this is a one time opportunity for you to avoid more dire consequences. The investors are very much prepared to pursue formal legal action against you and to continue the SOE legal action against you. Other law enforcement agencies may also become involved. You know that there is black and white smoking gun evidence against you of deliberate theft and fraud. Please take advantage of this one opportunity to wipe the slate clean and allow us all to focus on the future.

Q Did you write that?

A I did.

Q And to whom did you send it other than Mr. McIntyre?

A I do not recall. This is printout without the addressees on there. So I don't know if I sent this to all investors. I have no recollection of who I sent this to.

Q Do you have a distribution list on your computer?

A I do.

Q I don't know how to put this. Are you essentially using the attorney general's office as a form of collection agency?

A No. Jack was made aware numerous times as I pleaded with him to work out a settlement that they

were in a middle of an investigation that I would be happy to go to them and ask them -- tell them that we had worked out a settlement, that I didn't want to see this thing continue in that kind of a way to allow him to get this all behind him so that he could go forward with his life, that I could go forward with my life, that the investors could feel that a reasonable settlement had been worked out and that we could all just look to the future.

Q Is there a reason that you wrote essentially the same letter again on December 19, 2012, only this time attached documents which will allow Mr. McIntyre to immediately transfer his ownership interests in all of the enterprises?

A I don't remember the dates. The one you showed me first may have been a first draft without the attachments. I don't remember. But I know that in the offer what was offered to Mr. McIntyre, based on my understanding --

Q Don't put that in the record.

A I'd like to finish answering the question.

MR. CRAPPS: We're parsing out parts of a entire settlement offer, some of which Mr. Mathison --

MR. MATHISON: I'm simply asking why there are two with different dates on them.

A I don't recall why there were two. One may have been a draft. One may have been a final verison. But the final version that you're referring to was the whole offer which included having to come up with very little cash, because I had been told he had none, and an opportunity to instead give back a portion of his ownership interests in the companies in full settlement.

Q Is there any difference between that letter and the one that's already been admitted, with the exception of some of the values have changed on the first and second page?

A I'd have to reread every single letter, every paragraph word for word. But probably it's the same with the terms of the offer amended.

Q Well, I guess what I'm asking you in a round about way, did you send two or did you send one?

A I think I might have sent -- I was trying every day to get him to work out a settlement agreement. I tried multiple forms of offers to him so that we could get all of this behind us all. Nobody wanted to be dealing with this thing.

Q Okay. The second one that you sent, which I guess is dated December 19th, do you know how many different people you sent that one to?

A I have no recollection.

Q Would it have been the same distribution list as the first one?

A I don't know if there was any distribution list. I might have sent it to the investors so the investors at that point were aware that I was doing everything humanly possibly to try to get this guy to work out a plan with us so that we could get this behind us.

Q If I understand, you threatened Mr. McIntyre that unless he resigned, you were going to see that some kind of criminal proceeding was started against him?

A I didn't threaten Mr. McIntyre with anything. I informed him, because his wife had pleaded with me to help him any way I could stay out of jail, that if he worked with us that I would drop any other actions. I have no apology for calling governmental authorities to try to hold him accountable for his acts and deeds on behalf of myself and all the other investors.

Q Did you subsequently threaten to involve the

Federal Bureau of Investigation if he didn't do what you want?

A Again, you use the word "threaten." I was trying to get any government agency possible to take a look at this case to see whether it was something that they could prosecute, yes. And I am not the first one that contacted the FBI. One of the other investors did.

MR. CRAPPS: We would object to the repetition or cumulative nature of this line of questioning. All of this we object to as irrelevant.

THE COURT: How much more do you have of this, Mr. Mathison?

MR. MATHISON: This one and one other. That's it, Your Honor.

THE COURT: Because I do agree it's starting to be cumulative. But we'll limit it to two more, and I understand the objection.

MR. CRAPPS: Again, Your Honor, all this we feel is part of ongoing negotiations of a settlement. And to categorize this as a threat of any kind which is -- these are conversations between two people trying to work out and settle the matter at hand. And we would renew our

cumulative objection to this line of questioning as well.

THE COURT: Mr. Mathison, is there a portion of this letter that's in the same context as the others?

MR. MATHISON: This is an email that says if you don't reach an agreement with me, I'm going to report you to the FBI, is what it says.

THE COURT: Well, I'll let it in for the same basis I've let the others in that "I'll report it to the FBI" is not what I would consider a material term of the settlement agreement. I think it's appropriate for that to come in.

MR. MATHISON: That's not the way I negotiate settlements. They may do it differently up here.

THE COURT: But other terms of the settlement that are in there would not be in unless you want the whole thing in, Mr. Crapps, as before. Assuming the witness can identify it. I don't think that's happened yet.

MR. CRAPPS: There's no way to parse this one out. Assuming it can be identified.

Q I'm handing you an email dated December 18th, which

is the one at the bottom of the page. Is that an email that you sent, Mr. Silver?

A **It looks like one I sent, yes.**

Q And would you read that email to the court, please?

A **(As read) Jack, I just wanted to make sure we are clear about this. If an agreement is going to be reached between the two of us, it will need to be done almost immediately and without your attorney or ours. I am keeping --**

Q Wait a minute. Excuse me. Did you say without your attorney or ours?

A **Yes.**

Q Okay.

MR. CRAPPS: Excuse me, if this is being admitted solely for the purpose of any kind of reference to the FBI, I don't understand the relevance of reading the entire into the record.

THE COURT: Well, you wanted the whole letter put in, so I think the witness can proceed I think.

Q Please proceed.

A **(As read) I am keeping my appointment with the FBI**

this morning, but I will tell them that we have finally made progress toward a possible settlement and that I need for them to hold off opening a formal investigation for a couple of days. Beyond that it will be out of my hands.

Q Please keep reading.

A (As read) I want to have a signed agreement in my hands before I leave for California, which means it needs to be done by Wednesday evening. Should I keep going?

Q Please.

A (As read) I am sleeping at my condo on Wednesday for our early flight on Thursday. I will not allow the conversation we had last night to be the beginning of a long drawn out delaying tactic to hold off the investigators. Either you are finally willing to work out a settlement plan or you are not. Please do the right thing for everyone's sake, especially your own. Rich.

Q Don't you say something after my meeting with the FBI?

A. The p.s., you are referring to?

Q Yes. Right here.

A (As read) P.S., I will be on Hilton Head all day today. After my meeting with the FBI, I will be

hanging out because I have to be in Port Royal at two p.m. for my league tennis match. I will be reachable on my cell phone before two p.m. and my match should be over so I can be reached after that. I can stay on Hilton Head after the match if you want to talk.

Q And did you have a meeting with the FBI?

A I did have a meeting that I had not set up but was invited to, yes.

MR. MATHISON: Move the introduction.

THE COURT: Okay.

MR. MATHISON: Only the bottom email which is the December 18th email as Respondents' Exhibit No. 20.

MR. CRAPPS: And, again, I think we would -- the non-admitted portion of that document be redacted.

THE COURT: Okay. Just to keep with the record, I think we have two documents that we were going to redact portions on, actually physically redact them, Exhibit Nos. 20 and 14. If I'm wrong about that, let me know so we can . . .

(Whereupon, Respondents' Exhibit No. 20

was marked and received into evidence.)

Q Mr. Silver, did you, on November 14th send another email to Judith Costello, Mr. McIntyre's wife, in which you refer to Mr. McIntyre as a pathological liar, most likely a sociopath?

A I may have.

MR. CRAPPS: Your Honor, this one's written. It's - -

MR. MATHISON: Excuse me, I want him to look at it and respond to it without your telling him what it is. If we could approach, Your Honor. I don't want to hamstring Jordan. There's no way we can talk without informing the witness.

THE COURT: Okay. If y'all will approach the bench.

(Bench Discussion)

Q I'm handing you an email dated November 14, 2012. I ask whether you sent that email to Judith Costello.

A No, I did not. I do not recognize this email.

Q All right. Do you know who contacted Mr. McIntyre's daughter, Alexandra, on her Facebook

page?

A I have absolutely no idea who did that.

Q But you do know that it was done, don't you?

A I heard later through hearsay that it was done, I believe, yes.

Q A man name Victor DelGuercio wrote you an email --

MR. CRAPPS: Your Honor, he's testifying to facts aren't in the record.

THE COURT: You need to ask him the question.

Q Didn't a man named Victor DelGuercio send you an email in which he said he had not done it?

A I do not recall him doing that. He may have. I had heard from somebody else - I don't even remember who. - that something had been done. And I did not know who did it, and I had no recollection, but I'm not saying I didn't get an email from Victor saying he didn't do it.

Q And do you know what was done to Alexandra on her email?

A I have no idea.

MR. CRAPPS: Are we still in the impeachment? I thought you had already ruled on the

cumulative nature of all of this.

THE COURT: I think at this point, Mr. Mathison, I think for impeachment we have sufficient evidence. It's in a cumulative nature. I'm not commenting on what it means.

MR. MATHISON: I understand. I have one other letter, Your Honor. I will hold my peace.

THE COURT: Thank you.

MR. MATHISON: May it please the court, I need about five minutes just to go over my notes.

THE COURT: Let's come back at twenty till.

(Off the Record)

Q In response to a question that Mr. Crapps asked you, I believe you said that you were "trying to find someone who would give us $20 million." Is that correct?

A The company was trying to find someone who would give us $20 million. I made one reach out, which I have now mentioned about six different times, to one person to try to help in that effort, yes.

Q But that's the extent of your effort was you reached out to one individual to raise $20 million.

A That's all I recall ever doing.

Q In SOLT I, when they went out for a second offering, how many new members were they trying to get?

A According to the offering document, they were interested in bringing in seven new members at seven percent each, apparently willing to give up 49 percent of ownership of the company.

Q And did anybody have any problem calculating how that would dilute the previous owners equity as opposed to I believe you testified that you were the only person that knew how to do that which is why you were calculating the dilution of equity in Silver Oak Energy.

A I don't understand the question.

Q Did you calculate the dilution of equity in Silver Oak Energy to raise capital?

A You showed me what I wrote, which was some methodology for what would happen if we brought in an investor at ten to $20 million yes.

Q And that had, in fact, been done in Silver Oak Land Trust, the first one?

A Unbeknownst to -- I didn't know what they were doing. All I knew is they were offering me a seven percent interest for $99,000.

Q And you were one of the investors, one of the three

that came in?

A I was one of two that came in at the initial attempt at a secondary offering.

Q And then there was a third one?

A A year-and-a-half later, yes.

Q So they never got to seven?

A Correct.

Q And the objective was to use the money from the seven to pay off the mortgage? Isn't that right?

A Yes. As it was explained to me by Jack, yes.

Q And do you know whether they had enough money to pay off the mortgage without getting more than three new participants?

A I didn't know what they had at the time. I didn't even know the size of the mortgage. I know now what happened.

Q You testified that you were concerned after finding out that there was a problem that Mr. Finn had had a problem involving Silver Oak Energy that it might "tip of an iceberg." Is that right?

A I was actually expressing it from the other direction. Jack was my friend. I was hoping it was nothing more than a misunderstanding over one transaction and praying that it wasn't the tip of an iceberg of something larger.

Q And did you send an email to investors in the various SOLT enterprises that fortunately for them none of the property was mortgaged and all of the SOLT entities still owned the real estate that they had purchased?

A I think I remember doing that at some point after I became manager or after I was aware of the properties based on what I could determine from the records that there didn't appear to be any mortgages on any of the properties at that point.

Q And you considered it to be a good thing that the value was still in those entities because they still had their property free and clear?

A Well, I understood at that point they had their properties free and clear. I found out that some of the properties were worth a fair amount less than we paid for them.

Q Did that surprise you in a recession?

A Oh, no, it didn't. I was never blaming Jack for buying bad properties or for the fact that there was a recession. I was blaming him for stealing my money.

Q I think you used the term in response to a question by Mr. Crapps, and this in quotes, "a forensic audit," and you said that's what you did.

A **I used the same -- I use that term as I would define it based on hundreds of hours of work that I did to look at the financial information, yes.**

Q But the last time you did an audit, that is as a real auditor, would have been in 1969 or 1970?

A **'71, probably, yes.**

Q Okay. And --

A **But that's a financial audit, different from a forensic audit, number one. And all I was doing for here was to try to identify the misappropriation of monies.**

Q But forgive me if I misunderstand the term, but forensic means, in my idiom at least, for using in some form of litigation. Is that what you meant to imply by forensic?

A **I used my own definition of forensic to define the investigative work I did with the financial records to identify the extent of the alleged malfeasance.**

Q Okay.

A **I don't know what the legal definition of forensic audit is.**

Q And you did it not having had any practical experience for over 40 years?

A **You didn't need to have any experience as an auditor of public companies to do a financial audit**

of books and records to be able to match up a transaction as it appeared on a bank statement with how it was entered into a Quicken record and how it ultimately flowed into a tax return.

Q Well, then, let's analyze that. You have a lot of experience with using Quicken?

A I do.

Q Does Quicken have a function called infill?

A I don't know what it's called, but I think I know what you're referring to.

Q For example, if I type in V-I-C as the first three letters in an entry, is Quicken going to bring up the last time V-I-C was entered?

A I believe it will, yes.

Q So if the last time I put an entry in, the dinner was for dinner at Victory Gardens, Victory Gardens is going to pop up?

A Probably, yeah. I think that's the way it would work.

Q And if the last time it was to buy lingerie for my beloved at Victoria's Secret, Victoria's Secret is going to pop up. Isn't that right?

A I believe -- I think it goes to the last one. I'm not sure how it works, but it does --

Q And how many of these bizarre recurring categories

did you get as a result of your forensic audit? How many repeats of very, very strange entries?

A You mean putting in a college application fee as Home Depot?

Q Strange entries like Victoria's Secret, how many of them did you get?

A Several dozen -- well, I don't know. Maybe a dozen, dozen-and-a-half, two dozen. I don't know what it was.

Q And is it possible, for example, entries to Red Fish could have been Red something else? Intended to be, not necessarily accurately set forth, but intended to be?

A It's just a strange coincidence that the only ones where the payee was altered were ones that someone would want a reader of those to not understand where the money was really spent.

Q Okay.

A I mean, there were no typing errors on any of the other entries where it didn't matter who the payee was --

Q None? Is that your testimony?

A None. There were no obvious ones that looked like a coverup of a transaction.

Q And for a long time you were laboring under a

misapprehension about who might be responsible for some of this because on some of these bank statements next to entries such as various coffee houses and Red Fish you put Judy or Judith, meaning Mrs. McIntyre, did you not?

A I put that down as a question to myself because it appeared to me that there were on some occasions that when a debit card transaction was taking place in some city other than Hilton Head there was another one on the same day taking place on Hilton Head. At the time, I wasn't sure if Jack's wife also had a company debit card, so I put that down as questions to myself to see if there was a pattern of both of them using company debit cards.

Q And those questions are, in fact, set forth on some of those bank statements and other entries, little entries that say Judy question mark or Judith?

A Yeah, I think I wrote notes to myself on those, yes.

Q Okay. And those all proved to be wrong, didn't they?

A I have no idea whether they're right or wrong. I don't know to this day who used the debit cards.

Q Well, did you ever ask? Do you know whether there was more than one debit card?

A I have been told by Jack that there was never anything more than one.

Q Okay. Did you ever confront your good friend Judy Costello that you wrote the reassuring letter to? Did you ever confront her with whether or not she used a debit card on one of the SOLT companies?

A I never confronted her with that. We sat down and had a three hour conversation one day where she was bawling her eyes out over the discoveries and assured me she didn't know anything about any of this and had no involvement in any of it.

Q But everywhere that her name appears all over these documents, those are all errors that you made, aren't they?

A No, those were questions --

Q They're mistakes.

A Those were questions I was asking because I didn't know at that time. That was the beginning of the investigative work I was doing. You can try to put words in mouths again. They were not errors. I was raising questions based on what I was seeing at the time wanting to follow up to see if I could find out what was really going on.

Q Well, I'm asking you how many other mistakes are there in here, sir?

A Those aren't mistakes. Those were questions.
Q Questions, okay. So every place that I see a question or something other than a check, I should assume that that's something that you might be wrong about?
A There are no checks that I put on there. The checks, I think, were Jack's. I was just circling items that looked questionable.
Q With respect to --
A That's what an auditor does, actually.
Q Well, aren't most auditors who get paid for doing it certified public accountants?
A If they're doing a full financial audit of a set of books, yes. I was just trying to locate potential malfeasance for the company.
Q But that sort of proficiency is beyond your ken, is that not? Beyond your understanding?
A I'm not sure I understand the question.
Q You did take and fail the CPA exam, isn't that right?
A I never passed the CPA exam because I had no interest in practicing public accounting.
Q You've never passed it, but you took it?
A I took it once out of graduate school just to see what would happen if I took it without studying for

it. I passed half of it and I decided I was going into the mutual fund industry, would rather have my MBA on my resume than a CPA and I never thought twice about a CPA --

Q Okay, now that's to me a participation award. Isn't that the functional equivalent of failing it? You passed part of it and you didn't pass --

A No. No, most people that take the CPA exam pass only parts of it the first time through. And then they take crash courses on the other parts to try to pass the remaining parts.

Q And you didn't pass some of the parts and never took the crash courses and never passed them?

A I did not -- I passed two of the four parts is my recollection and that was it.

Q Okay.

A Including auditing I think was one of the parts I passed, actually.

Q How many years of transactions have you purported to recapitulate in your forensic audit?

A How many years of transactions?

Q Yes, sir, how many years?

A From the inception date of each of the entities.

Q So with respect to the initial SOLT, which is not really SOLT I, it's just SOLT, that would be eight

years of transactions. Is that correct?

A **Well, December '05 through late '12. I'll call it just under seven years, actually.**

Q Right. And each one would scale down from there?

A **Yes.**

Q So these numbers are generated over a period of up to eight years? Is that right?

A **You said eight. I corrected you to under seven, but that's close enough.**

Q Okay. Well, forgive me. Under seven, almost seven. That's kind of like almost passing the CPA exam. Okay.

A **You're a funny man.**

Q Didn't Jack McIntyre make an effort to talk to you on the telephone about this during a period that you were making the incessant threats that we put in the record?

A **I object to the phrase incessant threats. In fact, they were the opposite of how you've described them.**

Q Okay.

A **I was pleading with Jack to work out a settlement with us. I was offering -- I had no control over what the attorney general was doing once the attorney general had their hands on the case.**

Q I certainly am glad to hear that.
A I was actually offering to go to the attorney general and say we've got a settlement, we would be very happy if you would terminate your investigation.
Q Isn't it true that you refused to speak to Jack on the telephone and refused to meet with him at his office or your office?
A There were a couple of times I think through Jim Paris probably as an intermediary, or Murray Reed, that it was suggested that I meet with Jack at his office. And I had been advised by the attorney who was working with us at that time on the Silver Oak Energy lawsuit to not meet with him, that it would -- you know, not meet face to face with him.
Q Forgive me, I've tried to the Silver Oak Energy lawsuit out of it because my understanding was you had nothing to do with it, not being the manager of Silver Oak Energy.
A I was an investor in Silver Oak Energy and was part of the agreement of the five of us to hire an attorney to bring a lawsuit against Jack.
Q And you're telling me this attorney told you not to meet with Jack?
A I believe -- that's my recollection.

Q That attorney would be Rick Haight? Is that correct?

MR. CRAPPS: What's the relevance of this, the attorney representing the witness in an entirely different matter?

THE COURT: Well, Mr. Mathison has been questioning about meeting with the manager of the entities, so.

MR. CRAPPS: And is this not advice provided by an attorney, within the attorney/client privilege.

MR. MATHISON: It would have been if he had asked for it, but he didn't. He said that the attorney told him not to meet with Jack.

A That's my recollection. Somebody told me don't meet with him. That we had already been provided with story after story that we believed was not true as to what was going on and that it would just be more of the same if I went to his office and sat down and had him tell me those same stories to my face.

Q And the attorney that you're referring to Rick Haight?

A Yes, but --
Q -- if Minor, Haight & Arundell.
A I'm preserving my answer again because I think it was Rick I asked. I wasn't even -- I don't remember who I asked would it be worthwhile sitting down with Jack and somebody advised me not to do it.
Q And subsequently in December when you wrote Mr. McIntyre about your plans to interview and be interviewed by the FBI, didn't you say that you wanted to meet with him but only if you could do it without attorneys. Is that right?
A What happened was in my last ditch attempt after hundreds of hours of trying to identify the extent of the alleged malfeasance and many, many hours trying to get Jack to work with us on a settlement plan for his own good and for ours and to protect his daughter, I had a phone call late one night just before I was due to leave for California with Jim Paris, and Jim said I'm tired of being in the middle of this, why don't you just talk directly to Jack. And I had not talked directly to Jack in months. So I actually called Jack that night, tried to work out one final attempt before I left for California and a settlement agreement, which

relates to one of the emails you had me read before that I think I wrote after that phone. And I had informed him in that phone call that somebody else had set up a meeting with me and the FBI for the next morning and that I was hoping not to have to keep that or if I kept it to tell them we finally have made progress on the settlement plan and that we don't need them to open an investigation.

Q And who was this person that had set up the meeting with the FBI?

MR. CRAPPS: Excuse me, is this being admitted for purpose of impeachment or what is the relevance of this?

THE COURT: Yeah, why don't we move on past this, so I'll sustain the objection.

MR. MATHISON: Well, I'm trying to figure out why it was that this gentleman wouldn't meet with my client.

Q Isn't it true that you declined to meet with him or talk to him on the telephone which is why you had to call Mr. Paris?

MR. CRAPPS: I'm going to renew my objection on

that. I don't see the relevance of this pertaining to this matter.

THE COURT: Well, I'm going to overrule the objection. The question as to why. He can inquire into why meetings didn't take place.

Q Isn't that true? You declined to meet --

A At one time I declined to meet with him. At the last ditch effort finally after that phone call before I was due to leave for California, I was willing to do anything to try to work out a settlement plan with him. And I thought we could do it over the phone, for the most part. We didn't need to meet that night.

Q Didn't you decline to talk to him on the phone which is the reason in an effort to talk to you he had to go through Mr. Paris as go-between? He would call Mr. Paris, who would then call you. Mr. Paris would then hear from you and then call him?

MR. CRAPPS: (Indiscernible - Simultaneous speaking)

A I'm sorry. No, that's not true, actually. That's not true. I never refused to talk to him on the phone. He never offered to talk to me on the

phone, that I recall. He did offer to meet with me at his office -- his home office.

Q He offered to arbitrate this entire mess, didn't he?

A He offered without any means paying for an arbitrator to have somebody else come in and review the financial stuff to help determine what was legitimate or not a legitimate business expense.

Q That's your circumlocution, is it not, for you declined? Isn't that what you really meant to say?

A No, I did not decline. I counter offered.

Q Counter offered?

A Yes. I --

Q Why, to appoint the arbitrator?

A I said that there was no money in the accounts because you've drained all the money --

MR. CRAPPS: -- settlement discussion between these two entities. I'm not sure what the relevance is.

THE COURT: I sustain it.

Q Did you impose conditions on meeting with Mr. McIntyre, including the payment of the money?

MR. CRAPPS: I'll object to that. Same basis.

MR. MATHISON: I think it's relevant. It goes to his state of mind. It's the reason we're here. It's the very reason we're sitting in this room right now.

THE COURT: I'll overrule the objection.

Q Did you send an email to Mr. Paris advising him to tell Mr. McIntyre, because you wouldn't talk to Mr. McIntyre, that he needed to bring money in order to meet with you?

A Is this being entered into evidence?

Q It was handed to you to look at it to see whether what I'm telling you is accurate?

A Do you have to see it first to have it entered into evidence, Jordan?

Q I want you to look at the document, please.

A I want to be instructed by the court what proper procedure is.

THE COURT: Yeah, you can look at the document.

A Yeah, this was a part of a continuing series of events in working out a restitution plan that one piece of which would be a modest amount of cash to

be reimbursed to each of the companies, or certain of the companies, so that those companies could pay the bills that I had inherited that had not been paid.

Q Doesn't it say that you won't meet with him unless he brings cash, specifically $17,000 with him?

MR. CRAPPS: May I see the document?

MR. MATHISON: Sure.

MR. CRAPPS: Mr. Hunter, what Mr. Mathison is approaching Mr. Silver with is an email titled subject, "Settlement Discussion." It lists the terms Mr. Silver was asking for to negotiate a settlement. I don't understand, one, how this is relevant to a cease and decease order, what we're here for. And, two, how this is not inadmissable as part of a settlement negotiation.

THE COURT: I'll sustain, Mr. Mathison. I think we've dodged around the settlement enough.

MR. MATHISON: Your Honor, I'd ask that just this email dated November 8, 2012 be marked for identification. There is a portion of another email at the top that I'm not asking that be admitted at all.

MR. CRAPPS: Has it been identified?

MR. MATHISON: Yes, he identified it.

(Whereupon, Respondents' Exhibit No. 21 was marked for identification purposes only.)

Q You wrote that email, didn't you?

A Apparently I did, yes. It looks like one I wrote.

Q Thank you.

MR. MATHISON: Just for identification. Thank you. That's all.

THE COURT: That's just one round each of re-direct and re-cross. It's after four, so we need to start thinking about what we're going to end up doing and whether or not is there any chance we're going to finish tomorrow.

MR. CRAPPS: You want to discuss that now?

THE COURT: No, not right now. But think about it. Because if there's not, we need to figure out what we're going to do. So I just want y'all to start thinking about that. But, no, you may proceed.

MR. CRAPPS: If I can actually have one moment.

THE COURT: Sure.
MR. CRAPPS: Mr. Hunter, we have no re-direct and I'd ask the witness to be excused.
THE COURT: Any objection to excuse him?
MR. MATHISON: No objection.
THE COURT: You're free to go. Thank you for coming. What do y'all want to do? Do you have more witnesses, Mr. Crapps?
MR. CRAPPS: I've got one more witness, and we're ready to proceed. If we do proceed, I would like us to commit to finishing that witness as opposed to just finishing direct and picking up on cross.
THE COURT: I doubt we're going to finish. Based on what we've been doing, I doubt we're going to finish any witness in 50 minutes. And, you know, we have problems staying here after five o'clock.
MR. MATHISON: Well, I anticipate being able to finish tomorrow if Jordan only has one witness.
THE COURT: Well, rather than end up with the possibility of a witness unfinished, do y'all want to start tomorrow and we'll . . .
MR. CRAPPS: That's fine with me.

THE COURT: And everybody just try to get through tomorrow. Does that suit everybody?

MR. PARIS: Is my subpoena released?

THE COURT: Is there any reason for Mr. Paris to stay?

MR. MATHISON: I was going to bring him back in the morning.

THE COURT: It's Mr. Mathison's subpoena. He's the only that can release you, so you'll have to . . .

MR. MATHISON: Well, here's the situation. I sent him an email beginning of the week saying he didn't have to come unless I called him. He came anyway. We can take him up out of order if Jordan wouldn't mind. Get him on the record.

THE COURT: Will that be short?

MR. MATHISON: It will be very short. I don't believe they plan on calling him at all.

THE COURT: Is that okay with you, Jordan? Because we really do need to finish around five, if we can, for various reasons.

MR. CRAPPS: I don't mind going out of order.

THE COURT: Well, let's do that and try to get finished. Close to five, anyway.

Whereupon,

JAMES RUSSELL PARIS, being duly sworn and cautioned to speak the truth, the whole truth, and nothing but the truth, testified as follows:

Court Reporter: State your full name for the record, please.

Witness: James Russell Paris

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DIRECT EXAMINATION

BY MR. MATHISON:

Q Mr. Paris, you are the person who probably knows the most individuals involved in these entities in one form or another. Isn't that correct?

A I believe so.

Q Mr. Silver began as a real estate customer of yours and subsequently became a friend. Is that correct?

A That is correct.

Q And the same is true of Mr. Finn? Is that right?

A That is correct.

Q Mr. Finn also, I believe, testified that notwithstanding the fact that he's a mediator in Boston, he was with you at The Cloister, if you will, at Sea Island selling real estate. Is that

correct?

A That is correct.

Q Can you explain exactly when that was and how it came to be.

A Dave Short had hired me from -- I was at the Greenbrier. I was leaving the Greenbrier. Dave Short hired me to take over and launch a new project at Sea Island. And Dave Short had hired Mr. Finn who I had met in the '80s, but had not really had any contact with until Sea Island. And that was in 2006.

Q And Mr. Short is the same individual who is now the manager of Silver Oak Energy, LLC. That's the same Dave Short. Is that right?

A Right.

Q And would I be correct in saying he was the general manager here at Sea Island?

A He was the vice president -- or he was -- I thought he was the president of Sea Island Real Estate, but I saw a card the other day or somewhere where he was president of some smaller form of Sea Island.

Q So you and Mr. Finn not only had a customer and realtor relationship, you also had a realtor to realtor relationship at Sea Island?

A Yes.

Q And was Mr. Mone also there?
A No.
Q That's Mr. Finn's current partner. Is that right?
A That is correct.
Q Was there anybody else in the cast of characters that now is involved in this case who was with you at Sea Island in 2006?
A I'm trying to think of who was there. No.
Q Now, you participated from the very outset in the first SOLT, correct?
A I did.
Q Actually, your participation is under the name of Bourbon Place, LLC. Is that right?
A That's correct.
Q Do you remember what your percentage of interest was?
A 7.9 percent.
Q And Silver Oak I was a true timber company, wasn't it?
A Yes.
Q With the upside of being located between OC Welch and the University of South Carolina at Beaufort?
A On the other side of OC Welch.
Q Correct. But adjacent to it?
A Kind of in between it, yeah.

Q Which is an area of rapid development at this juncture. Is that right?

A I would say yes.

Q And were you one of the people that received a distribution from the initial sale of acreage in Silver Oak I, that is of $425,000?

A Yes.

Q Did you participate in the management of Silver Oak Land Trust?

A At that time, no.

Q Did you subsequently participate?

A Yes, I did. Much later.

Q And when was that?

A Probably in 2007 or '08 when we were trying to sell the property.

Q Were you the person that listed it?

A I was not the first person that listed it. It was listed by Joe Ryan at Weichart. It was listed by Tom DeMint at SVN, Sperry Van Ness. I was the third or fourth person that was there.

Q Do you have the current listing on the property?

A I do, indeed.

Q And what is the list price currently?

A $4,750,000.

Q Do you believe that is a sustainable price in the

market or not?

MR. CRAPPS: Your Honor, we're beyond Mr. McIntyre's management or Mr. Paris' involvement during the time.

THE COURT: I'll sustain. Move on.

MR. MATHISON: May it please the court, it goes to the viability of the investment portion, the capital gain portion as testified to by Mr. Silver.

THE COURT: Mr. Crapps?

MR. CRAPPS: Again, we view their activities under the direction of Mr. Silver's management to have been long after Mr. McIntyre left the company.

THE COURT: I'll sustain it.

Q Do you know whether or not a contract was ever entered into to sell the entire remaining acreage owned by SOLT I for a $1,500,000?

A I'm not sure how to answer that because when you say contract, do you mean contract like everybody signs it and it's on its way to closing? Or do you mean like letters of intent or things like that?

Q Was there ever a series proposal to sell all of the

remaining property for $1.5 million?

A **Yes.**

Q Who made that proposal?

A **Who made that proposal?**

Q Yes, sir.

A **I made the proposal to the marketplace, but under direction of Jack.**

Q Sell that property for $1.5 million?

A **Yes.**

Q Okay. And did it happen?

A **No, but we sure tried.**

Q And what was the purpose of doing that?

A **To try to get rid of it and pay off the loan because Jack had signed for the loan and had his house on the block.**

Q It wasn't just Jack. Somebody else had signed for the loan too. Who was that?

A **Murray Reed.**

Q Murray Reed?

A **Yes.**

Q So they personally guaranteed this loan to the business? Is that right?

A **I don't know. I mean they personally guaranteed it to the bank.**

Q Correct. So that if for some reason it couldn't

get paid off by Silver Oak Land Trust, they were going to have to pay it themselves and Jack's house, his individual house, was additional collateral for the loan, right?

A **Right. Yes.**

Q And under those circumstances, you entertained the possibility of selling in order to raise enough money to pay the debt, right?

A **That's correct.**

Q But instead of doing that, you engaged in the so called second offering and went out and got new participants and diluted the original owner's equity. Is that right?

A **Yeah.**

Q And yours was diluted just like Mr. McIntyre's, correct?

A **Yeah.**

Q And the loan was paid off, was it not?

A **It was eventually, yes, indeed.**

Q Did you participate directly in the management of the other SOLT entities in which you had an ownership interest?

A **No.**

Q With respect to Silver Oak Energy, were you, and your son actually, largely responsible for a lot of

the miscanthus culture that took place both in Beaufort at the Technical College and other places in the state?

A **We were always at Beaufort.**

Q In Beaufort?

A **Yeah. There was just a time when the Technical College let us use their greenhouses, so that's where we were.**

Q Do you know of any other investors who actually were hands-on the way you were in terms of the silviculture involved in raising the miscanthus?

A **No.**

Q And how long did you do that?

A **It was only a couple of months. And it was probably a few, like three or four or five days, over a period of time.**

Q All right. You heard the testimony, did you not, about you serving as kind of a go-between between Mr. McIntyre and Mr. Silver?

A **I did.**

MR. CRAPPS: Your Honor, we're back to the settlement negotiations. And now we're involving Mr. Paris' role in trying to settle this matter.

MR. MATHISON: I don't believe this has anything to do with settlement negotiations.

THE COURT: Just stay away from asking about the settlement.

MR. MATHISON: I certainly don't intend to.

THE COURT: I will overrule the objection.

Q Are you aware of whether or not Mr. McIntyre made an effort to talk on the telephone to Mr. Silver?

A I'm not aware.

Q Did Mr. McIntyre call you and ask you on his behalf to call Mr. Silver?

A Yes.

Q And did Mr. Silver call you and ask you on his behalf to call Mr. McIntyre?

A Actually, I need to go back. I was actually calling them. They were not -- I don't think they were really calling me. I think I was calling them because Jack was my best friend. These guys were all my best friends, and I was in the middle. And I brought people in that were obviously in the middle of this thing, so I was trying to resolve it as quickly and as cleanly as possible however that had to be.

Q And ultimately, you got tired of trying to pass the

peace pipe and washed your hands of it?

A **It wasn't working.**

Q Right. Is that correct?

A **Yes.**

Q Do you know whether Mr. Silver had a hard and fast rule against meeting with Mr. McIntyre or not?

A **No. ??**

Q Do you know whether Mr. Finn had a management role in Silver Oak Energy?

A **Yes.**

Q Do you know what functions he performed for the company?

A **Two functions. One, he was trying to raise capital. And the other one was he was trying desperately to get some sort of take-off agreement worked out somewhere.**

Q Overseas?

A **Yeah, to the best of my knowledge. That's -- I don't know if he did anything else.**

Q So you're out there with the plants splitting the rhizomes and these guys are traveling around trying to raise money? Is that right?

A **I was not invited to go to Europe.**

Q Do you know whether Mr. Silver had some kind of management function with Silver Oak Energy?

A Rich had done the same thing, tried to find somebody to come up with money. But other than that, not real management. It was more of a --

Q Money finding?

A Yeah, more of money finding, yes.

Q And you weren't involved in trying to find the money?

A I was.

Q So you were all involved?

A I was certainly trying to find the money.

MR. MATHISON: Thank you.

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CROSS EXAMINATION

BY MR. CRAPPS:

Q Mr. Mathison had you testify as to your relationship with Mr. Silver and Mr. Finn. What was your role, if any, in introducing them to Jack McIntyre?

A Jack was my friend. I have a lot of parties at my house for clients and things like that. Jack's also a client. And so he had met them at my house.

Q Did you ever talk with them or offer them an investment any of the SOLT entities?

A Yeah. I did tell them that I was a tree farmer and

that I was very excited about it and I thought it was a great thing. But if they asked me questions about it, I'd say I don't really know enough to even be dangerous, so you need to talk to Jack.

Q You never solicited investments in any of the SOLT entities?

A I don't know if I'd say that. I don't recall any specifically me trying to sell a SOLT entity, but I talked about them. I talked about where they were, things like that. It was the number side of it, I had -- it's just way out of my paygrade. All I would talk about was where the land was or that it was a great piece of property and it was working well for me.

Q How long have you known Mr. McIntyre?

A 1987.

Q And has he played role in the management of your money?

A He has.

Q What's the history of that?

A Some good. Some not so good.

Q When he was managing investments for you prior to the SOLT entities, were you involved in the decision making?

A No, I was never involved in decision making.

Q So you gave Mr. McIntyre authority?
A Cart blanche.
Q And was that true for the SOLT entities as well?
A Yes. He was my best friend. He was the executor of my will.
Q What was your understanding of tree farming prior to your investment in SOLT I?
A My understanding?
Q Yes.
A That it existed. There are a lot of trees out there. That's about it, I guess.
Q I believe you testified in response to a question by Mr. Mathison that you played a role in SOLT I. What was the extent of that role?
A I was a real estate broker, so I tried to sell.
Q Were you involved in decisions about the tree farming?
A No.
Q Were you involved in any decisions improving the land?
A No.
Q So your only involvement was listing the property?
A Yes.
Q And your profession is what?
A Real estate broker.

Q When you were attempting to sell the property, would you have received commission for that sale?
A Yes.
Q So it was in the scope of your employment as a real estate broker --
A Correct.
Q -- as opposed to anything relevant to SOLT I?
A Yes.
Q Mr. Mathison asked you about your participation in Silver Oak Energy. And he indicated that you, to the best of my knowledge, handled the miscanthus.
A Yes.
Q And what was the extent of that?
A We would get big piles of dirt and mix stuff into them and then we would get these bushes that would come in and then we'd rake them all up and then we'd cut them into tiny pieces and put them into these black flats. Then we'd pour dirt all over them. Then we'd stack them up. And then we'd do it over and over and over and over.
Q And what amount of time were you working with this miscanthus plants?
A Probably, like I said earlier, four or five days.
Q In the whole existence of the company?
A I mean, it may have been ten days. I don't know.

But it was --

Q It was a matter of days during the operation of the company?

A It wouldn't be weeks. It would be days.

Q Did you participate in the management decisions in Silver Oak Energy?

A No.

Q You indicated that you listed the SOLT I property. Do you remember the timing of that?

A Here's what happened. It was just after -- we had tried to sell it and we were unsuccessful. We had some people who tried to buy it. And they were not real people. So we had it off the market for a pretty long period of time. I guess maybe three or four months with the stipulation that they would do due diligence and that would be considered a down payment. And then after a while we realized they were just stalling for time hoping the market would come back so they could take it out and, you know, pay nothing for it.

Q In what month and year, about, was that?

A I don't know.

Q You indicated that you wanted to sell the property for 1.5 million. Do you remember the timing of that as compared to the secondary offering?

A You know, I think it had to be in the middle of it.
Q The middle of what, I'm sorry?
A The middle of the secondary offering. By the way, I'm really bad on this sort of thing. But, apparently from what I heard today, Rich and Rose were it it earlier and somebody came in much later. So it was in between those two people, I think.
Q So the decision to raise the money in a secondary offering wasn't contingent on this $1.5 million offer failing? It was the decision to raise the money --
A No, I don't think -- I think it had failed before -- or had it? No, it was not contingent -- Ask me that question again, please.
Q The decision to raise capital as opposed to sell the property was made before this deal fell through?
A I don't think so, but I don't know. I can't say for sure.

MR. CRAPPS: That's all we have.
THE COURT: You may go home. Thanks for coming. Then I guess we will start back at nine tomorrow.

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Day Three - October 3, 2013

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THE COURT: Before we get started there were two exhibits that were discussed yesterday that we were going to do redactions for, Respondents' Exhibit No. 20 and Respondents' Exhibit No. 14. And I've done the redactions. And before we started, counsel reviewed the redactions and agreed they were done as yesterday. So we will substitute the redactions for the prior ones. And I guess we'll re-stamp the redacted with the exhibit number and remove the others. So one is Exhibit No. 20 and the other is Exhibit No. 14. If y'all want to look at them again or not. The ball is still in your court, Mr. Crapps.

MR. CRAPPS: We will call Sandra Matthews.

Whereupon,

SANDRA MATTHEWS, being duly sworn and cautioned to speak the truth, the whole truth, and nothing but the truth, testified and deposed as follows:

Court Reporter: State your full name for the record, please.

Witness: Sandra Matthews

- - - - -

DIRECT EXAMINATION

BY MR. CRAPPS:

Q Ms. Matthews, what is your job at the attorney general's office?

A My job title is auditor.

Q And how long have you been with the attorney general?

A About seven-and-a-half years.

Q What are your duties in your position as auditor?

A I perform audits of broker dealers and investment advisors and investigate complaints that come into the office.

Q What did you do before you came to the attorney general's office?

A I was in banking for approximately 39 years.

Q And what did you do in the banking industry?

A I started in data processing as a programmer analyst and moved from there into the audit function in the data processing or IT audit function. Was promoted to manager of that function. Was promoted to director of the

division. And stayed in that role until Wachovia Bank bought South Carolina National, at which time I reverted back to IT audit manager. And I stayed there until 2000, around the year 2000. And that was when I was offered an opportunity to move into the retail bank to start a new function, which I did. Stayed there until after the merger between Wachovia and First Union. And First Union eventually eliminated the position, I consulted for a year, and then I came to work for the AG's office.

Q And in your role with the attorney general's office, how do security cases generally come to your attention?

A They can come in through internet complaints, phone calls, US mail, walk in the door. A variety of ways.

Q When did you first hear of Mr. McIntyre and the Silver Oak companies?

A I believe it was late 2012, probably October, November.

Q And who brought that to your attention?

A Mr. Paul Finn.

Q And what information was provided at that time?

A Mr. Finn expressed concerns over the way that

investor money had been handled in Silver Oak Land Trust companies.

Q And who else did you talk to?

A He gave me information to contact Mr. David Short who had been named manager of the energy company and Mr. Rich Silver who had been named manager of the other companies, to get more background.

Q At what point did you decide to open a case?

A Following my conversations with the three individuals. And, apparently, there were numerous investors involved in funding the companies. And we decided to open a case. We open a case any time we spend more than an hour or two on a matter. We open a case to record the time we've spent and how the matter gets resolved.

Q What's the process involved in opening a case?

A You document what you know about the circumstances. Present that to the assistant deputy attorney general and have discussions sometimes. Sometimes the information that's documented stands on its face and a decision is made at that point as to whether or not we have jurisdiction and whether or not the circumstances appear to warrant further investigation.

Q Did you open a case on Mr. McIntyre and Silver Oak

Land Management?

A Yes, we did.

Q Do you send out investor questionnaires in an ordinarily course of an investigation?

A Yes, I do.

Q Did you send out investor questionnaires in the course of this investigation?

A I did.

Q Ms. Matthews, are these those investigator questionnaires?

A Yes, they are.

Q Who are those questionnaires sent to?

A To investors in all of the companies.

MR. CRAPPS: Your Honor, we'd move these investor questionnaires into evidence.

MR. MATHISON: She received them. She didn't prepare them. They are the rankest form of hearsay. Again, this is a hole. I have no idea. I've seen them in the file. I don't know how many of them there are. But if there are a dozen or two dozen, not a single one of those people will testify here. The State, unlike the Respondent, has subpoena powers. They could bring those people here if they

wanted them to testify.

THE COURT: I understand your objection, but I'll admit them in.

MR. MATHISON: May I inquire as to what hearsay exception the State is going to put those in under?

MR. CRAPPS: First, we would argue they're records obtained in the ordinary course of business. And, second, under the Relaxed Evidentiary Standards of Administrative Proceedings, we feel these are admissible and you can apply them the proper weight you deem appropriate.

THE COURT: I'll let them in.

MR. MATHISON: Again, I would ask for the Court's interpretation as to whether the Rules of Evidence, and specifically the hearsay rule, apply in these proceedings or not.

THE COURT: They apply. This shows the basis for opening up a file and doing the investigation.

MR. MATHISON: They're being admitted for the truth of what's in them, Your Honor, no other reason whatsoever.

THE COURT: I've accepted them into evidence.

MR. MATHISON: Thank you very much.

(Whereupon, State's Exhibit No. 25 was marked and received into evidence.)

Q Ms. Matthews, as part of your investigation, did you obtain accounting records?

A I obtained Quicken records.

Q And who did you get those records from?

A Mr. Rich Silver.

Q And what did you do with those records once they were in your possession?

A I converted them from Quicken into Excel and analyzed in a variety of different fashions the data that was contained in the records.

Q How were you able to view those records?

A I viewed them using Excel, and I viewed them using QuickBooks.

Q Ms. Matthews, is this an accurate representation of the printout of the data you received from Mr. Silver?

A This is a printout from QuickBooks of Silver Oak Land Trust. The report is titled Profit and Loss Detail January 5 thru December 2012.

MR. CRAPPS: Your Honor, we introduce these records from SOLT I into evidence.

THE COURT: Mr. Mathison?

MR. MATHISON: I'm going to object. Again, these records, if I understand correctly, were generated by Mr. Silver and provided to Ms. Matthews. If they are Mr. Silver's records, he could have and should have authenticated them, and he didn't. And, consequently, they're not properly authenticated. Whatever she did with them is taking hearsay and effectively massaging it into a different computer format for purposes of analysis. And any analysis that was done is based on documents that were not properly authenticated and that are somebody's else's work who's not here to testify.

MR. CRAPPS: Your Honor, Mr. Silver testified to receiving them from Mr. McIntyre. He testified to giving the records to Ms. Matthews here. And now Ms. Matthews has testified that these are those records. We feel they are authenticated properly.

MR. MATHISON: He put records in. Those are not the same records I hold in my hand. These are different.

MR. CRAPPS: Excuse me?

MR. MATHISON: These are different records than those that were authenticated by Mr. Silver.

MS. MATTHEWS: Mr. Silver gave me a thumb drive. He did not give me hard copy.

MR. MATHISON: I'm sorry. He hasn't authenticated these.

MR. CRAPPS: He testified that he handed the records via thumb drive to Ms. Matthews.

MR. MATHISON: All he had to do was testify that these are the records he handed her.

THE COURT: I'm accepting them into evidence and we'll move on.

(Whereupon, State's Exhibit No. 26 was marked and received into evidence.)

Q Ms. Matthews, is this an accurate representation of the data you received from Mr. Silver for Silver Oak Land Trust II?

A Yes, it is.

MR. CRAPPS: We enter these into the record.

THE COURT: Mr. Mathison?

MR. MATHISON: I don't know what it is. I still don't know what it is. Did you generate this

document?

MS. MATTHEWS: From QuickBooks.

MR. CRAPPS: Excuse me.

THE COURT: Could you go into the background with the witness as to how these documents were generated?

MR. CRAPPS: Sure.

Q Ms. Matthews, how did you generate this document?

A I took the thumb drive that Mr. Silver provided. I copied the records into my computer. I used QuickBooks to extract these reports. They are standard QuickBooks reports from the Quicken data.

THE COURT: I'll admit them as Exhibit No. 27.

(Whereupon, State's Exhibit No. 27 was marked and received into evidence.)

MR. MATHISON: It was admitted over the same objection.

THE COURT: I understand.

Q Ms. Matthews, is this an accurate representation of the data provided to you by Mr. Silver?

A For Silver Oak Land Trust III, yes.

Q How did you produce this record?

A I took the thumb drive that Mr. Silver provided, copied the records into my computer, used QuickBooks to extract them into a standard report.

MR. CRAPPS: I move to enter these into evidence?

THE COURT: Same objection, Mr. Mathison?

MR. MATHISON: Same objection. These are not numbers generated by anybody except someone who is not here to authenticate them. And now she has evaluated them and added her own analysis to what was hearsay starting out.

MR. CRAPPS: Further, we argue that Mr. McIntyre testified to producing these records in the ordinary course of his business.

THE COURT: I'll accept them as Exhibit No. 28.

(Whereupon, State's Exhibit No. 28 was marked and received into evidence.)

Q Ms. Matthews, is this an accurate representation of the data provided you by Mr. Silver for Silver Oak Land Trust IV?

A Yes, this is the report that I generated using

QuickBooks for the Land Trust IV data.

MR. CRAPPS: We move these into evidence.

THE COURT: Same objection?

MR. MATHISON: Same objection.

THE COURT: Accepted as State's Exhibit No. 29.

(Whereupon, State's Exhibit No. 29 was marked and received into evidence.)

Q Ms. Matthews, is that an accurate representation of the data provided to you by Mr. Silver regarding Silver Oak Land Trust V?

A As it was produced into a report by QuickBooks, yes.

MR. CRAPPS: We move these into evidence.

MR. MATHISON: Same objection.

THE COURT: Admitted as State's Exhibit No. 30.

(Whereupon, State's Exhibit No. 30 was marked and received into evidence.)

Q Ms. Matthews, is this an accurate representation of the data provided to you by Mr. Silver regarding

Silver Oak Land Trust VII?

A **Yes, it is.**

Q And, again, how did you produce that record?

A **I took the flash drive that Mr. Silver gave me and put it into my computer and extracted the reports using standard QuickBooks reporting.**

MR. CRAPPS: We enter these records into evidence.

THE COURT: Mr. Mathison, same objection?

MR. MATHISON: Same objection.

THE COURT: It's admitted as State's Exhibit No. 31.

(Whereupon, State's Exhibit No. 31 was marked and received into evidence.)

Q Ms. Matthews, is this an accurate representation of the data provided to you by Mr. Silver regarding Silver Oak Energy?

A **Yes, it is.**

Q And how did you produce that record?

A **I produced it by taking the flash drive that Mr. Silver gave me. Copying it into my computer and extracting the reports with QuickBooks.**

MR. CRAPPS: We move to enter those into evidence.

MR. MATHISON: Same objection.

THE COURT: Admitted as State's Exhibit No. 32.

(Whereupon, State's Exhibit No. 32 was marked and received into evidence.)

Q Ms. Matthews, in the course of your investigation, did you analyze these Quicken records?

A Yes, I did.

Q In your work with the Quicken files for SOLT I, what did you find?

A My analysis for SOLT I indicated that money was spent distributing back to investors for the purchase of land, to reduce principal for a loan. Money was distributed was distributed to Mr. McIntyre and Silver Oak Land Management. Money was moved to other Silver Oak Land Trust accounts. There was interest expense. There were professional fees. There were payments to line of credit. There were credit card payments, restaurant payments, a category that I classified as miscellaneous. There was money spent to purchase timber, office expenses, fuel expenses, airlines, motels, boat expenses, groceries, big box, Yacht Club, cash, advertising and marketing,

and automobile.

Q Ms. Matthews, what debits from the accounts did you categorize as payments to McIntyre and Silver Oak Land Management?

A These were analysis from the Quicken records themselves put into spreadsheets. The ones that were classified in those records as transfers to SOLMs, transfers to McIntyre, the categories -- the records showed the name, a column called memo splits, a column called distribution and the amount. And I used the descriptions as they were entered into the Quicken records to make that determination. For example, the name would say John M. McIntyre. The split column would say consulting expense or timber sale distribution or office or loan to officer, loan to Silver Oak Land Management. And I used those descriptions for purposes of analyzing.

Q And how much money did you see categorized as that?

A For Silver Oak Land Trust $217,110.37 were categorized as either going to either Mr. McIntyre or to Silver Oak Land Management.

Q And did you see distributions to other investors

A Yes, I did see distributions to other investors.

Q What was the total amount of distributions to other

investors?

A **I don't have that information with me.**

Q Ms. Matthews, you referenced a category you detailed as miscellaneous.

A **Yes.**

Q What was the total amount that you placed in that category?

A **$69,313.89.**

Q What kind of expenses did you label as miscellaneous?

A **Things that either appeared conflicting in the name and the description or things that did not in the normal course of business appear to be expenses for the entity itself.**

Q You also said you saw purchases at restaurants.

A **Yes, I did.**

Q How much money was spent at restaurants?

A **Restaurant expenses were $24,367.47. May I correct something that I said earlier?**

Q Sure.

A **The distributions amount to other investors I do have. It's $289,621.14.**

Q And how much, again, was distributed to Mr. McIntyre or Silver Oak Land Management?

A **$217,110.37.**

Q And you said you saw purchases at big box stores and grocery stores?

A Yes.

Q How much did that category amount to?

A $9,878.73.

Q Did you see transfers to other SOLT entities --

A Yes.

Q -- or any Silver Oak entity?

A Yes, I did.

Q And how much money was transferred to other Silver Oak entities?

A 155,673.27.

MR. MATHISON: Excuse me, how much, ma'am?

A $155,673.27.

Q Which other Silver Oak entities did you see money transferred to?

A Silver Oak Land Trust II, V, VII, IV, III, Silver Oak Land Trust.

Q In your work with the Quicken records for Silver Oak Land Trust II, what did you find there?

A I found money was spent on purchase of land, an investor refund, professional services, Mr. McIntyre, timber distributions, other Silver Oak

Land Trust accounts and miscellaneous.

Q How much did you see in transfers to Mr. McIntyre?

A $24,097.36.

Q How much money was distributed to other investors?

A $17,291.90.

Q How much timber income did you see coming in?

A $108,747.66.

Q And what is fifteen percent of that?

A $16,312.15.

Q Did you see money transferred to other SOLT entities?

A Yes.

Q How much was transferred out?

A $13,764.

Q And to which other Silver Oak entities was money transferred to?

A Silver Oak Land Trust, Silver Oak Land Trust IV, VII, Silver Oak Energy.

Q Do you have a category, I believe you testified to, miscellaneous?

A Yes.

Q And what kind of transactions did you place in that category?

A I placed in that category transactions that I had no explanation for their business purpose.

Q What are some of those expenses?
A Boys & Girls Club, Pope-Davis Tire, University of Georgia. There are a number of motel payments. South Carolina Park Service. Progressive Insurance. Wall Street Journal. And there were payments to both T-Mobile and Verizon Wireless. I didn't understand two carriers. State Farm Insurance. And a couple of credit cards.
Q How much did you place in that category?
A $10,920.63.
Q Did you analyze the Quicken records for SOLT III?
A Yes, I did.
Q What categories of those debits did you find in that account?
A Transfers to other Silver Oak Land Trust accounts or Silver Oak Energy, professional fees, transfers to Mr. McIntyre and Silver Oak Land Management. A category called loan payments to Dave Jeff, land purchase and timber distribution.
Q How much was transferred to Mr. McIntyre or Silver Oak Land Management?
A $26,190.13.
Q Did you see any other distributions?
A Yes, I did.
Q What was that?

A $6,000.
Q How much timber income came into Silver Oak Land Trust III?
A 78,974.18
Q What's fifteen percent of that?
A 11,846.13
Q Did you see transfers to other SOLT entities out of SOLT III?
A Yes.
Q How much was that?
A $34,743.
Q Ms. Matthews, did you analyze the Quicken records for Silver Oak Land Trust IV?
A Yes.
Q What did you find in that account?
A Land purchase of 1,163,838.71. Distributions, $91,218.63. Mr. McIntyre and Silver Oak Land Management, $49,124.98. Professional fees $48,098.41. Miscellaneous for 10,261.26. And to other Silver Oak entities 7,950.

MR. MATHISON: Excuse me, what was the last one, ma'am?

A 7,950.

MR. MATHISON: That was to?

A Other Silver Oak entities.

Q And you reference an account that you have labeled as miscellaneous.

A Yes.

Q What kind of expenses were in that?

A Again, there were motel bills. There were payments to multiple cell phone carriers. There were multiple payments recorded on the same day to Shell Oil. There was a US Treasury payment.

Q And you also stated that you saw transfers to other Silver Oak entities. Which entities did that money transfer to?

A I, II, III and Silver Oak Energy.

Q Did you analyze the Quicken records for Silver Oak Land Trust V?

A Yes, I did.

Q What did you find in that account?

A I found land purchase, transfers to other SOLT entities, professional fees, distributions and a transfer to Silver Oak Land Management.

Q And how much money was transferred to other Silver Oak entities?

A **$15,968.26.**

Q Ms. Matthews, did you analyze the Quicken records for Silver Oak Land Trust VII?

A **Yes.**

Q What did you find in that account?

A **Distributions for land purchase to Mr. McIntyre and Silver Oak Land Management, distributions, payments, again, to Dave Jeff, professional fees and loans to other Silver Oak entities.**

Q And how much money was transferred to Mr. McIntyre and Silver Oak Land Management?

A **$70,024.37.**

Q And how much was distributed out to other investors?

A **55,662.**

Q And you said you saw loans to other SOLT entities?

A **Yes.**

Q How much was that?

A **11,678.67**

Q Which Silver Oak entities did those payments go to?

A **I, II and Silver Oak Energy.**

Q Ms. Matthews, did you analyze the Quicken records for Silver Oak Energy?

A **Yes.**

Q What did you find in that account?

A **I found land purchase, transfers to Mr. McIntyre and Silver Oak Land Management, Keels Land and Timber, other Silver Oak entities, greenhouse, rhizomes, restaurants, Staples, hotel, legal and professional, gasoline, miscellaneous, Dave Jeff, cash, banks, groceries, cell phones, car wash, auto service, South Carolina Department of Transportation, postage.**

Q In your category you've categorized as Mr. McIntyre and Silver Oak Land Management, how much money did you place in that account?

A **$73,211.**

Q Did you see payments to other investors?

A **Not obvious payments to other investors.**

Q And you said you saw transfers to other Silver Oak entities?

A **Yes.**

Q What entities were payments made to?

A **Silver Oak Land Trust, Silver Oak Land Trust II, Silver Oak Land Trust IV and V.**

Q You've also identified a category you've labeled as miscellaneous.

A **Yes.**

Q How much money, what expenses did you place in that?

A $5,741.74.

Q What kind of expenses did you place in that category?

A There were a number of more payments to South Carolina Department of Transportation, airlines, Macy's East, Steve Madden, American Eagle, JC Penney, Dr. Galloway, Regal Cinemas, Nike, Commodity Credit Corporation, LabCorp, Art Institute. I also found a number of expenses to grocery stores, restaurants, things like Publix and Harris Teeter, Kroger, that carried a description of greenhouse TCL. And I have no idea what that is. Those totaled approximately $4,000.

Q And, Ms. Matthews, in the course of your investigation, did you obtain bank records for the entities?

A Yes, I did.

Q Ms. Matthews, is this the bank records the attorney general's office received in connection with your investigation?

A These are the records we received from South Carolina Bank & Trust.

MR. CRAPPS: We would move to admit these records into evidence.

MR. MATHISON: Again, we're swimming in unregulated waters. These appear to be responsive to subpoenas, copies of which were never served on the Respondent. Therefore, in any real world setting, these would be inadmissable because they were not complied, proper procedure had not been complied with. In addition, if these had been issued under Rule 45, there would be a certificate of authenticity that would have come with these documents which would have negated any necessity on the part of SCB&T to show up here and say that they are authentic. There is no certificate of authenticity on either one of these documents. So because there was no notice of the subpoena and because there is no authenticity certificate, I object to both. And, quite frankly, I don't know what procedure we're proceeding under, but it seems to be whatever the attorney general's office decides at any given time for their ad hoc convenience ought to apply. If there is a procedure for obtaining these documents that I'm unaware of, someone needs to apprise me of it.

MR. CRAPPS: Mr. Hunter, we obtained these in the course of our investigation, as testified to by Ms. Matthews. They do both have verification of authenticity signed by the records custodian of South Carolina Bank & Trust and notarized.

MR. MATHISON: Where is that?

MR. CRAPPS: Of the document on page five.

MR. MATHISON: Well, see, if Rule 45 had been complied with, I would have known when subpoena was issued and I would have, as a matter of law, been entitled to receive these when they were received. And that wasn't done. So from a practical standpoint, I'm being given, what, 45 seconds to a minute to analyze 250 pages of documents? This is ridiculous.

MR. CRAPPS: These records were provided to Mr. Mathison when he reviewed our file.

THE COURT: When were the subpoenas issued?

MR. CRAPPS: March 27th. They were responded to March 27th and July 8th?

MR. MATHISON: Are you representing that they were supplied to me when they were issued?

MR. CRAPPS: No, I'm not.

MR. MATHISON: Thank you.

MR. CRAPPS: Your Honor, we further argue that our subpoenas are issued under the South Carolina Uniform Securities Act as opposed to any rules of court.

THE COURT: I will accept them. Do you want them marked as one exhibit or two?

MR. CRAPPS: We can mark them as one.

(Whereupon, State's Exhibit No. 33 was marked and received into evidence.)33

Q Did you, in the course of your investigation, analyze the bank records?

A Yes, I did.

Q Did the entries that you found in the Quicken records, as you testified to earlier, generally correspond to the records you found in bank records?

A Generally, yes.

Q Were there some exceptions?

A Yes.

Q Do you have examples of some of those exceptions?

A Yes. In Silver Oak Land Trust there were some discrepancies. For instance, in the Quicken

records an entry was described as Walmart that the bank statements described as Reiley's Wine & Spirits.

Q Ms. Matthews, what's the first three letters of Walmart?

A W-a-l.

Q What's the first three letters of Reiley's Wine & Spirits?

A R-e-i.

Q Okay.

A There was one described in the Quicken records as Home Depot and the bank records reflected it was paid to Baskets By Gene. There was one that was described as MUSC that the bank statement description said hospital cashier. There was one described in the Quicken records as OC Welch Ford that the bank records show as Key Infinity, LLC. Evergreen Buffet was reflected as Evergreen Pet Lodge. Island Car Wash in the bank statement said Planet Smoothie and in a different entry said Blockbuster Video.

Q What are the first two letters of Island Carwash?

A I-s.

Q And the first three of Blockbuster Video?

A B-l-o.

Q And how about Planet Smoothie?
A P-l-a.
Q Okay.
A Palmetto Sporting Goods was reflected in the Quicken books, and in the bank records it was reflected as Palmetto Indoor Range. There was a payment reflected in the Quicken records as Great American and in the bank record Sea Turtle Cinemas. Island Carwash in the Quicken records was reflected in the bank records as Island Chiropractic Center. Staples in the Quicken records was reflected as Subway in the bank records. We had multiple Evergreen Buffet that should have been Evergreen Pet Lodge. Plantation Deli was in the bank records as Plantation Animal Hospital. Staples in the Quicken records was reflected as City of Clemson in the bank records. Dr. Galloway -- well, there was Galloway in the Quicken records as Dr. Elizabeth Galloway in the bank records. More Evergreen Pet Lodge. Steve Madden. Home Depot in the Quicken records was reflected in the bank records as Comm app Wake Forest University. Another Home Depot in the bank records was reflected as common app Vanderbilt. Quicken records reflected Jaderloon Greenhouse and the bank records reflected the

Goldsmith Shop.

Q What's the first three letters of Jaderloon Greenhouse?

A J-a-d.

Q And the first three of Goldsmith Shop?

A T-h-e.

Q Okay.

A Quicken records reflected Fifth. Bank records reflected Off Fifth. Lowe's reflected in the Quicken records and the bank records showed college board SAT online. Mid Island was -- that could have been a default. Home Depot in the Quicken records was reflected as Gullahs Family Jewelers in the bank records. Online in the Quicken records was reflected as college board SAT online in the bank records. CommApp in the Quicken records was reflected as UNCA admissions in the bank records. Morrison Well Drilling in the Quicken records was reflected in the bank records as Hilton Head Prep yearbook. Great American in the Quicken records was reflected as college board SAT in the bank records. More Evergreen. Admissions in the Quicken records was B Zoo admissions in the bank records. There were a number of payments to First National. I don't know what those were for.

Hoffman Nursery in the Quicken records was reflected in the bank records as Hilton Head Oral and MA. And a Google search showed that to be a dental office. Baynard Supply was reflected in the QuickBooks records and in the bank records Barnard Tire Company. More Evergreen. OC Welch in the Quicken records was reflected in the bank records as Stokes Brown Toyota. Biofuel conference in the Quicken records showed in the bank records as Le Bistro Mediterranean. Modern in the Quicken records showed Modern Jewelry in the bank records. New Hampshire in the Quicken records showed as NH Liquor store in the bank records. Those are some examples.

Q Thank you. Did you analyze the bank records for Silver Oak Land Trust I?

A That was . . .

Q How did you form your analysis of the bank records?

A I compared what I received from the spreadsheets in the Quicken records to the descriptions on the bank records that were received. And I actually had them side by side on two monitors at my computer so I could compare side by side rather than having to deal with the paper.

Q Did you perform a comparative analysis of Silver

Oak Land Trust I, VII, and Silver Oak Energy?

A **Yes.**

MR. MATHISON: What was the one we just did.

Q Were all those examples you just read out to the court, were they from Silver Oak Land Trust I?

A **No. Some were for Energy. I apologize.**

Q And so in the analysis we were about to get into, what did that analysis find?

A **In the bank records, I found bank loans and fees, movement to other Silver Oak entities, payment to McIntyre and Silver Oak Land Management, things I categorized as business expenses. From the bank records, I was able to tell the location of the restaurants and the grocery stores, so I broke out a category for Hilton Head restaurants and groceries. Things that, to me, were personal expenses, gasoline, travel, food, motels, airline and travel and utilities and internet. That was for Silver Oak Land Trust.**

Q What time period did you analyze Silver Oak Land Trust?

A **That was from October 2009 through July 2012.**

Q What amounts did you find for Hilton Head

Restaurants?

A **$5,267.48.**

Q How about out of town restaurants?

A **Travel food was $2,506.81.**

Q Did you say you saw money transferred to Mr. McIntyre and Silver Oak Land Management?

A **Yes, I did.**

Q How much was that?

A **$29,340.89**

Q And what else did you find in your analysis in Silver Oak Land Trust?

A **Things that I categorized as personal expenses. I found gasoline, motels, airlines, utilities.**

Q How much did you categorize as personal?

A **What kinds of things?**

Q How much?

A **$4,524.15.**

Q Do you know what kinds of things you categorized?

A **Yes. Pet expenses, doctor expenses, jewelry, entertainment.**

Q Did you perform a similar analysis for Silver Oak Land Trust VII?

A **Yes.**

Q What did you find in the bank records for that?

A **I found there were things that were distributions.**

I found transfers to Silver Oak Land Management and Mr. McIntyre. I found legal and professional fees, money spent to other Silver Oak entities and category for miscellaneous.

Q What time period did you analyze for Silver Oak Land Trust VII?

A October 2009 through September of 2012.

Q And did you see distributions?

A Yes, I did.

Q How much was that?

A $51,414.

Q Did you see transfers to Mr. McIntyre and Silver Oak Land Management?

A Yes.

Q How much was that?

A $39,125.53.

Q Did you see transfers to other Silver Oak Land Trust entities?

A Yes.

Q How much was that?

A $10,160.

Q In reference to the category you entitled as miscellaneous?

A Yes.

Q How much was that?

A **$1,018.53.**

Q Did you analyze the bank records for Silver Oak Energy?

A **Yes.**

Q And what kind of expenses did you find in there?

A **The categories I assigned in Silver Oak Energy were business expenses, expenses to other Silver Oak entities, a category for cash, First National and credit cards, a category I call personal, Hilton Head restaurants, out of town restaurants, big box, motels, gasoline, Dave Jeff, telephone and postage.**

Q You said you saw transfers to other Silver Oak Land Trust entities?

A **Yes.**

Q And how much did you see in that category?

A **$95,990.**

Q What's the time period being analyzed for Silver Oak Energy?

A **October 2009 through December of 2010.**

Q So a little over a year?

A **Yes.**

Q And how much cash did you see withdrawn?

A **Cash, First National and credit cards were $14,588.46.**

Q And how much did you see spent at Hilton Head

restaurants?

A **$10,360.70.**

Q And that was for that same one-year period?

A **Yes.**

Q How much did you see spent at other restaurants?

A **$7,584.36.**

Q Again, the same time period?

A **Yes.**

Q You reference a category I believe you referenced as personal.

A **Yes.**

Q How much did you categorize in that?

A **$12,489.98.**

Q And what kind of transactions did you place in that?

A **Again, doctors, pets, jewelry.**

Q And that's not inclusive of the restaurants?

A **Correct.**

MR. CRAPPS: If I could have one second.

THE COURT: Take your time.

MR. CRAPPS: I believe that's all we have.

THE COURT: Would you like to take a break before we start with cross?

MR. MATHISON: That would be ideal.

(Off the Record)

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CROSS EXAMINATION

BY MR. MATHISON:

Q Ms. Matthews, who was the first person you discussed this case with at the attorney general's office?

A The first person I recall discussing it with was Tracy Meyers.

Q Was there a person before Tracy Meyers?

A Not that I recall.

Q Did you discuss it with Ms. Meyers before or after you discussed it with Mr. Finn?

A After.

Q How long after?

A I don't recall.

Q What, if anything, did Mr. Finn send you?

A He said that he was concerned and that he and other investors were concerned about how money that they had invested in the companies had been spent.

Q Yes, ma'am. But I said what, if anything, did Mr. Finn send you.

A Oh, send me?

Q Yes, ma'am.

A I don't recall that he sent me anything.

Q So you had a verbal report from a person on the telephone. Is that right?
A Yes.
Q And that was sufficient to have you begin an investigation?
A Not in and of itself.
Q And then what was the next thing that you did then?
A I talked to David Short and to Rich Silver.
Q And did they agree to furnish you with any documents?
A Yes.
Q Who furnished the documents?
A Both.
Q And the documents that they furnished, did that consist of the Quicken materials that you received?
A No, not initially.
Q What did they give you initially?
A Operating agreements.
Q So you --
A Advertising material.
Q And did they tell you that there was something in the advertising or proposal material that they thought was untrue?
A No.
Q Did they tell you that there was something in the

operating agreements that they thought was deceptive or untrue?

A **No.**

Q Well, then, ma'am, what was it that they contended had occurred in connection with the offering of a security that was a violation of the law?

MR. CRAPPS: Your Honor, he's asking her to make a legal conclusion. She has no basis to make.

MR. MATHISON: I'm asking what they were reporting, Your Honor.

THE COURT: I'll overrule the objection.

A **They didn't -- that's not their job to do. They don't determine what's a violation of the law. I mean, a lot of investors attempt to determine --**

Q What did they report as their grievance, ma'am?

A **That the money that they had invested had not been spent in the way they had been told it would be spent.**

Q So you are familiar with the operating agreements, and were at the time that you opened this investigation? Is that right?

A **Yes.**

Q And you know specifically what's set forth in

section 6 of each one of those agreements, don't you?

A Not from memory.

Q You don't know it from memory?

A No.

Q Let me give you section 6 from the operating agreement for Silver Oak Land Trust V. And I noticed you didn't, in your second summary, or actually in your first, you didn't have anything negative to say about V, did you? Was there a reason for that?

A I reported what I saw.

Q Did you actually evaluate number V bank records?

A Yes.

Q You did? But you didn't testify, so apparently what you found is entirely condign. Is that correct?

A No.

Q Well, then why didn't you testify about it?

A I didn't perform it the same way I performed the others.

Q Why would you do it differently?

A It's my choice. I'm the investigator.

Q Okay. Let me hand you -- Item 6 in each one of these operating agreements deals with management of

the company, doesn't it?

A **Yes.**

Q You spent a lot of time talking about loans from one SOLT entity to another SOLT entity. Isn't that right?

A **Yes.**

Q Isn't it a fact that there's an express authorization for the managing member to make loans, invest money any way he pleases, in paragraph six of that operating agreement? Ma'am, look at the agreement.

A **Yes.**

Q Then why are you here accusing my client of doing something wrong because that was done.

A **I'm not accusing. I'm reporting my work.**

Q Well, who told you that a loan from one entity to another entity was a violation of the law?

MR. CRAPPS: Again, now he's going into more legal conclusions that Ms. Matthews has no reason to know or make.

MR. MATHISON: May it please the court, if the evidence with respect to the inter company loans is inadmissable, is irrelevant or they're trying to make it something that they

consider illegal. There's no reason to offer it otherwise.

THE COURT: Well, I overrule the objection. It sounded to me like Ms. Matthews is being asked who told her, not that she drew a conclusion.

MR. CRAPPS: Again, I would argue that's communication between attorneys and Ms. Matthews and that would be privileged.

MR. MATHISON: May it please the court. She's been offered as a witness. If she's making a case that the inter company loans are somehow a violation of the securities law, I think I'm entitled to know where on what basis that decision has been made by her? by someone else? I mean, there's language in this document that says the managing member can make that kind of investment. It's just unambiguously there. And, yet, the entire proceeding they've ignored it. And I'd like to know why.

MR. CRAPPS: You can ask her if she drew that conclusion herself. But we would object to any questioning evoking a response of who or what was said or anything of that nature.

MR. MATHISON: May it please the court. I'm not

asking her if the first person who told her that it was a violation was Jordan, because I think that is a privileged communication. But in her capacity as an investigator when the investigation was ongoing long before Jordan was identified as somebody who would put on this case someone else may have told her that. And I want to know who that person was. That person was not providing what I would consider privileged information, instead it would be providing guidance as to what direction the investigation should take.

MR. CRAPPS: Still, it would be communications between an attorney making a legal conclusion not made by Ms. Matthews would be privileged.

THE COURT: I'm going to let her answer that question, but then let's don't go -- I'm not going to let you delve into the inner workings of the office pursuant to the investigation.

Q First of all, did you, ma'am, conclude yourself that inter company loans was a violation of any law?

A In and of itself, I don't know that it would be or wouldn't be.

Q And did you reach a conclusion about whether inter company loans would be authorized under paragraph six of each one of these operating agreements?

A I did not reach such a conclusion.

Q Did you look at paragraph six and evaluate it in that --

A I looked at paragraph six.

Q And who told you that inter company loans might be a violation of the law?

MR. CRAPPS: We'd object to that.

THE COURT: I'll sustain that.

Q Do you think it's the violation of the law, ma'am?

MR. CRAPPS: He's asking her to make an assumption. She's not a lawyer. She can't testify to legal conclusions.

THE COURT: I understand that, but I'll let her answer that.

Q Do you believe it's a violation of the law?

A What law?

Q Any law?

A I have no idea. I'm not an attorney.

Q But you were asked to amass figures which documented the inter company loans for each one of these Silver Oak entities --

A I was asked to gather evidence as to whether or not a violation of the securities act had occurred.

Q Okay. Did Mr. Silver, who was here, did Mr. Silver tell you he thought it was a violation of the law?

A Of the securities act?

Q Yes, ma'am.

A No. I'm not aware that Mr. Silver even understands the securities act to form such a conclusion.

Q Do you understand it?

A I believe I understand most of it. I'm not an attorney.

Q Do you know whether any of these land trusts were in existence prior to the time an offering was made where new investors came in?

A I do not have that knowledge.

Q Wouldn't it be true that if a company had not been formed and was simply out there in the market raising capital, there would be no historical experience for that company?

A Is that a question?

Q Yes, ma'am. Isn't it true that if I start up a new company and I call it Mathison Amalgamated, right,

and I go out and I'm raising capital. Is there any historical experience for the entity known as Mathison Amalgamated?

A **No.**

Q So isn't it true that it would be impossible to misrepresent the performance of Mathison Amalgamated, the historical performance?

A **Yes.**

Q And isn't it true that what has been done here is someone after the fact has come back and said after I invested my money somebody spent it in a way that I think is inappropriate? Isn't that what's going on?

A **No.**

Q Well, what is going on?

A **I was told that there was apparent evidence that money had been spent in a way different from what the investor was told when he made his decision to invest.**

Q If each one of these was a start up, there was no historical experience at all, was there?

A **I didn't say anything about historical experience.**

Q Well, how could an investor be told anything other than what would happen in the future?

A **Exactly.**

Q That's exactly right?
A That's all he could be told.
Q Okay. Is there any document that you've reviewed in which Mr. Silver, Mr. Hartman or any of these people told you that Mr. McIntyre represented that he would not use a specific entity's money to make loans to another specific entity? Any document?
A Would you repeat the question?
Q Is there any document in which any person who has complained - Mr. Silver, Mr. Finn, Mr. Hartman - represented that Mr. McIntyre told them at the time that they put their money in that he would not use that money to make investments or loans to other Silver Oak entities?
A No.
Q Is there any document in which Mr. Silver or Mr. Finn, Mr. Hartman or anyone else says that they were told that Mr. McIntyre would not pay business expenses with their money?
A I have seen no documents that say I will not do anything.
Q Is there any document in which Mr. Finn, Mr. Silver, Mr. Hartman, anyone else who's complaining says that the money would not be paid to contractors who had earned it?

A I repeat I have seen no document that says I will not.

Q Okay. So what is the active misrepresentation that you believe occurred along side the offering of each one of these equity participations in the limited liability company?

MR. CRAPPS: Again, asking for a legal conclusion.

MR. MATHISON: A misrepresentation is a statement or a non-disclosure of fact. It's not a legal conclusion.

THE COURT: I'll overrule the objection.

A Would you repeat the question.

Q What representation that accompanied the offering of a participation or an interest in one of these LLCs is it that you say this proceeding is about?

A Repeat it again, please. I think you changed the question.

Q What are you accusing Mr. McIntyre of having said at the same time he was offering a new company's equity for sale?

A I'm not accusing Mr. McIntyre.

Q Do you know what the state is saying?

A Yes.

MR. CRAPPS: Your Honor --

Q What is the state saying?

A It's in the cease and desist record.

THE COURT: State what you --

MR. CRAPPS: Again, he's asking for the legal conclusions of the division which Ms. Matthews has no basis to know or to make a guess at. She's not an attorney

THE COURT: I sustain.

Q So if I understand correctly, you were essentially asked to pursue this in a vacuum?

A No.

Q You didn't know what you were looking for?

A No. I was looking for all of the evidence associated with the investment.

Q Evidence of what?

A Anything.

Q Do you have any evidence that Mr. McIntyre made a material misrepresentation in connection with any offering of a participation in any of these?

MR. CRAPPS: Your Honor, to answer that question she would have to make a legal conclusion.

THE COURT: I sustain.

MR. MATHISON: Forgive me, she's testifying against my client. I asked her if she's aware of any evidence that he actually made a misrepresentation.

MR. CRAPPS: He's asking for her to make, first, a legal conclusion of what a securities misrepresentation is and the evidence to support that.

THE COURT: The way I understand her testimony, and tell me if it's wrong, is that she's gone through these documents and has itemized and summarized what has been done. I don't believe she is in a position to make legal conclusions or conclusions about what is material or what may constitute a securities misrepresentation, so I will sustain the objection.

MR. CRAPPS: Thank you.

MR. MATHISON: I'm not trying to be cagey here, Your Honor. I don't believe they've proven any misrepresentation in connection with an offering. I think that they've proven, if

anything, that after the fact some expenses may have been paid and shouldn't have been. But I don't think that amounts to any kind of securities violation in the absence of some misrepresentation intending an offering. And, consequently, if she's here essentially without knowing why she's putting in accumulated information, which is expressly authorized by a provision in the operating agreement, I don't have any idea why we're here.

MR. CRAPPS: I don't know how to respond to that. I don't know what that was.

THE COURT: Continue with the examination.

Q Just so that I'm straight on this. The first presentation you made you went through all the entities except SOLT V and effectively told us what you found by breaking out expenses into certain categories. Isn't that right?

A Yes.

Q And then you came back and told us some of the same information again with respect to several but not all of the SOLT entities. I think you did SOLT I. And mixed in with SOLT I was some information from

Silver Oak Energy. And you did SOLT IV and SOLT VII. Isn't that correct? The information that you put in that came from the subpoenaed bank statements came from those four entities, didn't they?

A **I don't believe that's accurate.**

Q Then which ones were they, ma'am? Maybe I wrote them down wrong.

A **I believe it was I, Energy and VII.**

Q If I recall, you started talking about SOLT I. You put in a number of expenses such as Island Car, Staples, etc. And then when further inquiry was made by Mr. Crapps you said that those had actually come from not only SOLT I but also from Silver Oak Energy. That was the first one that I took down with respect to the presentation that came from the subpoenaed bank records.

A **Right.**

Q But that was essentially a recapitulation of the same thing you said about those entities that you got from the Quicken bank records, wasn't it? It's not cumulative? It's the same information from different sources?

A **Yes.**

Q So, essentially, you looked at what you got out of

Quicken after you converted it and you did categories for that and then you went got the bank records and you looked what you got there and did categories out of that?

A **Yes.**

Q So it's not cumulative, it's the same thing?

A **Right. From different data sources.**

Q Right. Evaluation what should be the same data, but evidently isn't, from two different sources?

A **Correct.**

Q And you did that for a few, but not all --

A **Correct.**

Q -- of the Silver Oak entities. And the ones I got apparently were I, Silver Oak Energy. Did you say Silver Oak VII?

A **I believe it was VII.**

Q I just wanted to make sure that we didn't have to go over this twice. First of all, you said you had a good deal of experience in this type of work dealing with broker dealers and investment advisors. Isn't that right?

A **Yes. And unregistered entities.**

Q And unregistered?

A **Uh-huh.**

Q Mr. McIntyre is not a broker dealer or investment

advisor, is he?

A **No.**

Q You're not aware of any requirement that any of these offerings would have to be registered, are you?

MR. CRAPPS: I'll object. He's again asking her for a legal conclusion.

THE COURT: I'll overrule that objection.

Q You're not aware of any requirement that a limited liability company operated under the circumstances of these would have to be registered and securities would have to be registered?

A **With these given facts, no.**

Q Okay.

A **Some that operate as unregistered entities should be registered and, therefore, do violate the Act.**

Q These don't? These don't have to be registered, as best you know.

A **As best I know. And I'm not an attorney.**

Q Mr. Finn expressed concerns, but he didn't furnish you with anything. Is that right? Sent you nothing?

A **As I recall.**

Q Mr. Short and Mr. Silver then sent you what I believe was a Quicken program?

A No.

Q What did they send you?

A They provided me documents for operating agreements and marketing materials. And Mr. Silver provided me a flash drive that contained Quicken records. He did not provide me with Quicken software.

Q And then you converted what was Quicken to your own computer?

A Yes.

Q Now, in response to Mr. Crapps' question, I think you said that in SOLT I there were $217,110 in distributions to Mr. McIntyre or to Silver Oak Land Management. Is that right?

A I don't have it in front of me.

Q Oh, I'm sorry. Maybe you ought to.

A Which company?

Q Silver Oak Land Trust. Colloquially referred to as SOLT I.

A And which category?

Q I think the term you used was distributions.

A And what was the amount?

Q I think you said it was $217,110.

A To Mr. McIntyre.

Q Do you know who the manager was in SOLT I?
A Mr. McIntyre.
Q Do you know whether the manager was entitled to be paid a management fee?
A Not in I.
Q Do you know what paragraph the management fee is provided for in each of the documents that authorizes it?
A Not without looking at them.
Q I'm handing you an agreement which is the operating agreement for SOLT II and directing your attention to paragraph 6.3.
A We were talking about SOLT I.
Q I understand. But I'm asking you whether or not the management fee is provided in 6.3.
A That's not the agreement for I.
Q I'm handing you --
A We're not discussing II, we're discussing I.
Q Yes, ma'am, I understand --
A The operating agreements are different.
Q Ma'am, I asked you whether you knew where the provision was that provided for the management fee.
A In SOLT I.
Q Yes, ma'am. There is none. I asked you whether you knew where it was in the agreements.

A There is none in SOLT I's agreement.

Q I understand that. Is it in paragraph 6.3 of SOLT II?

A Yes.

Q And in the others where there are management fees are they always in 6.3?

A In the two where a management fee is allowed, but I has no provision for a fee.

Q Is a distribution, does it take into account the fact that a portion of the property was sold?

A I don't know the answer.

Q Do you know whether a portion of the property was sold within 18 months of the startup?

A I heard that in the testimony in this room this week.

Q Do you know whether approximately $425,000 was generated in connection with that sale?

A Did I know that was the amount?

Q Yes, ma'am.

A No.

Q Do you know to what extent the amount of money was distributed to Mr. McIntyre in the $217,000 you claim his distributions for SOLT I?

A I know that a portion of what was paid to him was distribution in SOLT I. That was in 2006. There

were timber sale distributions in 2007. There were numerous consulting expenses. And included in that category would be loans to Silver Oak Land Management.

Q Right. But some of it is distribution in connection with the sale of --

A About 80,000.

Q Now, going back to paragraph six again. Do you know whether or not the managing member was entitled to enter into contracts for services?

A Yes.

Q Do you know whether he was entitled to enter into contract for services with himself or with the related parties?

A No.

Q You don't know whether he was or --

A With himself, no.

Q Can you tell me what provision would prohibit that? What provision of the operating agreement?

A The operating agreement does not, as I recall, itemize restrictions. It itemizes authorizations, but not restrictions. And I did not see an authorization to make loans to himself.

Q I said enter into contracts. You referred to consulting services.

A **I was not seeing -- I was not given contracts to review.**

Q Okay.

A **Mr. McIntyre failed to provide the documents we requested. If he had those contracts, he was not providing those to the office.**

Q So, to rephrase, there is no provision that would prevent Mr. McIntyre to enter into a contract with himself or a related party for consulting services?

A **The provisions are not preventative. They're authorizing.**

Q And there is a provision in every one of these documents, 6.3 in some, 6.4 in the others, which waives conflicts of interest, doesn't it?

A **I don't recall.**

Q I'm going to hand you the document that I've got here and direct your attention to paragraph 6.5.

MR. CRAPPS: What exhibit is that?

MR. MATHISON: It's the same one. It's Exhibit No. 2.

A **Ask me the question again.**

Q There is a provision that waives conflicts of interest, isn't there?

A As far as competitive businesses.

Q Got you. Okay. You initially said you didn't have the information as to distributions for other investors. But then you came back later and said that you did have it.

A Yes.

Q And was I correct in writing down that there were $289,000 in distributions for other investors?

A Yes.

Q Is that figure generated or contained in your summary somewhere other than the one for Mr. McIntyre?

A I don't understand the question.

Q Do they appear on the same page?

A Yes.

Q All these statistics for SOLT I, these are essentially accruing over a period which adds up to approximately seven years. Isn't that correct?

A Whatever was in the Quicken records.

Q Well, do you recall whether it was from the inception of SOLT I or not?

A I do not know.

Q You don't know the date of the first records that you reviewed?

A I don't know the date SOLT I was formed.

Q Would 2005 refresh you? I guess what I'm asking is are your figures, as put in the record, cumulative over the entire duration of the operation of the company?

A The Quicken records are, yes. The Quicken numbers are. The bank records may not be.

Q The bank records are for specific dates?

A Yes.

Q And you put each one of the dates in?

A Yes.

Q And they varied?

A Yes.

Q Some are for two years. One was for one year. Is that correct?

A Yes.

Q And I think you said that there were restaurant expenses in a total amount of $24,367. Is that right?

A Yes.

Q And if you assume that I'm correct, and it's seven years, that would be approximately 33, $3400 a year. Is that right?

A Approximately. Between three and 4,000.

Q Yes, ma'am. And grocery stores, you can buy things other than groceries at grocery stores, can't you?

You can buy duct tape, packing supplies, that sort of thing. You can buy that at grocery stores, can't you?

A **Yes.**

Q And grocery stores, actually if you divide it by seven, that would be just a little bit over $1,000 a year, wouldn't it? Wouldn't it? Didn't you say it was about $9,078.73.

A **I didn't analyze it on an average basis. There were periods of time when the expenses were much higher, and there were periods of time where there were no expenses at all. So an average is meaningless in this environment.**

Q Well, I understand that, ma'am. But, nevertheless, if you look at it in terms of over the entire seven plus years of the existence of the company, you're talking about grocery store expenses that average a little bit over $1,000 a year. Isn't that right?

A **If you want to talk about averages.**

Q Okay. And I'm asking you what is there about that that you find suspicious?

A **I didn't find an average suspicious. I didn't analyze in terms of averages.**

Q And then you say there are transfers from SOLT, the original. This is the granddaddy of the Silver Oak

companies. You found transfers to other entities from that entity to I think II, IV, VII and III. Is that correct?

A **You want me to look again to see where the -- are you asking about if those were where the transfers occurred?**

Q Yes, ma'am.

A **And we're talking SOLT I?**

Q Yes, ma'am.

A **II, V, VII, IV, III.**

Q Do you know what those transfers were for?

A **No.**

Q Do you know whether some of the money that SOLT I earned as a result of the sale that took place in 2006 was, in fact, transferred to other SOLT entities to service the seed money for the acquisition of additional property?

A **No.**

Q Do you know whether specifically SOLT III and SOLT II, the property was acquired with money that had been loaned by SOLT I?

A **No. And I don't know if the other investors knew that.**

Q Ma'am, do you know who the investors in SOLT III are?

A **Not by name.**

Q Do you know whether the investors in SOLT III are identical to the investors in SOLT I before the second offering?

A **I heard that testimony this week.**

Q Yes, ma'am. But you didn't know it until then.

A **No. Mr. McIntyre refused to come in and answer our questions.**

Q Yes, ma'am. After you served a subpoena on him. Isn't that correct? You didn't ask him to come up here and answer your questions. You served a subpoena on him --

A **Correct.**

Q -- for all his books and records. Isn't that right?

A **Correct.**

Q And you knew full well at the time that he didn't have the books and records because they had been given to Mr. Short.

A **No, I did not know that.**

Q And to Mr. Silver.

A **Did not know that.**

Q You got the records from them, didn't you?

A **I didn't know whether they were originals or copies.**

Q In other words, you're telling me that Mr. Silver didn't tell you that he had gotten the records from Mr. McIntyre through Mr. Paris.

A Yes, he said he acquired the records from Mr. McIntyre. I don't ever give away records without making copies. I assumed other people did the same.

Q Well, then why would you ask for the same records from him that you already had?

A I asked for all records he had to see if he had additional records other than the ones we were given that would answer some of our questions.

Q You asked for all records that he had since the beginning of his business career, didn't you?

A Correct.

Q His entire life.

A No.

Q Well, how many years was it limited to, ma'am?

A I don't recall. I don't have the subpoena in front of me.

Q And when he didn't give you the records, you then had somebody issue an order that prevented Mr. McIntyre from continuing to serve in the role of managing member of these entities. Isn't that right?

A **I don't direct anyone to do anything.**

Q Well, I guess what I'm asking you is why would you issue an order like that when you knew full well he had resigned from every single one of the entities on September 25th.

MR. CRAPPS: Your Honor, we object.

THE COURT: I sustain that objection.

Q Was it in order to start these proceedings? Is that why you did it?

MR. CRAPPS: Your Honor --

THE COURT: Sustained.

Q I noticed that one of the categories in SOLT I was land purchases. You actually knew what the land purchases was?

A **As identified in the Quicken records.**

Q And you didn't have anything for land purchase in SOLT II?

A **Yes, I did.**

Q How much money is --

A **$770,919.79.**

Q Forgive me. Maybe I misunderstood that. Do you

know what property SOLT II owns?

A **No.**

Q Do you know where the money came from to acquire the property that SOLT II owns?

A **From investors.**

Q And I believe you said in SOLT II that there was a $108,000 in timber income.

A **Yes.**

Q Is that recapitulated from what was identified as timber income in the Quicken or the QuickBooks?

A **Correct.**

Q Why did Mr. Crapps ask you what fifteen percent of $108,000 is?

A **Because Mr. McIntyre was authorized to take fifteen percent as his management fee.**

Q So you believe that $16,000 is all that he was entitled to take? Is that correct?

A **From the timber income.**

Q And is that sum included in the $24,000 that you say was transferred either to Mr. McIntyre or to Silver Oak Land Management?

A **Yes.**

Q And forgive me, but the nomenclature kept changing. It was called distributions in SOLT I and it was called transfers in SOLT II. Those are the same

things, aren't they?

A **Yes.**

Q So, essentially, 16,000 and 24,000 you said Mr. McIntyre got was effectively the result of his management fee?

A **Yes.**

Q And the rest, was that distribution of profit or do you know?

A **The descriptions are things such as additional, reimburse expense, crescent, deposit, fence. So I don't know.**

Q Do you know whether there was a second purchase of land made by SOLT II?

A **No.**

Q Do you know what portion of property might have been purchased from Crescent during that period?

A **No.**

Q Do you know whether money was paid as a result of that acquisition?

A **No.**

Q And I think you said there were transfers from SOLT II of $13,764 and they went back to SOLT, SOLT IV, SOLT VII and Silver Oak Energy. Is that right?

A **Yes. And there's also an item that is titled SOLT I boat expense.**

Q Do you know what that is?
A No.
Q Do you know whether the company purchased a boat from one of the participants, Murray Reed, for use in assessing land in the area?
A No. Mr. McIntyre declined to come in and answer our questions.
Q You never asked him to come in and answer your questions. You just sent him a subpoena. Isn't that right?
A Yes.
Q You never called him up or wrote him a letter. Just sent him a subpoena, right?
A I didn't send it.
Q Is that customary?
A Yes.
Q And that's the way you start all of these with respect to someone who is under suspicion? You don't ask them to come in and talk to you?
A Sometimes.
Q Among the things you found disturbing in SOLT II, I think you said were payments to more than one telephone provider?
A Yes.
Q Can you explain why that's disturbing?

A Most people don't have two service providers for their cell phone.

Q Do you know whether some of the participants in this entity from time to time assisted the manager doing tasks in the entity?

A Mr. McIntyre declined to come in and answer questions.

Q Would that be that you don't know that?

A I don't know.

Q But if someone did and he had a different telephone service, he'd be entitled to have his expenses reimbursed, wouldn't he?

A No.

Q Why not?

A He's not working for the company.

Q And I believe you said that there were credit cards expenses that you thought were inappropriate. Why was that?

A I didn't say they were inappropriate. I said I had questions as to their appropriateness.

Q Okay. And because --

A I had not formed a conclusion. These were questionable items.

Q And the questionable items all made it into a category which you call miscellaneous.

A **Correct.**

Q So would those be things that you think might be suspicious but you're not really sure?

A **Exactly.**

Q So you need more information before you could make . . .

A **Yes.**

Q And that's the case where miscellaneous has been stated in each one of these?

A **Yes.**

Q And just so I understand, why would motel payments be one of the ones that you found difficult? I think motel payments was one that you listed --

A **Correct.**

Q -- as being among the miscellaneous you were surprised about. Were they Hilton Head motels or were they motels outside of Hilton Head?

A **Some were Hilton Head for some entities. No, not Hilton Head. Restaurants were Hilton Head.**

Q We're in SOLT II now.

A **Okay. I don't -- It's a question.**

Q Do you know where SOLT II's property is?

A **No.**

Q SOLT III, this is the one I believe you did not have a category for land purchase.

A **I do have one.**

Q You do, okay. Forgive me. One of the two you didn't mention land purchase. And I assumed it's because you didn't have a category for it. What is the land purchase amount?

A **21,500.**

Q Do you know where the SOLT III land is?

A **No.**

Q Do you know what it cost?

A **No.**

Q Do you know whether it was financed?

A **No.**

Q Do you know where the real money came from to acquire SOLT III?

A **I heard that in this room this week.**

Q But until now you didn't know that?

A **No.**

Q And you do know that SOLT III is essentially a recapitulation of SOLT I as it existed in its inception. SOLT I is subsequently enlarged, but at one time, at the time that SOLT III's property was purchased, the investors in each were identical?

A **Testimony to that effect was introduced this week.**

Q Again, you calculated the management fee as being $11,000. Is that correct?

A **Yes.**
Q Based on $73,000 in round numbers?
A **Seventy-eight.**
Q Was it 78? Forgive me. And was that figure included, that $11,000, included in what you said was the $26,190 that was distributed to Mr. McIntyre for the Silver Oak Land Management?
A **Yes.**
Q So that at the very minimum he would have made at least $11,000 more than anybody else?
A **Yes.**
Q And I think that you indicated that there was an aggregate $34,743 in funds transferred or loans to other SOLT entities. Is that correct?
A **Yes.**
Q You didn't break it out by individual entities. Was there a reason for that?
A **No. I wasn't asked.**
Q Ma'am, just so I understand. From what source did you come up with $21,500 as the price of the land in SOLT III?
A **The descriptions I saw in the Quicken records.**
Q Do you know whether or not that was the deposit on the land?
A **I do not.**

Q If the land had been financed, would it have shown up in the records that you reviewed?

A I didn't create the records. I don't know.

Q With respect to SOLT IV, was there a land purchase amount?

A Yes.

Q What's the land purchase amount?

A 1,163,838.71.

Q And do you know where that money came from?

A Investors.

Q Do you know who the investors are?

A Not by name.

Q But you have documents from which you could recapitulate, right?

A Yes.

Q And you indicate that in SOLT IV, there is $41,000 of, in the aggregate, payable to either Mr. McIntyre or Silver Oak Land Management? Is that correct?

A Forty-nine.

Q Was it 49? Forgive me, I'm sorry. Is that one of the entities in which he was entitled to a management fee or not?

A No.

Q And how much money was paid, if any, to other

persons out of SOLT IV?

A 91,000.

Q Why didn't you put that in the record when you were responding to Mr. Crapps?

MR. CRAPPS: Your Honor, she responds to my questions and answers them. I don't know what basis she would have to know why I would ask a question.

THE COURT: Tell me if I'm wrong. I don't think you were asking why Mr. Crapps asked a question.

MR. MATHISON: I didn't. I asked why didn't she respond by putting that in the record when he was asking her questions.

A I'd have to read back the questions that he asked me. I don't know if he asked me that question. If he asked me the question, I answered it.

Q So he didn't ask you the question?

A I don't know. I don't recall.

Q But 91,000 is what was paid to the other equity participants. Is that right?

A Yes.

Q Do you know whether there is any consulting contracts or loans in favor of either Mr. McIntyre

or Silver Oak Land Management?

A **No.**

Q But if there were, they would be in this distributions classification or transfers, one or the other?

A **These classifications are based on the classifications in the Quicken records.**

Q And, again, under miscellaneous, what was the total amount that you found?

A **10,000.**

Q And I'm going to use the term "dubious." You were dubious about them. Would that be a good way to describe it?

A **No. I had questions that were unanswered about those charges.**

Q Again, we've got cell phone carriers and you're suspicion is there is more than one, and motel bills. Were those bills local in Hilton Head or were those bills for travel in state or out of state?

A **I don't know the answer.**

Q Do you know where Silver Oak Land Trust IV's property is?

A **No.**

Q Do you know whether or not the motel bills are for

the area where the property is?

A No. Mr. McIntyre declined to come in and answer our questions.

Q Do you know the amount of the motel bills?

A I don't know that I categorized motel independently in this particular entity. I did not.

Q Since you've been here, you know that at least two of the properties that are owned by SOLT are in North Carolina, don't you?

A I knew there was one property in North Carolina.

Q And you've find, for some reason, multiple payments to oil companies to be upsetting. What was that about?

A On the same day, three payments to Shell Oil Company totaling almost $200. I just found it curious.

Q What do you infer from that?

A Nothing.

Q I mean, were these debit transfers or were these credit card purchases.

A Debit card purchases.

Q Do you know how many debit cards there were?

A From the bank records there appears to be one debit card.

Q For a while you and Mr. Silver thought there were

multiple debit cards, didn't you?

A **No. I can't tell you what Mr. Silver thought. I don't know.**

Q Well, didn't he send you the records where he had written Mr. McIntyre's wife's name all over the bank statements, Judy or Judith? Didn't you see some of those records?

A **Yes.**

Q Because I saw them.

A **Yeah, I saw them.**

Q Yes, ma'am. Did you ever interview Ms. Costello?

A **No.**

Q Silver Oak Land Trust V, what do you have for land purchase, ma'am?

A **$221,872.**

Q And what are the distributions, if any, to Mr. McIntyre or to Silver Oak Land Management?

A **$650.**

Q Do you know what those are for?

A **No.**

Q Is the fact that that's inconsequential one of the reasons you didn't do any analysis of Silver Oak Land Trust V from the bank records, the bank records that you subpoenaed?

A **No, that's not the reason.**

Q Well, what was the reason?
A I didn't find it necessary to analyze those.
Q Did you find anything suspicious in Silver Oak Land Trust V?
A Other than transfers to other Silver Oak entities.
Q And there was $15,968 of that. Is that correct?
A Yes.
Q And what did you say the land purchase price was?
A 221,872.
Q And where did that number come from?
A It came from my interpretation of the descriptions in the Quicken records.
Q Could the amount have been $262,000? Could you be mistaken?
A I could always be mistaken. I'm human.
Q And I am, too. It's nice to hear that in here.
A I've never claimed to be perfect.
Q Do you know where the 15,968 went, to which other entities it went to?
A To Silver Oak Land Trust I.
Q Do you know why that might have been?
A No.
Q Then we got to Silver Oak VII. What was the land purchase amount there?
A 521,328.23.

Q And I believe you indicated that there were transfers or distributions to Mr. McIntyre from Silver Oak Land Management of $17,000, in round numbers?

A Yes.

Q And were those distributions or were they loans or what were they?

A Transfer, commission, consulting expense, loan, timber distribution, maintenance, supplies, travel.

Q Forgive me, put you're imputing -- Why would travel be included there as opposed to . . .

A Because it was -- the payee name was identified as Silver Oak Land Management.

Q I'm not following you. Are you telling me that --

A The Quicken records indicate that Silver Oak Land Management was paid for travel.

Q Okay. So you're saying you believe that's a distribution because it was paid as an expense to Silver Oak Land Management. Is that right?

A It was identified as travel, not as commission.

Q Okay. I understand.

A Or consulting expense.

Q All right. And you had loans to the other SOLT entities totaling $11,678?

A Correct.

Q And they went to I, II and Silver Oak Energy. Is that right?

A Yes.

Q Do you know what the transfers were for?

A No.

Q Whether they were loans or repayments of loans?

A They say loan.

Q All three of them say loan?

A Yes.

Q And the last I believe was Silver Oak Energy. Is that right?

A Yes.

Q What's the land purchase amount, ma'am?

A 76,500.

Q Do you know where the land is that Silver Oak Energy owns?

A No. Well, I heard this week. Yes, I do know now. I believe that's the one that's in Clio.

MR. MATHISON: One second, Your Honor.

THE COURT: Take all the time you need.

Q Can you identify payments to others which you found to be suspicious? Is this a new account or did this exist with respect to the other Silver Oak

Land Trust entities as well?

A **I don't understand.**

Q Well, I had written down that there were payments to others, not obvious payments. I'm not certain what that was meant to refer to.

A **I don't recall.**

Q And there were transfers, I believe you said, to SOLT entities, namely to SOLT II, SOLT IV and SOLT V.

A **We're talking about energy?**

Q Yes, ma'am, we are.

A **I, V, IV, and II.**

Q Forgive me, I missed I. And you had miscellaneous expenses or miscellaneous items about which you had some question or reservation of $5700 in round numbers.

A **Yes.**

Q Can you tell me why payments to the South Carolina Department of Transportation would be on that list?

A **I don't know what they're for. I don't pay the Department of Transportation repeatedly on a weekly or monthly basis.**

Q So because there's no readily identifiable reason, you consider it suspicious? Is that right?

A **I don't think I used the term "suspicious." I**

think that's your term.

Q Question.

A I don't have an explanation for it. I don't know why it would be an expense of Silver Oak Energy, as I don't know why doctor payments are an expense of the company. There are things that are not answered.

Q At the time that Silver Oak II was formed, it didn't have any expenses at all.

A I don't know.

Q At the time that Silver Oak Energy III was formed, did it have an expenses at all?

A I don't know.

Q At the time Silver Oak Energy IV was formed, did it have any expenses at all?

A I have no basis for knowing.

Q What about Silver Oak Energy V?

A It would be the same for every entity. You will get the same answer each time you ask the question.

Q In your audits, do you routinely find that people give gifts to their employees or their customers?

A Do I routinely find that?

Q Yes, that people in business give gifts to their employees or their customers?

A Not from company money.

Q Would it be possible, in your opinion, that an entry of Medical University of South Carolina or MUSC, which actually proved to be hospital cashier, would be failure of memory?

A Are you asking me is it possible?

Q Yes, ma'am.

A I have no idea because I don't know whose memory failed and I don't know how good it is.

Q Do you know with any degree of certainty whether the entries in the program that you evaluated were made contemporaneous with the expenditures or after the fact?

A I have no way of having that knowledge.

Q And, again, would the same apply writing OC Welch when Key Infinity was actually who it was intended? Couldn't that be a failure of memory as well?

A Of my memory?

Q No, of the person who made the entry.

A I have no way of knowing.

Q And, again, Evergreen Buffet and Evergreen Ped Lodge, all the Evergreens, that could be an in-fill problem, couldn't it?

A Not by a conscientious entry. I look at my entries. I know when I have in-fill.

Q What would be the reason for purposely changing

something from Stokes Brown Toyota to OC Welch?

A I have no knowledge.

Q Do you know whether or not Mr. McIntyre at the time had two automobiles? Do you know?

A No.

Q Do you know what the payments to First National Bank were about? Do you know what they were about?

A No.

Q Do you know whether Mr. McIntyre from time to time when these entities lacked money used his own personal resources to pay the bills?

A I didn't see evidence of that.

Q You didn't see any evidence that what was being transferred or distributed to Mr. McIntyre was a repayment of funds that he had made available to the company?

A I would not have evidence of that.

Q Forgive me, there is nothing that says that in the books and records? Is that what you're saying?

A Correct.

Q What was the purpose of evaluating the same essential expenses except for a more limited period of time?

A From the bank records?

Q Yes, ma'am.

A **One of the reasons would be to determine where the expenses occurred.**

Q And with respect to SOLT I, didn't you testify that there were motels in the range of $4,000?

A **SOLT I, I show motels of $2,000.**

Q Did you actually combine SOLT I and Silver Oak Energy when the figures were put in initially or did I just conflate them myself?

A **I don't believe I did.**

Q So SOLT I had motel expenses of $2,000. That was in Hilton Head?

A **No.**

Q Where was it?

A **Various cities.**

Q And that's over a seven-year period or just during the period that you're talking about here?

A **During the period I'm talking about.**

Q So in the course of, what, eight months, nine months? Nine months?

A **October 2009 to July 2012.**

Q And do you think that $2,000 is a disproportionate amount of time to spend in motels during a nine-month period?

A **I didn't say that.**

Q And SOLT VII, you found miscellaneous expenses in

there of $1,018.53 that you question during a period of October 2009 to September 2000?

A **I didn't question.**

Q Didn't question it?

A **No.**

Q So in Silver Oak Energy, you evaluated that from October 2009 to December 2010?

A **Yes.**

Q That's a period of roughly fourteen months?

A **Correct.**

Q And you found what amount of restaurant expenses?

A **In or out of town?**

Q Well, total first of all.

A **Total about 18,000.**

Q And in town?

A **10,000.**

Q And out of town?

A **Seven.**

Q Do you know whether multiple individuals associated with Silver Oak Energy were traveling during this period in an effort to raise money?

A **They were on the bank debit card, that unless Mr. McIntyre passed around, several people used.**

Q Pardon me?

A **There was one debit card used.**

Q Yes.
A So unless Mr. McIntyre passed around that one debit card to multiple individuals, I would conclude that it was in Mr. McIntyre's possession and he used it.
Q Yes. And if you and I went on a trip together and we were both employed by the same person, and I had a debit card and you didn't it, and I paid for it, wouldn't that be appropriate?
A In restaurants in Hilton Head? You said -- you asked Hilton Head.
Q Forgive me. Well, Hilton Head or not Hilton Head.
A Well, I wouldn't be traveling with multiple people if I were in my hometown.
Q But multiple people could come to your hometown that don't necessarily live there. Isn't that right?
A Yes.
Q And if you entertained them in restaurants, wouldn't that be appropriate?
A If that's the purpose.
Q Out of town expenditures or restaurants was how much?
A $7,5 --
Q -- 84.36.
A Yeah.

Q And you found transfers to cash $14,588? That's a combined category. It's cash, payments to First National and payments to various credit cards.

Q Do you know whether Mr. McIntyre's personal account was maintained at First National? Do you know?

A I have no way of knowing. Mr. McIntyre refused to come in and answer questions.

Q Did you make any effort to take the bank statements that you obtained by virtue of the subpoena or the Quicken data which was sent to you on a zip drive and match that material up with the tax returns for these entities that were filed each year?

A No.

Q What would be the most authoritative source of how something was expensed?

A The bank records.

Q You believe that would be more authoritative than what the business put on its tax returns?

A Yes.

Q Is that based on your experience that that information is more reliable?

A Yes.

Q Did you ever get the tax returns?

A Not that I recall. Mr. McIntyre didn't provide the

records we requested.

Q Well, wasn't Mr. Silver the manager of all the SOLT entities except Silver Oak Energy?

A Yes.

Q And, as the manager, couldn't he have gotten all of the tax returns if you wanted them?

A Probably.

Q Why didn't you want them?

A I had the bank records.

Q And that would be the same with respect of Mr. Short and Silver Oak Energy?

A Yes.

Q So you don't know whether these match up with what's on the tax returns or not?

A No.

Q Do you know who the accounting firm is that did all the tax returns for these entities?

A I heard that in this room this week.

Q Mr. Silver never told you that before?

A I don't recall.

Q Is there some reason that y'all didn't ask for records from them?

A I'm not a tax person.

Q No, ma'am. I'm saying is there a reason that the attorney general's office did not ask Carey &

Company who did all the accounting work for these companies for their records?

A Are you asking why did I not ask or why did the division not ask?

Q Well, I'm going to assume that you're going tell me you don't know why the division didn't ask. Why didn't you ask?

A I didn't need them.

Q The total transfers that you got from company to company, have you made any effort to net them against what was actually owed to find out what the current status of these transfers amounts to?

A No.

Q So, unlike Mr. Silver, you have no idea who's ahead of the game and who's behind the game in the transfers? Is that correct?

A That wasn't relevant to my investigation.

Q This is hypothetical. If all of the loans had been repaid, they would have been repaid with transfers that you would have catalogued. Isn't that correct?

A Yes.

Q And where would be the harm if they had all been repaid?

A I don't know -- What role does harm play in what

we're looking at?

Q That's a good question.

A It's about violations of the securities act, not gains and losses.

Q Yes, ma'am. But, you see, I'm still struggling to find where that is.

MR. MATHISON: That's all the questions I have, Your Honor. Thank you.

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RE-DIRECT EXAMINATION

BY MR. CRAPPS:

Q Ms. Matthews, we went through during my direct examination of you and Mr. Mathison brought up the expenses that you identified had a changed payee.

A Yes.

Q Do you still have that information in front of you to refresh your recollection?

A It's still here somewhere. Yes.

Q During your analysis of that, you identified the actual payee as stated on the bank records as opposed to the payee stated in the Quicken records.

A Yes.

Q If you could, one more time, go through the actual

payee as found on the bank records for those that were misidentified.

A All of them?

MR. MATHISON: Objection, Your Honor. This is asked and answered. He did this once before.

THE COURT: I'll overrule. I'll let her --

MR. MATHISON: Do it again?

THE COURT: -- do it again.

A All of them?

THE COURT: I won't give it double weight.

Q We'll start with Silver Oak Energy.

A Home Depot.

Q Are these the payee per the bank statement or per the . . .

A Per the bank statement. The payee -- well, per Quicken, the payee is Home Depot. Per the bank statement, the payee was Commapp Wake Forest University. The memo attached to that is bench material and it further says greenhouse TCL. It's one of the ones that I didn't -- I commented I did not know what greenhouse TCL was. Home Depot

common app Vanderbilt. Jaderloon Greenhouse, The Goldsmith Shop. Sea Turtle, Sea Turtle Cinemas. Lowe's, college board SAT online. Home Depot, Gullahs Family Jewelers. Online, college board SAT. CommApp UNCA admissions. Morrison Well Drilling, Hilton Head Prep yearbook. Great American, college board SAT online. Payments to Dr. Galloway. Sea Turtle, Sea Turtle Cinemas. Evergreen, Evergreen Pet Lodge. Admissions, Bee Zoo admissions. Dr. Galloway. C Jason Putnam, Jason Putnam dentist. Hoffman Nursery, Hilton Head Oral and MA, which turned to be a dentist. Sea Turtle, Sea Turtle Cinemas. Baynard Supply, Barnard Tire Company. LabCorp. Evergreen, Evergreen Pet Lodge. OC Welch, Stokes Brown Toyota. Bio fuel conference, Le Bistro Mediterranean. Modern, Modern Jewelers. North, North Ridge Cinema. Evergreen, Evergreen Pet Lodge. New Hampshire, NH Liquor Store. Sea Turtle, Sea Turtle Cinema.

Q Thank you. I'm going to hand you State's Exhibit No. 26 which is a profit loss detail of Silver Oak Land Trust. Can you identify the categories of loan to officer, loan to Silver Oak Land Management?

A **Yes, loan to officer.**

Q What's the amount?

A **Total for loan to officer is 68,533.50. And what was the other category?**

Q Loan to Silver Oak Land Management.

A **The total for that category is $65,025.**

Q Do you see a category on there entitled loan from officer or loan from Silver Oak Land Management?

A **No, I don't.**

Q Do you see a category entitled loan from John McIntyre?

A **No, I don't.**

Q Look at page six.

A **Yes.**

Q What's the amount under loan from John McIntyre?

A **$1,261.**

Q And under the category titled loan from Silver Oak Land Management?

A **$34,520.**

Q Loans from Silver Oak Land Management?

A **Oh, I'm sorry, no. That's $1,100. I read the wrong line.**

Q Do you see categories entitled loan repayment?

A **Yes.**

Q And are any of those --

A **Wait, let me find it. I saw it before.**
Q Are any of those credits to the account from Mr. McIntyre or Silver Oak Land Management?
A **Not as identified.**
Q To the best of your knowledge, who created these records?
A **Mr. McIntyre.**
Q I'm going to hand you State's Exhibit No. 29. It's a profit and loss detail of Silver Oak Land Trust IV. Can you identify a category in that statement entitled loan to Silver Oak Land Management?
A **Yes.**
Q What's the amount?
A **9,000.**
Q For loan to Silver Oak Land Management?
A **Silver Oak Land Management is 14,000.**
Q And there's another category entitled loan to SOLM.
A **That's what I read first, 9,000.**
Q Do you see any categories on this profit and loss detail which begins with repayment of loan?
A **I see one repayment of loan.**
Q And what is that?
A **It's SOLT I.**
Q And in the credit section, do you see any credits either entitled loan from or repayment of loan from

Mr. McIntyre or Silver Oak Land Management or SOLM?

A **No.**

Q And back to the entries that you identified had different payees per the bank statement and per the Quicken records. Regardless of whether there was an entry in error in the input into the Quicken records, the expense was still made as you stated per the bank statement?

A **Yes.**

MR. CRAPPS: That's all we have.

MR. MATHISON: Just briefly.

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RE-CROSS EXAMINATION

BY MR. MATHISON:

Q Ms. Matthews, if I understood, when you recapitulated the expenses that you found to be I think the term was incorrect payee expenses, did those all come from Silver Oak Energy or did they come from multiple --

A **The ones I read the second time came from Energy.**

Q Just Energy?

A **Yes.**

Q Were any of those expenses incurred before Silver

Oak Energy was formed?

A When was Silver Oak Energy formed?

Q The date of its organization. Do you know when it was organized?

A No.

Q For example, is there a cost on there that you can identify for organizational expense?

A No.

Q So isn't it likely, we can infer, that all of them were incurred after the organization of the entity?

A Yes.

Q And isn't it likely that would mean they were all incurred after the securities, if there were any, were offered?

A I don't know when securities were first offered.

MR. MATHISON: Thank you, ma'am.

MR. CRAPPS: We have nothing further.

THE COURT: We're ready for lunch, I suppose?

MR. MATHISON: One second, Your Honor. I may want to ask her one more question.

Q You were here during the period that Mr. Silver testified, were you not?

A Yes.

Q Did you hear him acknowledge that there were repayments of two loans that he received in the fall of 2012?

A Yes.

Q Was one of those loans in Silver Oak Land Trust IV?

A I don't recall.

Q Was the other one in Silver Oak Land Trust VII?

A I just don't remember.

Q Do you know whether these loans were paid in November 2012?

MR. CRAPPS: Your Honor, we object along the same objections. These offers to remediate the items after Mr. McIntyre left these companies is irrelevant to this case.

THE COURT: I'm going to overrule. We've been talking about the loans, so I'll let him ask questions about them.

A What was the question?

Q Do you know whether the loan payments, per his testimony, were that they were received in November 2012?

A I don't honestly recall what month he said he received them. I remember that he said he received

payments.

Q Would your accounting have been closed for practical purposes the month before in October of 2012, and that's the reason you haven't accounted for them in what you just reported in response to Mr. Crapps' question?

A The records I have, as I understand it, are the Quicken records that were given by Mr. McIntyre to Mr. Silver. So I would conclude from that that they would contain nothing beyond when Mr. McIntyre was the manager.

Q And if you credit the testimony you heard, he ceased to be the manager on or about September 25, 2012. Is that correct?

A Correct.

Q And that would be the reason that you don't have them in the loans per your reconciliation?

A If they were not on the Quicken records that Mr. McIntyre gave to Mr. Silver, I would not have them.

MR. MATHISON: Thank you very much. That's all.

MR. CRAPPS: For the record, I think this is at the point we'll rest our case.

MR. MATHISON: There being no established procedures for this kind of thing, I'm not certain

whether I'm supposed to rise and ask for non-suit or directed verdict. I'm certain they're going to be denied, so if it please -- on the record that if and to the extent the procedure would afford such a motion, I have made it.

THE COURT: Accepted in the record and denied.

(Off the Record)

MR. MATHISON: May it please the court, the Respondents will call Respondent Jack McIntyre.

Whereupon,

JOHN M. MCINTYRE, being duly sworn and cautioned to speak the truth, the whole truth, and nothing but the truth, testified as follows:

Court Reporter: State your full name for the record, please.

Witness: John M. McIntyre.

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DIRECT EXAMINATION

BY MR. MATHISON:

Q State your name.
A John M. McIntyre.
Q And how old are you, Mr. McIntyre?
A Fifty-eight.
Q Are you married?
A No.
Q Does that mean you're divorced?
A Correct.
Q And were you formerly married to Ms. Costello?
A Correct.
Q And is her first name Judith?
A Correct.
Q Where did you go to school, Mr. McIntyre?
A In Massachusetts. I graduated from high school in 1972 and graduated from Bentley College in Waltham, Massachusetts in 1979.
Q And what was your field of study when you were in college?
A My degree is in public administration.
Q And after your graduation from college, what was your business experience leading up to the time when the first Silver Oak Land Trust entity was formed?
A I started an automobile collision repair shop in 1981 shortly after college. And I ran that until I

sold it in I believe it was in 2006. And concurrently, I was a president of a company in southern Florida that was in a similar business called Driver Shield.

Q And were you still in that business when you began the Silver Oak Land Trust enterprises?

A I sold that in 2006. So I think we started our first Silver Oak Land Trust in 2005.

Q What roles did you play in the businesses that you ran before you started Silver Oak Land Trust?

A Apple Auto Body, Inc. I was the owner/operator. And Driver Shield, I was the president of the company.

Q Before you became that were you chief, cook and bottle washer?

A Absolutely.

Q How did you get involved in tree farming?

A I had been living in Hilton Head for several years. And in my spare time I was investing in various equities. And I was looking for my next project. I noticed that two-thirds of South Carolina was forested. I also noticed that there was several advantages to owning that type of an investment. So I spent a few years researching before we made our first purchase.

Q What were the advantages that you concluded inherent in tree farming?

A Well, one of many, but it was a great tax advantage to owning a real estate with timberland on it. You would get an agricultural exemption. So for an acre of land on Hilton Head I may pay three, four, $5,000 an acre ad valorem real estate taxes, and a similar acre of land in timberland I would pay a dollar to $3 an acre. When you make that purchase you separate the land cost from the timber value. So when we would have a thinning or a harvesting, that income that you would receive back would be treated as a return of capital and there were just timber mills all over the state, loggers all over the state. A port system, route 95, route 26, it's a great state to produce wood products, which at the time and maybe today, is on a dollar-for-dollar basis the largest wood products and all the enhancements would be the largest industry in the state.

Q What was the first tree farm that you identified?

A We identified 349 plus or minus acres on route 278 in a section of Jasper County that had been annexed by Hardeeville.

Q And this is the property that has been testified as

being adjacent to OC Welch on one border and what's now the University of South Carolina Beaufort on another?

A Correct.

Q Does the property have highway frontage?

A Yes, it does.

Q Does it have highway access?

A Yes, it does. It has I believe a little over a mile of frontage on route 278, the gateway to Hilton Head, and three approved Department of Transportation curb cuts.

Q How did you learn of the availability of this property?

A During my research on the timber industry, it came to my attention that International Paper was liquidating all of their timberland assets, timberland holding assets. Sorry.

Q Was this one of those?

A This was one of those.

Q Other than what you identified, the road frontage and so forth, did the property have any special attributes?

A Well, outside of -- it did. It was -- we've mentioned OC Welch. We mentioned the University of South Carolina. We didn't mention that the auto

mall is contiguous with Infinity dealerships and the half dozen other ones, all upscale. The rear of the property is contiguous to University Park, which is a D.R. Horton subdivision and with potential access to that subdivision. To the south/southwest is Sun City. And now to the direct west is Hilton Head Lakes which was Hilton Head Lakes and Traditions which were 2500 acres and 6000 acres of pretty much single family homes right now, but the opportunity to advance into commercial real estate. 40,000 vehicles a day go by there. It's between route 95, within three miles. There's a school system, a brand new school in Jasper County within a mile. Route 170 intersection where they are contemplating a high end shopping mall. And I could go on and on for hours.

Q How did you raise the capital acquired to buy this property?

A I put the down payment on the property. I had been -- back up a little bit. I had basically my friends and, you know, whether it's at racquetball, at dinner, people would ask me what I had been researching, what I'm looking to buy. And I was explaining this to some of my friends at Java Joe's at coffee.

Q Who were these friends that you're referring to?
A Jim Paris, first. Dr. Vitek second and Murray Reed thirdly.
Q And the materials that had been identified with the original Silver Oak Land Trust, were they generated essentially for those people?
A I'm not sure if we even had any materials.
Q Who else became involved in this?
A Murray brought his partner in from -- his business partner at the time, and maybe to this day, Martin Rehder.
Q Was there any general solicitation made to obtain investors --
A No.
Q -- in this enterprise?
A No.
Q Was there any mail sent out of state in an effort to encourage people to invest money?
A No.
Q Any telephone calls for that purpose?
A I don't believe so.
Q But one of the gentlemen did reside overseas, did he not?
A Yes. Marvin, yeah.
Q Did you encourage him to join or how did he decide

to . . .

A I believe it was Murray was -- Murray and he were partners. And it was an automatic that whatever deal Murray did he brought in Marvin.

Q How was Silver Oak Land Trust organized?

A It is a South Carolina LLC.

Q Who prepared the articles of organization?

A At the time, it was either -- the same law firm. I don't know if it was Bethea Jordan back then or McNair, but it was -- I'm going to go with Bethea Jordan in 2005.

Q And who prepared the operating agreement for Silver Oak Land Trust?

A The first operating agreement was written by David Tigges of Bethea Jordan.

Q And now McNair?

A Correct.

Q Did you have any input into the content of the operating agreement?

A Yes, I did. I had to supply all of the information on Exhibit A which typically would be the names, addresses and the percentages, I believe.

Q Did you have anything to do with the preparation or drafting of the various provisions which govern members, managers, and so forth?

A Nothing -- no, it was a pretty -- well, no. No.

Q And, just for the record, who are all of the equity participants as they are named in the agreement?

A Myself, of course, Dave Jeff, LLC, which is Dr. Vitek. Jim Paris or his LLC which was Bourbon Place or Partners of Bourbon Place, LLC. Murray Reed and Martin Rehder.

Q And other than a potential advantageous sale of the end of your holding, how did you expect to make money from the property?

A The overriding investment or the overriding return would be capital gains. It was a definite -- if you look up the definition of higher and better use, you would see a timberland property with no taxes on the most prestigious route in South Carolina, or one of them.

Q During the period that you were raising the money to capitalize Silver Oak Land Trust, did you say anything to mislead the equity participants?

A No.

Q To this day, have any of the original equity participants complained about the manner in which the company was originally organized and the participations transferred?

A Absolutely not.

Q Was anyone solicited to join Silver Oak Land Trust other than the five individuals who either individually or in their capacity as sole member LLCs did join?

A No one else was solicited.

Q Among the equity participants, did they bring different skills into the company?

A Absolutely.

Q What, if anything, were the skills brought by each of these individuals?

A Well, Jim Paris was a local -- the local content real estate broker. He brought the local market expertise in real estate to the table. Murray Reed had sold, managed a marketing company in real estate for 25, 30 years. He brought a marketing expertise to the table. Martin was also in the real estate marketing business I believe his whole career with the additional benefit of he's multilingual and had contacts in Europe and South America, including contacts in the timber industry in South America. Dr. Vitek was our science advisor.

Q Were all of these skills put to use in actually improving the property during the period that you held it.

A Absolutely.
Q What, if anything, was done to enhance the property during the period you were manager?
A Everything that we could possibly think of. For example, when we purchased the land it was the closest thing to a jungle that I've ever seen. There were no road systems and no pathways into the property. So we had to, with Dr. Vitek's help, identify as best we could the upland species so we would know where to look and to go to. We identified those, tagged them. Matter of fact, we tagged the property lines. You couldn't find those property lines with -- no, we found them with machetes. So Murray and I and -- well, all of us with the exception of Martin, all of us went in there weekly and monthly and identified property lines, identified upland, that we thought was upland. We put in a road system which took several years to do, including all of the culverts, ditching systems. And were able to identify 33 or 34 additional upland acres.
Q How was that done?
A Murray had a friend in southern Florida who was a nationally renowned botanist or whoever does wetland delineations. And we paid for him to fly

up to Hilton Head, him and another fellow from his office. We put them up at the Sea Crest. We took turns cooking them dinner, taking them out for dinner. And they agreed with our original assessment that there was much more upland on the property than had been originally thought. And they interfaced with an environmental engineering company in Savannah, Georgia. Brought them to the table, and over the next several months identified all -- the additional 33 or 34 acres of upland. Then we had to hire an engineering company to plot those findings onto surveys. And those are sent off to the US Army Corp of Engineers. And then they come out and do their assessment. It's a process.

Q Parenthetically, when the wetlands experts came up from Florida, did you pay their expenses in staying in motels in the Hilton Head area?

A Of course. Actually, we had to pay for their flights, their hotels, all their expenses.

Q What about meals for them that were purchased by you?

A They didn't reach into their -- which is normal operating procedure, they didn't --

Q They didn't reach into their pockets often?

A **Exactly.**
Q Is that right? Okay. But the product of their effort was that you had found high ground acreage?
A **I think it was 33 additional high ground acres.**
Q Did you arrange for a sale of a part of the property?
A **Yes, I did.**
Q How did that come to pass?
A **We had close to 200 acres of that parcel of the 349 or so acres - And that's plus or minus because it won't be exact. - that came with some baggage. Those 200 acres were -- International Paper had sold a conservation easement to the Department of Transportation. And what that meant to us was, on the deed there were restrictions that you cannot not only develop the property, but you cannot touch the vegetation, which meant we couldn't harvest any of the timber.**
Q So how did you find somebody willing to buy that kind of property?
A **Actually, we did it with an auction. And the -- I believe the only ones that were interested in that parcel with that kind of a restriction were hunters. We sold it to a gentleman who has many of these all in the southeast, or at least at the**

time. And wanted it for his -- I believe, you know, himself and his family to go hunting.

Q What was the sale price of the acreage that the hunter bought?

A I believe it was $425,000, give or take.

Q And what was done with that money once it was paid at closing?

A We had paid the auctioneer and then we distributed that money to the members.

Q What had been the original raise up or capitalization of Silver Oak Land Trust?

A I believe we paid, I'll say $500,000, around there, for the property.

Q I've got an exhibit that I believe that you prepared. I'm going to hand it to you. I'm handing you two documents. I'll ask you if you prepared these.

A Yes, I did.

Q These are summaries of the expense of acquisition of land document, sales and things like that.

A Yeah.

MR. MATHISON: If the State want's, we'll be happy to mark those so that they can be in the record. At this juncture, I don't plan on

marking them. I just want him to be able to consult them.

MR. CRAPPS: If we can just mark for identification purposes that's fine.

(Whereupon, Respondents' Exhibit No. 22 was marked for identification purposes)

Q Did you make a compilation which reflects exactly what the amount of the capitalization was initially?

A Yes. We raised $485,930.

Q And how much of that went into the acquisition of the total parcel?

A $483,155.

Q So pretty close to what you raised?

A Correct.

Q And then the initial parcel, how many acres did that constitute?

A Under 200 acres.

Q Okay.

A Wait, I'm sorry.

Q The original parcel?

A The whole thing together?

Q Yes.

A **349.**

Q Is that before or after the found acreage?

A **That was pretty much all of it on one.**

Q And was that before or after the acreage found by the wetlands delineation?

A **Oh, okay. The additional acreage of upland is in that total figure.**

Q And how much of it did you sell during the period that the hunter decided he wanted the property?

A **How many acres?**

Q Yes.

A **Less than 200.**

Q And for that he paid $425,000?

A **Correct.**

Q And after expenses was that money disbursed or distributed to the original --

A **It was distributed to the original members.**

Q How did you come to have a mortgage on the property in view of the fact that you had successfully sold more than or approximately half of it for very nearly what you paid to buy all of it?

A **We collectively, the members of SOLT, decided that the model that we were using could be replicated again, going back to 2005, and with leverage we could do this in various locations. We all got**

together and agreed to do it.

Q How much money did you borrow?

A Our first line of credit with Bank Meridian was $500,000.

Q What was that money intended to be use for?

A To purchase similar type tracts.

Q And what kind of collateral did you have to give to Bank Meridian to get a $500,000 line of credit?

A In addition to the property, myself and Murray had to sign personally.

Q So you guaranteed the debt?

A Correct.

Q What did you use the money for?

A I don't know the exact number, but we spent a good chunk of it on enhancing the road system on Silver Oak I. We kept -- obviously our eye was being kept on finding as much more upland as we could. So we added to drainage, you know, put in fences. Oh, we enhanced the curb cuts, which is expensive, so you could get in and out of the property. So we did enhancements to that property and then we identified other properties purchased which we used funds from that loan to make investments into SOLT II, SOLT III and SOLT IV.

Q Specifically with respect to II, III and IV, did

the earnest money for the acquisitions made by those entities come from the loan that you had personally guaranteed --

A That's correct.

Q -- in favor of the original Silver Oak Land Trust?

A That's correct.

Q Tell me how you organized Silver Oak Land Trust III after making a deposit on certain real property.

A Silver Oak Land Trust III was also a South Carolina LLC.

Q And who were the participants in Silver Oak Land Trust III?

A Only the original members in I.

Q At the inception, was Silver Oak Land Trust, as an entity, the only member of Silver Oak Land Trust III?

A That is correct.

Q Why was it done this way, meaning did you make any effort to encourage or solicit anyone else to participate in Silver Oak Land Trust III?

A No, we did not.

Q Why not?

A We didn't need it. We didn't need to and Silver Oak Land Trust I wanted to be the only owner.

Q Over the course as things have evolved, did the

ownership change from the entity owning the entire equity in Silver Oak Land Trust III to the participants in I owning them individually?

A **Yes, it did.**

Q Why was that done?

A **Without including II and IV for the same reasons, we were going to take in new members, potentially take in new members of I, just the land on I. And we wanted just a clean cut so that everybody could sell an interest in anything they owned without going through Silver Oak I.**

Q So, essentially, you subdivided the ownership so that everybody could sell their interest if they wanted?

A **Correct.**

Q What property was identified for acquisition by Silver Oak Land Trust III?

A **The property in a little town called Prosperity which is in Newberry County.**

Q And were there any special attributes of that property that attracted you as opposed to . . .

A **Yes. Our business model -- or model didn't change. We were looking for property that had a timber component, preferably loblolly pine because it was easier to market at the time. But the main**

attribute being some kind of location so for a final sale to a developer that would afford that higher and better use for the members.

Q What was unique or special about the Newberry property that you believed assured the likelihood of ultimately successful sale?

A Well, there were several things about that property. The town of Prosperity is on Lake Murray. So the -- it's rather upscale on the lake. It's a private little town, a sweet little town. This particular property had frontage on a nice paved street. And it was, I think, you know, within -- depending on if you drove straight down the street to boat access on Lake Murray or you went across the street to a subdivision that had access to Lake Murray but, you know, a quarter of a mile you could be at various locations on the lake. It had -- the farthest end of the property from the frontage boarded Plum Creek property, and there was a nice little creek there. Midway through the property there was a beaver pond. Just a few acres, but pristine, beautiful little spot.

Q When Silver Oak Land Trust III was formed who was the manager of that entity?

A Myself.

Q Was it you or was it Silver Oak Land Management?
A Just me.
Q Who owned the equity, if any, that you had in Silver Oak Land Trust III?
A Myself.
Q What has become of the property that once was in Silver Oak Land Trust III?
A According to the county records, it's been sold.
Q Do you know how much capital was raised by the five original members of Silver Oak Land Trust in order to capitalize Silver Oak Land Trust III?
A We didn't do a raise up.
Q So how was the property acquired?
A Through the line of credit through the loan from Bank Meridian.
Q And how much of that loan was used to acquire the property?
A The property was about $200,000, roughly. So 200,000 out of that original 500,000.
Q And you said the property has now been sold?
A That's correct.
Q And who sold the property?

MR. CRAPPS: Your Honor, we went through this under the testimony of Mr. Silver on this action.

The selling the property long after Mr. McIntyre left the company is irrelevant to this case.

THE COURT: Well, I'll let him testify from what he saw in the records with the County and I will accord it whatever weight I think it merits.

Q What was it sold for?

A It was in the -- I believe it was 96 or $98,000.

Q Did you receive a distribution of any of that money?

A I did not.

Q Did anyone notify you of the pendency of the sale before it was done?

A No one did.

MR. CRAPPS: I continue my objection.

THE COURT: You may continue. As I say, I will give it the weight I think it deserves.

Q And has anyone notified you post sale about the imminence of distribution or the lack thereof?

A No one has.

Q Are there any debts owed by Silver Oak Land Trust III that you're aware of?

A **There were -- I'm drawing a blank. I'm sorry. I don't -- I'm not sure.**

Q Specifically, was there a debt or is there a debt now owed by Silver Oak Land Trust III to the original Silver Oak Land Trust?

A **No.**

Q At any point in the raising of capital or the organization for Silver Oak Land Trust III, was anyone other than the original members of Silver Oak Land Trust solicited or importuned in any manner whatsoever?

A **You're talking about III now?**

Q III.

A **No one else.**

Q I believe you also testified that some borrowed money secured by your guarantee and that of Mr. Reed as well as buying a mortgage on the Silver Oak Land Trust I property was used to acquire not just the III property, but the Silver Oak Land Trust II property. Is that correct?

A **Correct.**

Q Where was that property?

A **That property is in Fairfield County, South Carolina, on Lake Wateree.**

Q And would that be the unique characteristic that,

in your view, made it a good prospect for long-term investment?

A **In addition to that particular tract had an extensive road system. There were a couple of other attributes that were important. There's a section of Duke Power -- that lake was built as a result of Duke Power building a dam on the river. And they filled it in. Duke Power controls, to this day, all of the lake shore. There are only a couple of bits on that lake that are not controlled by Duke. This has one of them. We actually own the water and the rights to it.**

Q You own the water?

A **Yeah.**

Q That would challenge some of my property professors, I'm afraid.

A **Okay, well.**

Q In other words, you have direct access so you can put boat docks in? Is that correct?

A **Yeah. There's an existing -- that was another attribute. There was an existing historical boat ramp on the property.**

Q What was the acquisition cost of this property on Lake Wateree?

A **I'd say it's 780-some-odd thousand.**

Q And how was the money raised to pay for that?
A The down payment, I believe, was paid for by Silver Oak Land Trust I. And then we raised up the balance.
Q And who were the participants that came into Silver Oak Land Trust II, if you know?
A We had all of the Silver Oak I people. We had my friend Phil Cart. We had Murray's pal Jim Delamarter. We had, you know, Jim brought somebody. You know, Dr. Vitek brought in a couple of her friends, local friends and maybe relatives.
Q Did you, during the period that you were raising up the capital to acquire the property for Silver Oak Land Trust II, say anything to anyone that was misleading or that was intended to deceive?
A No.
Q Do you know what the value of Silver Oak Land Trust II's property is presently?
A The last time that we had it listed with Sperry Van Ness they came up and did their appraisal. It was actually Tom DeMint and a local guy. They did their assessment and suggested we put it on the market for 3.5 million.
Q Do you know whether any effort is being made to sell that property now?

A I do not know.

Q Do you know whether Silver Oak Land Trust II owes any debts to the other Silver Oak Land Trust entities?

A I believe I heard earlier that there was some.

Q If the price that the appraisers say is reasonable or to be obtained, would there be sufficient money to pay all of the investors back their investment?

A There's not a mortgage on the property. So if there are some inter company loans, they'd be insignificant and the value of the property would more than handle any obligation.

Q If I understand it, the value presently would be roughly five times the amount that was paid for it?

A Yes.

Q And so you don't believe that whatever inter company loans are owed would be a significant difficulty to pay?

A They would be insignificant.

Q How did you go about identifying the property that was selected for purchase by Silver Oak Land Trust IV?

A As we were going along and as we were learning, we were trying to fine tune our identification matrix. So we went to a little spreadsheet and we put in

the parameters that we thought we should use. We then contacted, through private means as opposed to real estate brokers, companies that were interested in liquidating nonstrategic properties. So International Properties unloading properties. Crescent Resources were liquidating properties. And in IV it was a division of International Paper with liquidating their properties. So we would -- it worked great on paper, but, unfortunately, one would have to go and look at each piece of property that was available within those parameters. So what may look good on paper we would actually go and view. And it would take -- it was a serious undertaking. It would take weeks, months.

Q What was ultimately selected?

A That was ultimately selected -- all of them were done that way, but specifically you were talking about IV. I believe Dr. Vitek was up in North Carolina looking, viewing properties and I was in South Carolina. And that was the one that she identified and thought had the most upside potential.

Q What were the attributes of this property that you found most advantageous or appealing?

A Well, the -- our next door neighbor, contiguous

neighbor, was Wayne Huizenga who is a multi billionaire. And he had identified the property contiguous. And I assume he did his due diligence also. And he was going to spend quite a bit of money to develop, enhance this property and build a canal system off of the Albemarle Sound which was directly -- this property is Nixons Beach property. And we had quite hopeful that this sweet little town of Edenton, one of the prettiest little towns in North Carolina where they wash the streets every night except for Christmas, and the Albemarle Sound is the supposedly largest fresh water sound in North America, so you can hop in your little boat and go right up to the Atlantic Ocean but still be in fresh water there. This property is made up of several tracts, several different timber tracts, different age classifications and categories. And some of the streets that are directly across the street from the Albemarle Sound would have Sound view locations. All paved highway. Just a theoretical developer's dream.

Q Who were the equity participants in SOLT IV?

A The original -- the down payment was made by the original members of SOLT, and some of the members from SOLT II, and I believe a few new members.

Q Do you know how many all told?
A I think that was the one that had the most amount of members, and it was in the teens.
Q And that's the one that required the largest outlay of capital?
A That's correct.
Q And what was the acquisition cost for the property that you just described?
A The land cost from the deed $1,150,000.
Q And how much money did you raise?
A $1,193,000.
Q So about 40,000 more than what you paid for the land?
A Correct.
Q What is the value of that property currently, if you know?
A I couldn't give you a value on the entire property. But I can tell you one thing. A puppy with a note in its mouth could lob off a couple of house lots at Nixons Beach, just three or four or five house lots, and get back that entire investment and still have over 400 acres.
Q Do you know whether SOLT IV has loans that are due and payable to the other SOLT entities?
A I think there were some cross loans.

Q Do you have any understanding of whether those loans are good, meaning collectible, or not?
A Oh, yeah, they're all collectible.
Q Do you know whether any effort is being made currently to market that property?
A I do not know.
Q While you were a manager in SOLT IV, was that in your capacity as an individual or through Silver Oak Land Management?
A I believe it was both.
Q How is our equity held in SOLT IV?
A There is some in my name and then there is some in Silver Oak Land Management.
Q Just for the record, the amount of money raised for SOLT II, how much was that?
A $805,000.
Q And what was the land purchase cost that was paid with that money?
A I believe it was 781,000.
Q Were there actually two acquisitions in SOLT II, that is, an original and then one a year or two later?
A Yes. There was a -- the original purchase was a land sale where we purchased the land from International Paper. There was a series --

actually, two or three pieces that also went into the lake that International Paper did not own. They were owned by Crescent Resources. We really wanted the direct lake frontage, so we started negotiation with Crescent Resources shortly after we purchased that property. And it took quite a while. That might have taken a year. So I finally ground them down and got a very, very good price on it. We took one of the notes on -- when I was listening to Ms. Matthews said that there was some amount available for distribution, and what that amount -- what happened to that money is that the members, all of us, unanimously, by the way, decided to purchase that property from Crescent. So instead of that distribution being sent off to the members, we made another land purchase. It did require another -- I think we each had to put in a little more money, but it was not big money. So we ended up with a much nicer piece of property.

Q In raising up the capital for SOLT IV, did you say anything that was misleading or intended to deceive any of the equity participants who came in?

A No.

Q Did you make any solicitation generally to the public in newspapers or mass mail outs or that sort

of thing?

A No.

Q How were most of these people invited in, the new people that hadn't been in any of these Silver Oak Land Trust entities before?

A I'm fairly confident that each and every one of them were one degree of separation from an existing member, a friend or a family member.

Q Was there, in the promotional materials that you provided to people considering an opportunity to participate, a statement that timber as an asset class has shown an average annual compounded return of over eleven percent for the past 30 years?

A That's correct.

Q Where did you find that statistic?

A You could find it today on the Silver Oak Land Trust website. And there's a link there from the South Carolina Forestry Commission with a, I think it's a two page document and it says money does grow on trees and I would urge everyone to read it. And it's -- I believe they use 13 percent.

Q They use 13 percent? Are you telling me that the State's website says money does grow on trees?

A It does.

MR. MATHISON: Has the attorney general given any thought to going after the State?

Q I'm handing you this document and ask if you can identify it for me, please.

A That's from our website from the Silver Oak Land Trust website.

Q And that's been up and running for a long time. Is that right?

A Up to this day.

Q Even though it's now under the management of --

A Correct. Yeah.

Q -- Mr. Silver?

A Correct.

MR. MATHISON: I move the introduction of Respondents, the next exhibit.

MR. CRAPPS: No objection.

THE COURT: That is Respondents' Exhibit No. 23.

(Whereupon, Respondents' Exhibit No. 23 was marked and received into evidence.)

Q Mr. McIntyre, how did you go about identifying the property that was acquisitions by Silver Oak Land

Trust V?

A **The same matrix we used. We had been -- we had expanded our territory a bit. And that was for diversification purposes. There's always the potential for a hurricane, and we didn't want to have -- I don't to say that word, but there was always the potential and we didn't want to have all our eggs in one basket, so we expanded our geographical search. We went down to northern Florida, just barely northern Florida, Georgia and then up to Virginia. So when we -- that particular property is on the Virginia -- within ten miles of the Virginia border. And it's -- if you follow the river up from Edenton, that was an International Paper property also.**

Q In locating all of these properties, from and after Silver Oak Land Trust I, did you deduct the travel, meals and the expenses you or other members of these land trusts incurred in finding this property?

A **Yes.**

Q And are the motel expenses and restaurant expenses, things of that nature, that are out of area, meaning away from Hilton Head Island, largely attributable to bird dogging this property?

A We were careful. We didn't -- we're not a mutual fund. We're just local guys that were local guys and gals that were trying to build a company. So I would never -- if I were traveling to North Carolina to look at property, yes. But I would never just drive up to North Carolina and drive back. I would always try to set up a meeting with our consulting forester at one of the properties as I'm driving up 77 or 26. I'd try to meet up with the real estate broker if we had a listing, like with Tom DeMint or anyone else. So I would try to make a loop and try to accomplish many things at the same time.

Q Who were the investors in SOLT V, the people who became equity participants?

A I want to say that all of them were members of prior entities or most -- maybe all of them.

Q Was any effort made to find or identify folks outside the circle that had been formed, that was already involved in the previous SOLT entities --

A I'm fairly confident that one sold out, you know, that day.

Q And is this, again, a matter of friends and family joining with previous members?

A Correct.

Q Except that membership had gotten a little larger because IV was the biggest one?

A Correct.

Q But V was not nearly as large, is that right?

A No, it was a smaller piece of property.

Q What was the acquisition price of the property that was purchased in North Carolina by Silver Oak Land Trust V?

A Roughly $220,000.

Q What was the total amount of capital that was raised?

A 231,999.

Q So pretty close to 98 percent?

A Correct.

Q Did you say anything that was misleading or was intended to deceive in your effort to convince people that were already members of the other SOLT entities to become a member of this one?

A No, I did not.

Q Is there such a thing as SOLT VI?

A There is not.

Q How did it come to be that we skipped VI and got to VII?

A We had an offer on -- we were -- simultaneously, I had an offer in Reedy Creek which is in South

Carolina and an offer on the M Taco Farm in Virginia. And I was negotiating those two pieces of property when I got a call from Crescent Resources. And Crescent Resources was filing for bankruptcy. So they were trying to raise capital. And I had a prior offering on that particular piece of property at a extremely advantageous price and they came back and accepted it.

Q Are you suggesting or implying that SOLT VI was reserved for one of the deals that didn't get done?

A Correct.

Q And SOLT VII was used because that transaction didn't get done.

A Correct.

Q So there never was an organized Silver Oak Land Trust VI?

A No.

Q How did you raise the capital for Silver Oak Land Trust VII?

A The most of the members from -- prior members, actually, I don't think -- I'm not sure if there were any new members. It was all existing members.

Q And how much was the acquisition price of the property?

A We paid $521,000.

Q And were there attributes of this property that, to your way of thinking, made it suitable or advantageous for ultimate long-term sale?

A Yes. It had, coincidently, at least a mile of frontage on River Road. River Road is the road that connects Winnsboro to Camden. At the far east end of the property we had direct access to June Creek which was a feeder, an outlet of Lake Wateree. So we had direct access. It had a reasonably good road system. The timber was one age class, which was unique. But it was pushing --

Q Forgive me, I didn't understand that.

A Oh, sorry. It had all of the pine, and it was mostly pine, was of one age, 18 years. So I think it was on a per acre basis for an 18 year old timber tract it was a real -- a very, very low price. You typically wouldn't get that kind of a transactional cost on something maybe that was eleven or twelve years old. But the pine -- the merchantable pine -- our consulting forester who we sent out there to cruise the property, he said if we just waited for it to harvest as one harvest of the whole thing, we would get all our money back and still own the land. It had rolling hills, nice topography. A lot of it was already fenced in.

Crescent did this fencing program, tens of thousands of dollars worth of nice country road fences. Beautiful piece of property between Winnsboro -- and actually the address is Ridgeway, which is a nice little town.

Q Just so I understand, how close is it to Winnsboro?

A As the crow files, five miles, seven miles.

Q And how far from Camden?

A A little farther, about eleven miles.

Q And the purchase price was, I think you said, $521,000?

A Correct.

Q And how much capital did you raise to acquire that?

A 573,000.

Q And did you hold your equity in that in your own name or in the name of Silver Oak Land Management?

A Silver Oak Land Management.

Q Was the timber cut, the 18-year-old timber?

A We had done one thinning. It might have been a select cut. But we had done one thinning.

Q When was that done?

A Probably two or three years ago. Or shortly after we purchased it.

Q When would it have been appropriate to cut the stand that was 18 years old when purchased?

A **Depending on site index, theoretically you want to do some kind of a thinning at -- again, you have to go there and look at the site index, the quality of the timber, the height and proximity to a mill. But a rough rule would be 15 years, 20 years and then 25 years for your final harvest. Obviously it's a gray number, but on average.**

Q If you know, what's become of the property owned by Silver Oak Land Trust VII?

A **It has been sold.**

Q And do you know what it was sold for?

MR. CRAPPS: Just to renew our objection.

THE COURT: I understand.

A **I don't have the -- I don't believe Fairfield County has their online access as Newberry County, so I don't have the county records, but --**

Q Do you have anecdotal evidence for what it --

A **I believe somebody gave testimony this week and said it was sold -- had trouble saying the number, but I believe it was 560,000 or . . .**

Q So, approximately, what was paid for it when you bought it. Is that correct?

A **Yeah.**

Q But not what you believed it was worth based on having harvestable timber that arguably was worth the purchase price?

A This tract is made up of four or five individual parcels. So one could, if one wanted to spend time, one could market smaller parcels. For instance, Crescent Resources, still in the business, although reorganized, they'll sell you smaller tracts than this, but they get $3600 an acre. Now, if you want to unload a large parcel quickly, you have to do basically one thing, and that's lower the price. If one wanted to raise -- sell that for a higher price, one could have. There was -- not to mention the enhancements that we had done to the property since then.

Q Is Crescent in the same area as this property currently?

A Absolutely.

Q Are they across the street?

A Correct.

Q Do they have lake access or not?

A No.

Q Do you know what the asking price is for their property?

A Without lake access, $3600 an acre.

Q In other words, way, way, way more than what your property was sold for?

A Without lake access, without road systems, correct.

Q Do you know whether Silver Oak Land Trust VII owes any debts after the transaction was completed by Mr. Silver?

A I believe there were some inter company loans.

Q Do you know whether they have been paid or not?

A I don't know. There was one other loan that was still on the books. I don't have the tax return in front of me, but we borrowed $15,000, I believe, from Mildred Fauerby which had never been paid.

Q Ms. Fauerby is Dr. Vitek's mother?

A Correct.

Q Have you been notified that the property was sold?

A I have not.

Q Has anyone contacted you about distribution?

A They have not.

MR. CRAPPS: Is my objection continuing for this line of questioning as well?

THE COURT: Yes, I noted it was continuing objection.

Q Has anyone notified you of a distribution?

A No, they have not.

Q Has anyone notified you that what might have been a distribution to you has been offset or otherwise applied to reduce debt that you may have owed to Silver Oak Land Trust VII?

A They have not.

Q Did there come a time when, with respect to the Silver Oak Land Trust I property, you contemplated selling that property at a price of 1.5 million dollars?

A At the Bank Meridian, which held the mortgage on that property, had approached me and said they were having financial difficulties and were calling in as many loans as they could and suggested rather strongly that I had better be prepared to come up with the money to pay for that loan. Times had changed in the real estate market. I'm sure everyone's got the memo. And --

Q What year was this?

A Well, it must have been after the fall. 2008 was the -- this must have been 2009, 2010.

Q So did you make an effort to sell the property for $1.5 million?

A I believe -- I didn't, but I believe that Jim Paris had sent out a blanket or blast email to get

interest in the property. And may have made -- tried to generate some excitement. May have made representations about, you know, a lowball fire sale price for -- I don't know if it was for the whole property or a parcel or several parcels. But we were trying very creative ways to get the bank out of the way.

Q Obviously you didn't conclude a sale of $1.5 million.

A No.

Q How did the idea of the second offering come about with respect to Silver Oak Land Trust?

A We were -- I don't know what the genesis was specifically. We had looked at -- Murray was working with some auction companies. Jimbo was doing -- he was marketing to real estate brokers in Ohio. I was looking at private equity options. We were all scurrying around. This was an interesting time in the history of not just this company, but the real estate market. And I think we, you know, were kicking ideas around everyday on a daily basis. I don't know who come up with the idea, but we said let's give it a try.

Q Did you make any general or public solicitation in order to generate interest and secure additional

equity participants in Silver Oak Land Trust?

A **I'm quite certain it was -- we never advertised or any publicity or any newspapers or any of that print or anything, but we did contact friends and family again.**

Q How did Mr. Finn come to be involved in Silver Oak Land Trust I?

A **He never did.**

Q How did Mr. Silver come to be involved?

A **I guess I sent him a note that we were trying to raise money on Silver Oak I.**

Q You also sent one to Mr. Finn and he said that he wasn't interested?

A **Correct.**

Q But both of them were already participants in other Silver Oak entities?

A **That's correct.**

Q Who else became a participant.

A **There is a woman, Rose Patteson, who was another member. And then Murray's friend Bruce Barfield which is -- there's an acronym there for BFK or it's on the books for -- his name is Bruce Barfield, but his company bought the investment -- membership.**

Q Was Rose Patteson already a member of Silver Oak

VII when she came into Silver Oak Land Trust?

A That's correct, yes.

Q So everybody that came in had already been in the circle of Land Trust? Is that right?

A With the exception of Bruce Barfield, Murray's pal.

Q Did you say anything misleading or with the intent to deceive in order to induce these people to participate?

A No.

Q Did anybody ask you questions with respect to the existing books and records of Silver Oak Land Trust which at that juncture, unlike the rest of these ventures, had a history?

A No.

Q So there was no inquiry as to what loans may have been on the books, any of that?

A No.

Q If inquiry had been made, how would you have dealt with it?

A If it were a general question, I would hopefully be able to answer it. If it were a legal question, because we don't have in-house legal, I would have suggested they contacted our attorney. If it were an accounting question, I would suggest that they meet with our accountant.

Q Do you know whether anyone to this day has met with Carey & Company with respect to any of these land trusts to find out what records they have?

A I know that Mr. Silver, as the new manager, is in contact with them.

Q Is Mr. Silver still using Carey & Company?

A I am not -- I can say from personal knowledge that my K1s still come from Carey & Company.

Q How many people were you attempting to interest in the so-called second offering of Silver Oak Land Trust?

A We were looking to raise -- we owed the bank $750,000 roughly. We were trying to raise -- trying to find seven members to pay $100,000 each.

Q And how many did you actually get?

A Three.

Q Was that enough to pay down the loan?

A No, it was not.

Q How did you go about paying the loan back?

A At the same time that this was occurring, the Bank Meridian closed up on a Friday night and was taken over by the FDIC and transferred to South Carolina Bank & Trust for a sweet purchase price of negative $31 million. And I negotiated -- I don't know what kind of agreement you call it, but they agreed to

take less than the $750,000. I believe I got them to accept $550,000, roughly.

Q In the argo of the FDIC, a negative purchase price means the incoming bank, the so called inquiring institution, is actually paid the $31 million to take over the assets. Is that right?

A That's correct.

Q Was there sufficient capital in Silver Oak Land Trust to pay the loan now in the hands of SCBT after it had been reduced to $550,000?

A No, there wasn't.

Q And so how was the shortfall met?

A We had some timber money that came in from III. And I believe the members of -- the initial members brought in more money. They did bring in more money. And I was scraping the barrels. So wherever I could find it.

Q When was the loan paid off?

A It was 2012. It was done in two payments, as part of the agreement. I believe we paid them 300,000 -- 350,000. There's a whole fifteen page document, but we paid them off in two payments.

Q Do you remember when the second one was made?

A I do not.

Q Was your assessment of the value in Silver Oak Land

Trust property the same now as it would have been had there not been the second offering, the value?

A If I understand the question, -- I don't understand the question.

Q What is the value of the Silver Oak Land Trust property now?

A Historically, out there on Route 278, the upland acreage which is of prime importance, has fluctuated between - And there's some crazy fluctuations. - between 300,000 and a million dollars. The OC Welch property went first on the market he was asking million dollars an acre. He probably sold it for $350,000 an acre. And that was within the past year. So the upland acreage even at half price is still $150,000 an upland acre.

Q And how many acres does Silver Oak Land Trust have?

A Somewhere between 35 and 36.

Q So applying that metric, what we're talking about is the purchase price of in excess of four-and-a-half million dollars?

A Correct.

Q Which is the current list price?

A Yeah.

Q If that price were obtained, would that be

sufficient to satisfy any debts Silver Oak Land Trust might owe to these other land trusts?

A Absolutely.

Q Would it be sufficient to yield a nice rate of return for anybody who had invested, either in the first instance or in the second instance?

A Absolutely.

Q The people that came in in the second offering each put $100,000?

A Correct.

Q So four-and-a-half million dollars, how much of that, in theory, would be allocated to each new people?

A They would triple their money.

Q Nine percent is what they hold. Isn't that right, the new people?

A No. The new people, there is seven, seven and I think seven, 21 percent all together.

Q When did Silver Oak Energy come into being?

A It started out we were -- when the real estate crash occurred, the price of standing timber had, at least in the solid timber market, had been cut in half. So we were kind of sitting on our hands at the time looking for other profit centers from our property. We noticed there were renewable

energy at the time was something that -- it was actually George W. was suggesting that we all start growing switch grass. So being inspired, we started looking at all of the other crops we could be growing on our farms. We had done a fifth row thinning on a couple of our properties, which meant we cut out every fifth row of trees. They grow like corn except taller. So now we had this little strip of land that maybe fifteen years before it will generate any income for us. So I don't know if it was -- I'm sure it was Dr. Vitek that said well why don't we put something in there to grow in the meantime. So we became active students in growing renewable energy crops in South Carolina. We knew a couple of things about South Carolina: the weather, as I said, two-thirds of the state is forested, another three or four million acres are agricultural, there's half-a-million fallow acres. So we, again, started researching it. Went to biomass conferences and identified a crop that we thought would grow in that area. And started again researching and purchasing product and testing it. And that was the beginning of it.

Q Did your company, Silver Oak Land Management, acquire some miscanthus rhizomes?

A **Yes, it did.**
Q Did it sell those rhizomes to Silver Oak Energy?
A **Yes, it did.**
Q Are those some of the transactions which have been described as distributions to you or to Silver Oak Land Management, describing --
A **Oh, yes.**
Q What is your understanding of your authority as the manager under the Silver Oak Energy operating agreement?
A **Relative to purchasing rhizomes or just globally?**
Q Purchasing rhizomes?
A **I understood it that I could enter into transactions with anyone, and I didn't think it excluded another entity that I was a member of.**
Q And, isn't it a point of fact there's a provision in paragraph six that deals with a disclaimer of conflicts of interest, is there not?
A **Correct.**
Q Did Silver Oak Energy acquire real property?
A **Yes.**
Q Where?
A **In Clio, South Carolina.**
Q What was the amount of the land purchase that was -
-

A **A little under $150,000.**

Q That's for the Clio property.

A **That's for the land.**

Q On your sheet it would be $143,491. Is that correct?

A **Yes.**

Q How did you go about generating the capital among equity participants in Silver Oak Energy?

A **At the time, it was -- I believe that was in the 2010. There was -- it was Paul Finn and I were the original members. And then we went to, again, friends and family.**

Q When you say you and Mr. Finn were the original members, did you and Mr. Finn essentially sell your interest or portions of your interest to take in the people that came later?

A **We never -- if I understand the question, at that first -- the first few months of business Paul had owned three percent of the company, I owned 97 percent. So if the question is did we take money in from investors personally, distribute to ourselves and do something with it? No. We took in money and the checks were made out to Silver Oak Energy and we deposited it into our Silver Oak Energy account.**

Q So you treated it as though Silver Oak Energy, for money received, was, in fact, giving out an interest in favor of the person that paid the money?

A Yes.

Q Rather than paid to you or paid to Mr. Finn?

A Correct.

Q Who were the equity participants in Silver Oak Energy?

A In addition to Paul and I, it was Richard Silver, James Paris and David Short.

Q Now, I hadn't heard Mr. Short's name mentioned in connection with any of the previous Silver Oak Land Trust transactions. Was he, in fact, new blood?

A He was new blood in any of the Silver Oak transactions.

Q And isn't it true that there was another person involved, and that gentleman's name was Brian Mone?

A Yes. I'm sorry. Yes, Brian Mone.

Q He's not a gentleman to be trifled with?

A Exactly.

Q Did Mr. Mone have a pre-existing relationship with anyone who was already in the circle of participants in Silver Oak Energy?

A Brian Mone is Paul Finn's business partner in

Commonwealth Mediation.

Q So he's in the mediation business with Mr. Finn?

A Correct.

Q Did you invite Mr. Mone in or did Mr. Finn invite Mr. Mone in?

A I hadn't met Mr. Mone prior to that.

Q And do you know how Mr. Short came to be involved in Silver Oak Energy?

A I'm certain that I had met Mr. Short over the years, but he came in as a friend of Paul Finn's -- well, Paul Finn, Dave Short and Jim Paris all worked together at Sea Island.

Q I believe Mr. Paris testified that Mr. Short was a sales manager and that he and Mr. Finn were there at the same time. Is that correct?

A That's correct.

Q Who introduced you to Mr. Short?

A I have a sneaking suspicion that I had met Mr. Short prior to his involvement in Silver Oak Energy, but didn't have a personal relationship with him. But as he was friends -- a friend removed from Jim and Paul.

Q A friend removed meaning he was their friend, he was not your friend?

A Correct. Not that we -- just we hadn't bumped into

each other.

Q Could you have met Mr. Short at one of Jim's parties?

A Absolutely.

Q In encouraging possible equity participants to come into Silver Oak Energy, did you say anything that was misleading or that was intended to deceive?

A No.

Q Were there any inquiries made by people other than Mr. Finn who was already a member or an owner at the time as to the status or standing of plans that were available or the books and records or any of that?

A No.

Q If there had been inquiries, how would you have dealt with them had they come?

A I guess if a general question and if I couldn't answer it -- and, again, I wouldn't be giving legal advice to an attorney. I would suggest they contacted the McNair law firm. And if it were an accounting question or a taxation question, I certainly wouldn't give advice to a CFO. I would suggest our accountant. That's why I pay them.

Q And Mr. Mone is a lawyer?

A Correct.

Q And Mr. Finn is a lawyer?
A Correct.
Q And Mr. Short is at least a former sales manager at Sea Island, Georgia?
A Correct.
Q Is that right?
A Yeah.
Q Among the folks who joined, how many participated in the management of Silver Oak Energy?
A Varying degrees, everyone.
Q There is - And it's already been admitted in the record. - a business plan for Silver Oak Energy. Is that correct?
A That's correct.
Q Before people's names were used as part of the curriculum vitae, did you secure their consent to be listed as active participants in the business?
A I did not use anyone's CV unless authorized. And a few instances they were added onto by the individuals.
Q A number of these individuals, in fact, corrected and enhanced their own curriculum vitae.
A Exactly. That's what I'm saying.
Q In other words, what you wrote about them wasn't good enough and they wanted it spruced up?

A **That's correct.**
Q Would Mr. Silver be one of those people?
A **Absolutely.**
Q How about Mr. Finn?
A **I don't recall that one.**
Q So he was not a reluctant participant when it came to having his name listed as someone who was in the business as the financial advisor? Is that right?
A **No, it gave it much more credibility.**
Q Do you have in your possession substantial body OF email evidence documenting various trips and other undertakings that you did with Mr. Mone, Mr. Short, Mr. Finn both here and overseas in an effort to secure an off-take agreement that would allow the company to take off?
A **Yes.**
Q And explain, if you would, exactly what you were attempting to do and how that would have mattered to Silver Oak Energy.
A **There are only a very few participants in the renewable energy sector that have a crop, a feedstock, that you can grow in the United States and specifically in the southeast. We have one of the more robust feedstocks, meaning in the southeast it grows remarkably well. The Illinois**

clone that everybody is talking about is a great crop in the northeast, but we have not had much success in the southeast. And that's in the public domain, meaning anybody can buy it and anybody can propagate it. The other player is a company called Reprieve which is actually owned by Unify, a publicly-traded company. They have a crop in conjunction with a state college -- state university. That theoretically has -- is patented. So that if you are to joint venture with them, which they'd like you to do, you would have to sign an agreement paying them royalties. The other player is us. We own a crop called Silver Oak Select which is somewhat unique. It's still miscanthus x giganteus, but it has differences that you can actually quantify. That allows us to grow -- propagate that and grow as many as we want to without paying anyone a royalty. And I did skip over Mendel Bio Technologies which we did all of their testing -- a lot of their testing for in South Carolina. They grow a -- they own most of the germ plasm of the miscanthus x giganteus germ plasm in the world. They spend $67 million perfecting a seeded variety which we also have a test plot on our property.

Q How did you end up with a variant of their product which is free of the royalty obligation?

A I am not the scientist, but I would guess that in our greenhouse there was some cross pollination, contamination. We're not genetically modifying it. But some of the phenotypical differences may have been introduced by our own breeding, let's say. So that, again, makes us totally unique -- almost unique to this industry.

Q So that gets us to the point where you can grow it and propagate it without having to pay someone?

A Correct.

Q Was there a market for it in 2010 and 2011 when y'all were traveling around looking for the off-take agreement?

A Yes. The reason we were in Europe is that the United States is late to the table in renewable fuels. The European economic community is several years ahead of us. The company called Drax which is the largest single producer of electricity in the UK is converting the majority of their power plants to instead of burning coal to burning renewable energy sources, i.e. miscanthus. Specifically miscanthus. It's one of the few crops that you can ship to anywhere in Europe without

going through -- jumping through any hoops. So they're all onboard.

Q Why was no off-take agreement obtained?

A We met with Drax. This was before the Poland trip. And we have a less than 80 acres of farm for this crop. Thirty some odd acres, less than 40 acres in growth. And in order to obtain an off-take agreement we would need thousands and thousands of acres. So we were patient. We were on the road, but we needed to fill in some of the gaps in our foundation.

Q Specifically you needed to raise capital in order to take your product which was free of the constraint of the royalty requirement and plant it all over the place?

A Correct.

Q And who was among the people who was attempting to raise that capital?

A Well, in addition to myself, as Paul testified yesterday, he was active. He was hiring investment bankers. Richard made an attempt or two, Mr. Silver. And I think Jimbo testified yesterday he was also making attempts.

Q During the effort to raise this money what happened to the price of natural gas?

A **It dropped at least in half.**

Q Are Europeans as fond of natural gas as they are of biofuel?

A **Well, my understanding is they do believe in global warming -- or climate change, excuse me. They are concerned about the environment. So, yes. You know, everything comes down to price, but they are still very, very, very interested in renewable energy even today.**

Q Does the UK, for example, give tax credits for renewable energy?

A **Absolutely. I believe they're called renewable obligation credits. So they are extremely interested.**

Q At present, does Silver Oak Energy have assets of any value that you're aware of?

A **If I can believe the testimony yesterday and the greenhouse has not been damaged, we should have -- we had, at my last count, - And I can tell you how I did the physical count. - well over 200,000 rhizomes in a 3,000 square foot greenhouse. We have close to 40 acres of plants at our farm in Clio.**

Q Is that planted in Silver Oak Select or is it planted in something else?

A At the greenhouse we have 90 percent of it is Silver Oak Select. We do have a small portion of our arundo donax which is another energy crop which is -- I was in the middle of an off-take agreement with ChemTex to grow thousands of acres of that product on their land up in North Carolina. And they were actively doing that -- they're doing that today as we speak. They're growing something we should be growing. And the -- up at the farm in Clio - I'll get back to your question, sorry. - we have all of our miscanthus is the Silver Oak Select. We have a couple of acres of another strain of miscanthus giganteus. We call it negara. We also have a couple of acres of the seeded variety which Mendel spent $67 million perfecting or growing. And there is still some Illinois clone up there.

Q Do the rhizomes have a readily ascertainable market value?

A Yes.

Q What is it on a per rhizome basis?

A There are several ways to buy the crop. But on a rhizome basis, I believe the lowest price we could find was $1.50 per rhizome.

Q Is the lowest price?

A Correct. And that was also testimony from Paul or Richard.

Q Do you know why no effort has been made to sell the rhizomes in the greenhouse that's going to be delivered to the purchaser of the SOLT VII property next March?

MR. CRAPPS: Your Honor, I'd like to object. We've been talking about irrelevant stuff for a while now. And now we're getting back to Mr. Silver's management of the company as opposed to Mr. McIntyre's. I'd like for us to get back on track. I object to the relevancy.

THE COURT: I note the objection. I'm going to overrule it and let him answer that question. But we do need to . . .

MR. MATHISON: Yes, sir. We're just about done here.

Q Forgive me, Mr. McIntyre.

MR. MATHISON: Forgive me, Your Honor. I just need a minute.

Q Mr. McIntyre, has any effort been made to realize

value out of the rhizomes that are in the greenhouse on the SOLT VII property that's already been sold to someone, that you're aware of?

MR. CRAPPS: Is my objection continuing?

THE COURT: It's continuing.

A I have no knowledge.

Q How did you learn about the continuing existence of the rhizomes in the greenhouse?

A I believe during testimony this week.

Q. Did you receive a transmittal of the first in many, many months by a gentleman by the name of David Short?

A An email?

Q Through me.

A Yes.

Q Did Mr. Short contact you through me and tell you that they were available?

A Yes, he did.

Q Do you believe that the value can be realized out of those, what's there?

A Of course.

Q If it were left up to you, would you plant what's in the greenhouse or would you sell it as stock?

A That's a good question. I had up until recently, even after I resigned, I had several off-take agreement proposals out there. And in a perfect world, I guess I would have options.

Q And either could be a good one?

A Yeah. You know, even yesterday Paul said he still believed in renewable energy and he thought it was a great idea. And I still do too.

Q Is there a manner in which those rhizomes could be disposed of to the advantage of people other than in a strictly cash way?

A Absolutely.

Q How would you do that?

A One would not have to be very creative to identify several colleges that have curriculum on renewable energy. And one could, if one were -- I don't know that I am anymore, but if one were a high net worth individual and paid a lot of taxes, one could donate that crop to their favorite institution and take a handsome write off.

THE COURT: Mr. Mathison, I think I've given you a lot of leeway on relevance here and I think we need to move on to another topic.

Q To the best of your knowledge, Mr. McIntyre, have you made any statement during the entire course of the business operation of Silver Oak Energy that was misleading or that was intended to deceive someone --

A No, I have not.

Q -- who was about to, or had acquired an equity interest in that entity?

A No, I haven't.

Q And, to the best of your knowledge, is there a person who is outside of the pale of management in Silver Oak Energy who could actually complain about how bad the management was?

A No.

MR. MATHISON: I don't have any further questions, Your Honor. Excuse me, I have one more.

Q I don't think I asked you this. With respect to SOLT VII did you make any statement in attempting to aggregate the capital for SOLT VII that was misleading?

A No.

MR. MATHISON: That concludes my examination.

THE COURT: Let's take a fifteen minute break.

(Off the Record)

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CROSS EXAMINATION

BY MR. CRAPPS:

Q Mr. McIntyre, you testified on direct examination that no one from the original SOLT I members had complained. Is that your testimony?

A None of the original SOLT I members had complained?

Q Yes.

A You mean about anything in particular?

Q Please --

A Sorry?

Q Please answer the question.

A Complain about me?

Q Your operation of SOLT I.

A No.

Q Did you receive this email from Murray Reed?

A Is that after I had resigned?

Q The date's up top.

A Yeah, that's after I resigned.

Q And what does that email say?

A Would you like me to read it?

Q Please.

A (As read) Jack, it is interesting that you are defending your tree farming expertise. To my knowledge, no one has questioned that. What is in your question is your refusal to share company records with the investors. Martin Rehder and I had countless conference calls with you demanding to know such things as how much money is in our company accounts, the amount of money paid for harvests, our expenses for forester and taxes and accounting of where a loan of $500,000 got spent, many more questions on the additional 250,000 that was somehow added to the original loan. We have many, many more requests for written information. Apparently you borrowed money from this loan that we are all paying interest on without telling us. So I would hope that you can comprehend why we are thrilled that Rich Silver is trying to get some answers. You know I no longer have an income. I have well over a quarter of a million dollars invested in these properties. You also know that I took money out of my retirement fund to help bail us out of that 750,000 nightmare loan. We have been friends a very long time. For that reason I have sent you private emails imploring you to do

the right thing. I believe if you do so you would perhaps be safe from some very bad consequences. It appears that you are throwing yourself under the bus and won't let us help you out. What you told me about Rich Silver was that he is a man of high integrity, honesty and competence. After many phone calls and spending time with Rich, I concur. We are indeed fortunate that he is willing to take on this difficult task. Yes, you have turned over many files, but not the ones specifically asked for by Rich. The other requests he made need to be addressed as well. Please comply immediately.

MR. CRAPPS: We'd like to admit this email into evidence.

MR. MATHISON: Without objection.

THE COURT: State's Exhibit No. 34.

(Whereupon, State's Exhibit No. 34 was marked and received into evidence.)

Q You also testified about SOLT I that all the members were active in the management of the company. Is that correct?

A I believe I said that to varying degrees all of

them were active, yes.

Q What role did Martin Rehder play?

A Very little. He was mostly inactive. He lived in Tarik. He was active in helping raise money. He was supposed to bring in his brother who was from Venezuela, and we were negotiating with him to -- he was acting as an investment banker to bring in some funds to purchase more timber tracts.

Q Did he do so?

A His brother never came through. Well, yeah, his brother never came through.

Q I think your testimony from the prior date of this hearing was that Mr. Martin Rehder was a passive investor because he lived in Spain. Is that more or less correct?

A If I did say that, it was I guess I would say that some of us were more active than others. He was -- we're talking about a seven year history. I talked to him on various occasions. Went to dinner, met with him several times. I don't know what the definition is of active, passive.

Q Did Mr. Paris participate in the company beyond listing the property for sale?

A Jim Paris? Absolutely.

Q For SOLT I?

A **Absolutely.**
Q So his testimony yesterday that the only thing for the company was to list the property was incorrect?
A **I don't think he ever said that. If he did, what -- I can go on for -- would you like to know his participation?**
Q Would it surprise you to hear that Mr. Paris wrote our office and stated that, "I was the quintessential passive investor in these entities"?
A **Yes, it would.**
Q What role did he play other than listing the property?
A **At the beginning, all of the members -- Jim and I met almost daily discussing our -- SOLT I originally and then our other investments thereafter. Jimbo -- Excuse me, Mr. Paris was very active with our development plans for the property. We had brought down a company from Ohio that was called Lake View Concepts, Bill Edmunds. Mr. Paris, myself, Murray and Dr. Vitek were active in developing all kinds of plans for each one of the individual properties. Jim brought in one of his high school pals, a land designer, who did land design plans for SOLT I, II, and I believe III. He brought in, the past couple of years, brought in**

another development team that he worked with at Re/Max who we signed a contract with to potentially develop the land on Silver Oak I. And those are just off the top of my head. I can't tell you how many transactions he brought in for people for us to discuss. I didn't hire -- eventually I signed off on the documents, but all of the listing agreements that were brought to me were brought to me through Jim. I didn't have any contact with the local real estate --

Q So his involvement was with listing agreements for the property?

A No, I just got -- No. Listing agreements, of course. He was the expert on that. And then on the development side of it, I'm not a developer. He had more insight to developing real estate than I did. So when there was development, and there were dozens of them, he brought those -- he was instrumental in pointing us all in the right direction.

MR. CRAPPS: We move this letter addressed to our office written by Mr. Paris as impeachment evidence.

MR. MATHISON: No, sir. Not without Mr. Paris to

authenticate it. He was here. He was a witness. He could have been asked about the letter. Put him on the stand.

THE COURT: Do you have a way to authenticate that it's from him?

MR. CRAPPS: Just his signature.

Q Mr. McIntyre, have you seen Mr. Paris' signature before?

A Sure.

Q Can you identify that as his signature.

A It looks similar. I can't authenticate it.

Q It looks like it is?

MR. CRAPPS: We move for the introduction.

MR. MATHISON: No, sir.

THE COURT: I'm going to exclude it. He was here before.

MR. MATHISON: And he could have been cross examined on that.

Q What did you tell Rich Silver and Rose Patteson that the money obtained in the secondary offering of SOLT I would be used for?

A To pay for the membership in Silver Oak Land Trust

I which would comprise 159 plus or minus acres and a certain parcel of property.

Q Why were you raising money in the secondary offering?

A To pay off our first mortgage.

Q Did you tell them that was the purpose of their money?

A If it's not on the documents, I may have done it verbally. I think Rich testified yesterday that he was well aware of that.

Q Did you relate to them that you used their money to pay off the mortgage on the property?

A Oh, yeah.

Q You also testified that you made no misleading statements in connection with the secondary SOLT I offering. Is it not misleading to tell an individual that you used their money to pay down debt and within about three months transfer yourself about $43,000 of that?

A I believe they were told that it was to pay off the debt of the company, so I don't think that was an issue. But that was . . .

Q So were the transfers to yourself to pay off the debt or were they categorized as loans?

A Say that again.

Q You said you told Rich and Rose that you would use their money to pay down the debt of the company.

A Yeah.

Q And then you provided yourself $43,000 of their 200,000?

A I don't know if that's accurate.

Q Did you transfer their money to a savings account?

A Yes.

Q And when about was that?

A I don't recall the dates.

Q The profit and loss detail provided from your Quicken records. Can you read to us the dates entered for the capital account of Rich Silver and Rose Patteson?

A Rich Silver was January 4, 2011 and Rose Bryan was January 7, 2011.

Q And into which account did Ms. Bryan's money go to?

A Savings account.

Q And Rich's went to?

A That says checking.

Q Did you eventually transfer Mr. Silver's money to the savings account?

A I believe I did.

Q Can you read to us the expenses listed under the category loan to SOLM identified by the account

savings, the date and the amount?

MR. MATHISON: Excuse me just a second, Your Honor. Is there evidence in the record that the only money in the savings account belonged to Mr. Silver and/or Ms. Patteson? I don't believe there is.

THE COURT: Mr. Crapps?

MR. MATHISON: I know Ms. Patteson hadn't testified. Mr. Silver didn't say that.

Q Mr. McIntyre, did you deposit additional monies into the savings account other than Ms. Patteson's and Rich's?

A I don't recall.

MR. CRAPPS: One second, Your Honor.

Q Can we go through the credits by the account and tell me which ones went to the savings account. And each time you identify it as a savings account credit, can you read out the date.

A Deposit December 1, 2011, Murray Reed savings, $61,775.45. Rose Bryan January 7, 2011, 99,550.

Q Who is Ms. Bryan, again?

A **She's a member of SOLT VII and SOLT I.**
Q Is she at different times during this process also known by Ms. Patteson?
A **Yes.**
Q Okay. You may proceed.
A **There's a transfer from checking to savings on 1/7/2011 for 99,550. And that was from Silver Oak Land Trust II from the checking to the savings.**
Q From the SOLT I checking to savings?
A **I believe so. It just says Silver Oak Land Tru II. Yeah, and I assume that's correct.**
Q And whose money was that?
A **That came out of Silver Oak Land Trust operating account.**
Q What's that?
A **It came out of the Silver Oak Land Trust operating account.**
Q Do you know what money that was?
A **It was in the operating account.**
Q Were any other deposits listed?
A **I think that's it.**

MR. MATHISON: Jordan, may I see that?
MR. CRAPPS: Do we need to go off the record?
MR. MATHISON: Please.

(Off the Record)

Q Will you read to the court each loan to SOLM out of the savings account January 7, 2011 and December 1, 2011. The date and the amount.

A January 21st, $10,000. February 7th, $5,000. February 17th, $2,500. February 25th, $3,500. March 15th, $5,500. March 28th, $6,000. April 13th, $5,250. And April 15th $5,000.

Q Thank you. You testified that Mr. Finn was not involved in SOLT I.

A Correct.

Q Did you offer him an interest in SOLT I?

A I believe so.

Q What were the terms of that offer?

A I don't recall, but probably like everyone else.

Q Did you ever offer him an interest in SOLT for $25,000?

A I don't believe so.

Q You don't believe so? Do you remember?

A I don't know. I remember we were trying to do $100,000, but I don't remember $25,000.

Q Did Mr. Finn invest in SOLT I?

A He did not.

Q You testified that you know that Mr. Silver has

contacted Carey & Company. Is that correct?

A That's correct.

Q How do you know that?

A I signed a -- or sent an email to them that he was now the manger of several of the entities so that he would have -- could be able to take over the books.

Q And so he needed your permission to get the books from Carey & Company?

A He needed authorization to have transactions with the bank and to sign tax returns, yeah.

Q But to get the books and records?

A Well, if you're asking could he have viewed all of prior tax returns and all of the trial balances and all the documentation they had as an investor, he was certainly entitled to do that any time.

Q But when he contacted Carey & Company they asked you to send them a consent?

A Well, yeah, they needed it in writing.

Q How did the loan mortgaging the property in SOLT I get from 500,000 to 750,000?

A I'm sorry?

Q How did the loan which was collateralized by the property in SOLT I get from 500,000 to 750,000?

A We went to the bank and asked them for a increase

in our line of credit.

Q Who went to the bank?

A Physically I think I did.

Q And you sought the permission of the investors in SOLT I?

A Correct.

Q Why would Murray Reed in this email, who was an investor in SOLT I, state "many more questions on the additional 250,000 that is somehow added to the original loan" and then refer to it as a 750,000 nightmare loan?

A Well, it was a nightmare loan because we both signed personally for it. That would be a nightmare. And if they call in the loan, that would be our understanding of a nightmare, my understanding of a nightmare. And why he didn't remember . . .

Q Why would he say "many more questions on the additional $250,000 that was somehow added to the original loan"?

A The somehow added is, I would believe, extremely well-documented at the bank. And they don't just give away money without letting everybody know about it. And this was obviously after I had resigned and . . .

Q The addition of the $250,000 was after you resigned?

A No, no. I mean, sorry, the email came out after I resigned. And maybe I didn't have any of the records and books to give them an answer with.

Q You testified that you were selling what amounted to be your own interest in Silver Oak Energy as opposed to capitalizing a startup company. Is that about right?

A I think what we did in that first year is there was the first year -- There were two original investors, Paul and I. And I think what maybe you were trying to get an understanding of is were we selling -- and I'm not clear how it works, either. But were we selling our shares in the ones that we actually had, or the percentage that we had. We were selling those or we brought in new capital. And I -- you suggested why didn't we take the check that the investor brought in, make it out to each one of us personally and then put it back in the account money, which may have been -- it might have been the thing to do. I don't know. I just didn't -- never thought about it except we put any new investor money directly into the entity.

Q Why did you obtain a 35 percent stake in the

company?

A I believe I had owned 97 percent of the company. And I owned 97 percent of the company and I sold off a percentage to new investors. I didn't obtain. I had already owned it.

Q This is State's Exhibit No. 8, which is the operating agreement for Silver Oak Energy, what does it state as your contribution for your 35 percent?

A It says contribution management services. That's initial contribution. Right?

Q You stated that each individual investor in Silver Oak Energy participated in the management of the company. You stated Rich had a role of financial advisor, I believe.

A Not to split hairs, but I believe I said everybody had varying degrees.

Q How much work did Rich do for Silver Oak Energy?

A He worked on a small segment of raising capital. He had introduced us to one or two neighbors or one neighbor. I believe it was another company. And if you look at all his emails, he on the financial analysis of the business plans, he added content to those. And then on the financial breakdown of percentages for new investors, he was well

qualified, did a good job.

Q So he was qualified to do the financial analysis of the business plan?

A There were proformas, but yeah.

Q And so he reached out to a person to try to raise money?

A Yes. We also had --

Q What activities did --

A Sorry.

Q What activities did Brian Mone.

MR. MATHISON: Excuse me, let him finish, please.

A We also had -- we tried to have regular monthly meetings at the clubhouse where I lived. And he made many of those. So, you know, we would strategize, come up with who was going to do what, what the plan of attack was. And each one of us would bring in what progress they had made.

Q Mr. Silver's progress was he made a phone call to a tennis --

A Yeah, but just for someone to run things by and offer advice. He was very knowledgeable.

Q What did you tell investors of Silver Oak Energy their money would be used for?

A **We were -- initially I gave them a list of -- we needed -- to get off the ground we needed a propagation farm, so we needed land, buildings, wells, irrigation. You know, as best I could, I believe I roughly told them we'd need $400,000 to get started. And, at the time, my best guess at that point was that we would need that much money to get a propagation field up and running.**

Q Are expenses to Stevemadden.com made to get it up and running?

A **I don't recall Steve Madden --**

Q I believe it's a shoe store.

A **I don't recall.**

Q You don't recall the expense?

A **No.**

Q If I showed you a copy --

A **Oh, no, I believe you. I just -- How much was it?**

Q $188.80 nine days before Christmas on December 16th.

A **No.**

Q Was the expenditure at Macy's for $118 to get it off the ground?

A **What was the date on that one?**

Q December 16th, $118.21.

A **Could have been a gift.**

Q A gift?
A Sure.
Q How about on December 17th at American Eagle? Is that to get it off the ground?
A Could have been a gift for a customer or . . .
Q So you have customers within a couple of weeks?
A We have -- What was the year on that one?
Q This is December 31, 2009. Mr. Finn's deposit went in on December 8th for $49,687.
A Yeah. I believe we were in the throws of building our first greenhouse up in Silver Oak VII which was up in Fairfield County.
Q And Stevemadden.com and Macy's and American Eagle were in furtherance of developing this company?
A I'm not 1,000 percent sure about every little item, but we did have a crew, a day laborer type crew, that were either propagating rhizomes or helping out at the greenhouse and rather extensively.
Q And were application fees to Wake Forest and Vanderbilt in furtherance of the company to get it off the ground?
A I did pay various helpers to do things for the company. Some of the technology, because of my age, I'm not that good at the websites, I'm not good at research, I'm not that good at programming

my phone, so I do have some of these young folks help out and I pay them off in gifts or like kind exchanges.

Q Who were these application fees for?

A Those were for my daughter. We have no payroll. We have no payroll account. And all of this stuff was done by someone.

Q How about a purchase for $508.25 at The Goldsmith Shop December 23rd? Was that to get the company off the ground?

A Could have been.

Q Do you know, yes or no?

A I'm not exactly sure. I don't -- do we have a receipt or something to show me that --

Q This is the bank statement.

A Well.

Q How about $100 purchase at Off Fifth on Christmas Eve?

A All Fit?

Q Off Fifth.

A I have no idea what that is.

Q Did anyone else have access to this bank?

A Well, you have. Ms. Matthews had --

Q No, no, no. The actual bank account to make withdrawals?

A **To write a check or to use a debit card, no. I was the only one.**

Q How about an SAT fee for $55.50?

A **That's my daughter.**

Q Was that to get the company off the ground?

A **She was helping me out.**

Q How about a payment to the University of Illinois December 30th?

A **That would have been -- the University of Illinois is the home of Dr. Long and Dr. Heath and all of the folks that are instrumental in bringing miscanthus to the forefront in this country. I was spending a lot of time up there.**

Q And why would you make a payment for $40?

A **Maybe to attend a conference. My daughter never applied to the University of Illinois, if that's your question.**

Q And how about approximately $11,000 transferred to yourself within the month of Mr. Finn's deposit?

A **Is there a note on there that says what it's for?**

Q It just says transfer to management.

A **If it was a loan, it would be on the books and records and on the tax return.**

MR. CRAPPS: I think that's all we have at this

time.

THE COURT: Mr. Mathison?

MR. MATHISON: Just a few questions, Your Honor.

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RE-DIRECT EXAMINATION

BY MR. MATHISON:

Q Starting with the last first, were all the loans reflected on the tax returns, all the loans of which you are aware?

A Yes.

Q And were they available for anybody who wanted to go look at them?

A Yes.

Q The transition from you as managing member to Mr. Silver as managing member, in the absence of your confirming that it exists, did Carey & Company have any way of knowing that there had been a transition?

A No.

Q After you notified them, do you know whether Mr. Silver actually went and got anything from Carey & Company?

A I wouldn't know.

Q And isn't it a fact that he testified yesterday

that he didn't?

A That's correct.

Q And isn't it a fact that the people here criticizing the loans have never gotten tax returns on which all the loans are booked?

A That's what the testimony said today.

Q So they don't have the tax returns, the tax returns from the very inception show all the loans.

A Correct.

Q But somehow your concealing these? Is that correct?

A That's what it sounds like.

Q That's the allegation that I'm hearing, too. And they don't want to go look at them because once they go look at them, they'll realize that they are, in fact, all booked on the tax returns.

A Correct.

Q Instead of sitting here pretending they're not.

MR. CRAPPS: Is that a question directed at Mr. McIntyre?

MR. MATHISON: I think it's one that we can assume he can answer.

Q Let's not be simplistic here. Did you ever

represent to anyone that you were not going to pay expenses?

A **No.**

Q Did you ever represent to anyone that the only thing that was going to be done with their money is retire debt with respect to SOLT I?

A **No.**

Q Did you ever represent that the only thing that was going to be done with their money is build a farm with respect to Silver Oak Energy?

A **No.**

Q Is the business greater than just a single component?

A **I hope so.**

Q It seems that maybe I'm just not literal enough. Mr. Rehder could have been terrified of Mr. Silver, couldn't he, when he wrote that email to you after the transition?

MR. CRAPPS: I'm sorry. I'm just objecting, it's misstating. It's written by Mr. Reed.

MR. MATHISON: Mr. Reed. Forgive me.

Q He could have been terrified, couldn't he?

A **Yes.**

Q And he had, in fact, change his tune a good bit from just a year before, hadn't he?
A Absolutely.
Q He sent you an email that starts "Hola, partners". It pretty much details exactly what was going to happen with respect with that $750,000 loan, didn't he?
A Yeah.
Q And one of the things he was going to do is he was happily putting up an additional not $41,000, which is what you got going into that bank account after it got transferred through her, but $64,000? Isn't that what he was putting in there?
A I think it was 62,500, but . . .
Q But he says 64,000.
A Okay.
Q I'm handing you an email that you got from Mr. Reed and ask that you read that for me, please.
A (As read) Hola, partners. While time does fly by the 5th of December is right around the corner. Since time may be of the essence, I thought I would write down my understanding of what we have agreed on. So this is how I understand it. Jack has negotiated the note down to $500,000 total due. SOLT I has to come up with $350,000 cash on or

about December 5th. There will be no further payments until June 5th, and that will be $150,000 cash which will finalize the note. How does the $350,000 get paid??? Two people have invested $100,000 each which Jack is holding in escrow. He had to spend 12,000 of that while dealing with Meridian. So now we have $188,000 from two outside investors for which they will receive approximately 7.5 percent ??? of the deal each. Money invested by the partners will use the same formula. $25,000 from Dave Jeff, LLC buying an additional interest, $64,000 from Martin buying an additional interest, $64,000 from Murray buying an additional interest. 9,000 from SOLT I timber. $350,000. At this point, we believe the money has to be available on or before December 5th. Jack and I, and whoever else wants to be there, will be meeting with SOLT I's lawyer to draw up new paperwork, change of interest in properties, etc. At that time, I'm changing my ownership to include Murray, Jr. as long as there are no objections from investors. A lawyer will be handling the money transfer to the new bank. Each investor needs to decide how to get the money to her in time. I will head to Hilton Head on or about the 1st of December to work with Jack on

this. At that time, we will discuss with all partners how we get the $150,000 to finish off the note. After bills are paid we still have money left from timbering on Lake Murray and 278. After taking that into account, and any other monies, we'll know how much we need to find. Jack has other investors that might be interested. We all have to work on this. Jack also has some ideas to make better use of the property. I am sure that all of the partners will meet and discuss these things. We should put all of this in writing, as it is an ever changing landscape. We can get Martin involved via Skype. The above is simply the way I understand things. I'm sure Jack can fill in more details and correct any math that might be a bit off. If this is not how any of you see it, please let us know as soon as possible. Any input from partners will be greatly appreciated. Time is flying by and we have to make sure we take advantage of the situation Jack has negotiated for us. Thanks, Murray.

Q Did Mr. Reed comprehend what was happening at the time it was happening, based on his email?

A Absolutely.

Q And, yet, a week after Mr. Silver took over and

started threatening people, all of a sudden it's a nightmare loan and he didn't know what happened. Is that right?

A That's the time line.

Q And did the other original investors like Mr. Paris attempt to put some distance between themselves and you after Mr. Silver showed up and started insisting that there were going to be criminal prosecution and things like that?

A That's correct.

MR. MATHISON: I'd like to have this marked as the next Respondents' exhibit.

MR. CRAPPS: No objection.

THE COURT: We will receive it into evidence as Respondents' Exhibit No. 24.

(Whereupon, Respondents' Exhibit No. 24 was marked and received into evidence.)

Q And that's not an unpredictable consequence of Mr. Silver's conduct, is it? Your negotiations with Chemtex, what happened to those?

A Well, someone had contacted a local newspaper that made my -- I wasn't great -- we were there at

Chemtex. We were -- we had an off-take agreement in hand and we had -- we were the only one in the country that could supply a arundo donax and -- not the only one. One of few that could supply arundo donax and miscanthus and be in the southeast and have farms and have timber operations where we could supply. All of this blew us out of the water.

Q In other words, Silver Oak Energy effectively folded up with the notoriety that was achieved by referring this in the manner that it got handled to the general attorney's office? Is that correct?

A I would say it didn't add value to our prospects.

Q And, specifically, it undermined your credibility with Chemtex? Isn't that correct?

A Destroyed it would be the word.

Q And if the state had been interested in knowing who actually owned Silver Oak Energy as of 2009, could they have looked at the 2009 tax return for Silver Oak Energy and ascertained who owned it?

A Of course.

Q And is that where you would find that you own 97 percent of it and Mr. Finn owned three percent?

A That's correct.

Q And by the time the 2010 return came out that had

morphed into the actual arrangement that exists now where there are multiple loans?

A **Correct.**

Q So instead of giving yourself 35 percent for services rendered, you actually reduced your equity from 97 to 35 percent?

A **Correct.**

Q And did you reduce your equity when Mr. Finn came in from 100 to 97?

A **That's correct.**

Q In Silver Oak Energy, was a propagation field up and running?

A **Absolutely.**

Q Was product purchased and planted?

A **Absolutely.**

Q Was there enough product to service an out-take agreement similar to what you wanted?

A **There was enough product between the greenhouses and the farm to propagate or to plant another operation that would in turn collectively give us the off-take agreement or the feed start for an off-take agreement.**

Q Explain to me how miscanthus propagates if planted properly.

A **It's rhizomatic, so it's not a seeded variety. So**

one has to manually pull it out of the ground and manually divide it. There is a new mechanized procedure, but that's how it's done.

Q How long would it have taken the product you had on hand to multiply sufficiently to service the initial out-take agreement?

A We would use a multiple of 50. So if we had one acre in year one we would have 50 acres in year two. The 50 acres would multiply times 50 the third year.

Q Did you have Silver Oak Select tissue cultured to corroborate those figures?

A You know what, I forgot about that. We had hired a firm in Florida, AG3. And you could actually, in a laboratory, divide just a few scrapes of a plant into rows and rows and rows and rows of plants. So, yes, we did have all that all set up. Probably the plants are still there.

Q Do you know how Mr. Reed's money was, in fact, transferred to Silver Oak Energy, $64,000 that appears in Respondents' Exhibit No. 24?

A I was back in tissue culture. I'm sorry.

Q Could it have been wired?

A Oh, sure.

Q If it were wired, would that have shown up on your

books or not?

A Well, it wouldn't show up on my books. I would have to manually enter it.

Q Is it possible that it was not manually entered since you don't have the right number, at least according to Mr. Reed?

A It's possible.

Q Did you make an effort to reconcile the expenses that people are criticized with Mr. Silver before all of this happened?

A No.

Q Did you make an effort after you got the initial demand for your resignation?

A Of course.

Q Would he meet with you?

A No.

Q You have calendars that reflect where you were and what activities you were undertaking?

A Of course.

Q If I understand correctly, the suggestion is being made that gifts were undertaken. Do you know whether the gifts that you said may have been made were to customers or business related or do you know whether they were personal?

A If I had my calendar and rational people sat down

and went through every one of them, I could deduce that. Is there a possibility that I am human? Yes, I certainly made mistakes. Will make mistakes.

Q How many debit cards do you have, sir?

A We talking back then or talking today?

Q Are you impoverished now?

A I have one now.

Q Back then how many?

A Each entity had its own. And I was also at the same bank, so I had the same color or the same -- and, yeah, there were seven or eight of them.

Q So as a result of an inadvertence or oversight, the wrong card could have been used for the wrong thing?

A Of course.

Q Isn't it also possible that every now and then you could have slipped up and charged as a business expense something that was personal?

A Of course.

Q A meal, for example? Perish the thought.

A That could happen.

Q Are all of the loans from one entity to another accounted for on the tax returns?

A Correct.

Q So that, again, if someone was interested in whether the bookkeeping was accurate they could have either obtained or subpoenaed tax returns, found out that they're all entered? Isn't that right?

A That's correct. Or they could have asked me.

Q It wouldn't have required a forensic investigation to figure out what's on the tax returns, would it?

A It would not.

Q Were you making an effort to conceal the loans by putting them on the tax returns?

A I don't believe so.

Q And I've got in my hand the tax return that shows the loans. To the best of your knowledge, are there any loans that you recorded as loans that did not show up in the tax returns as submitted?

A Not at Carey & Company.

Q They have a tendency to like the government better than their clients, don't they?

A They have a tendency to be thorough.

MR. MATHISON: Thank you. I don't have any further questions.

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RE-CROSS EXAMINATION

BY MR. CRAPPS:

Q I'll show you Respondents' Exhibit No. 24. Can you read this sentence beginning with two people?

A "Two people have invested $100,000 each which Jack is holding in escrow."

Q Do you know what escrow means?

A Well, the legal definition I don't know, but I think what Murray is referring to is that I was keeping that prior to the closing.

Q You were keeping it?

A I was keeping it prior to the closing.

Q Closing of?

A The offering. So, as money came in, I put it in the checkbook and then that money would go to the closing. But we didn't have an official escrow account.

Q Does money being kept in escrow generally get transferred to the person monitoring it?

A I can tell you that if I'm buying my home, I think it would go to the closing attorney.

Q And you would put money in escrow?

A I think that's what I would do.

Q And would you expect that money to leave that escrow account?

A At the attorney's office?

Q Yes.

A I would hope that it would go to the closing. It always has.

Q So you think it would be fair for Mr. Silver and Ms. Patteson to expect their money to go to the debt?

A I think they would expect their money, like I do, to go to the closing, which it did.

Q All of it?

A Yeah.

Q Even the 42,000 that left the account?

A Absolutely. We ended up -- we paid off the loan. That was the intention. That's what we did.

MR. CRAPPS: Nothing further.

THE COURT: Are you going to call another witness?

MR. MATHISON: No, sir. That concludes the Respondents' case.

THE COURT: Well, we're through, then, I guess, unless y'all want to do closing statements. That's up to you.

MR. MATHISON: I'm fine without it.

MR. CRAPPS: I wouldn't mind an opportunity for a quick closing.

THE COURT: Is that okay with you if he goes ahead?
MR. MATHISON: Sure.
THE COURT: Do you need a few minutes?
MR. CRAPPS: Just a couple.
MR. MATHISON: Let's go ahead and put that in the record.

Q That is your work, is it not?

THE COURT: It's in the record.
MR. MATHISON: It is for identification. Let's go ahead and mark it as Respondents' Exhibit No. 25. These are the two schedules that show --
THE COURT: It's already been marked for ID. It's Exhibit No. 22.
MR. MATHISON: Well, then let's convert it from 22 ID.
MR. CRAPPS: No objection.
THE COURT: No objection. Exhibit No. 22 for ID is accepted into evidence.

(Off the Record)

MR. CRAPPS: Mr. Hunter, a lot of this case has gone to issues outside of the scope of the actual matter at hand. Mr. Hunter, this case is not

about whether or not these investors can break even under the management of Mr. Silver. This case is not about whether or not any legitimate work was done under the management of Mr. McIntyre or his management company. The State feels that this case is about Mr. McIntyre issuing investment opportunities to potential investors under the pretense that he would create a profit for those investors by his managerial efforts. Managerial efforts would involve creating timber income and bettering the land for a higher and better use. This case is about Mr. McIntyre later issuing securities under the pretense that he would manage a miscanthus company and turn it into a profitable enterprise. Your Honor, this case is about Mr. McIntyre saying to investors that their investment was for the operation of one entity. Mr. McIntyre stating to investors that their money would be used to buy land. Mr. McIntyre stating to investors that their money would be used to fund the operation of an energy company. This case is also about Mr. McIntyre admitting to state to investors that their money would be

transferred to himself in amounts of upwards of hundreds of thousands of dollars. He admitted to tell investors that income would not be distributed appropriately as it came into the entity. Personal expenses would be made out of the investor money and the income received by the company. And Mr. McIntyre admitted to telling investors that an investment of one Silver Oak entity was an investment in all the Silver Oak entities. And, Mr. Hunter, this case is about Mr. McIntyre and his management company using money in contradiction to those overt statements. Using money in ways never expressed to investors in connection with the offer and sale of the security. And the evidence shows that witnesses have expressed that these investments would not have been made if these statements had been made or if they had known the truth. We've shown you records and analysis of those records which show you exactly where the money was actually used. You've heard witnesses testify as to what they were told in connection with the offer of the security. You've seen offering

documents that were sent with these offers. And you've also heard the testimony of Mr. McIntyre himself. Your Honor, the statutory language at issue here is Section 501 of the Securities Act which states it is unlawful for a person in connection with the offer, sale or purchase of a security, directly or indirectly, to employ, devise, scheme or artifice to defraud, make an untrue statement of material fact or to admit to state a material fact necessary in order to make statements made in light of the circumstances under which they were made not misleading or to engage in the act, practice, or course of business that operates or would operate as a fraud or receive upon a person. Your Honor, any of those three ways constitutes a security fraud. And the State feels that we have proven these elements in connection with each and every sale of securities involved in this matter. Because of the egregiousness of the offense, we will ask for 10,000 per violation and cost of investigation not to exceed 20,000. Thank you.

THE COURT: Mr. Mathison, do you want to make --

MR. MATHISON: Just several items, Your Honor. If there were a section that's applicable, Section 501 would be it. I think that we're proceeding under a misconception here, which is that all of these businesses flow from one to the other. If this was a large business, I think you could make a lot better case that someone who invested toward the end perhaps should have been told things that happened at the beginning. It's not. There were no misrepresentations that I could see that actually came in the record except the incredibly jejune statements like someone saying Mr. McIntyre told me that he wouldn't spend my money on personal expenses. They may have had that expectation, but nobody told them that. That's ridiculous. All right. Or the idea that somehow you could just ignore the authorizing language in the operating agreements and instead of saying, well, he's got the authority because he's the managing member and this is the agreement, you shrug and say I never read it. You say that if you're a financial advisor. You say that if you're a lawyer. And the idea that someone

has come here for a remedy from the State when they wouldn't be entitled to a remedy in circuit court, in civil court, it's hard for me to imbibe. Because in circuit court if this is not a security, representations as to future events are not actionable. They simply aren't actionable. And, consequently, to get around that, they've come in here and essentially argued that the admission to state something about future events is actionable for purposes for Section 501 of the Act. Now, I am aware the Act is not limited by the notion of what common law fraud is, what fraud and deceit is. But what we're doing here is we're taking circumstances which if isolated to each entity never even attended the offering of a security for three reasons. One, it wasn't a security. Two, if there was an offering, in many instances it was made to people who already were participating in the ongoing management of these entities. And, three, what you have is the State wishing to use an experience in one entity to define what needs to be said in the next entity. And, quite frankly, if there's any credibility the

notion that the loans from one entity to another entity are somehow wrong or in violation of the law, it's only because they have to be regarded as discreet entities. If they're going to be discreet for one purpose, they have to be discreet for all purposes. The fact that I'm a managing member of ABC, LLC and have a duty there and may or may not have discharged the duty there, does not make me by virtue of that somehow liable in XYZ, LLC by virtue of having done something over here. What they've done is there is a subtle elision of everything so that the idea is a presentation that somehow at the end there was a duty to disclose something that may have happened in an entirely different entity two years beforehand to someone in a different entity later on. I don't think that's the law. And I would ask you to find that it isn't. I realize that a lot of effort has been expended in this, and I certainly want to compliment my colleague Mr. Crapps because I think he's done a good job with difficult subject matter, extremely difficult subject matter. But as good as a job as he's done, at

the end of the day, I think that there has been no showing of a material misrepresentation or the omission to state any material fact in connection with an offering. And if you credit the only evidence that I see of any wrongdoing at all, potentially, this is a breach of trust case involving a negligible amount of expenses. And I don't think that amounts to a Securities Act violation. Thank you very much.

THE COURT: Thank you. I appreciate it. One detail I wanted to be sure about is we have Respondents' Exhibit No. 21 marked for ID only. And I think that's correct. I just wanted to be sure it wasn't later moved into evidence.

MR. MATHISON: I don't know why it wasn't moved into evidence. Do you object?

MR. CRAPPS: I'm trying to remember the context.

THE COURT: And I just want to make sure that it wasn't and we missed it. I mean, I'm not asking if we want to open the record --

MR. CRAPPS: I don't remember if it was or if it was not.

MR. MATHISON: Do you object if I move it in now?

MR. CRAPPS: I think I would just because I can't remember the context at this point.

THE COURT: We'll just leave it as ID then.

MR. MATHISON: That's fine.

THE COURT: I think that's the only loose end unless y'all know of any.

- - - - -

(Whereupon, at 5:30 p.m., the proceeding in the above-entitled matter was concluded.)

State of South Carolina)
) CERTIFICATE
County of Lexington)

Be it known that I took the foregoing hearing;

That I was then and there a Notary Public in and for the State of South Carolina-at-large;

That by virtue thereof I was duly authorized to administer an oath;

That the witness(es) was/were by me first duly sworn to testify the truth, the whole truth, and nothing but the truth, concerning the matter in controversy aforesaid;

The foregoing transcript represents a true, accurate and complete transcription of the testimony so given at the time and place aforesaid to the best of my skill and ability;

That I am not related to nor an employee of any of the parties hereto, nor a relative or employee of any attorney or counsel employed by the parties hereto nor interested in the outcome of this action.

Witness my hand and seal 1st day of November 2013.

Jennifer L. Thompson, CVR-M

Notary public for South Carolina

My commission expires: August 14, 2019

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State of South Carolina)
)
County of Richland)

In the Court of Common Pleas
Fifth Judicial Circuit
2014-CP-40-7917

John M. McIntyre, et al.,

Plaintiffs,

vs.

Securities Commissioner of South Carolina,

Defendant.

Transcript of Record

April 17, 2015
Columbia, South Carolina

B E F O R E:

The Honorable Tanya A. Gee, Judge

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

Robert V. Mathison, Esquire
Attorney for Plaintiffs

Jordan M. Crapps, Esquire
Attorney for Defendant

J. Emory Smith, Jr., Esquire
Assistant Attorney General
Attorney for State of South Carolina

Maryann S. Nevers, CVR-M-CM
Circuit Court Reporter

I N D E X

Proceedings 4

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E X H I B I T S

NO.	DESCRIPTION	I.D.	EVID.

No Exhibits Introduced.

TRANSCRIPT OF RECORD

(Whereupon, the proceeding was commenced at 10:10 a.m.)

THE COURT: All right. The next case is *John M. McIntyre v. the Securities Commissioner of South Carolina.* And if you could, when you come up, please state your names for the record so we can get your appearances for the court reporter.

MR. MATHISON: May it please the Court: I am Robert Mathison. I'm the attorney for the petitioners, Mr. McIntyre and Silver Oak Land Management, LLC.

THE COURT: Okay. Thank you.

MR. MATHISON: And this is Mr. McIntyre.

THE COURT: Hello, Mr. McIntyre.

MR. MATHISON: And then ---

THE COURT: Good morning.

MR. MATHISON: --- Silver Oak Land Management has got two participants in it, two members. One of the member is an entity known as Dave Jeff, LLC. And the sole member of that is Dr. Vitek, who's sitting in the back.

THE COURT: Good morning.

MR. CRAPPS: Your Honor, Jordan Crapps. I represent the securities division in this matter.

THE COURT: Hey, good morning, Mr. Crapps.

MR. SMITH: And I'm Emory Smith from the attorney general's office.

THE COURT: Good to ---

MR. SMITH: And ---

THE COURT: --- see you.

MR. SMITH: --- Mr. Crapps will be doing the argument and ---

THE COURT: Okay. Great. Thank you so much. And I will say this is a very large record. I did bring it home with me last night, so I am familiar with the record. And I had the state's brief. And do you have something to hand up?

MR. MATHISON: May it please the Court: I have the petition for review, which I will ---

THE COURT: Okay. Yeah.

MR. MATHISON: --- go through.

THE COURT: Thank you. And I ---

MR. MATHISON: And ---

THE COURT: --- have read this as well.

MR. MATHISON: In view of the fact that you've noticed that the record is substantial, I have several documents from that record that I think may be pertinent ---

THE COURT: Okay. Great.

MR. MATHISON: --- if you wouldn't mind letting me hand those up as well.

Jordan, so that you're aware, I'm handing up the initial order designating hearing officer, dated June 14th,

2003. I'm handing up the initial report of the hearing officer, report and recommendation. And ---

THE COURT: And I actually think I have pulled the -- I pulled some things that I thought would be helpful to have right on hand. And both of those are -- I do have them here. I'm happy to take yours too just to make sure we're talking about the same thing. But ---

MR. MATHISON: Just going to give them to you in order.

THE COURT: Sure. Absolutely.

MR. MATHISON: The initial report is dated May 6th, 2013. It was actually mailed on May 16th.

THE COURT: Yes.

MR. MATHISON: Then subsequently, there's an order entered by the attorney general ---

THE COURT: Correct.

MR. MATHISON: --- repudiating the ---

THE COURT: The -- whether they're ---

MR. MATHISON: --- recommendation ---

THE COURT: --- securities ---

MR. MATHISON: --- of his ---

THE COURT: --- or not. Right.

MR. MATHISON: --- hearing officer. That's dated September 12th.

THE COURT: Got it.

MR. MATHISON: And then, the last document that I would be handing up is the -- no -- next-to-last document is the modified or amended report from the hearing officer.

THE COURT: And that's October 22nd, 2014?

MR. MATHISON: Yes.

THE COURT: Okay.

MR. MATHISON: And the last one is the order, which is dated November 20th, in which the attorney general embraced the modified report that he'd received from ---

THE COURT: Okay.

MR. MATHISON: --- his hearing officer.

THE COURT: Those are the -- I think we're on all fours about what are the most important documents in this large file, because those are exactly what I pulled to refer to ---

MR. MATHISON: All right.

THE COURT: --- during the hearing.

MR. MATHISON: Well, I have multiple copies if anybody ---

THE COURT: Sure.

MR. MATHISON: --- needs them. May it please the Court: This case arose on an order to cease and desist that was issued to Mr. McIntyre and to a limited liability company that he had formed to manage the various entities that are the subject of this litigation: Silver Oak Land

Management Company. That order is long and discursive and does not in any way specify the allegations that are being made, other than to suggest that there were four improprieties. One was that there were personal expenses being paid from monies received by the limited liability companies. These were varying, such things as college-application fees, restaurant meals, things that could be ordinary and necessary and a very few that couldn't be ordinary and necessary.

In addition, there was an allegation that there were, in fact, intercompany loans and that these were inappropriate. In addition, there was the allegation that there were consulting fees being paid and loans to the manager that were being made which were inappropriate.

And finally, there was an allegation that some money had disappeared which never was actually proven or established in the record, other than through book entries that show that money was owed from one entity to the other entities.

In the original order of cease and desist, no effort was made to tie these improprieties to the solicitation of a purchase or sale of a security. Understand that these are limited liability companies with a very small number of individuals involved as owners. The original LLC was called SOLT I. It was formed in 2005. It had five

members; they were all friends.

From SOLT I sprang SOLT II. From SOLT I sprang SOLT III. The initial five people were members of all. There were, in addition, additional members added. Each of those entities was intended to acquire property and use that property essentially as a tree farm and ultimately, by virtue of having selected the property wisely, to sell it as development property down the road so that there was a payoff for everyone once that occurred.

THE COURT: This is ---

MR. MATHISON: So ---

THE COURT: This is not important. Just out of morbid curiosity, why was there no VI? There was a SOLT V and a SOLT VII, and that just ---

MR. MATHISON: VI was intended to be formed. And they actually went through the machinations of getting an agreement prepared. And then it did not, in fact, come to fruition.

THE COURT: It never came? Okay.

MR. MATHISON: So that ---

THE COURT: Just one of those things. Okay.

MR. MATHISON: And it -- it -- it's something that it -- it gets you off the path every time ---

THE COURT: It just ---

MR. MATHISON: --- because you know that there are six

entities ---

THE COURT: Yeah, right.

MR. MATHISON: --- with the name SOLT, and somehow seven doesn't make sense but ---

THE COURT: Right. Right. Okay.

MR. MATHISON: Fortunately, no one has alleged that that entity did anything wrong.

THE COURT: Okay.

MR. MATHISON: Right. In response to this order to cease and desist -- actually, let me back up. The order to cease and desist was actually issued well after Mr. McIntyre had resigned his position as manager of these entities. So he was being constrained to cease and desist from doing things he could no longer do, at least to the extent that he was doing them as the manager of these entities.

THE COURT: Was he still a member?

MR. MATHISON: Yes. And he still is a member, although he's not, at present, a remunerated member.

Consequently, under the Securities Act of 2005, when the attorney general in its wisdom decides that there is something improper, there are three avenues that it could pursue. One of these is a criminal prosecution, which has with it all the attendant protections that a criminal defendant would ordinarily deserve: presumption of

innocence, that sort of thing. There's also a burden of proof requirement. You have to show willfulness in order to be able to prove a violation.

There's a second level of the imposition of penalty. And that second level is a civil proceeding. And in the civil proceeding, if you institute it, you would have the protections that ordinarily attach to what happens in the Court of Common Pleas if you're a defendant. You'd have the right to discovery. You'd have the right to rule -- use the South Carolina Rules of Civil Procedure. You would have the right to know with some substantial certainty that you could take depositions, acquire evidence, subpoena witnesses under Rule 45, and do other things in accordance with an established procedure. The attorney general didn't do that.

Finally, under this act there is what's called the "administrative section." And this is 206. All right. And -- excuse me -- 60 -- 606. And the nature of the evidence necessary to prove that something has happened is not specified.

There doesn't appear -- and the attorney general's office has argued in this proceeding -- that there is no requirement that there be a proof of loss. There's no requirement of any damage. And there is a provision that says that, under the act, a limited liability interest may

-- and I use the term "may" as it appears in the statute -- be considered under certain circumstances a security.

They elected to use that proceeding. There is, in the statute itself, a provision which requires that the attorney general, upon the enactment of the statute, which occurred in 2005, prepare, issue, publish, and disseminate rules, forms, orders, and interpretive opinions in order to give some substance to the procedure that's supposed to be used in an administrative proceeding.

THE COURT: And what -- where -- I -- I -- I know I've read it, but tell me exactly which ---

MR. MATHISON: That -- that ---

THE COURT: --- that's ---

MR. MATHISON: --- is in ---

THE COURT: --- 35-1 ---

MR. MATHISON: --- South Carolina Code Ann. Section 35-1-605.

THE COURT: --- 605. Okay. And which -- is there subsections in that one? Let me look. There are. So -- but Subsection (a): "The securities commissioner may, by rule, define terms" -- okay. That's what you're talking about?

MR. MATHISON: Yes. Yes, ma'am.

THE COURT: Okay.

MR. MATHISON: Despite the passage of nearly eight

years before the commencement of this proceeding against my client, no rules have been disseminated, none.

THE COURT: And do you think that this statute requires that, when they use the word "may"?

MR. MATHISON: It either requires that or requires a course of jurisprudence that would allow a person to be on notice of what he's being confronted with.

THE COURT: Did you ---

MR. MATHISON: When ---

THE COURT: --- raise this below?

MR. MATHISON: Yes. It's in the transcript. It started at the very inception when we were not able to serve subpoenas, because there is no provision for an accused person to get to subpoena anyone. There are multiple provisions allowing the state to do it. And they had done it as part of the investigation.

In order to maneuver ourselves into a position where we could actually subpoena the documents that we needed, which were the organic agreements, the original of them, my client was no longer the managing member. As a result the law firm that had possession of them would not give them to him to bring to the hearing. We had to get the hearing officer, after he was appointed, to compel them through the subpoena powers of the state to produce the documents that we put in the record.

However, we did not have the ability to subpoena witnesses, except to the extent that we could get the state to do it for us. That was the initial problem that arose and is highlighted on the record.

The next problem that arose and was highlighted was what burden of proof would be used or relied upon in this proceeding to establish that my client had or had not violated the act. There are multiple provisions, areas in which we objected to the burden of proof, requested statements on the burden of proof, and the hearing officer was frank to admit that there was nothing -- there was no governing document -- there was no rule for which -- to which he could resort. And if you'll look at his initial recommendation, the one dated May 6th, 2013, you'll find that he ultimately did decide, based on analogy to other similar cases in federal jurisdictions, that the burden of proof should be preponderance of the evidence.

But until he ruled, we did not know what burden of evidence we were being asked to meet, which I believe is a manifest violation of the due process and equal protection clause.

In addition, although at the outset of the proceeding, after notifying my client that they intended to pursue criminal prosecution of him, the state then proceeded to call him as their first witness in this administrative

proceeding against him, thereby requiring him to do one of two things: either had to take the Fifth Amendment and refuse to testify, in which case they were frank to say they would ask the hearing officer for a ruling of a presumption that if he testified, he would testify in a manner that was disadvantageous to him in the proceeding.

His own lawyer recommended -- and it's not me; I had another lawyer for criminal purposes -- recommended that he not testify. He elected to testify.

During their examination of him and my subsequent cross-examination of him, I objected on multiple occasions that the hearsay rule precluded evidence that was coming in. Those objections initially were sustained by the hearing officer. That is on day one. And if you'll consult the transcript, you'll see multiple objections and the fact that they were sustained.

Subsequently, when the case resumed for three more days in October -- that is, the 1st, 2nd, and 3rd of October -- the same issues were raised by me with respect the state's witnesses, who proceeded to talk about what Joe Blow had told them out of court, what they had read out of court, completely hearsay without any effort made to qualify it under one of the exceptions. And it was all ruled admissible on the basis that there was no firm and fast rule governing what was admissible evidence and what

wasn't. And those rulings are also in record. That was by the hearing officer.

After four days of contest, during which no effort was made to prove specific violations of the act -- and by that I mean on Occasion A, did Mr. McIntyre say to an investor something that would violate act. Instead, we were treated to, you know, there were instances where personal expenses were paid; there were loans that were put on the books so that anybody interested in seeing the books could look at them. And I guess we were supposed to infer that the failure to disclose this in an existing entity somehow had an impact on a new entity.

We consistently objected that under the well-established law of the State of South Carolina, in order to for something to be actionable fraud, misrepresentation, it has to be a representation about an existing fact and that even if you assume, then, in SOLT I, something had occurred which was inappropriate, in the course of soliciting investors in a completely different entity, SOLT II or SOLT VII, I does not need to disclose that in the other entity, something inappropriate happened. That was our argument.

We asked to keep out all of this evidence. It was all admitted anyway, again because there was no fixed and fast rule that the hearing officer could identify which would keep it out. And I'd -- I ---

THE COURT: Do you ---

MR. MATHISON: --- I can't ---

THE COURT: --- have any ---

MR. MATHISON: --- say that there was.

THE COURT: Do you have case law that addresses when -- when there is a adjudicative body that does not have rules, where a court's addressed an administrative adjudicative body like this where there are no rules? I know -- like, with the election commission, the statute says, you know, it's to follow the rules of civil procedure as near as possible as -- as -- you know, that sort of thing. Have you seen where something's been set up like this, where there are no rules and a court has said that's inappropriate; that's a violation of due process?

MR. MATHISON: Frankly, I'm not aware of an analogy. I believe that I do have -- I have seen cases where the absence of rules is a violation of due process. My argument here is that what's happened here is they're making it up as they go along.

Now, if they do it long enough, there will be a body of rules that'll issue from these decisions. It'll be like the common law. But I'm -- you know, I'm, like, the -- the first -- first person indicted at the assizes and there's absolutely no reference or precedent for what's going on. And I don't believe it's appropriate. I think that they

ought to have done what the statute suggests is good practice, which is adopt some rules so that you would at least know going in what it is that you are confronting.

The fact of the matter is, Your Honor, that after all of the evidence was presented, the hearing officer -- a distinguished person, but nonetheless a -- an employee of this entirely in-house adjudication -- ruled in favor of Mr. McIntyre and the management company. And he did so by applying analyses that he thought were appropriate, by analogizing a limited liability company to a partnership, and applying the same test that one would do.

And if you read his order, which is -- excuse me -- his recommendation, which is 22 pages long, you'll find that essentially, he found facts which, under the *Williamson* test, which he believed was the operative test, the most important one, would, in fact, disqualify what was sold here as being a security -- for a number of reasons. But the three principal ones were the people who were complaining were intimately involved in the management of the company. I have with me exhibits where people who are claiming that somehow they were investors and passive investors have signed documents in their capacity as president of these entities or vice-president for sales, vice-president for international development. These are the same individuals who are claiming to be passive

investors.

The test in our state used to be the *Howey* test, which says that you have to expect to derive profit solely from the efforts of others. I -- the *Howey* test has now, I believe, been supplanted by the statute, which requires that you have to expect to derive profits primarily from the efforts of others.

THE COURT: But isn't the hearing officer -- he was -- he -- he was delegated the authority to take the testimony and to make a recommendation. By the very virtue of it being a recommendation, you're arguing that that was somehow binding? And if that recommendation was flawed -- in this case, you know, the commissioner found that this *Williamson* case was not analogous because it involved the general partners who would have liability, which is a very big difference from these LLCs that were manager-managed, according to the commissioner. You know, what if the -- what if the hearing officer would have said, "You know, I just really like the guy, and I think we -- we shouldn't go forward on this"? I -- I mean, if we take it to the extreme and he made a mistake in his order and the commissioner believes it's a mistake, why would the commissioner have to take it -- take the recommendation when it's only a recommendation?

MR. MATHISON: There is no rule, Your Honor, that says

that the recommendation is anything other than a -- a determination. There's no rule at all. If you look at the statute, the statute -- but first of all ---

THE COURT: But the ---

MR. MATHISON: --- look at the ---

THE COURT: --- word "recommendation." I mean, we all know what recommendation means: This is what the hearing officer thinks the commissioner should do. But the commissioner delegated authority only so far as to take testimony and give a recommendation, not "I'm delegating this to you; whatever you say goes." I mean, that's not what the delegation was.

MR. MATHISON: Well, I ---

THE COURT: It was ---

MR. MATHISON: --- think if you ---

THE COURT: --- "give me a recommendation."

MR. MATHISON: I think if you read the order appointing him, it -- it -- it is clear that he has the authority to do whatever is necessary to make a decision. And if he doesn't have that authority ---

THE COURT: To make a decision or a recommendation?

MR. MATHISON: Well, I -- I think you have to read the order. I think it can be -- it -- it could be interpreted either way.

THE COURT: Okay. Okay. I'm ---

MR. MATHISON: And I'm ---

THE COURT: --- sorry. Go ahead.

MR. MATHISON: --- not -- trust me, I'm not objecting to recommendation. I think the recommendation was correct. And I think, as the person who heard all the evidence and -- and watched the demeanor of the witnesses and as a person who, at least in theory, was charged with objectivity and independence ---

THE COURT: Sure. But this was not a decision based on credibility of witnesses. This was a purely legal ---

MR. MATHISON: No. No, ma'am. Assuredly, it was based on credibility of witnesses. If you look at what went into the legal conclusion that this was not a security, it is all fact-driven.

THE COURT: Well ---

MR. MATHISON: It has a number of findings of fact.

THE COURT: How about the analogy itself, whether the *Williamson* case applies or not?

MR. MATHISON: I think that the analogy is a good one. I think that the attorney general's determination he used a limited partnership or some other analogy is not supported by the law. There is no case law cited supporting that.

THE COURT: But you ---

MR. MATHISON: None.

THE COURT: --- agree that it was only an analogy in

the recommendation itself?

MR. MATHISON: I -- I do agree that the -- there was an analogy made by the hearing examiner. And I do agree that there was an analogy made by whoever it was drafted the 30-page order, which rescinded the 22-page recommendation. All right?

And what I object to, specifically, on due process grounds is the fact that you have a person charged with a prosecutorial function here, which is the attorney general -- and you can call this an administrative proceeding if you'd like. But the result is there's a fine out there for $780,000. And I think the magnitude of the fine makes this prosecutorial.

He has a prosecutorial function. He also has an investigative function. And by overriding his objecting hearing officer, he has encroached on the adjudicative function.

And the principal argument that's being made is that under the due process and equal protection clauses of the United State Constitution, one is entitled to notice. And one is entitled to a hearing. And the hearing is supposed to be fair and impartial. And there's plenty of case law made and provided that says that, under the federal statutes -- I mean, excuse me -- under the federal constitution, substituting his judgment for that of the

hearing officer, when he's also the prosecutor and the investigator, is not constitutional.

In addition, under the South Carolina due process clause, we not only have the one that appears in Article I, Section 3, we also have the due process clause that appears in Article I, Section 22. And this gets real close to the heart of what's happened here.

And it says -- and I'm quoting -- No person shall be subject to the same person for both prosecution and adjudication. And I believe that what you have here is a perfect example of that in that after ---

THE COURT: Have you ---

MR. MATHISON: --- sober ---

THE COURT: --- looked at the *Majors v. South Carolina Securities Commission* case?

MR. MATHISON: Pardon me?

THE COURT: The -- there's a case, *Majors v. South Carolina Securities Commission*, that the state cites to. It's from 2007. And the Supreme Court says: The fact that investigative, prosecutorial, and adjudicative functions are performed within the same agency -- or even performed by the same persons within an agency -- does not, without more, constitute a violation of due process.

MR. MATHISON: That's correct. And in addition, there are two cases which I am citing. One is *Garris v.*

Governing Board of South Carolina Reinsurance Facility.

THE COURT: Okay. Versus Governing Board ---

MR. MATHISON: --- of the South Carolina Reinsurance Facility.

THE COURT: Okay.

MR. MATHISON: And the citation for that is 511 S.E.2d 48.

THE COURT: Okay.

MR. MATHISON: And the other is *Ross v. Medical University of South Carolina*. The citation for that is 492 S.E.2d 62.

THE COURT: Okay. Thank you.

MR. MATHISON: Those cases hold the following: that if, in fact, there is a merger of functions of investigation and prosecution and adjudication, that is a violation of the due process clause. That is the South Carolina due process clause. The one I'm talking about is the second of the two in South Carolina, which is Article I, Section 22.

And the reasons for that given are two: One, in order for it to apply, there has to be some evidence of bias. I submit to you, Your Honor, that if you take the order that was written, supposedly by the attorney general on September 12th, a 30-page document, and compare it with what his hearing examiner prepared, you will see manifest

evidence of bias.

Not only did the attorney general repudiate every factual finding that was made by his hearing examiner, he instructed him specifically in the factual findings that he would make and the law that he would adhere to. In effect, he substituted his -- meaning the attorney general's opinion -- for the opinion of the hearing examiner and required the hearing examiner to come back to him with that same opinion.

THE COURT: As regard ---

MR. MATHISON: The ---

THE COURT: --- to whether they were securities or not. He did send it back to the hearing officer to determine whether there were violations. But the -- as I understand, the hearing commissioner had just said, "You know what? These aren't securities at all. Game over. Done."

Attorney general said, "No. Your analogy was wrong. Here's why these are securities. I disagree with you. Now knowing that they're securities, I want you -- you to go to the next step."

MR. MATHISON: He went beyond that. He also evaluated all the factual findings that -- that Mr. Hunter had made in his report. And in those factual findings, which were necessary to make the determination of security *vel non* --

all right? -- he insisted that he change those. All right?

And what Mr. Hunter did is he ignored them. He didn't do anything. He simply came back and, as a matter of course, decided that there were 78 sales of what he described as "uniquely discrete interests" -- that is, to people other than my clients -- and that each one of those would be a violation. That's what he decided, which, to my way of thinking, is arbitrary and capricious. There's no evidence in the record that any more than two or three or maybe, at the most, four individuals sales were induced by anything other than, you know, sending the stuff to the people who had expressed an interest.

But to get back to the point at hand, under Article I, Section 22, if there's evidence of bias, that is sufficient to rule that there's lack of due process.

In addition, there are two other bases on which you could find. One is -- and this is pointed out in -- in both the *Ross* and -- and the *Garris* cases -- if, through investigation and ex parte communication, the people who are actually making adjudication become possessed of knowledge which didn't necessarily become part of the record at the hearing, whether or not you can show bias, that's one of the things that will, in fact, preclude it comporting with due process.

THE COURT: And do you have evidence of an ex parte

communication here?

MR. MATHISON: I have ---

THE COURT: How is the -- well ---

MR. MATHISON: Yes ---

THE COURT: --- go ahead.

MR. MATHISON: --- I do, in ---

THE COURT: Yeah.

MR. MATHISON: --- point of fact. If you -- if you want to know, I have evidence of an ex parte communication. Before we learned of the outcome here, the person who organized or orchestrated this on the behalf of himself and one other person sent -- disseminated widely to a number of individuals an e-mail, saying that he'd had a conversation with the attorney general's office and he was giving everybody a heads-up to the fact that the order dated November 20th was being issued well in advance of our knowledge of it.

THE COURT: And you think that that -- you wouldn't need any showing of prejudice, that just an ex parte communication on -- in and of itself would ---

MR. MATHISON: Your Honor, we tried ---

THE COURT: --- show bias?

MR. MATHISON: --- to go in -- we tried to go into this during the hearing on the merits. We were not allowed to ask questions about how the investigation originated.

The investigator said she couldn't remember who had talked to her first: whether it was somebody inside the agency, whether it was the attorney general, whether it was somebody outside the agency. We were not allowed to put up any testimony having to do with the origin or the inception of how it occurred.

And I have, in my hand, an e-mail suggesting that this gentleman, who's one of the complaining witnesses, was intimate enough with someone in the attorney general's inner circle to know, in advance of public knowledge of this order, what was going to happen. And there's some very instructive language in this.

THE COURT: How is this setup of having a hearing officer make a recommendation any different from the setup that our Supreme Court has with the disciplinary proceedings, where they -- the -- Lee Coggiola will investigate, hold hearings, make a recommendation to the Supreme Court? The Supreme Court doesn't need to take that recommendation.

MR. MATHISON: Well, there is one material difference, Your Honor. And that is the fact that there have been promulgated many, many rules which govern how that procedure works, so that if one is inclined, one can figure out, to the last detail in advance, how it's going to work.

THE COURT: So going back to the rules? But as far as

MR. MATHISON: There are no rules that apply to this procedure. We're sitting here, making it up ---

THE COURT: Okay.

MR. MATHISON: --- right now. And in addition, the document I just handed you, this is what I find most objectionable. And this is why I believe that the attorney general's office has gotten to the point of advocacy beyond impartiality.

This is Mr. Silver communicating with the members of these LLCs. And he said (As read): "We were told that the hearing officer appointed by the AG would be expected to issue a recommendation to the AG within 60 to 90 days. Ultimately, it took 13 agonizing months to get the final ruling, with a lot going on behind the scenes, especially during the last four or five months."

What he didn't tell those members is they got a recommendation from the hearing officer that said Mr. McIntyre and Silver Oak Land Management should be exonerated. He didn't tell them that. And what went on behind the scenes for four or five months was the attorney general first deciding that he was not going to accept the recommendation; second, promulgating and order which was such a thoroughgoing repudiation of what his independent hearing examiner had recommended, it took eight more pages

to tell him what to do than the initial recommendation, thereby indicating on its face that it was biased.

And it was, since I was privy to the proposed orders, a wholesale acceptance of what the prosecutorial arm of the attorney general's office wanted said. All right?

So I have to stand here, Your Honor, and wonder why would there be any need to have a hearing examiner at all. Why not just have the attorney general decide that he wants to put somebody out of business, fine that person $780,000, and then come to this Court?

Because you've seen the size of the transcript. That was four days of effort.

THE COURT: And the attorney general had the benefit of the transcript as well, correct?

MR. MATHISON: Certainly.

THE COURT: Okay.

MR. MATHISON: Four days for no ostensible purpose whatsoever, if the attorney general has the right to completely reject findings of fact, completely reject conclusions of law, and then instruct his own hearing examiner in exactly what findings and conclusions he wants him to reach ---

THE COURT: But doesn't ---

MR. MATHISON: --- what exactly is the purpose of that step?

THE COURT: That's like why do we have a -- a workers' comp commissioner and then the appellate panel, who can make their own findings of fact? That -- that happens.

MR. MATHISON: Again, Your Honor, there are rules. There are ---

THE COURT: Okay.

MR. MATHISON: --- rules. Okay?

I'm unfamiliar -- I have been litigating for almost 40 years, and I'm familiar with any forum in which I've ever had to go without knowing what the burden of proof is. And I'm unfamiliar with any form in which I've ever had to go where I have not the slightest idea on appeal -- all right? -- what standard will be applied. Is this is the equity standard? Is this the at-law standard?

The only person who's disseminated any rules in this case is the hearing examiner. This is the person who's decided what the burden of proof is, decided what evidence would be admissible, and decided it at -- all without reference to any written rules whatsoever. How can the attorney general in one breath reject everything he recommended and in the next breath not reject the rules?

The one thing that's instructive about the 30-page order from the attorney general is he didn't tell his hearing examiner what burden of proof to use. He didn't tell his hearing examiner, you know, whether the hearsay

rule was applicable or not. He didn't tell the hearing examiner how someone in our position would go about developing evidence without any subpoena power.

He didn't tell him any of that. He just told him, "Do it my way." And lo and behold, that's what happened.

When it was over, Mr. Hunter adopted a completely different course. He found as credible witnesses whose testimony he'd discounted in his initial recommendation. He discounted as incredible testimony of Mr. McIntyre that he'd found credible initially. In other words, he turned everything on its head and made a mockery out of what had happened before.

Then -- and this, I have no explanation for. The attorney general, having gotten what he wanted, issues an order that finds additional facts that are not part of the recommendation, some of which are grossly in error, including facts stating that loans were made or -- or funds were mishandled between SOLT I and SOLT III, a statement that appears on page 2 of his order, when anybody who had, in fact, attended the hearing would've known that the investors in SOLT I and SOLT III were identical. Their interests were identical. They were aligned completely. There could've been no fallout between the funds owed from one to the other; they were owed to each other.

THE COURT: Can you give ---

MR. MATHISON: So ---

THE COURT: --- me an example -- you -- you said earlier -- and I'm sorry -- that -- that from one recommendation to the next, the hearing officer found testimony that he previously had found credible to be incredible. Can you point that out to me?

MR. MATHISON: Where he says that in words in one syllable? No. He doesn't. But he treated as credible evidence that was given by Mr. Finn and by Mr. Silver, which had been disregarded in his previous report. And in his previous report, he cites, on multiple occasions, what Mr. McIntyre had said about this, that, or the other subject. Mr. McIntyre is disregarded -- his evidence is completely disregarded in the second report.

THE COURT: Okay.

MR. MATHISON: Consequently, my argument is that though you can find analogies to other situations, I can't find an analogy to any other situation where this sort of thing is going on with no rules. I'm old enough to remember, when referees were appointed, judges gave them, you know, an appointment to make a recommendation. And then the judge could either accept it or reject it. He didn't send it back to them. He just accepted it or rejected it.

And it gave rise to what's known as "the two-judge

rule." So if the -- you know, if two people found facts the same way, they were impervious on appeal. All right?

That's not what's going on here. Because there was -- there were rules which govern those, rules that seem now silly and archaic, but could be mastered if, as I was in the '70s before the advent of the rules of civil procedure, which didn't really come to us until 1985, they could be mastered. They could be learned, not only from the disseminated circuit-court rules, but also from the published decisions.

There are no rules here that make this anything other than a kangaroo court. This is the attorney general deciding unilaterally that he's going to ignore his own hearing examiner and impose a penalty regardless, simple as that. And he did it after imposing great expense, not only on my clients, but also on the taxpayers. The investigation that's gone into this, although there's no evidence of it in the record, is there were -- there were as many as four different legal presences on the behalf of the state at this hearing to establish nothing, evidently, because the attorney general saw fit to substitute his judgment for the hearing examiner's judgment without so much as paying it any fare-thee-well.

In addition, Your Honor, there are a couple of things that -- that stand out that -- that need to be addressed.

It's apparent that I agree -- or if it's not apparent, it should be apparent -- that I agree with the -- the hearing examiner's finding that there's no security here. There is no case in South Carolina that holds, under similar circumstances, that there's a security here. And I'm not aware of any case in any state that's analogous that holds that there's a security here.

This is all based on interpretations -- well, you read the order. The attorney general didn't say: "This is the law because I can find it." He said: "I don't like my -- the analogy of my hearing examiner, so I'm going to come up with another analogy."

THE COURT: So you're ---

MR. MATHISON: As -- as I ---

THE COURT: Oh, I'm sorry.

MR. MATHISON: --- pointed out, what -- what the state evidently thought was sufficient was they put evidence in the record that expenses had been paid that -- that shouldn't have been. And you're talking about, over seven years with seven different entities, something that might add up to $2500. When those entities, six of which are functioning and made money and no loss was proven -- six of which are absolutely golden -- they all had the property that was acquired, and they all had the opportunity to sell that property at a profit, which was the inherent premise

in those companies.

The last one, Silver Oak Energy, what you had was a number of people who, in the prospectus -- in the prospectus, represented that they were on the management team. That included Mr. Silver, who was a complaining witness in this, who is a funds manager, who testified that he never read any of his agreements, none of the operating agreements. He's listed as a participating officer.

Mr. Finn, another complaining witness -- Mr. Finn is a lawyer and has been for 25 years. Documents were introduced in the record at the first meeting of the hearing and then subsequently when he came back and testified to show that he was signing his name as an officer of the company. He was actively soliciting business. He was selling overseas.

He is someone claiming to be a passive investor. The money that was lost in Silver Oak Energy was lost clearly because *Miscanthus* and biomass was not the way to provide for energy in a world where natural-gas prices had been cut in half. No one would buy biomass, as opposed to natural gas with the conversion requirements when natural gas came down to nothing.

I believe, if you look at the hearing examiner's initial report, he was struck by the fact that the state did not make an effort to establish that there had been

misrepresentations made at the time of whatever solicitation took place ---

THE COURT: In the -- in the ---

MR. MATHISON: --- at least ---

THE COURT: --- so in ---

MR. MATHISON: --- in the ---

THE COURT: --- first report, he did more than just find that these weren't securities?

MR. MATHISON: Certainly, he did.

THE COURT: Well -- okay.

MR. MATHISON: I mean ---

THE COURT: In ---

MR. MATHISON: --- well, let me see if I can explain. Part of his factual analysis was to see if the Williamson factors supported the analysis that these would be securities. But part of his factual analysis was -- had to do with whether the people involved had sufficient control that they could complain. And he found that they had control -- or enough control that they should be estopped from complaining.

Your Honor, it -- it seems remarkable to say this. But they allege that my client did not disclose that he might enter into consulting contracts with himself or his company. But on the face of the document that each one of these people signed, it says that. It's a manifest

disclosure. All you have to do is read it.

But each of these people, each of these professional businesspeople, came into this proceeding and, with eyes wide open and not the least hesitation, testified that they trusted Jack so much, they didn't bother to read the documents. So one of the things that they're accusing him of doing, the document itself says he's perfectly entitled to do.

For example, the idea that -- that he made a loan from one of these entities to the other, that's specifically authorized. All you have to do is look at Paragraph 6 of the agreements. Yet somehow, not telling someone who hasn't read the agreement that you're going to do that is being considered a securities violation by the attorney general's office.

THE COURT: So you're arguing there is not substantial evidence to support ---

MR. MATHISON: Of course not.

THE COURT: --- that finding.

MR. MATHISON: I am. Yes.

THE COURT: And you agree, that's the standard that I'll be reviewing this -- factual ---

MR. MATHISON: I agree ---

THE COURT: --- decision ---

MR. MATHISON: --- that there's a ---

THE COURT: --- substantial evidence?

MR. MATHISON: I agree that there is a provision in the act that says that. Yes, Your Honor.

THE COURT: Okay.

MR. MATHISON: Well, what I -- well, let's put it this way: I think that Mr. Hunter was correct in finding that the burden of proof would be not by clear and convincing but by preponderance of the evidence. But I think on appeal, substantial evidence is what you're supposed to ---

THE COURT: Correct.

MR. MATHISON: --- review it on.

THE COURT: Okay. All right. And just -- we need to get the attorney up to argue. I just want you -- can you succinctly tell me the issues that you're raising on appeal?

MR. MATHISON: Issues on appeal are there is not substantial evidence which is in Paragraph 23 of the petition for review; the operating agreements specifically authorize two, although not all four of the things that the attorney client claims that my client did wrong; and that there is no evidence -- and this may be repetitive -- of a false statement made under these circumstances for a number of reasons. I believe there is evidence with respect to three or four, which came from individual persons that testified.

But I believe that they arithmetical computation that was done by the hearing examiner, when he was remanded or instructed to do what the attorney general told him to, is -- is arbitrary and capricious for this reason. He simply looked at the number of individually discrete membership interests that were not held by Mr. McIntyre or by his entity, Silver Oak Land Management, or by the other person in Silver Oak Land Management, which was Dave Jeff and Dr. Vitek, and then he said that -- or he inferred that everything that wasn't 78 was a violation of the act. That's -- that's of it -- that's it. And the attorney general then embraced that.

Now, to give you some idea of why that's completely wrong, Silver Oak Energy was not formed by Mr. McIntyre. It was formed by Mr. McIntyre and Mr. Finn. They both sold their interests off to get other people involved. Mr. Finn is not an interest that resulted from any form of solicitation by misrepresentation. He was a control person. He's the person who signed all these documents in his various capacities as vice-president of this and vice-president of that.

And to be entirely candid, with the exception of two or three squeaky wheels out of these 78 discrete interests, nobody complained. And that's because all of the land companies, all of the timber LLCs, if they haven't made

money, they will make money when the land's to be sold.

THE COURT: Okay. So no substantial evidence; arbitrary and capricious; and then, violation of due process?

MR. MATHISON: Violation of due process for two reasons: the tradition reason that notice was inadequate and the opportunity for a hearing was completely not impartial; it was -- and -- and the second is that the -- there is not adequate separation of functions which, under our second -- the South Carolina second due process clause, which is found in Article I, Section 22, the -- there is no adequate separation of functions because the evidence of bias and partiality and the tests that come out of both *Ross v. Medical University of South Carolina* and *Garris v. Governing Board of South Carolina Reinsurance Facility*. That's my argument.

THE COURT: Okay. Thank you. I'll hear from you.

MR. CRAPPS: All right. Thank you, Your Honor. And -- and may it please the Court: As you heard, the -- the petitioners' arguments are -- are really twofold: (1) that substantial evidence does not exist to support the record; and (2) the due process arguments. And -- and if you don't mind, I'd -- I'd like to approach the due process first.

We would argue that the petitioners have been afforded their due process rights. There was a contested

evidentiary hearing. The petitioner -- the petitioner was represented by counsel. He was entitled to assert his Fifth Amendment rights at any time if he so chose. He was able to present evidence, examine and cross-examine witnesses. And -- and further, he's entitled to -- to what we're doing here today, which is judicial review of that decision.

We would like to direct Your Honor to our return, which -- which may provide a more fuller analysis of our -- of our responses. But the -- the petitioner makes much of the -- the structure of the attorney general's office. The -- and -- and so I think an -- an explanation of that may help.

The attorney general is, by statute, the securities commissioner. And the statute provides him the ability to delegate any or all of his duties to a -- to his staff. And the -- the securities division has been delegated authority to enforce the securities act through investigations and -- and enforcement proceedings.

It was the division who investigated and issued the cease-and-desist order. That is a division-level order. It is not signed by the commissioner. And -- and all those functions are performed by the division, not the commissioner.

The -- the -- when a hearing is requested as a result

of one of those administrative orders, the -- the securities commissioner appoints a hearing officer with the explicit authority -- explicit delegation to hear and recommend. The -- it's not a binding decision. In -- in fact, the -- the securities act makes it clear that a final order may not be issued unless the securities commissioner makes findings of fact and conclusions of law. And -- and so it may actually be his statutory duty to -- to review and issue the final order.

The -- the attorney general in South Carolina wear -- wears many different hats. You know, constitutionally, he is chief prosecuting officer of the state. But he's also *ex officio* the securities commissioner of the -- of the state as well. And those two duties are -- are distinct duties. He's delegated those tasks to different staff. And -- and those -- that prosecution staff is -- is segregated and distinct from the rest of the office, literally, by restricted-access doors and structurally.

The attorney general has a large staff. He has the ability to assign tasks in such a way to avoid any conflicts, assuming for -- for the sake of argument that there would be a conflict. We have a -- an order issued by Judge Benjamin in a previous securities-act case, where she decided that, you know, the civil role of securities commissioner is separate and distinct from the criminal-

prosecution role that the attorney general otherwise has. You know, she -- she determined that there was no conflict between the securities commissioner's duties and the duties of his -- all of his other duties, which -- which are more than just prosecution and the securities commissioner.

If it's instructive, I have a copy of that order if you would like it.

THE COURT: Sure. Please hand it up. And hand one to opposing counsel as well.

MR. CRAPPS: Sure. Further, Your Honor, if you -- if you look at the -- the *Langford* decision, *Langford v. McLeod*, which is a South Carolina Supreme Court case, the Supreme Court found there that -- that the attorney general can both defend a -- a civil government employee in a civil action and -- and later prosecute that -- that same individual, that same government employee, in the underlying -- same underlying action. And -- and the Court found that his ability to delegate his authority to his assistants -- he -- he avoids any problems that -- that could occur by that.

So both Judge Benjamin and -- and the South Carolina Supreme Court have recognized the ability of the -- the attorney general and the securities commissioner to delegate those tasks out. So there really was no blending of investigative and prosecutorial roles with the

adjudicatory. The investigative and -- and the administrative actions prosecuted by the division, the -- the securities commissioner here acted as the adjudicator and -- and a -- a whole separate division of the office does any criminal investigation or work.

And -- and those Your Honor referenced earlier, *Majors v. South Carolina Securities Commission*, dealt with the exact same facts here. We had a cease-and-desist order issued by the securities division. A hearing was requested; a hearing officer was appointed. That hearing officer was delegated the authority to hear and recommend. That recommendation was made and the securities commissioner adopted in whole or in part the findings of that -- that hearing officer, and judicial review was provided.

THE COURT: And that case postdates the *Ross* case and actually distinguishes it from *Ross;* isn't ---

MR. MATHISON: May it ---

THE COURT: --- that true?

MR. MATHISON: --- please the Court: It -- it -- it's not a reported case. And therefore, it's not, in any way, ascertainable to those of us who don't work for the attorney general's office.

THE COURT: Oh. You're talking about the -- you're -- you're talking about Judge Benjamin's order?

MR. MATHISON: Yes, I am.

THE COURT: Okay. I understand that another circuit-court judge's order has no precedential value. But I don't think there's any problem with me being aware of its existence, so ---

MR. CRAPPS: And I ---

THE COURT: --- you can ---

MR. CRAPPS: --- I did ---

THE COURT: --- continue.

MR. CRAPPS: --- cite it in my return. I -- I just thought it may be instructive to the Court.

And -- and in the *Garris* case, as cited by the petitioners, the -- the Supreme Court found in there was well that the fact that investigative/prosecutorial/adjudicative functions are performed within the same agency or even by the same persons, you know, without more -- does not constitute a violation of due process. And -- and ---

THE COURT: What about ---

MR. CRAPPS: --- so looking ---

THE COURT: --- the lack of rules that have been established for this? I mean, when someone goes in completely blind as to even the burden of proof, how -- how do you overcome that?

MR. CRAPPS: Well -- well, first of all, the -- the

statute does not require rules about issues ---

THE COURT: It says "may."

MR. CRAPPS: It does say "may," so it's permissive and it gives the ability to promulgate rules. As far as the admission of evidence, there's -- there's a -- a plethora of -- of case law which, you know, instructs administrative tribunals that they have wide range of discretion; they're not bound by the -- the civil rules of evidence. There's some case law that says the -- the findings can be solely based on the evidence that may be inadmissible in a civil court, but that the -- the admission of -- of such evidence and even partial reliance on it is not an error.

THE COURT: What's that case cite?

MR. CRAPPS: Let's see. I got a couple here: *Jacoby v. South Carolina State Board of Naturopathic Examiners;* that's 219 S.C. 66.

THE COURT: Okay.

MR. CRAPPS: I also have *Richards v. City of Columbia,* 227 S.C. 538. *Multi-Medical Convalescent and Nursing Center of Towson v. National Labor Relations Board,* that's a 4th Circuit case: 550 F.2d 974.

THE COURT: Okay.

MR. CRAPPS: And in that 4th Circuit case, the 4th Circuit strongly advised administrative-law judges, if in doubt, let it in. I ---

THE COURT: But what ---

MR. CRAPPS: --- also have ---

THE COURT: --- about the complete lack -- you know, the -- in those cases, okay, if otherwise inadmissible evidence is admitted, as long as it's not the sole reason for the decision, the Courts have overlooked that. But we're not just talking about a lack of rules of evidence. We're talking about a lack of any rules, as far as discovery, subpoenas, where someone goes in blind and doesn't really know what faces them and they could face, as in this case, hundreds of thousands of dollars in penalties.

MR. MATHISON: I -- I think in the absence of rules, the controlling precedent would be due process. And -- and as long as due process is afforded, I -- I think that there can be really no complaint. You know, here the -- for the discovery and subpoena of witnesses, you know, the -- the securities division turned over their entire investigative file. The -- the petitioners admitted on the record that they had received what they needed to assess and try the case. It -- and I -- I think, you know, they were able to subpoena each witness; no -- no subpoena request was denied. So I -- I can't find any error in -- in what occurred here -- or, let alone, any reversible error.

As far as the -- the no ascertainable burden of proof,

again, that -- that burden of proof comes from a -- a long series of case law from the United States and the South Carolina Supreme Courts, holding that in administrative hearings, preponderance of the evidence satisfies due process. And the, going a step further, a -- a allegations of securities fraud does not invoke the higher clear-and-convincing burden. Though -- that -- that is still a preponderance-of-the-evidence standard, mainly because securities laws were -- were fashioned to cure defects in common law fraud, as it related to securities.

And -- and that case law ---

THE COURT: So that burden -- the burden of proof existed ---

MR. CRAPPS: Right. We ---

THE COURT: --- in that ---

MR. CRAPPS: --- we -- we think ---

THE COURT: --- these are -- this is a security case; the burden of proof in security cases has been preponderance ---

MR. CRAPPS: Right.

THE COURT: --- of the ---

MR. CRAPPS: We -- we think ---

THE COURT: --- evidence ---

MR. CRAPPS: --- the South Carolina ---

THE COURT: --- this would ---

MR. CRAPPS: --- and the U.S. ---

THE COURT: --- be no difference ---

MR. CRAPPS: --- U.S. ---

THE COURT: --- just because ----

MR. CRAPPS: -- Supreme Courts ---

THE COURT: --- it's an administrative ---

MR. CRAPPS: --- have ---

THE COURT: --- hearing.

MR. CRAPPS: --- have announced that in such a way where, you know, it -- it is out there with a little research.

I -- the -- the petitioners reference our calling the -- the petitioner here and -- and making him choose between asserting his Fifth Amendment rights or -- or not testifying. But -- but there is case law out there saying that that does not invoke the -- the due process clause. They've routinely found that the choice of testifying in an administrative hearing or similar circumstances which could form the basis of a criminal charge does not invoke the U.S. and South Carolina Constitutions.

You know, I -- I -- you know, I am not privy to that information. But -- but at least, at the time, there were no outstanding criminal charges. I -- I don't know the -- the situation currently. But -- but at the time of the hearing, so I -- I think still think it's speculative

whether or not, you know, criminal charges could come of this. And anyway, the -- the -- the appropriate venue for that argument would be, I believe, its admission at -- at some criminal trial at a later time.

And the ---

THE COURT: So you're saying that's not ripe for review because that -- whether that would even be an issue is academic at this point because it hasn't -- he has not been charged criminally.

MR. CRAPPS: Right. I -- I -- I think the case law indicates that it's not an issue at all; that that choice, while difficult ---

THE COURT: Right. Okay. So initially ---

MR. CRAPPS: And -- and then ---

THE COURT: --- you're arguing even if he was ---

MR. CRAPPS: Right.

THE COURT: --- charged criminally, case ---

MR. CRAPPS: Right.

THE COURT: --- law says it doesn't matter. And on top of that, we don't even -- it's -- it's ---

MR. CRAPPS: Right. I ---

THE COURT: --- not ---

MR. CRAPPS: --- I think ---

THE COURT: --- something ---

MR. CRAPPS: --- the admission ---

THE COURT: --- we should ---

MR. CRAPPS: --- of the statement at a criminal trial would -- would -- the exclusion rule, I -- I guess, would -- would be appropriate to bring up then.

THE COURT: Okay.

MR. CRAPPS: Further, the -- the characterization of the -- the recommendation and then the -- the first order of the securities commissioner, we -- we don't find that instructive at all. That -- that finding bias in that order is -- is hard for me to see. And -- and characterizing it as "arbitrary and capricious," when it's lengthy, it explains out in detail the law and the facts supporting it. You know, the -- the -- and characterizing it as a "kangaroo court" is -- is certainly inappropriate.

THE COURT: What about his argument that the commissioner was required to adopt the hearing officer's recommendation?

MR. CRAPPS: I -- I -- I can't find any merit in it. The -- the exhibit -- the -- the hearing officer admitted his delegation of authority into the record. So it is Exhibit 1. And it clearly says (as read): "The securities commissioner appoints T. Parkin Hunter, Esquire, to serve as hearing officer in the above-referenced matter" ---

THE COURT REPORTER: Sir ---

MR. CRAPPS: --- "with the" ---

THE COURT REPORTER: I'm sorry.

THE COURT: Can you speak up for the court reporter ---

THE COURT REPORTER: I need for ---

THE COURT: --- please?

THE COURT REPORTER: --- you -- and slow down, please ---

MR. CRAPPS: Okay, sure.

THE COURT REPORTER: --- if you're going to read something. Thank you.

MR. CRAPPS: --- "with the authority to hear the case and to take all actions he deems relevant or material to his recommending findings as to the matters alleged in the order to cease and desist and his recommending appropriate action based on his findings."

The -- the statute clearly gives the securities commissioner the ability to delegate any or all of his authority. Here, he delegated only the authority to -- to -- to hear and recommend.

THE COURT: Thank you. Is that the order? Thank you. Okay. Thank you.

MR. CRAPPS: And the -- the securities commissioner, in his first order, really identified an error of law, as opposed to any -- really, changing any of the facts. The facts presented in the hearing officer's initial order were

-- were being discussed in -- in terms -- or through the lens of the Williamson test, as -- as far as abilities of the investors to -- to act. And -- and I believe the securities commissioner found appropriately that those abilities are -- are statutory minimums and -- and defaults in the LLC act that could -- could not form the basis of choosing which LLC investments are securities and -- and which aren't.

And -- and the -- the facts presented in the securities commissioner's order all go to show, you know, clearly that the investors here either had the ability to act or -- or the desire or -- or neither did they actually act in the management of the companies. And -- and so moving, you know, into the -- the -- the record and -- and supporting the findings, I believe, as you noted, the -- the burden of here is on the petitioners to prove convincingly that the agency -- the agency's decision is unsupported by the -- by the evidence.

And -- and we're here to determine whether competent material and substantial evidence is in existence; and, if so, the findings of fact are conclusive. Substantial evidence has been fleshed out by the Courts to mean such evidence as a reasonable mind might accept as adequate to support a conclusion. And so really, the two basic findings of facts here were whether or not the investments

were securities; and then, whether or not fraud occurred in connection with the offer and sale of those securities.

So the act defines a security to include, you know, among a -- a list of items, an investment contract. It further -- it basically applies the *Howey* test to define investment contract. And it further defines an investment contract to may include an investment in a limited partnership or -- and a limited liability company.

So applying the *Howey* test, an investment of money in a common enterprise, an expectation of profit from primarily the efforts of others -- and really, that last prong is the -- the only factual inquiry at issue here.

And -- and what that means, primarily from the efforts of others, means -- has been stated by -- by dozens of courts, but typically means those other -- that those other than the investor are the undeniably significant efforts, those essential managerial efforts which affect the failure/success of the enterprise. And -- and these were, I think unquestionably, manager-managed LLCs, which centralize the -- the authority to manage to the manager.

And you can see that in the operating agreements. The operating agreements don't -- don't provide the -- the members any additional authority to manage beyond some -- some statutory minimums and default rules. And as manager-managed LLC units, these are presumptively securities, as

it said, because they presumptively centralize the managerial authority into the manager.

And -- and so a member in a manager-managed LLC does not have the actual or apparent authority to act for the company, even if they wanted to. They couldn't go sign a contract or -- or -- or perform any managerial services of that nature.

The evidence clearly shows that the reality of these entities follow the form. There's testimony of several investors that none of the members intended to play a role in the company, in the management of the company. There was no evidence they were invited to play a role when their -- their investments were being solicited.

And missing from the record is any evidence that they ever took part in any crucial managerial efforts and that really, on the contrary, that the -- the record is clear, by a clear preponderance of the evidence, that the respondents were in charge of such duties.

Further, the -- the record reflects e-mails and -- and other communications that the investors didn't have information necessary to -- to make any judgment about their investment or -- or exercise any meaningful managerial authority. They requested the information from the petitioners. The -- those requests were frequently denied. And there was a long, drawn-out process before

they obtained any information about the companies.

But the -- the petitioners were the only signatories on the bank accounts. They were the only ones with debit cards. You know, Mr. McIntyre himself testified that he was the only one who would negotiate the price of these property purchases. He -- he ---

THE COURT: And this is all in your brief or in the order of the commissioner, right?

MR. CRAPPS: Right. Yeah.

THE COURT: Okay.

MR. CRAPPS: And I -- I ---

THE COURT: I ---

MR. CRAPPS: --- can -- I can ---

THE COURT: --- I think I ---

MR. CRAPPS: --- go on ---

MR. MATHISON: Which order?

THE COURT: Uh-huh.

MR. MATHISON: Some of it's in the order instructing the hearing examiner.

THE COURT: Okay.

MR. MATHISON: And some of it's in the final order, which managed to get distilled down to just 11 pages.

THE COURT: Okay.

MR. CRAPPS: And the -- the order instructing the hearing officer does not instruct him at all. It ---

THE COURT: It just disagrees with him ---

MR. CRAPPS: It disagrees ---

THE COURT: --- and tells ---

MR. CRAPPS: --- with the ---

THE COURT: --- him ---

MR. CRAPPS: --- determination of securities ---

THE COURT: --- I find they're securities; now go see if there were violations.

MR. CRAPPS: Correct.

THE COURT: Okay. Unless you want to address something specifically that we haven't already addressed, is there -- I think you've addressed the substantial-evidence issue; the violation-of-due-process issue; arbitrary-and-capricious issue.

MR. CRAPPS: He ---

THE COURT: And you ---

MR. CRAPPS: Well, briefly, Your Honor ---

THE COURT: Sure.

MR. CRAPPS: --- the -- they -- they spend time arguing that the operating agreements gave them free rein to do everything that they did. First of all, that goes to our argument that these were manager-managed and -- and control was centralized. Second, the operating agreements provide all managerial authority to the -- to the petitioners to conduct the business of the company.

Your Honor, we -- the business of the company is -- is -- is not these personal expenditures. It is not Victoria's Secret, college-application fees, hundreds of restaurant expenses, veterinary and kennel bills, groceries, dentist bills, movie theater, chiropractor bills, his wife's business account, jewelry stores, etc., etc., etc. That was not the business of the company. The business of the company was not all of these other companies that he was propping up in the commingling the funds and -- and thereby commingling the risk.

And the -- the -- the business of the company was not loaning money to himself in -- in such a way that it amounts to a wholesale transfer of company funds to the manager with -- with no -- no return.

So, Your Honor, we -- we -- we also find objectionable that -- that claim that he had the authority to do whatever he wished.

THE COURT: Okay. Thank you very much. I am going to need some time to decide on this case. There's just no way I can rule from the bench on this one. But I also know that I am not going to know more about this case three weeks from now than I'm going to know a week from now.

So what I'm going to do is I'm going to promise you this: I'm going to be working on this case all weekend, part of next week if necessary. I'm hoping the weekend

will at least give me enough to make a decision. And then I will ask one of you to prepare for me a proposed order.

But I'm not going to ask for proposed orders until I actually make a decision on which side I'm going to go with. So I -- I need to do some independent research and really think this through, make sure that I -- I've read this, but I need to make sure I feel more comfortable about the actual transcripts in the record themselves. And I will be in touch with you early next week, is my hope.

MR. CRAPPS: Thank you.

THE COURT: Mr. Mathison?

MR. MATHISON: Thank you, Your Honor.

THE COURT: Okay. Thank you.

MR. SMITH: Thank you, Your Honor.

(Whereupon, the proceeding was concluded at 11:30 a.m.)

--- END OF TRANSCRIPT OF RECORD ---

OPERATING AGREEMENT
FOR
Silver Oak Land Trust llc.

THIS OPERATING AGREEMENT, effective as of December 13, 2005, is entered into by and between the Members (as defined herein).

WHEREAS, the Members desire to enter into this Operating Agreement to govern the conduct of the business and affairs of the Company and to set forth the understanding of the Members regarding all other matters concerning the Company;

NOW, THEREFORE, in consideration of the premises and covenants contained herein and other good and valuable consideration, the receipt and legal sufficiency of which are hereby acknowledged, the Members, intending to be legally bound, do hereby agree as follows.

1. CERTAIN DEFINITIONS.

When used herein, the following terms shall have the meanings set forth below.

1.1 "Act" means the South Carolina Limited Liability Company Act, §33-44-101, et seq. Code of Laws of South Carolina (1976 as amended).

1.2 "Agreement" means this Operating Agreement as the same may be amended and supplemented from time to time.

1.3 "Articles" means the articles of organization, and all amendments thereto, executed and filed pursuant to the Act and the terms of this Agreement.

1.4 "Code" means the Internal Revenue Code of 1986, as amended. All references herein to specific sections of the Code shall be deemed to refer also to the corresponding provisions of succeeding law.

1.5 "Company" means Silver Oak Land Trust llc., a South Carolina limited liability company.

1.6 "Manager" means John M. McIntyre.

1.7 "Member" means (i) Murray M. Reed; (ii) John M. McIntyre; (iii) Martin Rehder; (iv) Dave Jeff LLC, a South Carolina limited liability company; and (v) Bourbon Place III, LLC, a South Carolina limited liability company.

1.8 "Ownership Percentage" means the percentage that a Member's total capital contributions to the Company bear to all the capital contributions made to the Company.

1.9 "Person" means any individual, limited liability company, limited liability partnership, partnership, corporation, trust or other person or entity.

1.10 "Treas. Reg." and "Regulations" mean the income tax regulations promulgated under the Code, as such regulations may be amended from time to time.

1.11 Other Definitions. Unless otherwise provided in this Agreement, any other term used in this Agreement which is elsewhere defined in this Agreement shall have the same meaning as such term is respectively given by this Agreement.

EXHIBIT 10
PENGAD 800-631-6989

2. ORGANIZATION.

2.1 Formation. The Members hereby agree to be bound by the terms and conditions of this Agreement, evidenced by affixing their signatures to this Agreement. Thus, commensurate with the execution of this Agreement, the Members of the Company shall adopt the Articles that were filed with the Office of the South Carolina Secretary of State.

2.2 Limited Liability Company. The Members intend that the Company not be a partnership (including, without limitation, a limited partnership) or joint venture, and that no Member be a partner or joint venturer of any other Member, for any purposes other than federal and state tax purposes, and this Agreement may not be construed to suggest otherwise.

2.3 Foreign Qualifications. Prior to the Company's conducting business in any jurisdiction other than South Carolina, the Members shall cause the Company to comply, to the extent procedures are available and those matters are reasonably within the control of the Members, with all requirements necessary to qualify the Company as a foreign limited liability company in that jurisdiction. At the request of the Members, each Member shall execute, acknowledge, swear to, and deliver all certificates and other instruments conforming with this Operating Agreement that are necessary or appropriate to qualify, continue, and terminate the Company as a foreign limited liability company in all such jurisdictions in which the Company may conduct business.

3. CAPITAL CONTRIBUTIONS AND RELATED MATTERS.

3.1 Initial Capital Contributions. The Members shall make their initial capital contributions to the Company as reflected on *Exhibit 'A'* which is affixed hereto and incorporated herein. If a Member fails to make an initial capital contribution it shall be considered in default under Section 3.3.

3.2 Additional Capital Contributions. If the majority of Members (voting based upon Ownership Percentages)determine that the Company needs additional capital, the additional capital contributions made by the Members shall be in proportion to their respective Ownership Percentages in the Company.

3.3 Default.

(a) Non-Defaulting Member's Remedy. In the event a Member fails to pay an initial capital contribution or additional capital contribution when due and such default is not cured within ten days after written notice to the defaulting Member by the non-defaulting Member requesting that such capital contribution be paid, a non-defaulting Member may make the capital contribution owed by the defaulting Member and such amount shall be deemed a loan to the Company. The terms of the loan shall be in accordance with Section 3.4.

(b) Company's Remedy. In the event a Member fails to pay an additional capital contribution when due and such default is not cured within ten days after written notice to the defaulting Member by the Company or a non-defaulting Member requesting that such capital contribution be paid, the Company may commence legal proceedings against the defaulting Member to collect the due and unpaid amount of the capital contribution, plus the expenses of collection, including court costs and attorneys' fees, in which case the defaulting Member would remain a Member upon successful enforcement and payment in full of such capital contribution (and any interest thereon as may be awarded), plus the expenses of collection. This remedy shall not be available if a non-defaulting Member elects to contribute the additional funds, either by a loan or an additional capital contribution to the Company, pursuant to Section 3.3(a) above.

(c) Loans By Members. A Member shall be allowed to make a loan to the Company if the Members unanimously agree to the making of said loan or if the loan is made pursuant to Section 3.3(a). All loans from a Member to the Company shall accrue interest at the prime rate posted by the lending institution at which the Company has its primary operating account, plus two

percentage (2%) points. For example, if the prime rate is four percent (4%) the loan from the Member would accrue interest at the annual rate of six percent (6%).

3.4 Withdrawal of Capital. The Members shall only be entitled to withdraw or to receive distributions of his capital contributions in accordance with the terms and conditions of this Agreement.

3.5 Interest on Capital Contributions. No interest shall accrue on any capital contributions made by the Members.

3.6 Capital Accounts. The Company shall establish and maintain for each Member a capital account initially reflecting an amount equal to each Member's initial capital contribution. The capital account shall be adjusted from time to time to reflect the Member's additional capital contributions, if any, allocable shares of net profits or net losses or any items thereof, distributions made to any Member, and as otherwise required by the provisions of this Agreement and the Code and its Regulations including, but not limited to, Treas. Reg. 1.704-1(b)(2)(iv).

4. PROFITS, LOSSES, DISTRIBUTIONS AND TAXABLE INCOME.

4.1 Allocation of Profit and Loss and Taxable Income, Gain, Loss, Deduction, and Credit. Both profits and losses of the Company and, items of taxable income, gain, loss, deduction and credit, shall be apportioned among the Members in the same percentage as each Member's total capital contributions bear to the total of all capital contributions made to the Company.

4.2 Distribution to Members. The Company may make distributions of cash or cash equivalents to the Members from time to time. The Manager shall determine the total amount of the distribution which may be made to the Members, and each Member shall share in such total distribution in accordance with its Ownership Percentage.

4.3 Distributions in Kind. Except as may be provided in an amendment to this Agreement, no Member regardless of the nature of the Member's contribution to capital, may demand or receive a distribution from the Company in any form other than cash or cash equivalents.

4.4 Limitation on Distributions. No distribution may be made by the Company if after giving effect to the distribution: (i) the company would not be able to pay its debts as they become due in the usual course of business; or (ii) the assets of the Company would be less than the sum of its liabilities plus, the amount that would be needed, if the Company were to be dissolved at the time of the distribution, to satisfy the preferential rights of other Members upon dissolution which are superior to the rights of the Member receiving the distribution.

5. MEMBERS.

5.1 Representations and Warranties. Each Member hereby represents and warrants to the Company and the other Members that: (i) it is duly organized, validly existing and in good standing under the law of the state of its formation and is duly qualified and in good standing as a foreign entity in all jurisdictions which require it to be qualified; (ii) it has all necessary power and authority to execute and agree to this Agreement and to perform obligations hereunder; (iii) it has duly executed and delivered this Agreement; and (iv) its authorization, execution, delivery, and performance of this Agreement does not conflict with any other agreement or arrangement to which that Member is a party or by which it is bound.

5.2 Change of Ownership of a Member. A Member that is not a natural person may not cause or permit an interest, direct or indirect, in itself to be transferred without the consent of the other Members if after such transfer the Member shall cease to be controlled by the same Person who control it as of the date of its admission to the Company. Upon the non-compliance of this Section, the Company shall have the option to buy, and on exercise of that option, the non-complying Member shall sell, its interest in the Company, in accordance with Section 8.1.

5.3 Information. In addition to the other rights specifically set forth in this Operating Agreement, each Member is entitled to all information to which that Member is entitled to have access pursuant to South Carolina Code §33-44-408.

5.4 Fiduciary Duties.

(a) Duty of Loyalty. Each Member's and Manager's duty of loyalty to the Company and the other Members is limited to account to the Company and to hold as trustee for the Company any property, profit or benefit derived by the Member or the Manager in the conduct or winding up of the Company's business. A Member or a Manager does not violate the duty of loyalty by engaging in a competing business or pursuing other business opportunities, even if the business opportunity could have been pursued by the Company.

(b) Duty of Care. Each Members' and Manager's duty of care to the Company and the other Members in the conduct of and winding up of the Company's business is limited to refraining from engaging in grossly negligent or reckless conduct, intentional misconduct, or a knowing violation of law.

(c) Good Faith and Fair Dealing. Each Member and Manager shall discharge his duties and exercise any of his rights consistently with the obligation of good faith and fair dealing which he owes to the Company and the other Members. A Member or a Manager does not violate a duty of good faith or fair dealing to the Company merely because the conduct furthers the Member's or Manager's own interest. Further, a Member or a Manager does not violate the duty of good faith and fair dealing by engaging in a competing business or pursing other business opportunities, even if the business opportunity could have been pursued by the Company.

6. MANAGEMENT OF THE COMPANY.

6.1 Decisions of the Company. Except as otherwise set forth herein, all decisions effecting the operations of the Company shall be decided by consent of the Manager.

6.2 Authority and Power of the Manager. The Manager shall have the authority and power necessary to discharge the business of the Company. Without limiting the foregoing, the Manager shall have the authority and power to perform the following acts on behalf of the Company:

(a) Execute and deliver any and all agreements, contracts, documents, certifications and instruments necessary or convenient in connection with the carrying on in the usual way of the business and affairs of the Company;

(b) Execute and deliver any deed, lease, mortgage, mortgage note, bill of sale, easement, license, contract or other instrument purporting to convey, sell, exchange or encumber all or any part of the Company's property;

(c) Deposit or invest Company funds in such interest bearing or non interest bearing investments or bank accounts as they deem advisable to the extent such funds are not then required for Company operations, and are not required to be distributed, pursuant to this Agreement;

(d) Retain or employ and coordinate the services of employees, independent contractors, supervisors, accountants, attorneys and other persons necessary or appropriate to carry out the business and purposes of the Company;

(e) Engage in any kind of activity and to perform and carry out such contracts of any kind necessary to operate the business and purposes of the Company, in accordance with this Agreement; and

(f) Pay all debts and other obligations of the Company, to the extent that funds of the Company are available therefor.

6.3 Liability of the Members and the Manager. The Members and the Manager shall not be liable to the Company or to any Member for any debts owed by the Company, or for any actions taken or omissions made in good faith and reasonably believed by the Member or the Manager to be in the best interests of the Company, or for errors of judgment, except to the extent such acts or omissions constitute gross negligence or willful misconduct. Provided the standards of this Section 6.3 are satisfied, the Company shall indemnify each Member and Manager for all costs and expenses, including reasonable attorneys' fees, associated with the defense of any action or claim brought against the Member or Manager by any other Member, the Company or a third party, except for an action brought pursuant to Section 3.3(b).

6.4 Conflicts of Interests. The pursuit of other ventures and activities by Members or Manager, even if directly competitive with the business of the Company, is hereby consented to by the Members and shall not be deemed wrongful or improper. No Member or Manager shall be obligated to present any particular investment opportunity to the Company, even if such opportunity is of a character which, if presented to the Company, could be taken by the Company. The Company may enter into agreements with one or more Members or Managers (or an affiliated entity) to provide management, consulting, marketing, construction or other services to the Company.

6.5 Waiver of Derivative Suit. All Members hereby agree to waive any and all rights to institute a derivative suit pursuant to South Carolina Code §33-44-1101.

7. TRANSFERS OF INTERESTS; ADMISSION.

7.1 Transfer Restrictions. No Member may sell, assign, transfer, pledge, hypothecate or otherwise dispose of its interest or any interest therein unless the transfer meets the requirements of Section 7.2 or Section 7.3. Any transfer of any Member's interest in violation of this Agreement shall be void and of no effect.

7.2 Permitted Transfers. Compliance with Section 7.3 shall not be required for the gratuitous transfer by a Member of their distributional interest in the Company (as defined in South Carolina Code §33-44-101) to the following individuals and/or entities:

(a) transfers to the spouse or any one or more of the issue, or in trust for the benefit of any one or more of the spouse and issue, of such Member; or

(b) transfers to the estate of the Member.

All transferees under this Section shall be considered a transferee of a distribution interest under South Carolina Code §33-44-502.

7.3 Right of First Refusal. If a Member receives a bona fide offer ("Offer") which the Member ("Selling Member") proposes to accept, whether or not solicited, to sell or otherwise dispose of all or any portion of his interest, then the Selling Member shall furnish to the non-selling Members written notice of the receipt of the Offer together with the principal terms and conditions of the sale, including the minimum price ("Sale Price") at which such interest is proposed to be sold, and a statement as to the identity of the real party in interest making the Offer. The Company, shall then have the right to purchase any portion of the interest ("Offered Interest") proposed to be sold by the Selling Member upon and subject to the terms and conditions as set forth in this Section 7.3.

(a) The price and terms at which the Offered Interest may be purchased shall be the price and terms contained in the Offer. However, if the Company elects to purchase only a portion of the interest being sold, then the purchase price shall be in proportion to the price contained in the Offer. If the price contained in the Offer shall consist (in whole or in part) of consideration other than

cash, payable at the closing thereof or at a later date, the cash equivalent fair market value of such other consideration shall be included in the price at which the Offered Interest may be so purchased.

(b) The Company shall have thirty days after receipt of the notice to elect to purchase the Offered Interest. The purchase transaction (unless otherwise agreed to with third-party purchasers) shall be consummated at a closing to be held at the principal executive offices of the Company, or at such other location as may be agreed by the parties, within thirty days following the date of the Company election to purchase the Offered Interest, or any portion thereof. At the closing, unless otherwise stipulated in the Offer, the Company shall deliver to the Selling Member the full purchase price, against delivery of an instrument appropriately transferring the Offered Interest sold thereby.

(c) If the Company does not elect to purchase the Offered Interest, or any portion thereof, then the Selling Member may accept the Offer and, pursuant thereto, sell the Offered Interest. However, if the Selling Member does not sell the Offered Interest pursuant to the Offer within sixty days after the termination (by passage of time or otherwise) of the rights of first refusal created under this Section 7.3, the Selling Member may not thereafter transfer the Offered Interest, or any part thereof, without again complying with the provisions of this Section 7.3.

7.4 New Members. Upon unanimous consent of the Members, the Company shall have the ability to admit new Members either by the Members selling a portion of their interest to the new Member or by the Company granting an additional interest to the new Member. In either event, the new Member must comply with Section 7.5 in order to be recognized as a Member of the Company.

7.5 Admissions.

(a) All transfers by a Member of his interest, or any interest therein, shall entitle the transferee only to receive the allocations and distributions to which the transferring Member would otherwise be entitled, and shall be considered and treated as a transferee of a distribution interest under South Carolina Code §33-44-502 . A transferee shall become a Member only upon compliance with the requirements of this Section 7.5 and only with the written consent of all of the other Members, which consent shall be given in the sole and absolute discretion of the other Members.

(b) No Person to whom a transferring Member has transferred his interest or any interest therein shall be eligible to be admitted as a Member of the Company unless (i) provision therefor is made by the instrument of assignment and (ii) such Person executes and acknowledges such instruments as the Members reasonably deems necessary or advisable to effect the admission of such Person as a Member; including but not limited to, executing the Operating Agreement currently governing the operations of the Company.

(c) Any transferee admitted to the Company as a Member pursuant to this Section 7.5 will succeed to all rights and be subject to all the obligations of the transferor Member. Further, the transferor Member shall not be released of any obligations owed to the Company. In connection with such transferee becoming a Member, all other steps shall be taken which, in the opinion of the Members, are reasonably necessary to admit such transferee under the Act as a Member.

7.6 Distributions and Allocations in Respect to Transferred Interests. If any Member's interest is sold, assigned or transferred, or any Person is otherwise admitted as a Member during any fiscal year in compliance with the provisions of this Agreement, net profits, net losses, each item thereof, and all other items attributable to such interest for such fiscal year shall be allocated among the Members by taking into account their varying interests during such fiscal year in accordance with Code §706(d). Unless otherwise required by the applicable Regulations, such sale, assignment, transfer or admission shall be deemed to have occurred at the end of the calendar month during which such event shall have actually occurred, and such allocations shall be determined and made pursuant to a pro forma closing of the books of the Company as of the end of such month. With respect to a transferred Member's interest or any interest

therein, all distributions on or before the deemed date of such transfer shall be made to the transferor and all distributions thereafter shall be made to the transferee. The Company shall not incur any liability for making allocations and distributions in accordance with this provision.

8. DEATH, BANKRUPTCY OR CHANGE OF OWNERSHIP. On account of a Member's (i) bankruptcy or assignment of its interest for the benefit of a creditor; (ii) the change of ownership of a Member as set forth in Section 5.2; or (iii) death ("Transferring Member"), the Company shall enjoy an option to purchase the Transferring Member's interest in the Company. If this option to purchase is exercised by the Company, it shall pay the purchase price in accordance with Section 8.1.

8.1 Purchase Price for Member's Interest. If this option to purchase is exercised by the Company, the purchase price shall be the fair market value of the Transferring Member's interest in the Company. For purposes of this Agreement, the fair market value of the Transferring Member's interest shall be as agreed upon by the Company and the Transferring Member's representative or estate. If a valuation can not be agreed upon, then such fair market value shall be determined by two independent M.A.I. appraisers, one selected by the Company and one selected by the Transferring Member's representative or estate. If the two appraisers set the fair market value at amounts which do not differ by more than thirty percent, then the average of the two values shall be the fair market value of the interest. If the differential of the two appraisals is greater than thirty percent (30%), then a third appraiser shall be appointed, by mutual agreement of the two appraisers, for the purpose of choosing which of the two appraisals more nearly reflects the fair market value of the interest. Whichever value the third appraiser chooses shall be the fair market value of the interest.

8.2 Terms of Purchase. If the Company elects to purchase the Transferring Member's interest in the Company, then the Company shall have the option of remitting the purchase price in a lump sum, or with a down payment equal to fifty percent (50%) of the purchase price and a promissory note for the remainder of the purchase price. If the purchase price is paid in a lump sum, then it shall be made within ninety days of the written election by the Company to purchase the interest. If the Company elects to make payment which includes a promissory note, the amount of the note shall be paid in equal consecutive monthly installments over a number of months, not exceeding one hundred twenty (120) months. The down payment of the purchase price shall be made within ninety (90) days of the written notice by the Company to purchase the interest. Any subsequent payments due thereafter shall commence on the first day of the first month following the payment of the down payment. Interest on the promissory note shall be adjusted annually and shall be at the prime rate of bank in which the Company has its primary operating account. The promissory note shall be subject to prepayment, without penalty, in whole or in part, at any time and, provided further, that the amounts due on account of the promissory note shall be accelerated upon default in the payment of the principal or interest due on said note.

8.3 Transfer of Member's Interest. Each Member agrees that upon receipt of cash or cash equivalents, or a promissory note in full payment of the purchase price for his interest in the Company, the legal representative of his estate will execute and deliver to the Company all the documents which are required to transfer the Transferring Member's interest in the Company to the Company.

9. WITHDRAW AND DISSOCIATION. No Member shall be allowed to withdraw or dissociate from the Company. Any attempted dissociation or withdraw by a Member shall be null and void and not recognized by the Company. If an event of dissociation occurs for any reason whatsoever, the Company shall not dissolve and the Member causing the dissociation, if any, shall be liable to the Company for such wrongful dissociation. In no event shall the dissociated Member be entitled to have its Ownership Interest purchased by the Company.

10. DISSOLUTION AND DEFICIT CAPITAL ACCOUNTS. The Company shall be dissolved upon the written consent of all Members. Upon dissolution and notwithstanding anything contained in this Agreement or any custom or rule of law to the contrary, a Member's deficit capital account, if any, shall not be an asset of the Company and such Member shall not be obligated to contribute such amount to the Company to restore the balance of such Member's capital account to zero.

11. DISTRIBUTION OF PROCEEDS ON DISSOLUTION. Upon the dissolution of the Company, the Members shall proceed with the liquidation of the Company as promptly as possible, but in an orderly and businesslike manner

and the proceeds therefrom and any other funds and assets of the Company shall be applied and distributed in the following order of priority:

11.1 First, to the payment of all debts of the Company owed to non-Members;

11.2 Second, to the payment of all debts owed to a Member on account of a loan made to the Company;

11.3 Third, to the Members in accordance and in proportion with the net credit balances of their respective capital accounts, as determined after taking into account all capital account adjustments for the Company's taxable year during which such liquidation or dissolution occurs;

11.4 Fourth, to the Members in accordance with their Ownership Percentages.

12. MISCELLANEOUS MATTERS.

12.1 Captions and Headings. Section and paragraph headings or captions contained in this Agreement are inserted only as a matter of convenience and for reference and in no way define, limit, extend or describe the scope of this Agreement or the intent of any provision hereof.

12.2 Applicable Law. This Agreement is to be formed in the State of South Carolina and shall be governed by and construed in accordance with the laws of the State of South Carolina. Any action brought to enforce or interpret this Agreement shall be brought in the court of appropriate jurisdiction for Beaufort County, South Carolina.

12.3 Severability. Every provision of the Agreement is intended to be severable. If any term or provision hereof is deemed illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the validity or legality of the remainder of this Agreement.

12.4 Benefit. Except as herein otherwise provided to the contrary, this Agreement shall be binding upon and inure to the benefit of the parties, their heirs, personal representatives, successors and assigns.

12.5 Amendments. This Agreement may be amended only by a written instrument executed by all the Members.

12.6 Further Action. Each Member, upon the request of the other Member, agrees to perform all further acts and execute, acknowledge, and deliver any documents which may be reasonably necessary, appropriate, or desirable to carry out the provisions of this Agreement.

12.7 Construction and Interpretation. If any provision of this Agreement requires judicial interpretation, it is agreed that the court interpreting or considering this Agreement shall not apply the presumption that the terms hereof shall be more strictly construed against a party by reason of the rule or conclusion or agreement that a document shall be construed against the party who itself or through its agents prepared the same.

12.8 Attorney Representation. The Members acknowledges that McNair Law Firm, P.A. prepared this Agreement on behalf and in the course of its representation of the Company and that the Members have been advised by McNair Law Firm, P.A. that a conflict exists between their interests. Each Member acknowledges that it has had the opportunity to seek independent legal counsel.

12.9 Entire Agreement. This Agreement, including *Exhibit 'A'*, embodies the entire agreement and understanding between the Members relating to the subject matter hereof and supersedes all prior representations, agreements and understandings, oral or written, relating to such subject matter.

Exhibit A

SILVER OAK LAND TRUST, LLC

MEMBERS, INITIAL CONTRIBUTIONS, AND OWNERSHIP PERCENTAGES

Member	Contribution	Ownership Percentage
Murray Reed		35.1%
Jack McIntyre		20.00%
Dave-Jeff LLC		20.96%
Martin Rehder		15.96%
Bourbon Place III, LLC		7.98%
TOTAL	$	100%

Silver Oak Land Trust, LLC.
Ownership Percentages
11/21/2011

Before new members		New Members				Tally
		Pensco Trust for I	7.000%	$ 99,550.00		after $350,000
		Rose Patterson	7.000%	$ 99,550.00		payment to
		Murray Reed	4.395%	$ 62,500.00		bank
		Dave-Jeff LLC.	1.758%	$ 25,000.00		
		Martin Rehder	4.395%	$ 62,500.00		
			24.548%		Pensco Trust for R. Sliv	7.000%
		Old Members:			Rose Patterson	7.000%
Murray Reed	35.100%		26.484%		Murray Reed & son	30.879%
Dave-Jeff LLC.	20.960%		15.815%		Dave-Jeff LLC	17.573%
Jack McIntyre	20.000%		15.090%		Jack McIntyre	15.090%
Martin Rehder	15.960%		12.042%		Martin Rehder	16.437%
Bourbon Place III, LLC	7.980%		6.021%		Bourbon Place III,LLC	6.021%
			75.452%			
Total	100.000%		100.000%			100.000%

4/14/2012

Silver Oak Land Trust, LLC — 2011

100% valuation k: $ 1,422,142.86
1% = $ 14,221.43

Before new members

1/1/2011

Old Members:	
Murray Reed	35.100%
Dave-Jeff LLC.	20.960%
Jack McIntyre	20.000%
Martin Rehder	15.960%
Bourbon Place III, LLC	7.980%
Total	100.000%

New Members		
Pensco Trust for I	7.000%	$ 99,550.00
Rose Patterson	7.000%	$ 99,550.00
Murray Reed	4.426%	$ 62,950.00
Dave-Jeff LLC.	1.758%	$ 25,000.00
Martin Rehder	4.426%	$ 62,950.00
	24.611%	$ 350,000.00

Old Members:	
Murray Reed	26.462%
Dave-Jeff LLC.	15.802%
Jack McIntyre	15.078%
Martin Rehder	12.032%
Bourbon Place III,	6.016%
	75.389%
	100.000%

SOLT Assessment to pay $150,000 loan

Members 4/14/12	Current Holdings	% of loan	$ owed to pay off loan
Pensco Rich Silver	7.000%	0.0000%	$ -
Rose Patteson	7.000%	0.0000%	$ -
Murray Reed & son	30.888%	35.9163%	$ 53,874.50
Dave-Jeff LLC	17.559%	20.4180%	$ 30,627.03
Jack McIntyre	15.078%	17.5324%	$ 26,298.58
Martin Rehder	16.459%	19.1378%	$ 28,706.76
Bourbon Place III,LLC	6.016%	6.9954%	$ 10,493.13
	100.000%	100.0000%	$ 150,000.00

7.0000%

Sum of Old and New:	Tally after $350,000 payment to bank as of 4/14/12
Pensco Trust for R. Silv	7.000%
Rose Patterson	7.000%
Murray Reed & son	30.888%
Dave-Jeff LLC	17.559%
Jack McIntyre	15.078%
Martin Rehder	16.459%
Bourbon Place III,LLC	6.016%
	100.000%

Tally after final bank payoff %*71/86 1% for $10,000

Pensco Trust fo	7.000%		
Rose Patterson	7.000%		
Murray Reed	25.5006%		
Dave-Jeff LLC.	14.4968%		
Jack McIntyre	12.4480%		
Martin Rehder	13.5879%		
Bourbon Place	4.9667%		
Bruce	7.5000%	$	75,000.00
Dave-Jeff LLC.	2.5000%	$	25,000.00
Rehder (bro)	5.0000%	$	50,000.00
		$	150,000.00
	100.0000%		
		paid 5/1/2012	

Total			
Pensco Trust fo	7.000%		
Rose Patterson	7.000%		
Murray Reed	25.5006%		
Dave Jeff	16.9968%	$	25,000.00
Jack McIntyre	12.4480%		
Martin Rehder	18.5879%	$	50,000.00
Bourbon Place	4.9667%		
Bruce	7.5000%	$	75,000.00
	100.0000%	$	150,000.00

MH/SOLT_011

ROA 0877

MEMBER SIGNATURE PAGE

Murray N. Reed

Updated 05/15/2012

MEMBER SIGNATURE PAGE

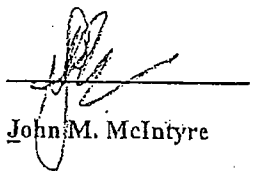
Susan B Vitek

Dave-Jeff LLC

Updated 05/15/2012

RCA 0879

MEMBER SIGNATURE PAGE



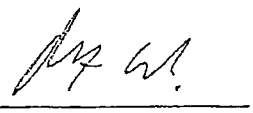
John M. McIntyre

Updated 05/15/2012

RECORDED 2014

ROA_0880

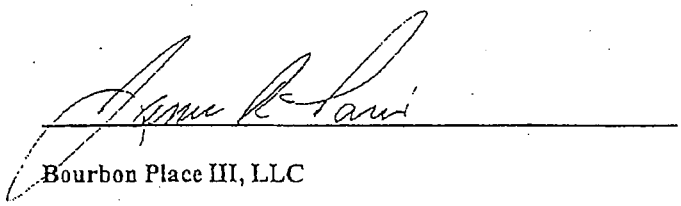
MEMBER SIGNATURE PAGE



Martin Rehder

Updated 05/15/2012

MEMBER SIGNATURE PAGE

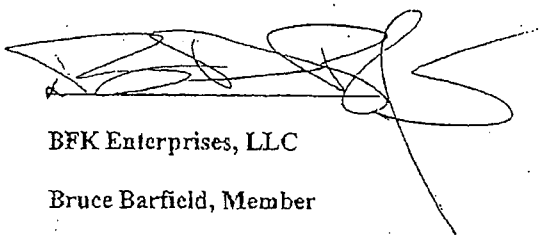


Bourbon Place III, LLC

Updated 05/15/2012

ROA 0882
MLF/SOLT_016

MEMBER SIGNATURE PAGE



BFK Enterprises, LLC

Bruce Barfield, Member

Updated 05/15/2012

RECEIVED
JAN 0 3 2011
2-PENSCO

MEMBER SIGNATURE PAGE

VP RB

Pensco Trust Company Custodian FBO: Richard A. Silver IRA.

ROA 0884
MLF/SOLT_018

Income/Expense
1/1/2005 Through 12/31/2005

3/7/2006

Category Description	1/1/2005-12/31/2005
INCOME	
Capital Account-Martin Rehder	100,235.00
Capital Account-Murray Reed #1	165,516.00
TOTAL INCOME	265,751.00
EXPENSES	
Bank Charge	135.00
Land Purchase	264,000.00
Legal-Prof Fees	110.00
TOTAL EXPENSES	264,245.00
OVERALL TOTAL	1,506.00

Checking acct TRC

Martin/Murray check from TRC central J.M. Earnest Money Held	264,000.00
Bourbon Place III LLC Sunwest bank check	24,000.00
BOA Dave Jeff LLC BOA cashiers check	50,000.00
#1 Murray Reed BOA cashiers check	100,000.00
	46,178.81
	484,178.81

Paid to McNair Law firm on Dec 15th.

OPERATING AGREEMENT
FOR
SILVER OAK LAND TRUST II, LLC

THIS OPERATING AGREEMENT, effective as of June 1, 2006, is entered into by and between the Members (as defined herein).

WHEREAS, the Members desire to enter into this Operating Agreement to govern the conduct of the business and affairs of the Company and to set forth the understanding of the Members regarding all other matters concerning the Company;

NOW, THEREFORE, in consideration of the premises and covenants contained herein and other good and valuable consideration, the receipt and legal sufficiency of which are hereby acknowledged, the Members, intending to be legally bound, do hereby agree as follows.

1. CERTAIN DEFINITIONS.

When used herein, the following terms shall have the meanings set forth below.

1.1 "Act" means the South Carolina Limited Liability Company Act, §33-44-101, et seq. Code of Laws of South Carolina (1976 as amended).

1.2 "Agreement" means this Operating Agreement as the same may be amended and supplemented from time to time.

1.3 "Articles" means the articles of organization, and all amendments thereto, executed and filed pursuant to the Act and the terms of this Agreement.

1.4 "Code" means the Internal Revenue Code of 1986, as amended. All references herein to specific sections of the Code shall be deemed to refer also to the corresponding provisions of succeeding law.

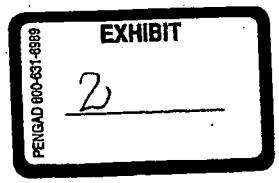
1.5 "Company" means Silver Oak Land Trust, II, LLC, a South Carolina limited liability company.

1.6 "Manager" means John M. McIntyre.

1.7 "Member" means as set forth on Exhibit "A".

1.8 "Ownership Percentage" means the percentage that a Member's total capital contributions to the Company bear to all the capital contributions made to the Company.

1.9 "Person" means any individual, limited liability company, limited liability partnership, partnership, corporation, trust or other person or entity.



1.10 "Treas. Reg." and "Regulations" mean the income tax regulations promulgated under the Code, as such regulations may be amended from time to time.

1.11 Other Definitions. Unless otherwise provided in this Agreement, any other term used in this Agreement which is elsewhere defined in this Agreement shall have the same meaning as such term is respectively given by this Agreement.

2. ORGANIZATION.

2.1 Formation. The Members hereby agree to be bound by the terms and conditions of this Agreement, evidenced by affixing their signatures to this Agreement. Thus, commensurate with the execution of this Agreement, the Members of the Company shall adopt the Articles that were filed with the Office of the South Carolina Secretary of State.

2.2 Limited Liability Company. The Members intend that the Company not be a partnership (including, without limitation, a limited partnership) or joint venture, and that no Member be a partner or joint venturer of any other Member, for any purposes other than federal and state tax purposes, and this Agreement may not be construed to suggest otherwise.

2.3 Foreign Qualifications. Prior to the Company's conducting business in any jurisdiction other than South Carolina, the Members shall cause the Company to comply, to the extent procedures are available and those matters are reasonably within the control of the Members, with all requirements necessary to qualify the Company as a foreign limited liability company in that jurisdiction. At the request of the Members, each Member shall execute, acknowledge, swear to, and deliver all certificates and other instruments conforming with this Operating Agreement that are necessary or appropriate to qualify, continue, and terminate the Company as a foreign limited liability company in all such jurisdictions in which the Company may conduct business.

3. CAPITAL CONTRIBUTIONS AND RELATED MATTERS.

3.1 Initial Capital Contributions. The Members shall make their initial capital contributions to the Company as reflected on *Exhibit 'A'* which is affixed hereto and incorporated herein. If a Member fails to make an initial capital contribution it shall be considered in default under Section 3.3.

3.2 Additional Capital Contributions. If the majority of Members (voting based upon Ownership Percentages)determine that the Company needs additional capital, the additional capital contributions made by the Members shall be in proportion to their respective Ownership Percentages in the Company.

3.3 Default.

(a) Non-Defaulting Member's Remedy. In the event a Member fails to pay an initial capital contribution or additional capital contribution when due and

such default is not cured within ten days after written notice to the defaulting Member by the non-defaulting Member requesting that such capital contribution be paid, a non-defaulting Member may make the capital contribution owed by the defaulting Member and such amount shall be deemed a loan to the Company. The terms of the loan shall be in accordance with Section 3.4.

(b) Company's Remedy. In the event a Member fails to pay an additional capital contribution when due and such default is not cured within ten days after written notice to the defaulting Member by the Company or a non-defaulting Member requesting that such capital contribution be paid, the Company may commence legal proceedings against the defaulting Member to collect the due and unpaid amount of the capital contribution, plus the expenses of collection, including court costs and attorneys' fees, in which case the defaulting Member would remain a Member upon successful enforcement and payment in full of such capital contribution (and any interest thereon as may be awarded), plus the expenses of collection. This remedy shall not be available if a non-defaulting Member elects to contribute the additional funds, either by a loan or an additional capital contribution to the Company, pursuant to Section 3.3(a) above.

(c) Loans By Members. A Member shall be allowed to make a loan to the Company if the Members unanimously agree to the making of said loan or if the loan is made pursuant to Section 3.3(a). All loans from a Member to the Company shall accrue interest at the prime rate posted by the lending institution at which the Company has its primary operating account, plus two percentage (2%) points. For example, if the prime rate is four percent (4%) the loan from the Member would accrue interest at the annual rate of six percent (6%).

3.4 Withdrawal of Capital. The Members shall only be entitled to withdraw or to receive distributions of his capital contributions in accordance with the terms and conditions of this Agreement.

3.5 Interest on Capital Contributions. No interest shall accrue on any capital contributions made by the Members.

3.6 Capital Accounts. The Company shall establish and maintain for each Member a capital account initially reflecting an amount equal to each Member's initial capital contribution. The capital account shall be adjusted from time to time to reflect the Member's additional capital contributions, if any, allocable shares of net profits or net losses or any items thereof, distributions made to any Member, and as otherwise required by the provisions of this Agreement and the Code and its Regulations including, but not limited to, Treas. Reg. 1.704-1(b)(2)(iv).

4. PROFITS, LOSSES, DISTRIBUTIONS AND TAXABLE INCOME.

4.1 Allocation of Profit and Loss and Taxable Income, Gain, Loss, Deduction, and Credit. Both profits and losses of the Company and, items of taxable income, gain, loss, deduction and credit, shall be apportioned among the Members in the same percentage as each Member's total capital contributions bear to the total of all capital contributions made to the Company.

4.2 Distribution to Members. The Company may make distributions of cash or cash equivalents to the Members from time to time. The Manager shall determine the total amount of the distribution which may be made to the Members, and each Member shall share in such total distribution in accordance with its Ownership Percentage.

4.3 Distributions in Kind. Except as may be provided in an amendment to this Agreement, no Member regardless of the nature of the Member's contribution to capital, may demand or receive a distribution from the Company in any form other than cash or cash equivalents.

4.4 Limitation on Distributions. No distribution may be made by the Company if after giving effect to the distribution: (i) the company would not be able to pay its debts as they become due in the usual course of business; or (ii) the assets of the Company would be less than the sum of its liabilities plus, the amount that would be needed, if the Company were to be dissolved at the time of the distribution, to satisfy the preferential rights of other Members upon dissolution which are superior to the rights of the Member receiving the distribution.

5. MEMBERS.

5.1 Representations and Warranties. Each Member hereby represents and warrants to the Company and the other Members that: (i) it is duly organized, validly existing and in good standing under the law of the state of its formation and is duly qualified and in good standing as a foreign entity in all jurisdictions which require it to be qualified; (ii) it has all necessary power and authority to execute and agree to this Agreement and to perform obligations hereunder; (iii) it has duly executed and delivered this Agreement; and (iv) its authorization, execution, delivery, and performance of this Agreement does not conflict with any other agreement or arrangement to which that Member is a party or by which it is bound.

5.2 Change of Ownership of a Member. A Member that is not a natural person may not cause or permit an interest, direct or indirect, in itself to be transferred without the consent of the other Members if after such transfer the Member shall cease to be controlled by the same Person who control it as of the date of its admission to the Company. Upon the non-compliance of this Section, the Company shall have the option to buy, and on exercise of that option, the non-complying Member shall sell, its interest in the Company, in accordance with Section 8.1.

5.3 Information. In addition to the other rights specifically set forth in this Operating Agreement, each Member is entitled to all information to which that Member is entitled to have access pursuant to South Carolina Code §33-44-408.

5.4 Fiduciary Duties.

(a) Duty of Loyalty. Each Member's and Manager's duty of loyalty to the Company and the other Members is limited to account to the Company and to hold as trustee for the Company any property, profit or benefit derived by the Member or the Manager in the conduct or winding up of the Company's business. A Member or a Manager does not violate the duty of loyalty by engaging in a competing business or pursuing other business opportunities, even if the business opportunity could have been pursued by the Company.

(b) Duty of Care. Each Members' and Manager's duty of care to the Company and the other Members in the conduct of and winding up of the Company's business is limited to refraining from engaging in grossly negligent or reckless conduct, intentional misconduct, or a knowing violation of law.

(c) Good Faith and Fair Dealing. Each Member and Manager shall discharge his duties and exercise any of his rights consistently with the obligation of good faith and fair dealing which he owes to the Company and the other Members. A Member or a Manager does not violate a duty of good faith or fair dealing to the Company merely because the conduct furthers the Member's or Manager's own interest. Further, a Member or a Manager does not violate the duty of good faith and fair dealing by engaging in a competing business or pursing other business opportunities, even if the business opportunity could have been pursued by the Company.

6. MANAGEMENT OF THE COMPANY.

6.1 Decisions of the Company. Except as otherwise set forth herein, all decisions effecting the operations of the Company shall be decided by consent of the Manager.

6.2 Authority and Power of the Manager. The Manager shall have the authority and power necessary to discharge the business of the Company. Without limiting the foregoing, the Manager shall have the authority and power to perform the following acts on behalf of the Company:

(a) Execute and deliver any and all agreements, contracts, documents, certifications and instruments necessary or convenient in connection with the carrying on in the usual way of the business and affairs of the Company;

(b) Execute and deliver any deed, lease, mortgage, mortgage note, bill of sale, easement, license, contract or other instrument purporting to convey, sell, exchange or encumber all or any part of the Company's property;

(c) Deposit or invest Company funds in such interest bearing or non interest bearing investments or bank accounts as they deem advisable to the extent

such funds are not then required for Company operations, and are not required to be distributed, pursuant to this Agreement;

(d) Retain or employ and coordinate the services of employees, independent contractors, supervisors, accountants, attorneys and other persons necessary or appropriate to carry out the business and purposes of the Company;

(e) Engage in any kind of activity and to perform and carry out such contracts of any kind necessary to operate the business and purposes of the Company, in accordance with this Agreement; and

(f) Pay all debts and other obligations of the Company, to the extent that funds of the Company are available therefor.

6.3 Management Fee. The Manager shall receive as a management fee fifteen percent (15%) of all revenue received by the Company. The fee shall be paid within thirty (30) days of receipt of the revenue. Except in the event that all of the real property owned by the Company is sold in one transaction, then the Members shall first receive their capital contribution (pro rata), then the Manager shall receive his management fee and then the remaining funds, if any, shall be distributed in accordance with Ownership Percentages.

6.4 Liability of the Members and the Manager. The Members and the Manager shall not be liable to the Company or to any Member for any debts owed by the Company, or for any actions taken or omissions made in good faith and reasonably believed by the Member or the Manager to be in the best interests of the Company, or for errors of judgment, except to the extent such acts or omissions constitute gross negligence or willful misconduct. Provided the standards of this Section 6.3 are satisfied, the Company shall indemnify each Member and Manager for all costs and expenses, including reasonable attorneys' fees, associated with the defense of any action or claim brought against the Member or Manager by any other Member, the Company or a third party, except for an action brought pursuant to Section 3.3(b).

6.5 Conflicts of Interests. The pursuit of other ventures and activities by Members or Manager, even if directly competitive with the business of the Company, is hereby consented to by the Members and shall not be deemed wrongful or improper. No Member or Manager shall be obligated to present any particular investment opportunity to the Company, even if such opportunity is of a character which, if presented to the Company, could be taken by the Company. The Company may enter into agreements with one or more Members or Managers (or an affiliated entity) to provide management, consulting, marketing, construction or other services to the Company.

6.6 Waiver of Derivative Suit. All Members hereby agree to waive any and all rights to institute a derivative suit pursuant to South Carolina Code §33-44-1101.

7. TRANSFERS OF INTERESTS; ADMISSION.

7.1 Transfer Restrictions. No Member may sell, assign, transfer, pledge, hypothecate or otherwise dispose of its interest or any interest therein unless the transfer meets the requirements of Section 7.2 or Section 7.3. Any transfer of any Member's interest in violation of this Agreement shall be void and of no effect.

7.2 Permitted Transfers. Compliance with Section 7.3 shall not be required for the gratuitous transfer by a Member of their distributional interest in the Company (as defined in South Carolina Code §33-44-101) to the following individuals and/or entities:

(a) transfers to the spouse or any one or more of the issue, or in trust for the benefit of any one or more of the spouse and issue, of such Member; or

(b) transfers to the estate of the Member.

All transferees under this Section shall be considered a transferee of a distribution interest under South Carolina Code §33-44-502.

7.3 Right of First Refusal. If a Member receives a bona fide offer ("Offer") which the Member ("Selling Member") proposes to accept, whether or not solicited, to sell or otherwise dispose of all or any portion of his interest, then the Selling Member shall furnish to the non-selling Members written notice of the receipt of the Offer together with the principal terms and conditions of the sale, including the minimum price ("Sale Price") at which such interest is proposed to be sold, and a statement as to the identity of the real party in interest making the Offer. The Company, shall then have the right to purchase any portion of the interest ("Offered Interest") proposed to be sold by the Selling Member upon and subject to the terms and conditions as set forth in this Section 7.3.

(a) The price and terms at which the Offered Interest may be purchased shall be the price and terms contained in the Offer. However, if the Company elects to purchase only a portion of the interest being sold, then the purchase price shall be in proportion to the price contained in the Offer. If the price contained in the Offer shall consist (in whole or in part) of consideration other than cash, payable at the closing thereof or at a later date, the cash equivalent fair market value of such other consideration shall be included in the price at which the Offered Interest may be so purchased.

(b) The Company shall have thirty days after receipt of the notice to elect to purchase the Offered Interest. The purchase transaction (unless otherwise agreed to with third-party purchasers) shall be consummated at a closing to be held at the principal executive offices of the Company, or at such other location as may be agreed by the parties, within thirty days following the date of the Company election to purchase the Offered Interest, or any portion thereof. At the closing, unless otherwise stipulated in the Offer, the Company shall deliver to the Selling Member

the full purchase price, against delivery of an instrument appropriately transferring the Offered Interest sold thereby.

(c) If the Company does not elect to purchase the Offered Interest, or any portion thereof, then the Selling Member may accept the Offer and, pursuant thereto, sell the Offered Interest. However, if the Selling Member does not sell the Offered Interest pursuant to the Offer within sixty days after the termination (by passage of time or otherwise) of the rights of first refusal created under this Section 7.3, the Selling Member may not thereafter transfer the Offered Interest, or any part thereof, without again complying with the provisions of this Section 7.3.

7.4 New Members. Upon unanimous consent of the Members, the Company shall have the ability to admit new Members either by the Members selling a portion of their interest to the new Member or by the Company granting an additional interest to the new Member. In either event, the new Member must comply with Section 7.5 in order to be recognized as a Member of the Company.

7.5 Admissions.

(a) All transfers by a Member of his interest, or any interest therein, shall entitle the transferee only to receive the allocations and distributions to which the transferring Member would otherwise be entitled, and shall be considered and treated as a transferee of a distribution interest under South Carolina Code §33-44-502 . A transferee shall become a Member only upon compliance with the requirements of this Section 7.5 and only with the written consent of all of the other Members, which consent shall be given in the sole and absolute discretion of the other Members.

(b) No Person to whom a transferring Member has transferred his interest or any interest therein shall be eligible to be admitted as a Member of the Company unless (i) provision therefor is made by the instrument of assignment and (ii) such Person executes and acknowledges such instruments as the Members reasonably deems necessary or advisable to effect the admission of such Person as a Member; including but not limited to, executing the Operating Agreement currently governing the operations of the Company.

(c) Any transferee admitted to the Company as a Member pursuant to this Section 7.5 will succeed to all rights and be subject to all the obligations of the transferor Member. Further, the transferor Member shall not be released of any obligations owed to the Company. In connection with such transferee becoming a Member, all other steps shall be taken which, in the opinion of the Members, are reasonably necessary to admit such transferee under the Act as a Member.

7.6 Distributions and Allocations in Respect to Transferred Interests. If any Member's interest is sold, assigned or transferred, or any Person is otherwise admitted as a Member during any fiscal year in compliance with the provisions of this Agreement, net profits, net losses,

each item thereof, and all other items attributable to such interest for such fiscal year shall be allocated among the Members by taking into account their varying interests during such fiscal year in accordance with Code §706(d). Unless otherwise required by the applicable Regulations, such sale, assignment, transfer or admission shall be deemed to have occurred at the end of the calendar month during which such event shall have actually occurred, and such allocations shall be determined and made pursuant to a pro forma closing of the books of the Company as of the end of such month. With respect to a transferred Member's interest or any interest therein, all distributions on or before the deemed date of such transfer shall be made to the transferor and all distributions thereafter shall be made to the transferee. The Company shall not incur any liability for making allocations and distributions in accordance with this provision.

8. DEATH, BANKRUPTCY OR CHANGE OF OWNERSHIP. On account of a Member's (i) bankruptcy or assignment of its interest for the benefit of a creditor; (ii) the change of ownership of a Member as set forth in Section 5.2; or (iii) death ("Transferring Member"), the Company shall enjoy an option to purchase the Transferring Member's interest in the Company. If this option to purchase is exercised by the Company, it shall pay the purchase price in accordance with Section 8.1.

8.1 Purchase Price for Member's Interest. If this option to purchase is exercised by the Company, the purchase price shall be the fair market value of the Transferring Member's interest in the Company. For purposes of this Agreement, the fair market value of the Transferring Member's interest shall be as agreed upon by the Company and the Transferring Member's representative or estate. If a valuation can not be agreed upon, then such fair market value shall be determined by two independent M.A.I. appraisers, one selected by the Company and one selected by the Transferring Member's representative or estate. If the two appraisers set the fair market value at amounts which do not differ by more than thirty percent, then the average of the two values shall be the fair market value of the interest. If the differential of the two appraisals is greater than thirty percent (30%), then a third appraiser shall be appointed, by mutual agreement of the two appraisers, for the purpose of choosing which of the two appraisals more nearly reflects the fair market value of the interest. Whichever value the third appraiser chooses shall be the fair market value of the interest.

8.2 Terms of Purchase. If the Company elects to purchase the Transferring Member's interest in the Company, then the Company shall have the option of remitting the purchase price in a lump sum, or with a down payment equal to fifty percent (50%) of the purchase price and a promissory note for the remainder of the purchase price. If the purchase price is paid in a lump sum, then it shall be made within ninety days of the written election by the Company to purchase the interest. If the Company elects to make payment which includes a promissory note, the amount of the note shall be paid in equal consecutive monthly installments over a number of months, not exceeding one hundred twenty (120) months. The down payment of the purchase price shall be made within ninety (90) days of the written notice by the Company to purchase the interest. Any subsequent payments due thereafter shall commence on the first day of the first month following the payment of the down payment. Interest on the promissory note shall be adjusted annually and shall be at the prime rate of bank in which the Company has its primary operating account. The promissory note shall be subject to prepayment, without penalty, in whole or in part,

at any time and, provided further, that the amounts due on account of the promissory note shall be accelerated upon default in the payment of the principal or interest due on said note.

8.3 Transfer of Member's Interest. Each Member agrees that upon receipt of cash or cash equivalents, or a promissory note in full payment of the purchase price for his interest in the Company, the legal representative of his estate will execute and deliver to the Company all the documents which are required to transfer the Transferring Member's interest in the Company to the Company.

9. WITHDRAW AND DISSOCIATION. No Member shall be allowed to withdraw or dissociate from the Company. Any attempted dissociation or withdraw by a Member shall be null and void and not recognized by the Company. If an event of dissociation occurs for any reason whatsoever, the Company shall not dissolve and the Member causing the dissociation, if any, shall be liable to the Company for such wrongful dissociation. In no event shall the dissociated Member be entitled to have its Ownership Interest purchased by the Company.

10. DISSOLUTION AND DEFICIT CAPITAL ACCOUNTS. The Company shall be dissolved upon the written consent of all Members. Upon dissolution and notwithstanding anything contained in this Agreement or any custom or rule of law to the contrary, a Member's deficit capital account, if any, shall not be an asset of the Company and such Member shall not be obligated to contribute such amount to the Company to restore the balance of such Member's capital account to zero.

11. DISTRIBUTION OF PROCEEDS ON DISSOLUTION. Upon the dissolution of the Company, the Members shall proceed with the liquidation of the Company as promptly as possible, but in an orderly and businesslike manner and the proceeds therefrom and any other funds and assets of the Company shall be applied and distributed in the following order of priority:

11.1 First, to the payment of all debts of the Company owed to non-Members;

11.2 Second, to the payment of all debts owed to a Member on account of a loan made to the Company;

11.3 Third, to the Members in accordance and in proportion with the net credit balances of their respective capital accounts, as determined after taking into account all capital account adjustments for the Company's taxable year during which such liquidation or dissolution occurs;

11.4 Fourth, to the Members in accordance with their Ownership Percentages.

12. MISCELLANEOUS MATTERS.

12.1 Captions and Headings. Section and paragraph headings or captions contained in this Agreement are inserted only as a matter of convenience and for reference and in no way define, limit, extend or describe the scope of this Agreement or the intent of any provision hereof.

12.2 Applicable Law. This Agreement is to be formed in the State of South Carolina and shall be governed by and construed in accordance with the laws of the State of South Carolina. Any action brought to enforce or interpret this Agreement shall be brought in the court of appropriate jurisdiction for Beaufort County, South Carolina.

12.3 Severability. Every provision of the Agreement is intended to be severable. If any term or provision hereof is deemed illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the validity or legality of the remainder of this Agreement.

12.4 Benefit. Except as herein otherwise provided to the contrary, this Agreement shall be binding upon and inure to the benefit of the parties, their heirs, personal representatives, successors and assigns.

12.5 Amendments. This Agreement may be amended only by a written instrument executed by all the Members.

12.6 Further Action. Each Member, upon the request of the other Member, agrees to perform all further acts and execute, acknowledge, and deliver any documents which may be reasonably necessary, appropriate, or desirable to carry out the provisions of this Agreement.

12.7 Construction and Interpretation. If any provision of this Agreement requires judicial interpretation, it is agreed that the court interpreting or considering this Agreement shall not apply the presumption that the terms hereof shall be more strictly construed against a party by reason of the rule or conclusion or agreement that a document shall be construed against the party who itself or through its agents prepared the same.

12.8 Attorney Representation. The Members acknowledges that McNair Law Firm, P.A. prepared this Agreement on behalf and in the course of its representation of the Company and that the Members have been advised by McNair Law Firm, P.A. that a conflict exists between their interests. Each Member acknowledges that it has had the opportunity to seek independent legal counsel.

12.9 Entire Agreement. This Agreement, including *Exhibit 'A'*, embodies the entire agreement and understanding between the Members relating to the subject matter hereof and supersedes all prior representations, agreements and understandings, oral or written, relating to such subject matter.

This Agreement is executed by the Members, effective as of the date first above written.

MEMBERS:

Dave-Jeff, LLC

By:_____
Its:_____

_____
Murray Reed

_____
Jack McIntyre

_____
Mick McDonough

_____
William Slater

_____
Rory Gardiner

_____
Thomas S. Woods

Bourbon Place Partners, LLC

By:_____
Its:_____

_____
Martin Rheder

_____
M. Fauerby

_____
Phil Kart

_____
Jim Delamarter

_____
Clifford Emery

Silver Oak Land Trust II, LLC

Date: 6/10/10

Signature Page :

Clifford D. Emery, "joint tenants with rights of survivorship"

Betsey A. Emery, "joint tenants with rights of survivorship"

MEMBERSHIP SIGNATURE PAGE
Silver Oak Land Trust II, LLC

David Fauerby,

MEMBERSHIP SIGNATURE PAGE
Silver Oak Land Trust II, LLC

_____
John Fauerby,

Exhibit 'A'

Member	Ownership Percentage
Murray Reed	7.2%
Martin Rheder	3.6%
Jack McIntyre	9.0%
Dave-Jeff LLC	5.75%
Bourbon Place Partners, LLC	2.87%
M. Fauerby	7.59%
Mick McDonough	12.8%
Phil Kart	12.8%
William Slater	12.8%
Jim Delamarter	6.4%
Rory Gardiner	6.4%
Clifford Emery	6.4%
Thomas S. Woods	6.4%
TOTAL:	100.0%

Exhibit 'A'

Member	Ownership Percentage
Murray Reed	7.2%
Martin Rheder	3.6%
Jack McIntyre	9.0%
Dave-Jeff LLC	5.75%
Bourbon Place Partners, LLC	2.87%
M. Fauerby	7.59%
Mick McDonough	12.8%
Phil Kart	12.8%
William Slater	12.8%
Jim Delamarter	6.4%
Rory Gardiner	6.4%
Clifford Emery	6.4%
Thomas S. Woods	6.4%
TOTAL:	100.0%

Deceased Aug 25, 2011

TOD 3 surviving Heirs.

Dave-Jeff LLC net increase
David Fauerby. new member
JOHN Fauerby. new member.

Exhibit A

Silver Oak Land Trust II, LLC

Members Ownership

Percentage	Owner
2.87	Bourbon Place III LLC
8.28	Dave Jeff LLC
6.4	H. Anderson & Jim Delamarter
6.4	Emery, Cliff and Skiffy
2.53	David Fauerby
2.53	John Fauerby
6.4	Rory Gardiner
12.8	Phil and Kristin Kart
12.8	Mick McDonough
9	Jack McIntyre
7.2	Murray Reed
3.6	Martin Rehder
12.8	William Claude Slater
6.4	Thomas S. Woods
100.01	

OPERATING AGREEMENT

FOR

SILVER OAK LAND TRUST IV, LLC

THIS OPERATING AGREEMENT, effective as of October 30th, 2007, is entered into by and between the Members (as defined herein).

WHEREAS, the Members desire to enter into this Operating Agreement to govern the conduct of the business and affairs of the Company and to set forth the understanding of the Members regarding all other matters concerning the Company;

NOW, THEREFORE, in consideration of the premises and covenants contained herein and other good and valuable consideration, the receipt and legal sufficiency of which are hereby acknowledged, the Members, intending to be legally bound, do hereby agree as follows.

1. Certain Definitions.

When used herein, the following terms shall have the meanings set forth below.

1.1 "Act" means the South Carolina Limited Liability Company Act, §33-44-101, et seq. Code of Laws of South Carolina (1976 as amended).

1.2 "Agreement" means this Operating Agreement as the same may be amended and supplemented from time to time.

1.3 "Articles" means the articles of organization, and all amendments thereto, executed and filed pursuant to the Act and the terms of this Agreement.

1.4 "Code" means the Internal Revenue Code of 1986, as amended. All references herein to specific sections of the Code shall be deemed to refer also to the corresponding provisions of succeeding law.

1.5 "Company" means Silver Oak Land Trust, IV, LLC, a South Carolina limited liability company.

1.6 "Manager" means initially, Silver Oak Land Management, LLC, a South Carolina limited liability company.

1.7 "Member" means those Persons set forth in Exhibit "A".

1.8 "Ownership Percentage" means the percentage that a Member's total capital contributions to the Company bear to all the capital contributions made to the Company, as initially reflected in the attached Exhibit "A".

1.9 "Person" means any individual, limited liability company, limited liability partnership, partnership, corporation, trust or other person or entity.

1.10 "Treas Reg. and "Regulations". mean the income tax regulations promulgated

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EXHIBIT
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under the Code, as such regulations may be amended from time to time.

1.11 Other Definitions. Unless otherwise provided in this Agreement, any other term used in this Agreement which is elsewhere defined in this Agreement shall have the same meaning as such term is respectively given by this Agreement.

2. Organization.

2.1 Formation. The Members hereby agree to be bound by the terms and conditions of this Agreement, evidenced by affixing their signatures to this Agreement. Thus, commensurate with the execution of this Agreement, the Members of the Company shall adopt the Articles that were filed with the Office of the South Carolina Secretary of State.

2.2 Limited Liability Company. The Members intend that the Company not be a partnership (including, without limitation, a limited partnership) or joint venture, and that no Member be a partner or joint venturer of any other Member, for any purposes other than federal and state tax purposes, and this Agreement may not be construed to suggest otherwise.

2.3 Foreign Qualifications. Prior to the Company's conducting business in any jurisdiction other than South Carolina, the Members shall cause the Company to comply, to the extent procedures are available and those matters are reasonably within the control of the Members, with all requirements necessary to qualify the Company as a foreign limited liability company in that jurisdiction. At the request of the Members, each Member shall execute, acknowledge, swear to, and deliver all certificates and other instruments conforming with this Operating Agreement that are necessary or appropriate to qualify, continue, and terminate the Company as a foreign limited liability company in all such jurisdictions in which the Company may conduct business.

3. Capital Contributions and Related Matters.

3.1 Initial Capital Contributions. The Members shall make their initial capital contributions to the Company as reflected on *Exhibit 'A'* which is affixed hereto and incorporated herein. If a Member fails to make an initial capital contribution it shall be considered in default under Section 3.3.

3.2 Additional Capital Contributions. If the majority of Members (voting based upon Ownership Percentages)determine that the Company needs additional capital, the additional capital contributions made by the Members shall be in proportion to their respective Ownership Percentages in the Company.

3.3 Default.

(a) Non-Defaulting Member's Remedy. In the event a Member fails to pay an initial capital contribution or additional capital contribution when due and such default is not cured within ten days after written notice to the defaulting Member by the non-defaulting Member requesting that such capital contribution be paid, a non-defaulting Member may make the capital contribution owed by the defaulting Member and such amount shall be deemed a loan to the Company. The terms of the loan shall be in accordance with Section 3.4.

(b) Company's Remedy. In the event a Member fails to pay an additional capital contribution when due and such default is not cured within ten days after written notice to the defaulting Member by the Company or a non-defaulting Member requesting that such capital contribution be paid, the Company may commence legal proceedings against the defaulting Member to collect the due and unpaid amount of the capital contribution, plus the expenses of collection, including court costs and attorneys' fees, in which case the defaulting Member would remain a Member upon successful enforcement and payment in full of such capital contribution (and any interest thereon as may be awarded), plus the expenses of collection. This remedy shall not be available if a non-defaulting Member elects to contribute the additional funds, either by a loan or an additional capital contribution to the Company, pursuant to Section 3.3(a) above.

(c) Loans By Members. A Member shall be allowed to make a loan to the Company if the Members unanimously agree to the making of said loan or if the loan is made pursuant to Section 3.3(a). All loans from a Member to the Company shall accrue interest at the prime rate posted by the lending institution at which the Company has its primary operating account, plus two percentage (2%) points. For example, if the prime rate is four percent (4%) the loan from the Member would accrue interest at the annual rate of six percent (6%).

3.4 Withdrawal of Capital. The Members shall only be entitled to withdraw or to receive distributions of his capital contributions in accordance with the terms and conditions of this Agreement.

3.5 Interest on Capital Contributions. No interest shall accrue on any capital contributions made by the Members.

3.6 Capital Accounts. The Company shall establish and maintain for each Member a capital account initially reflecting an amount equal to each Member's initial capital contribution. The capital account shall be adjusted from time to time to reflect the Member's additional capital contributions, if any, allocable shares of net profits or net losses or any items thereof, distributions made to any Member, and as otherwise required by the provisions of this Agreement and the Code and its Regulations including, but not limited to, Treas. Reg. 1.704-1(b)(2)(iv).

4. Profits, Losses, Distributions and Taxable Income.

4.1 Allocation of Profit and Loss and Taxable Income, Gain, Loss, Deduction, and Credit. Both profits and losses of the Company and, items of taxable income, gain, loss, deduction and credit, shall be apportioned among the Members in the same percentage as each Member's total capital contributions bear to the total of all capital contributions made to the Company.

4.2 Distribution to Members. The Company may make distributions of cash or cash equivalents to the Members from time to time. The Manager shall determine the total amount of the distribution which may be made to the Members, and each Member shall share in such total distribution in accordance with its Ownership Percentage.

4.3 Distributions in Kind. Except as may be provided in an amendment to this Agreement, no Member regardless of the nature of the Member's contribution to capital, may demand or receive a distribution from the Company in any form other than cash or cash equivalents.

4.4 Limitation on Distributions. No distribution may be made by the Company if after giving effect to the distribution: (i) the company would not be able to pay its debts as they become due in the usual course of business; or (ii) the assets of the Company would be less than the sum of its liabilities plus, the amount that would be needed, if the Company were to be dissolved at the time of the distribution, to satisfy the preferential rights of other Members upon dissolution which are superior to the rights of the Member receiving the distribution.

5. Members.

5.1 Representations and Warranties. Each Member hereby represents and warrants to the Company and the other Members that: (i) it is duly organized, validly existing and in good standing under the law of the state of its formation and is duly qualified and in good standing as a foreign entity in all jurisdictions which require it to be qualified; (ii) it has all necessary power and authority to execute and agree to this Agreement and to perform obligations hereunder; (iii) it has duly executed and delivered this Agreement; and (iv) its authorization, execution, delivery, and performance of this Agreement does not conflict with any other agreement or arrangement to which that Member is a party or by which it is bound.

5.2 Change of Ownership of a Member. A Member that is not a natural person may not cause or permit an interest, direct or indirect, in itself to be transferred without the consent of the other Members if after such transfer the Member shall cease to be controlled by the same Person who control it as of the date of its admission to the Company. Upon the non-compliance of this Section, the Company shall have the option to buy, and on exercise of that option, the non-complying Member shall sell, its interest in the Company, in accordance with Section 8.1.

5.3 Information. In addition to the other rights specifically set forth in this Operating Agreement, each Member is entitled to all information to which that Member is entitled to have access pursuant to South Carolina Code §33-44-408.

5.4 Fiduciary Duties.

(a) Duty of Loyalty. Each Member's and Manager's duty of loyalty to the Company and the other Members is limited to account to the Company and to hold as trustee for the Company any property, profit or benefit derived by the Member or the Manager in the conduct or winding up of the Company's business. A Member or a Manager does not violate the duty of loyalty by engaging in a competing business or pursuing other business opportunities, even if the business opportunity could have been pursued by the Company.

(b) Duty of Care. Each Members' and Manager's duty of care to the Company and the other Members in the conduct of and winding up of the Company's business is limited to refraining from engaging in grossly negligent or reckless conduct, intentional misconduct, or a knowing violation of law.

(c) Good Faith and Fair Dealing. Each Member and Manager shall discharge his duties and exercise any of his rights consistently with the obligation of good faith and fair dealing which he owes to the Company and the other Members. A Member or a Manager does not violate a duty of good faith or fair dealing to the Company merely because the conduct furthers the Member's or Manager's own interest. Further, a Member or a Manager does not violate the duty of good faith and fair dealing by engaging in a competing business or pursing other business opportunities, even if the business opportunity could have been pursued by the Company.

6. Management of the Company.

6.1 Decisions of the Company. Except as otherwise set forth herein, all decisions effecting the operations of the Company shall be decided by consent of the Manager.

6.2 Authority and Power of the Manager. The Manager shall have the authority and power necessary to discharge the business of the Company. Without limiting the foregoing, the Manager shall have the authority and power to perform the following acts on behalf of the Company:

(a) Execute and deliver any and all agreements, contracts, documents, certifications and instruments necessary or convenient in connection with the carrying on in the usual way of the business and affairs of the Company;

(b) Execute and deliver any deed, lease, mortgage, mortgage note, bill of sale, easement, license, contract or other instrument purporting to convey, sell, exchange or encumber all or any part of the Company's property;

(c) Deposit or invest Company funds in such interest bearing or non interest bearing investments or bank accounts as they deem advisable to the extent such funds are not then required for Company operations, and are not required to be distributed, pursuant to this Agreement;

(d) Retain or employ and coordinate the services of employees, independent contractors, supervisors, accountants, attorneys and other persons necessary or appropriate to carry out the business and purposes of the Company;

(e) Engage in any kind of activity and to perform and carry out such contracts of any kind necessary to operate the business and purposes of the Company, in accordance with this Agreement; and

(f) Pay all debts and other obligations of the Company, to the extent that funds of the Company are available therefor.

6.3 Liability of the Members and the Manager. The Members and the Manager shall not be liable to the Company or to any Member for any debts owed by the Company, or for any actions taken or omissions made in good faith and reasonably believed by the Member or the Manager to be in the best interests of the Company, or for errors of judgment, except to the extent such acts or omissions constitute gross negligence or willful misconduct. Provided the standards of

this Section 6.3 are satisfied, the Company shall indemnify each Member and Manager for all costs and expenses, including reasonable attorneys' fees, associated with the defense of any action or claim brought against the Member or Manager by any other Member, the Company or a third party, except for an action brought pursuant to Section 3.3(b).

6.4 Conflicts of Interests. The pursuit of other ventures and activities by Members or Manager, even if directly competitive with the business of the Company, is hereby consented to by the Members and shall not be deemed wrongful or improper. No Member or Manager shall be obligated to present any particular investment opportunity to the Company, even if such opportunity is of a character which, if presented to the Company, could be taken by the Company. The Company may enter into agreements with one or more Members or Managers (or an affiliated entity) to provide management, consulting, marketing, construction or other services to the Company.

6.5 Waiver of Derivative Suit. All Members hereby agree to waive any and all rights to institute a derivative suit pursuant to South Carolina Code §33-44-1101.

7. Transfers of Interests; Admission.

7.1 Transfer Restrictions. No Member may sell, assign, transfer, pledge, hypothecate or otherwise dispose of its interest or any interest therein unless the transfer meets the requirements of Section 7.2 or Section 7.3. Any transfer of any Member's interest in violation of this Agreement shall be void and of no effect.

7.2 Permitted Transfers. Compliance with Section 7.3 shall not be required for the gratuitous transfer by a Member of their distributional interest in the Company (as defined in South Carolina Code §33-44-101) to the following individuals and/or entities:

(a) transfers to the spouse or any one or more of the issue, or in trust for the benefit of any one or more of the spouse and issue, of such Member; or

(b) transfers to the estate of the Member.

All transferees under this Section shall be considered a transferee of a distribution interest under South Carolina Code §33-44-502.

7.3 Right of First Refusal. If a Member receives a bona fide offer ("Offer") which the Member ("Selling Member") proposes to accept, whether or not solicited, to sell or otherwise dispose of all or any portion of his interest, then the Selling Member shall furnish to the non-selling Members written notice of the receipt of the Offer together with the principal terms and conditions of the sale, including the minimum price ("Sale Price") at which such interest is proposed to be sold, and a statement as to the identity of the real party in interest making the Offer. The Company, shall then have the right to purchase any portion of the interest ("Offered Interest") proposed to be sold by the Selling Member upon and subject to the terms and conditions as set forth in this Section 7.3.

(a) The price and terms at which the Offered Interest may be purchased shall be the price and terms contained in the Offer. However, if the Company elects to purchase only a portion of the interest being sold, then the purchase price shall be in proportion to the price contained in the Offer. If the price contained in the Offer

shall consist (in whole or in part) of consideration other than cash, payable at the closing thereof or at a later date, the cash equivalent fair market value of such other consideration shall be included in the price at which the Offered Interest may be so purchased.

(b) The Company shall have thirty days after receipt of the notice to elect to purchase the Offered Interest. The purchase transaction (unless otherwise agreed to with third-party purchasers) shall be consummated at a closing to be held at the principal executive offices of the Company, or at such other location as may be agreed by the parties, within thirty days following the date of the Company election to purchase the Offered Interest, or any portion thereof. At the closing, unless otherwise stipulated in the Offer, the Company shall deliver to the Selling Member the full purchase price, against delivery of an instrument appropriately transferring the Offered Interest sold thereby.

(c) If the Company does not elect to purchase the Offered Interest, or any portion thereof, then the Selling Member may accept the Offer and, pursuant thereto, sell the Offered Interest. However, if the Selling Member does not sell the Offered Interest pursuant to the Offer within sixty days after the termination (by passage of time or otherwise) of the rights of first refusal created under this Section 7.3, the Selling Member may not thereafter transfer the Offered Interest, or any part thereof, without again complying with the provisions of this Section 7.3.

7.4 New Members. Upon unanimous consent of the Members, the Company shall have the ability to admit new Members either by the Members selling a portion of their interest to the new Member or by the Company granting an additional interest to the new Member. In either event, the new Member must comply with Section 7.5 in order to be recognized as a Member of the Company.

7.5 Admissions.

(a) All transfers by a Member of his interest, or any interest therein, shall entitle the transferee only to receive the allocations and distributions to which the transferring Member would otherwise be entitled, and shall be considered and treated as a transferee of a distribution interest under South Carolina Code §33-44-502 . A transferee shall become a Member only upon compliance with the requirements of this Section 7.5 and only with the written consent of all of the other Members, which consent shall be given in the sole and absolute discretion of the other Members.

(b) No Person to whom a transferring Member has transferred his interest or any interest therein shall be eligible to be admitted as a Member of the Company unless (i) provision therefor is made by the instrument of assignment and (ii) such Person executes and acknowledges such instruments as the Members reasonably deems necessary or advisable to effect the admission of such Person as a Member; including but not limited to, executing the Operating Agreement currently governing the operations of the Company.

(c) Any transferee admitted to the Company as a Member pursuant to this Section 7.5 will succeed to all rights and be subject to all the obligations of the transferor Member. Further, the transferor Member shall not be released of any obligations owed to the Company. In connection with such transferee becoming a Member, all other steps shall be taken which, in the opinion of the Members, are reasonably necessary to admit such transferee under the Act as a Member.

7.6 Distributions and Allocations in Respect to Transferred Interests. If any Member's interest is sold, assigned or transferred, or any Person is otherwise admitted as a Member during any fiscal year in compliance with the provisions of this Agreement, net profits, net losses, each item thereof, and all other items attributable to such interest for such fiscal year shall be allocated among the Members by taking into account their varying interests during such fiscal year in accordance with Code §706(d). Unless otherwise required by the applicable Regulations, such sale, assignment, transfer or admission shall be deemed to have occurred at the end of the calendar month during which such event shall have actually occurred, and such allocations shall be determined and made pursuant to a pro forma closing of the books of the Company as of the end of such month. With respect to a transferred Member's interest or any interest therein, all distributions on or before the deemed date of such transfer shall be made to the transferor and all distributions thereafter shall be made to the transferee. The Company shall not incur any liability for making allocations and distributions in accordance with this provision.

8. Death, Bankruptcy or Change of Ownership. On account of a Member's (i) bankruptcy or assignment of its interest for the benefit of a creditor; (ii) the change of ownership of a Member as set forth in Section 5.2; or (iii) death ("Transferring Member"), the Company shall enjoy an option to purchase the Transferring Member's interest in the Company. If this option to purchase is exercised by the Company, it shall pay the purchase price in accordance with Section 8.1.

8.1 Purchase Price for Member's Interest. If this option to purchase is exercised by the Company, the purchase price shall be the fair market value of the Transferring Member's interest in the Company. For purposes of this Agreement, the fair market value of the Transferring Member's interest shall be as agreed upon by the Company and the Transferring Member's representative or estate. If a valuation can not be agreed upon, then such fair market value shall be determined by two independent M.A.I. appraisers, one selected by the Company and one selected by the Transferring Member's representative or estate. If the two appraisers set the fair market value at amounts which do not differ by more than thirty percent, then the average of the two values shall be the fair market value of the interest. If the differential of the two appraisals is greater than thirty percent (30%), then a third appraiser shall be appointed, by mutual agreement of the two appraisers, for the purpose of choosing which of the two appraisals more nearly reflects the fair market value of the interest. Whichever value the third appraiser chooses shall be the fair market value of the interest.

8.2 Terms of Purchase. If the Company elects to purchase the Transferring Member's interest in the Company, then the Company shall have the option of remitting the purchase price in a lump sum, or with a down payment equal to fifty percent (50%) of the purchase price and a promissory note for the remainder of the purchase price. If the purchase price is paid in a lump sum, then it shall be made within ninety days of the written election by the Company to purchase the interest. If the Company elects to make payment which includes a promissory note, the amount of the note shall be paid in equal consecutive monthly installments over a number of months, not

exceeding one hundred twenty (120) months. The down payment of the purchase price shall be made within ninety (90) days of the written notice by the Company to purchase the interest. Any subsequent payments due thereafter shall commence on the first day of the first month following the payment of the down payment. Interest on the promissory note shall be adjusted annually and shall be at the prime rate of bank in which the Company has its primary operating account. The promissory note shall be subject to prepayment, without penalty, in whole or in part, at any time and, provided further, that the amounts due on account of the promissory note shall be accelerated upon default in the payment of the principal or interest due on said note.

8.3 Transfer of Member's Interest. Each Member agrees that upon receipt of cash or cash equivalents, or a promissory note in full payment of the purchase price for his interest in the Company, the legal representative of his estate will execute and deliver to the Company all the documents which are required to transfer the Transferring Member's interest in the Company to the Company.

9. **Withdraw and Dissociation.** No Member shall be allowed to withdraw or dissociate from the Company. Any attempted dissociation or withdraw by a Member shall be null and void and not recognized by the Company. If an event of dissociation occurs for any reason whatsoever, the Company shall not dissolve and the Member causing the dissociation, if any, shall be liable to the Company for such wrongful dissociation. In no event shall the dissociated Member be entitled to have its Ownership Interest purchased by the Company.

10. **Dissolution and Deficit Capital Accounts.** The Company shall be dissolved upon the written consent of all Members. Upon dissolution and notwithstanding anything contained in this Agreement or any custom or rule of law to the contrary, a Member's deficit capital account, if any, shall not be an asset of the Company and such Member shall not be obligated to contribute such amount to the Company to restore the balance of such Member's capital account to zero.

11. **Distribution of Proceeds on Dissolution.** Upon the dissolution of the Company, the Members shall proceed with the liquidation of the Company as promptly as possible, but in an orderly and businesslike manner and the proceeds therefrom and any other funds and assets of the Company shall be applied and distributed in the following order of priority:

11.1 First, to the payment of all debts of the Company owed to non-Members;

11.2 Second, to the payment of all debts owed to a Member on account of a loan made to the Company;

11.3 Third, to the Members in accordance and in proportion with the net credit balances of their respective capital accounts, as determined after taking into account all capital account adjustments for the Company's taxable year during which such liquidation or dissolution occurs;

11.4 Fourth, to the Members in accordance with their Ownership Percentages.

12. **Miscellaneous Matters.**

12.1 Captions and Headings. Section and paragraph headings or captions contained

in this Agreement are inserted only as a matter of convenience and for reference and in no way define, limit, extend or describe the scope of this Agreement or the intent of any provision hereof.

12.2 Applicable Law. This Agreement is to be formed in the State of South Carolina and shall be governed by and construed in accordance with the laws of the State of South Carolina. Any action brought to enforce or interpret this Agreement shall be brought in the court of appropriate jurisdiction for Beaufort County, South Carolina.

12.3 Severability. Every provision of the Agreement is intended to be severable. If any term or provision hereof is deemed illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the validity or legality of the remainder of this Agreement.

12.4 Benefit. Except as herein otherwise provided to the contrary, this Agreement shall be binding upon and inure to the benefit of the parties, their heirs, personal representatives, successors and assigns.

12.5 Amendments. This Agreement may be amended only by a written instrument executed by all the Members.

12.6 Further Action. Each Member, upon the request of the other Member, agrees to perform all further acts and execute, acknowledge, and deliver any documents which may be reasonably necessary, appropriate, or desirable to carry out the provisions of this Agreement.

12.7 Construction and Interpretation. If any provision of this Agreement requires judicial interpretation, it is agreed that the court interpreting or considering this Agreement shall not apply the presumption that the terms hereof shall be more strictly construed against a party by reason of the rule or conclusion or agreement that a document shall be construed against the party who itself or through its agents prepared the same.

12.8 Attorney Representation. The Members acknowledges that McNair Law Firm, P.A. prepared this Agreement on behalf and in the course of its representation of the Company and that the Members have been advised by McNair Law Firm, P.A. that a conflict exists between their interests. Each Member acknowledges that it has had the opportunity to seek independent legal counsel.

12.9 Entire Agreement. This Agreement, including Exhibit "A", embodies the entire agreement and understanding between the Members relating to the subject matter hereof and supersedes all prior representations, agreements and understandings, oral or written, relating to such subject matter.

This Agreement is executed by the Members, effective as of the date first above written.

MEMBERS:

Silver Oak Land Trust, LLC
a South Carolina limited liability company

By: _____
John M. McIntyre, Manager

Silver Oak Land Management, LLC
a South Carolina limited liability company

By: _____
John M. McIntyre, Manager

[ADDITIONAL MEMBER SIGNATURES ON FOLLOWING PAGES.]

Exhibit A

SILVER OAK LAND TRUST IV, LLC

MEMBERS, INITIAL CONTRIBUTIONS, AND OWNERSHIP PERCENTAGES

Member	Contribution	Ownership Percentage
Murray Reed		1.35%
Jack McIntyre		.77%
Dave-Jeff LLC		.81%
Martin Rehder		.62%
Bourbon Place III, LLC		.31%
Silver Oak Land Management, LLC		20.01%
Mick McDonough		6.62%
Sally Ker Dineen		6.62%
Richard Silver		6.62%
William Claude Slater		6.62%
John Passaloukas & Jeanne Zailckas		6.62%
Phil W. and Denna L. Hartman		3.31%
M & S Telecommunications of America		3.31%
Paul Finn		3.31%
Mildred Fauerby		3.31%
Richard Heibel		3.31%
Victor DelGuercia		3.31%
Clifford D. and Betsey A. Emery		3.31%
Thomas S. Woods		3.31%

Phil Kart		3.31%
Kim & Larry Tavino		3.31%
Thomas H. and Gloria B. Woodbury		3.31%
Bourbon Place III, LLC		3.31%
J. Patrick and Jill L. Graybeal		3.31%
		100%

Exhibit A

Silver Oak Land Trust IV, LLC

Percentage of Members Ownership

3.62	Bourbon Place III LLC
1.92	Dave Jeff LLC
3.31	Victor DelGuercio
6.62	Sally Kerr Dineen
3.31	Emery, Cliff and Skiffy
1.1	Dave Fauerby
1.1	John Fauerby
3.31	Paul Finn
3.31	J. Patrick and Jill Graybeal
3.31	Phil and Denna Hartman
3.31	Gerrie and Rich Heibel
3.31	Phil and Kristin Kart
6.62	Mick McDonough
0.77	Jack McIntyre
6.62	Passaloukas,John&Jeanne Zailckas
1.35	Murray Reed
0.62	Martin Rehder
6.62	Richard Silver
20.01	Silver Oak Land Management
6.62	William Claude Slater
3.31	M&S Telecommunications Corp of America Inc
3.31	Larry and Kim Tavino
3.31	Thomas and Gloria Woodbury
3.31	Thomas S. Woods

Exhibit A

Silver Oak Land Trust IV, LLC

Percentage of Members Ownership

3.62	Bourbon Place III LLC
1.92	Dave Jeff LLC
3.31	Victor DelGuercio
6.62	Sally Kerr Dineen
3.31	Emery, Cliff and Skiffy
1.1	Dave Fauerby
1.1	John Fauerby
3.31	Paul Finn
3.31	J. Patrick and Jill Graybeal
3.31	Phil and Denna Hartman
3.31	Gerrie and Rich Heibel
3.31	Phil and Kristin Kart
6.62	Mick McDonough
0.77	Jack McIntyre
6.62	Passaloukas,John&Jeanne Zailckas
1.35	Murray Reed
0.62	Martin Rehder
6.62	Richard Silver
20.01	Silver Oak Land Management
6.62	William Claude Slater
3.31	M&S Telecommunications Corp of America Inc
3.31	Larry and Kim Tavino
3.31	Thomas and Gloria Woodbury
3.31	Thomas S. Woods

M.F. Deceased August 25, 2011
[illegible] - 3 Heirs equal
[illegible] Dave Jeff 1.1%
[illegible] member Dave Fauerby 1.1%
[illegible] member John Fauerby 1.1%

MEMBERSHIP SIGNATURE PAGE
Silver Oak Land Trust IV

_David Fauerby_____,

MEMBERSHIP SIGNATURE PAGE
Silver Oak Land Trust IV

John Fauerby

Mick McDonough, Individually

Sally Ker Dineen, Individually

Richard A. Silver, Individually

William Claude Slater, Individually

John Pasaloukas, Individually

PASSALOUKAS JA

Jeanne Zailckas, Individually

Phil W. Hartman, Individually

Dënna L. Hartman, Individually

M & S Telecommunications of America Inc.

By: _____
Name: Wayne E. Smith
President

Paul Finn, Individually

Mildred E. Fauerby

Mildred Fauerby, Individually

Richard Heibel, Individually

Victor Delguercio, Individually

Silver Oak Land Trust IV, LLC

Date: 6/10/10

Signature Page

Clifford D. Emery, "joint tenants with rights of survivorship"

Betsey A. Emery, "joint tenants with rights of survivorship"

Clifford D. Emery, Individually

Betsey A. Emery, Individually

MEMBER SIGNATURE PAGE

Thomas S. Woods Assignor:
Trustee of the Patricia B. Woods
Qualified Personal Residence Trust

Witness:

Thomas S. Woods Assignee:

Patricia B. Woods, Thomas S. Woods and
Brooke Alexander, Trustees, or their successors, of
The Patricia B. Woods Trust U/A/D 9/26/2001

Updated 08/13/2011
Silver Oak Land Trust IV, LLC

EXHIBIT #14
WITNESS:
DATE:
THOMPSON COURT REPORTING

OPERATING AGREEMENT

FOR

SILVER OAK LAND TRUST V, LLC

THIS OPERATING AGREEMENT, effective as of January 30, 2008, is entered into by and between the Members (as defined herein).

WHEREAS, the Members desire to enter into this Operating Agreement to govern the conduct of the business and affairs of the Company and to set forth the understanding of the Members regarding all other matters concerning the Company;

NOW, THEREFORE, in consideration of the premises and covenants contained herein and other good and valuable consideration, the receipt and legal sufficiency of which are hereby acknowledged, the Members, intending to be legally bound, do hereby agree as follows.

1. Certain Definitions.

When used herein, the following terms shall have the meanings set forth below.

1.1 "Act" means the South Carolina Limited Liability Company Act, §33-44-101, et seq. Code of Laws of South Carolina (1976 as amended).

1.2 "Agreement" means this Operating Agreement as the same may be amended and supplemented from time to time.

1.3 "Articles" means the articles of organization, and all amendments thereto, executed and filed pursuant to the Act and the terms of this Agreement.

1.4 "Code" means the Internal Revenue Code of 1986, as amended. All references herein to specific sections of the Code shall be deemed to refer also to the corresponding provisions of succeeding law.

1.5 "Company" means Silver Oak Land Trust, V, LLC, a South Carolina limited liability company.

1.6 "Manager" means initially, Silver Oak Land Management, LLC, a South Carolina limited liability company.

1.7 "Member" means those Persons set forth in Exhibit "A".

1.8 "Ownership Percentage" means the percentage that a Member's total capital contributions to the Company bear to all the capital contributions made to the Company, as initially reflected in the attached Exhibit "A".

1.9 "Person" means any individual, limited liability company, limited liability partnership, partnership, corporation, trust or other person or entity.

1.10 "Treas Reg. and "Regulations", mean the income tax regulations promulgated

under the Code, as such regulations may be amended from time to time.

1.11 Other Definitions. Unless otherwise provided in this Agreement, any other term used in this Agreement which is elsewhere defined in this Agreement shall have the same meaning as such term is respectively given by this Agreement.

2. Organization.

2.1 Formation. The Members hereby agree to be bound by the terms and conditions of this Agreement, evidenced by affixing their signatures to this Agreement. Thus, commensurate with the execution of this Agreement, the Members of the Company shall adopt the Articles that were filed with the Office of the South Carolina Secretary of State.

2.2 Limited Liability Company. The Members intend that the Company not be a partnership (including, without limitation, a limited partnership) or joint venture, and that no Member be a partner or joint venturer of any other Member, for any purposes other than federal and state tax purposes, and this Agreement may not be construed to suggest otherwise.

2.3 Foreign Qualifications. Prior to the Company's conducting business in any jurisdiction other than South Carolina, the Members shall cause the Company to comply, to the extent procedures are available and those matters are reasonably within the control of the Members, with all requirements necessary to qualify the Company as a foreign limited liability company in that jurisdiction. At the request of the Members, each Member shall execute, acknowledge, swear to, and deliver all certificates and other instruments conforming with this Operating Agreement that are necessary or appropriate to qualify, continue, and terminate the Company as a foreign limited liability company in all such jurisdictions in which the Company may conduct business.

3. Capital Contributions and Related Matters.

3.1 Initial Capital Contributions. The Members shall make their initial capital contributions to the Company as reflected on *Exhibit 'A'* which is affixed hereto and incorporated herein. If a Member fails to make an initial capital contribution it shall be considered in default under Section 3.3.

3.2 Additional Capital Contributions. If the majority of Members (voting based upon Ownership Percentages)determine that the Company needs additional capital, the additional capital contributions made by the Members shall be in proportion to their respective Ownership Percentages in the Company.

3.3 Default.

(a) Non-Defaulting Member's Remedy. In the event a Member fails to pay an initial capital contribution or additional capital contribution when due and such default is not cured within ten days after written notice to the defaulting Member by the non-defaulting Member requesting that such capital contribution be paid, a non-defaulting Member may make the capital contribution owed by the defaulting Member and such amount shall be deemed a loan to the Company. The

terms of the loan shall be in accordance with Section 3.4.

(b) Company's Remedy. In the event a Member fails to pay an additional capital contribution when due and such default is not cured within ten days after written notice to the defaulting Member by the Company or a non-defaulting Member requesting that such capital contribution be paid, the Company may commence legal proceedings against the defaulting Member to collect the due and unpaid amount of the capital contribution, plus the expenses of collection, including court costs and attorneys' fees, in which case the defaulting Member would remain a Member upon successful enforcement and payment in full of such capital contribution (and any interest thereon as may be awarded), plus the expenses of collection. This remedy shall not be available:

(i) if a non-defaulting Member elects to contribute the additional funds, either by a loan or an additional capital contribution to the Company, pursuant to Section 3.3(a) above; or

(ii) if a defaulting Member is an IRA plan. Instead the defaulting Member's membership interest shall be diluted proportionately to the amount of the unpaid capital contribution until such time as the capital contribution shall be paid.

(c) Loans By Members. A Member shall be allowed to make a loan to the Company if the Members unanimously agree to the making of said loan or if the loan is made pursuant to Section 3.3(a). All loans from a Member to the Company shall accrue interest at the prime rate posted by the lending institution at which the Company has its primary operating account, plus two percentage (2%) points. For example, if the prime rate is four percent (4%) the loan from the Member would accrue interest at the annual rate of six percent (6%).

3.4 Withdrawal of Capital. The Members shall only be entitled to withdraw or to receive distributions of his capital contributions in accordance with the terms and conditions of this Agreement.

3.5 Interest on Capital Contributions. No interest shall accrue on any capital contributions made by the Members.

3.6 Capital Accounts. The Company shall establish and maintain for each Member a capital account initially reflecting an amount equal to each Member's initial capital contribution. The capital account shall be adjusted from time to time to reflect the Member's additional capital contributions, if any, allocable shares of net profits or net losses or any items thereof, distributions made to any Member, and as otherwise required by the provisions of this Agreement and the Code and its Regulations including, but not limited to, Treas. Reg. 1.704-1(b)(2)(iv).

4. **Profits, Losses, Distributions and Taxable Income.**

4.1 Allocation of Profit and Loss and Taxable Income, Gain, Loss, Deduction, and Credit. Both profits and losses of the Company and, items of taxable income, gain, loss, deduction and credit, shall be apportioned among the Members in the same percentage as each Member's total capital contributions bear to the total of all capital contributions made to the Company.

4.2 Distribution to Members. The Company may make distributions of cash or cash equivalents to the Members from time to time. The Manager shall determine the total amount of the distribution which may be made to the Members, and each Member shall share in such total distribution in accordance with its Ownership Percentage.

4.3 Distributions in Kind. Except as may be provided in an amendment to this Agreement, no Member regardless of the nature of the Member's contribution to capital, may demand or receive a distribution from the Company in any form other than cash or cash equivalents.

4.4 Limitation on Distributions. No distribution may be made by the Company if after giving effect to the distribution: (i) the company would not be able to pay its debts as they become due in the usual course of business; or (ii) the assets of the Company would be less than the sum of its liabilities plus, the amount that would be needed, if the Company were to be dissolved at the time of the distribution, to satisfy the preferential rights of other Members upon dissolution which are superior to the rights of the Member receiving the distribution.

5. Members.

5.1 Representations and Warranties. Each Member hereby represents and warrants to the Company and the other Members that: (i) it is duly organized, validly existing and in good standing under the law of the state of its formation and is duly qualified and in good standing as a foreign entity in all jurisdictions which require it to be qualified; (ii) it has all necessary power and authority to execute and agree to this Agreement and to perform obligations hereunder; (iii) it has duly executed and delivered this Agreement; and (iv) its authorization, execution, delivery, and performance of this Agreement does not conflict with any other agreement or arrangement to which that Member is a party or by which it is bound.

5.2 Change of Ownership of a Member. A Member that is not a natural person may not cause or permit an interest, direct or indirect, in itself to be transferred without the consent of the other Members if after such transfer the Member shall cease to be controlled by the same Person who control it as of the date of its admission to the Company. Upon the non-compliance of this Section, the Company shall have the option to buy, and on exercise of that option, the non-complying Member shall sell, its interest in the Company, in accordance with Section 8.1.

5.3 Information. In addition to the other rights specifically set forth in this Operating Agreement, each Member is entitled to all information to which that Member is entitled to have access pursuant to South Carolina Code §33-44-408.

5.4 Fiduciary Duties.

(a) Duty of Loyalty. Each Member's and Manager's duty of loyalty to the Company and the other Members is limited to account to the Company and to hold as

trustee for the Company any property, profit or benefit derived by the Member or the Manager in the conduct or winding up of the Company's business. A Member or a Manager does not violate the duty of loyalty by engaging in a competing business or pursuing other business opportunities, even if the business opportunity could have been pursued by the Company.

(b) Duty of Care. Each Members' and Manager's duty of care to the Company and the other Members in the conduct of and winding up of the Company's business is limited to refraining from engaging in grossly negligent or reckless conduct, intentional misconduct, or a knowing violation of law.

(c) Good Faith and Fair Dealing. Each Member and Manager shall discharge his duties and exercise any of his rights consistently with the obligation of good faith and fair dealing which he owes to the Company and the other Members. A Member or a Manager does not violate a duty of good faith or fair dealing to the Company merely because the conduct furthers the Member's or Manager's own interest. Further, a Member or a Manager does not violate the duty of good faith and fair dealing by engaging in a competing business or pursing other business opportunities, even if the business opportunity could have been pursued by the Company.

6. **Management of the Company.**

6.1 Decisions of the Company. Except as otherwise set forth herein, all decisions effecting the operations of the Company shall be decided by consent of the Manager.

6.2 Authority and Power of the Manager. The Manager shall have the authority and power necessary to discharge the business of the Company. Without limiting the foregoing, the Manager shall have the authority and power to perform the following acts on behalf of the Company:

(a) Execute and deliver any and all agreements, contracts, documents, certifications and instruments necessary or convenient in connection with the carrying on in the usual way of the business and affairs of the Company;

(b) Execute and deliver any deed, lease, mortgage, mortgage note, bill of sale, easement, license, contract or other instrument purporting to convey, sell, exchange or encumber all or any part of the Company's property;

(c) Deposit or invest Company funds in such interest bearing or non interest bearing investments or bank accounts as they deem advisable to the extent such funds are not then required for Company operations, and are not required to be distributed, pursuant to this Agreement;

(d) Retain or employ and coordinate the services of employees, independent contractors, supervisors, accountants, attorneys and other persons necessary or appropriate to carry out the business and purposes of the Company;

(e) Engage in any kind of activity and to perform and carry out such contracts of any kind necessary to operate the business and purposes of the Company, in accordance with this Agreement; and

(f) Pay all debts and other obligations of the Company, to the extent that funds of the Company are available therefor.

6.3 Liability of the Members and the Manager. The Members and the Manager shall not be liable to the Company or to any Member for any debts owed by the Company, or for any actions taken or omissions made in good faith and reasonably believed by the Member or the Manager to be in the best interests of the Company, or for errors of judgment, except to the extent such acts or omissions constitute gross negligence or willful misconduct. Provided the standards of this Section 6.3 are satisfied, the Company shall indemnify each Member and Manager for all costs and expenses, including reasonable attorneys' fees, associated with the defense of any action or claim brought against the Member or Manager by any other Member, the Company or a third party, except for an action brought pursuant to Section 3.3(b).

6.4 Conflicts of Interests. The pursuit of other ventures and activities by Members or Manager, even if directly competitive with the business of the Company, is hereby consented to by the Members and shall not be deemed wrongful or improper. No Member or Manager shall be obligated to present any particular investment opportunity to the Company, even if such opportunity is of a character which, if presented to the Company, could be taken by the Company. The Company may enter into agreements with one or more Members or Managers (or an affiliated entity) to provide management, consulting, marketing, construction or other services to the Company.

6.5 Waiver of Derivative Suit. All Members hereby agree to waive any and all rights to institute a derivative suit pursuant to South Carolina Code §33-44-1101.

7. **Transfers of Interests; Admission.**

7.1 Transfer Restrictions. No Member may sell, assign, transfer, pledge, hypothecate or otherwise dispose of its interest or any interest therein unless the transfer meets the requirements of Section 7.2 or Section 7.3. Any transfer of any Member's interest in violation of this Agreement shall be void and of no effect.

7.2 Permitted Transfers. Compliance with Section 7.3 shall not be required for the gratuitous transfer by a Member of their distributional interest in the Company (as defined in South Carolina Code §33-44-101) to the following individuals and/or entities:

(a) transfers to the spouse or any one or more of the issue, or in trust for the benefit of any one or more of the spouse and issue, of such Member; or

(b) transfers to the estate of the Member.

All transferees under this Section shall be considered a transferee of a distribution interest under South Carolina Code §33-44-502.

7.3 Right of First Refusal. If a Member receives a bona fide offer ("Offer") which the Member ("Selling Member") proposes to accept, whether or not solicited, to sell or otherwise dispose of all or any portion of his interest, then the Selling Member shall furnish to the non-selling Members written notice of the receipt of the Offer together with the principal terms and conditions of the sale, including the minimum price ("Sale Price") at which such interest is proposed to be sold, and a statement as to the identity of the real party in interest making the Offer. The Company and/or the non-selling Members, shall then have the right to purchase any portion of the interest ("Offered Interest") proposed to be sold by the Selling Member upon and subject to the terms and conditions as set forth in this Section 7.3. In the event more than one offeree accepts the offer, those accepting shall purchase the membership in proportion to their Membership Interests, unless they agree otherwise.

(a) The price and terms at which the Offered Interest may be purchased shall be the price and terms contained in the Offer. However, if the offeree elects to purchase only a portion of the interest being sold, then the purchase price shall be in proportion to the price contained in the Offer. If the price contained in the Offer shall consist (in whole or in part) of consideration other than cash, payable at the closing thereof or at a later date, the cash equivalent fair market value of such other consideration shall be included in the price at which the Offered Interest may be so purchased.

(b) The Company and non-selling Members shall have thirty days after receipt of the notice to elect to purchase the Offered Interest. The purchase transaction (unless otherwise agreed to with third-party purchasers) shall be consummated at a closing to be held at the principal executive offices of the Company, or at such other location as may be agreed by the parties, within thirty days following the date of the offeree's election to purchase the Offered Interest, or any portion thereof. At the closing, unless otherwise stipulated in the Offer, the offeree shall deliver to the Selling Member the full purchase price, against delivery of an instrument appropriately transferring the Offered Interest sold thereby.

(c) If the Company or a non-Selling Member does not elect to purchase the Offered Interest, or any portion thereof, then the Selling Member may accept the Offer and, pursuant thereto, sell the Offered Interest. However, if the Selling Member does not sell the Offered Interest pursuant to the Offer within sixty days after the termination (by passage of time or otherwise) of the rights of first refusal created under this Section 7.3, the Selling Member may not thereafter transfer the Offered Interest, or any part thereof, without again complying with the provisions of this Section 7.3.

7.4 New Members. Upon unanimous consent of the Members, the Company shall have the ability to admit new Members either by the Members selling a portion of their interest to the new Member or by the Company granting an additional interest to the new Member. In either event, the new Member must comply with Section 7.5 in order to be recognized as a Member of the Company.

7.5 Admissions.

(a) All transfers by a Member of his interest, or any interest therein, shall entitle the transferee only to receive the allocations and distributions to which the transferring Member would otherwise be entitled, and shall be considered and treated as a transferee of a distribution interest under South Carolina Code §33-44-502 . A transferee shall become a Member only upon compliance with the requirements of this Section 7.5 and only with the written consent of all of the other Members, which consent shall be given in the sole and absolute discretion of the other Members.

(b) No Person to whom a transferring Member has transferred his interest or any interest therein shall be eligible to be admitted as a Member of the Company unless (i) provision therefor is made by the instrument of assignment and (ii) such Person executes and acknowledges such instruments as the Members reasonably deems necessary or advisable to effect the admission of such Person as a Member; including but not limited to, executing the Operating Agreement currently governing the operations of the Company.

(c) Any transferee admitted to the Company as a Member pursuant to this Section 7.5 will succeed to all rights and be subject to all the obligations of the transferor Member. Further, the transferor Member shall not be released of any obligations owed to the Company. In connection with such transferee becoming a Member, all other steps shall be taken which, in the opinion of the Members, are reasonably necessary to admit such transferee under the Act as a Member.

7.6 Distributions and Allocations in Respect to Transferred Interests. If any Member's interest is sold, assigned or transferred, or any Person is otherwise admitted as a Member during any fiscal year in compliance with the provisions of this Agreement, net profits, net losses, each item thereof, and all other items attributable to such interest for such fiscal year shall be allocated among the Members by taking into account their varying interests during such fiscal year in accordance with Code §706(d). Unless otherwise required by the applicable Regulations, such sale, assignment, transfer or admission shall be deemed to have occurred at the end of the calendar month during which such event shall have actually occurred, and such allocations shall be determined and made pursuant to a pro forma closing of the books of the Company as of the end of such month. With respect to a transferred Member's interest or any interest therein, all distributions on or before the deemed date of such transfer shall be made to the transferor and all distributions thereafter shall be made to the transferee. The Company shall not incur any liability for making allocations and distributions in accordance with this provision.

8. Death, Bankruptcy or Change of Ownership. On account of a Member's (i) bankruptcy or assignment of its interest for the benefit of a creditor; (ii) the change of ownership of a Member as set forth in Section 5.2; or (iii) death ("Transferring Member"), the Company shall enjoy an option to purchase the Transferring Member's interest in the Company. If this option to purchase is exercised by the Company, it shall pay the purchase price in accordance with Section 8.1.

8.1 Purchase Price for Member's Interest. If this option to purchase is exercised by the Company, the purchase price shall be the fair market value of the Transferring Member's interest

in the Company. For purposes of this Agreement, the fair market value of the Transferring Member's interest shall be as agreed upon by the Company and the Transferring Member's representative or estate. If a valuation can not be agreed upon, then such fair market value shall be determined by two independent M.A.I. appraisers, one selected by the Company and one selected by the Transferring Member's representative or estate. If the two appraisers set the fair market value at amounts which do not differ by more than thirty percent, then the average of the two values shall be the fair market value of the interest. If the differential of the two appraisals is greater than thirty percent (30%), then a third appraiser shall be appointed, by mutual agreement of the two appraisers, for the purpose of choosing which of the two appraisals more nearly reflects the fair market value of the interest. Whichever value the third appraiser chooses shall be the fair market value of the interest.

8.2 Terms of Purchase. If the Company elects to purchase the Transferring Member's interest in the Company, then the Company shall have the option of remitting the purchase price in a lump sum, or with a down payment equal to fifty percent (50%) of the purchase price and a promissory note for the remainder of the purchase price. If the purchase price is paid in a lump sum, then it shall be made within ninety days of the written election by the Company to purchase the interest. If the Company elects to make payment which includes a promissory note, the amount of the note shall be paid in equal consecutive monthly installments over a number of months, not exceeding one hundred twenty (120) months. The down payment of the purchase price shall be made within ninety (90) days of the written notice by the Company to purchase the interest. Any subsequent payments due thereafter shall commence on the first day of the first month following the payment of the down payment. Interest on the promissory note shall be adjusted annually and shall be at the prime rate of bank in which the Company has its primary operating account. The promissory note shall be subject to prepayment, without penalty, in whole or in part, at any time and, provided further, that the amounts due on account of the promissory note shall be accelerated upon default in the payment of the principal or interest due on said note.

8.3 Transfer of Member's Interest. Each Member agrees that upon receipt of cash or cash equivalents, or a promissory note in full payment of the purchase price for his interest in the Company, the legal representative of his estate will execute and deliver to the Company all the documents which are required to transfer the Transferring Member's interest in the Company to the Company.

9. **Withdraw and Dissociation.** No Member shall be allowed to withdraw or dissociate from the Company. Any attempted dissociation or withdraw by a Member shall be null and void and not recognized by the Company. If an event of dissociation occurs for any reason whatsoever, the Company shall not dissolve and the Member causing the dissociation, if any, shall be liable to the Company for such wrongful dissociation. In no event shall the dissociated Member be entitled to have its Ownership Interest purchased by the Company.

10. **Dissolution and Deficit Capital Accounts.** The Company shall be dissolved upon the written consent of all Members. Upon dissolution and notwithstanding anything contained in this Agreement or any custom or rule of law to the contrary, a Member's deficit capital account, if any, shall not be an asset of the Company and such Member shall not be obligated to contribute such amount to the Company to restore the balance of such Member's capital account to zero.

11. **Distribution of Proceeds on Dissolution.** Upon the dissolution of the Company, the Members shall proceed with the liquidation of the Company as promptly as possible, but in an orderly and businesslike manner and the proceeds therefrom and any other funds and assets of the Company shall be applied and distributed in the following order of priority:

11.1 First, to the payment of all debts of the Company owed to non-Members;

11.2 Second, to the payment of all debts owed to a Member on account of a loan made to the Company;

11.3 Third, to the Members in accordance and in proportion with the net credit balances of their respective capital accounts, as determined after taking into account all capital account adjustments for the Company's taxable year during which such liquidation or dissolution occurs;

11.4 Fourth, to the Members in accordance with their Ownership Percentages.

12. **Miscellaneous Matters.**

12.1 Captions and Headings. Section and paragraph headings or captions contained in this Agreement are inserted only as a matter of convenience and for reference and in no way define, limit, extend or describe the scope of this Agreement or the intent of any provision hereof.

12.2 Applicable Law. This Agreement is to be formed in the State of South Carolina and shall be governed by and construed in accordance with the laws of the State of South Carolina. Any action brought to enforce or interpret this Agreement shall be brought in the court of appropriate jurisdiction for Beaufort County, South Carolina.

12.3 Severability. Every provision of the Agreement is intended to be severable. If any term or provision hereof is deemed illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the validity or legality of the remainder of this Agreement.

12.4 Benefit. Except as herein otherwise provided to the contrary, this Agreement shall be binding upon and inure to the benefit of the parties, their heirs, personal representatives, successors and assigns.

12.5 Amendments. This Agreement may be amended only by a written instrument executed by all the Members.

12.6 Further Action. Each Member, upon the request of the other Member, agrees to perform all further acts and execute, acknowledge, and deliver any documents which may be reasonably necessary, appropriate, or desirable to carry out the provisions of this Agreement.

12.7 Construction and Interpretation. If any provision of this Agreement requires judicial interpretation, it is agreed that the court interpreting or considering this Agreement shall not apply the presumption that the terms hereof shall be more strictly construed against a party by reason of the rule or conclusion or agreement that a document shall be construed against the party who itself

or through its agents prepared the same.

12.8 Attorney Representation. The Members acknowledges that McNair Law Firm, P.A. prepared this Agreement on behalf and in the course of its representation of the Company and that the Members have been advised by McNair Law Firm, P.A. that a conflict exists between their interests. Each Member acknowledges that it has had the opportunity to seek independent legal counsel.

12.9 Entire Agreement. This Agreement, including Exhibit "A", embodies the entire agreement and understanding between the Members relating to the subject matter hereof and supersedes all prior representations, agreements and understandings, oral or written, relating to such subject matter.

This Agreement is executed by the Members, effective as of the date first above written.

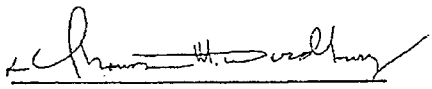
MEMBERS:

Silver Oak Land Management, LLC
a South Carolina limited liability company

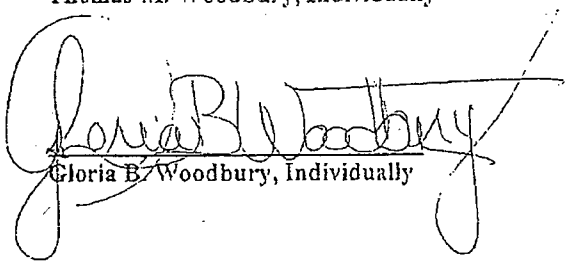
By: _____
John M. McIntyre, Manager

[ADDITIONAL MEMBER SIGNATURES ON FOLLOWING PAGES.]

MEMBER SIGNATURE PAGE



Thomas M. Woodbury, Individually



Gloria B. Woodbury, Individually

MEMBER SIGNATURE PAGE

Mick McDonough, Individually

MEMBER SIGNATURE PAGE

VPPP

PENSCO Trust Company Custodian FBO
Richard A. Silver, Individually IRA

MEMBER SIGNATURE PAGE

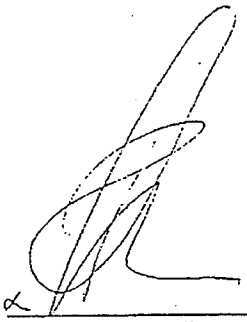
John Passaloukas, Individually

Jeanne Zailckas, Individually

MEMBER SIGNATURE PAGE

Mildred E. Fauerby by
Mildred Fauerby, Individually
Susan B. Vitek p.o.a.

MEMBER SIGNATURE PAGE



Rory Gardiner, Individually

Silver Oak Land Trust V, LLC

Date: 6/10/10

Signature Page:

Clifford D. Emery, "joint tenants with rights of survivorship"

Betsey A. Emery, "joint tenants with rights of survivorship"

MEMBER SIGNATURE PAGE

Clifford D. Emery, Individually

Betsey A. Emery, Individually

MEMBER SIGNATURE PAGE

Thomas S. Woods

Thomas S. Woods, Individually

JH

ASSIGNMENT AGREEMENT
SILVER OAK LAND TRUST V, LLC

THIS ASSIGNMENT AGREEMENT (the "Agreement") made this 17 day of January, 2009, by and between Thomas S. Woods ("Assignor") and Lawrence H. Woods, Trustee of the Thomas S. Woods Qualified Personal Residence Trust dated SEPTEMBER 26, 2001 ("Assignee").

RECITALS

A. Assignor is a Member of Silver Oak Land Trust V, LLC, a South Carolina limited liability company, (the "Company") and as such owns a eight percent (8%) interest in the Company;

B. Assignor desires to assign and Assignee desires to accept such assignment of the distributional interest, as defined in Section 33-44-101(6) of the Code of Laws of South Carolina 1976, as amended, of Assignor (the "Distributional Interest") in the Company, pursuant to the terms and conditions contained in this Agreement.

NOW, THEREFORE, the parties in consideration of the premises and their mutual agreements and covenants as hereinafter set forth do hereby agree as follows:

1. Recitals. The above recitals are incorporated into and made a part of this Agreement.

2. Assignment and Acceptance of Profit's Interest. Assignor does hereby assign and Assignee does hereby accept in the aggregate, Assignor's Distributional Interest in the Company equal to eights percent (8%) of the Company. The assignment and acceptance of the Distributional Interest is not the assignment and acceptance of Assignor's equity interest in the Company, rather it is the assignment and acceptance of a right to share in the profits and sums distributed to Assignor pursuant to the Operating Agreement of the Company. Assignee will receive distributions, as defined in Section 33-44-101(5) of the Code of Laws of South Carolina 1976, as amended, from the Company to which Assignor is entitled. Assignee shall not be considered a Member of the Company and shall not have any membership or voting rights whatsoever in the Company.

3. Assignment of Interests by Assignor. Should the Assignor sell all or part of Assignor's interest in the Company, Assignee's Distributional Interest shall cease immediately upon the sale of Assignor's interest.

4. Tax Ramifications. Each party is responsible for treating the assignments made under this Agreement in the appropriate manner for state and local tax purposes. Neither party shall be responsible, nor has either party made any representation, concerning the tax treatment of any assignment made under this Agreement.

5. Rights and Duties of the Company. This Agreement does not constitute the assignment of Assignor's membership or voting rights in the Company. It shall only be interpreted as an assignment of the Distributional Interest.

6. Indemnification. Should the Assignee be named in litigation as a Member of the Company, the Company shall indemnify and hold harmless Assignee for any claims, damages, costs and expenses, including reasonable attorney's fees incurred by virtue of Assignee being considered a Member.

7. Miscellaneous. The invalidity or unenforceability of any provision of this Agreement shall not affect the other provisions hereof and this Agreement shall be construed in all respects as if such invalid and unenforceable provision were omitted. For the convenience of the parties hereto, duplicate originals of this Agreement may be executed and each such original shall be deemed to be an original instrument. This Agreement shall be governed and construed in accordance with the laws of the State of South Carolina. Titles of the paragraphs and subparagraphs included herein have been inserted as a matter of convenience for reference only and shall not affect the meaning or construction of any of the terms or provisions hereof. This Agreement and all documents and instruments incorporated herein by specific reference are intended by the parties hereto to be the final expression of their agreement and constitute a complete and exclusive statement of the terms hereof notwithstanding any representations or statements to the contrary heretofore made. This Agreement may not be amended, modified, altered or changed in any respect whatsoever, except by a further written agreement duly executed by the parties hereto.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals effective the 27th day of January, 2009.

Witness:

My Commission Expires
July 31, 2010

Assignor:

Thomas S. Woods

Witness:

Assignee:

Lawrence H. Woods,
Trustee of the Thomas S. Woods
Qualified Personal Residence Trust
dated 3-11, 2009

MEMBER SIGNATURE PAGE

Martin Rehder, Individually

MEMBER SIGNATURE PAGE

David Fauerby

MEMBER SIGNATURE PAGE

John Fauerby

Exhibit A

Silver Oak Land Trust V, LLC

Members Ownership

Percentage	Owner
2.67	Dave-Jeff LLC
8.00	Emery, Cliff and Skiffy
2.67	Dave Fauerby
2.66	John Fauerby
8.00	Rory Gardiner
8.00	Mick McDonough
8.00	Passaloukas,John&Jeanne Zailckas
8.00	Martin Rehder
8.00	Richard Silver
20.00	Silver Oak Land Management
16.00	Thomas and Gloria Woodbury
8.00	Thomas S. Woods
100.00	

SILVER OAK LAND TRUST I, LLC.

I hope that you have an interest in this project. I encourage you to return your membership offer form and a check as soon as you can. If you have any questions or need more information please call me anytime at 843-342-3363. All membership payments must be received before the deadline of September 10, 2010.

Only seven new members will be accepted. I reserve the right, in my sole discretion, to accept or reject any membership, in whole or in part. I reserve the right to accept memberships on a first come, first serve basis. If the offering is oversold, or if I do not accept all or a portion of an interest, I will return the unaccepted portion.

Yours Truly,

Jack McIntyre
Managing Member of Silver Oak Land Trust I LLC

MEMBERSHIP OFFER

I hereby submit $99,550 for every 7.0% interest in Silver Oak Land Trust I, LLC a South Carolina Limited Liability Company. Silver Oak Land Trust I, LLC, currently has 159+- acres of land in Beaufort and Jasper Counties, South Carolina under Purchase Agreement with Silver Oak Land Trust LLC. After the closing this property will be the only asset of Silver Oak Land Trust I, LLC.

Number of Units: 1 at $99,550 each; Total $ 99,550
Date: 11/10/10
Print Name: PENSCO TRUST CO. CUSTODIAN FBO RICHARD A. SILVER IRA
Address: 67 FUSKIE LN, DAUFUSKIE ISLAND, SC 29925
Telephone Number: 843-341-9252
E-mail address: richard@hargray.com
Signature: [signature]

Mail to:
JACK MCINTYRE
Silver Oak Land Trust I, LLC.
P.O. Box 22827
Hilton Head Island, SC 29925

Or Fax to: 888-254-0820

#15
EXHIBIT
WITNESS
DATE
THOMPSON REPORTING

OPERATING AGREEMENT

FOR

SILVER OAK ENERGY, LLC

THIS OPERATING AGREEMENT, effective as of November 2, 2009, is entered into by and between the Members (as defined herein).

WHEREAS, the Members desire to enter into this Operating Agreement to govern the conduct of the business and affairs of the Company and to set forth the understanding of the Members regarding all other matters concerning the Company;

NOW, THEREFORE, in consideration of the premises and covenants contained herein and other good and valuable consideration, the receipt and legal sufficiency of which are hereby acknowledged, the Members, intending to be legally bound, do hereby agree as follows.

1. Certain Definitions.

When used herein, the following terms shall have the meanings set forth below.

1.1 "Act" means the South Carolina Limited Liability Company Act, §33-44-101, et seq. Code of Laws of South Carolina (1976 as amended).

1.2 "Agreement" means this Operating Agreement as the same may be amended and supplemented from time to time.

1.3 "Articles" means the articles of organization, and all amendments thereto, executed and filed pursuant to the Act and the terms of this Agreement.

1.4 "Code" means the Internal Revenue Code of 1986, as amended. All references herein to specific sections of the Code shall be deemed to refer also to the corresponding provisions of succeeding law.

1.5 "Company" means Silver Oak Energy, LLC, a South Carolina limited liability company.

1.6 "Manager" means initially, Silver Oak Land Management, LLC, a South Carolina limited liability company.

1.7 "Member" means those Persons set forth in Exhibit "A".

1.8 "Ownership Percentage" means the percentage that a Member's total capital contributions to the Company bear to all the capital contributions made to the Company, as initially reflected in the attached Exhibit "A".

1.9 "Person" means any individual, limited liability company, limited liability partnership, partnership, corporation, trust or other person or entity.

1.10 "Treas Reg. and "Regulations". mean the income tax regulations promulgated

PENGAD 800-631-6989
EXHIBIT
8

under the Code, as such regulations may be amended from time to time.

1.11 Other Definitions. Unless otherwise provided in this Agreement, any other term used in this Agreement which is elsewhere defined in this Agreement shall have the same meaning as such term is respectively given by this Agreement.

2. Organization.

2.1 Formation. The Members hereby agree to be bound by the terms and conditions of this Agreement, evidenced by affixing their signatures to this Agreement. Thus, commensurate with the execution of this Agreement, the Members of the Company shall adopt the Articles that were filed with the Office of the South Carolina Secretary of State.

2.2 Limited Liability Company. The Members intend that the Company not be a partnership (including, without limitation, a limited partnership) or joint venture, and that no Member be a partner or joint venturer of any other Member, for any purposes other than federal and state tax purposes, and this Agreement may not be construed to suggest otherwise.

2.3 Foreign Qualifications. Prior to the Company's conducting business in any jurisdiction other than South Carolina, the Members shall cause the Company to comply, to the extent procedures are available and those matters are reasonably within the control of the Members, with all requirements necessary to qualify the Company as a foreign limited liability company in that jurisdiction. At the request of the Members, each Member shall execute, acknowledge, swear to, and deliver all certificates and other instruments conforming with this Operating Agreement that are necessary or appropriate to qualify, continue, and terminate the Company as a foreign limited liability company in all such jurisdictions in which the Company may conduct business.

3. Capital Contributions and Related Matters.

3.1 Initial Capital Contributions. The Members shall make their initial capital contributions to the Company as reflected on ***Exhibit 'A'*** which is affixed hereto and incorporated herein. If a Member fails to make an initial capital contribution it shall be considered in default under Section 3.3.

3.2 Additional Capital Contributions. If the majority of Members (voting based upon Ownership Percentages)determine that the Company needs additional capital, the additional capital contributions made by the Members shall be in proportion to their respective Ownership Percentages in the Company.

3.3 Default.

(a) Non-Defaulting Member's Remedy. In the event a Member fails to pay an initial capital contribution or additional capital contribution when due and such default is not cured within ten days after written notice to the defaulting Member by the non-defaulting Member requesting that such capital contribution be paid, a non-defaulting Member may make the capital contribution owed by the defaulting Member and such amount shall be deemed a loan to the Company. The terms of the loan shall be in accordance with Section 3.4.

(b) Company's Remedy. In the event a Member fails to pay an additional capital contribution when due and such default is not cured within ten days after written notice to the defaulting Member by the Company or a non-defaulting Member requesting that such capital contribution be paid, the Company may commence legal proceedings against the defaulting Member to collect the due and unpaid amount of the capital contribution, plus the expenses of collection, including court costs and attorneys' fees, in which case the defaulting Member would remain a Member upon successful enforcement and payment in full of such capital contribution (and any interest thereon as may be awarded), plus the expenses of collection. This remedy shall not be available:

(i) if a non-defaulting Member elects to contribute the additional funds, either by a loan or an additional capital contribution to the Company, pursuant to Section 3.3(a) above; or

(ii) if a defaulting Member is an IRA plan. Instead the defaulting Member's membership interest shall be diluted proportionately to the amount of the unpaid capital contribution until such time as the capital contribution shall be paid.

(c) Loans By Members. A Member shall be allowed to make a loan to the Company if the Members unanimously agree to the making of said loan or if the loan is made pursuant to Section 3.3(a). All loans from a Member to the Company shall accrue interest at the prime rate posted by the lending institution at which the Company has its primary operating account, plus two percentage (2%) points. For example, if the prime rate is four percent (4%) the loan from the Member would accrue interest at the annual rate of six percent (6%).

3.4 Withdrawal of Capital. The Members shall only be entitled to withdraw or to receive distributions of his capital contributions in accordance with the terms and conditions of this Agreement.

3.5 Interest on Capital Contributions. No interest shall accrue on any capital contributions made by the Members.

3.6 Capital Accounts. The Company shall establish and maintain for each Member a capital account initially reflecting an amount equal to each Member's initial capital contribution. The capital account shall be adjusted from time to time to reflect the Member's additional capital contributions, if any, allocable shares of net profits or net losses or any items thereof, distributions made to any Member, and as otherwise required by the provisions of this Agreement and the Code and its Regulations including, but not limited to, Treas. Reg. 1.704-1(b)(2)(iv).

4. Profits, Losses, Distributions and Taxable Income.

4.1 Allocation of Profit and Loss and Taxable Income, Gain, Loss, Deduction, and Credit. Both profits and losses of the Company and, items of taxable income, gain, loss, deduction and credit, shall be apportioned among the Members in the same percentage as each Member's total capital contributions bear to the total of all capital contributions made to the Company.

4.2 Distribution to Members. The Company may make distributions of cash or cash equivalents to the Members from time to time. The Manager shall determine the total amount of the distribution which may be made to the Members, and each Member shall share in such total distribution in accordance with its Ownership Percentage.

4.3 Distributions in Kind. Except as may be provided in an amendment to this Agreement, no Member regardless of the nature of the Member's contribution to capital, may demand or receive a distribution from the Company in any form other than cash or cash equivalents.

4.4 Limitation on Distributions. No distribution may be made by the Company if after giving effect to the distribution: (i) the company would not be able to pay its debts as they become due in the usual course of business; or (ii) the assets of the Company would be less than the sum of its liabilities plus, the amount that would be needed, if the Company were to be dissolved at the time of the distribution, to satisfy the preferential rights of other Members upon dissolution which are superior to the rights of the Member receiving the distribution.

5. Members.

5.1 Representations and Warranties. Each Member hereby represents and warrants to the Company and the other Members that: (i) it is duly organized, validly existing and in good standing under the law of the state of its formation and is duly qualified and in good standing as a foreign entity in all jurisdictions which require it to be qualified; (ii) it has all necessary power and authority to execute and agree to this Agreement and to perform obligations hereunder; (iii) it has duly executed and delivered this Agreement; and (iv) its authorization, execution, delivery, and performance of this Agreement does not conflict with any other agreement or arrangement to which that Member is a party or by which it is bound.

5.2 Change of Ownership of a Member. A Member that is not a natural person may not cause or permit an interest, direct or indirect, in itself to be transferred without the consent of the other Members if after such transfer the Member shall cease to be controlled by the same Person who control it as of the date of its admission to the Company. Upon the non-compliance of this Section, the Company shall have the option to buy, and on exercise of that option, the non-complying Member shall sell, its interest in the Company, in accordance with Section 8.1.

5.3 Information. In addition to the other rights specifically set forth in this Operating Agreement, each Member is entitled to all information to which that Member is entitled to have access pursuant to South Carolina Code §33-44-408.

5.4 Fiduciary Duties.

(a) Duty of Loyalty. Each Member's and Manager's duty of loyalty ~~to the~~ Company and the other Members is limited to account to the Company and to hold as trustee for the Company any property, profit or benefit derived by the Member or the Manager in the conduct or winding up of the Company's business. A Member or a Manager does not violate the duty of loyalty by engaging in a competing business or pursuing other business opportunities, even if the business opportunity could have been pursued by the Company.

(b) Duty of Care. Each Members' and Manager's duty of care to the Company and the other Members in the conduct of and winding up of the Company's business is limited to refraining from engaging in grossly negligent or reckless conduct, intentional misconduct, or a knowing violation of law.

(c) Good Faith and Fair Dealing. Each Member and Manager shall discharge his duties and exercise any of his rights consistently with the obligation of good faith and fair dealing which he owes to the Company and the other Members. A Member or a Manager does not violate a duty of good faith or fair dealing to the Company merely because the conduct furthers the Member's or Manager's own interest. Further, a Member or a Manager does not violate the duty of good faith and fair dealing by engaging in a competing business or pursing other business opportunities, even if the business opportunity could have been pursued by the Company.

6. Management of the Company.

6.1 Decisions of the Company. Except as otherwise set forth herein, all decisions effecting the operations of the Company shall be decided by consent of the Manager.

6.2 Authority and Power of the Manager. The Manager shall have the authority and power necessary to discharge the business of the Company. Without limiting the foregoing, the Manager shall have the authority and power to perform the following acts on behalf of the Company:

(a) Execute and deliver any and all agreements, contracts, documents, certifications and instruments necessary or convenient in connection with the carrying on in the usual way of the business and affairs of the Company;

(b) Execute and deliver any deed, lease, mortgage, mortgage note, bill of sale, easement, license, contract or other instrument purporting to convey, sell, exchange or encumber all or any part of the Company's property;

(c) Deposit or invest Company funds in such interest bearing or non interest bearing investments or bank accounts as they deem advisable to the extent such funds are not then required for Company operations, and are not required to be distributed, pursuant to this Agreement;

(d) Retain or employ and coordinate the services of employees,

independent contractors, supervisors, accountants, attorneys and other persons necessary or appropriate to carry out the business and purposes of the Company;

(e) Engage in any kind of activity and to perform and carry out such contracts of any kind necessary to operate the business and purposes of the Company, in accordance with this Agreement; and

(f) Pay all debts and other obligations of the Company, to the extent that funds of the Company are available therefor.

6.3 Liability of the Members and the Manager. The Members and the Manager shall not be liable to the Company or to any Member for any debts owed by the Company, or for any actions taken or omissions made in good faith and reasonably believed by the Member or the Manager to be in the best interests of the Company, or for errors of judgment, except to the extent such acts or omissions constitute gross negligence or willful misconduct. Provided the standards of this Section 6.3 are satisfied, the Company shall indemnify each Member and Manager for all costs and expenses, including reasonable attorneys' fees, associated with the defense of any action or claim brought against the Member or Manager by any other Member, the Company or a third party, except for an action brought pursuant to Section 3.3(b).

6.4 Conflicts of Interests. The pursuit of other ventures and activities by Members or Manager, even if directly competitive with the business of the Company, is hereby consented to by the Members and shall not be deemed wrongful or improper. No Member or Manager shall be obligated to present any particular investment opportunity to the Company, even if such opportunity is of a character which, if presented to the Company, could be taken by the Company. The Company may enter into agreements with one or more Members or Managers (or an affiliated entity) to provide management, consulting, marketing, construction or other services to the Company.

6.5 Waiver of Derivative Suit. All Members hereby agree to waive any and all rights to institute a derivative suit pursuant to South Carolina Code §33-44-1101.

7. **Transfers of Interests; Admission.**

7.1 Transfer Restrictions. No Member may sell, assign, transfer, pledge, hypothecate or otherwise dispose of its interest or any interest therein unless the transfer meets the requirements of Section 7.2 or Section 7.3. Any transfer of any Member's interest in violation of this Agreement shall be void and of no effect.

7.2 Permitted Transfers. Compliance with Section 7.3 shall not be required for the gratuitous transfer by a Member of their distributional interest in the Company (as defined in South Carolina Code §33-44-101) to the following individuals and/or entities:

(a) transfers to the spouse or any one or more of the issue, or in trust for the benefit of any one or more of the spouse and issue, of such Member; or

(b) transfers to the estate of the Member.

All transferees under this Section shall be considered a transferee of a distribution interest under South Carolina Code §33-44-502.

7.3 Right of First Refusal. If a Member receives a bona fide offer ("Offer") which the Member ("Selling Member") proposes to accept, whether or not solicited, to sell or otherwise dispose of all or any portion of his interest, then the Selling Member shall furnish to the non-selling Members written notice of the receipt of the Offer together with the principal terms and conditions of the sale, including the minimum price ("Sale Price") at which such interest is proposed to be sold, and a statement as to the identity of the real party in interest making the Offer. The Company and/or the non-selling Members, shall then have the right to purchase any portion of the interest ("Offered Interest") proposed to be sold by the Selling Member upon and subject to the terms and conditions as set forth in this Section 7.3. In the event more than one offeree accepts the offer, those accepting shall purchase the membership in proportion to their Membership Interests, unless they agree otherwise.

(a) The price and terms at which the Offered Interest may be purchased shall be the price and terms contained in the Offer. However, if the offeree elects to purchase only a portion of the interest being sold, then the purchase price shall be in proportion to the price contained in the Offer. If the price contained in the Offer shall consist (in whole or in part) of consideration other than cash, payable at the closing thereof or at a later date, the cash equivalent fair market value of such other consideration shall be included in the price at which the Offered Interest may be so purchased.

(b) The Company and non-selling Members shall have thirty days after receipt of the notice to elect to purchase the Offered Interest. The purchase transaction (unless otherwise agreed to with third-party purchasers) shall be consummated at a closing to be held at the principal executive offices of the Company, or at such other location as may be agreed by the parties, within thirty days following the date of the offeree's election to purchase the Offered Interest, or any portion thereof. At the closing, unless otherwise stipulated in the Offer, the offeree shall deliver to the Selling Member the full purchase price, against delivery of an instrument appropriately transferring the Offered Interest sold thereby.

(c) If the Company or a non-Selling Member does not elect to purchase the Offered Interest, or any portion thereof, then the Selling Member may accept the Offer and, pursuant thereto, sell the Offered Interest. However, if the Selling Member does not sell the Offered Interest pursuant to the Offer within sixty days after the termination (by passage of time or otherwise) of the rights of first refusal created under this Section 7.3, the Selling Member may not thereafter transfer the Offered Interest, or any part thereof, without again complying with the provisions of this Section 7.3.

7.4 New Members. Upon unanimous consent of the Members, the Company shall have the ability to admit new Members either by the Members selling a portion of their interest to the new Member or by the Company granting an additional interest to the new Member. In either event, the new Member must comply with Section 7.5 in order to be recognized as a Member of the

Company.

7.5 Admissions.

(a) All transfers by a Member of his interest, or any interest therein, shall entitle the transferee only to receive the allocations and distributions to which the transferring Member would otherwise be entitled, and shall be considered and treated as a transferee of a distribution interest under South Carolina Code §33-44-502 . A transferee shall become a Member only upon compliance with the requirements of this Section 7.5 and only with the written consent of all of the other Members, which consent shall be given in the sole and absolute discretion of the other Members.

(b) No Person to whom a transferring Member has transferred his interest or any interest therein shall be eligible to be admitted as a Member of the Company unless (i) provision therefor is made by the instrument of assignment and (ii) such Person executes and acknowledges such instruments as the Members reasonably deems necessary or advisable to effect the admission of such Person as a Member; including but not limited to, executing the Operating Agreement currently governing the operations of the Company.

(c) Any transferee admitted to the Company as a Member pursuant to this Section 7.5 will succeed to all rights and be subject to all the obligations of the transferor Member. Further, the transferor Member shall not be released of any obligations owed to the Company. In connection with such transferee becoming a Member, all other steps shall be taken which, in the opinion of the Members, are reasonably necessary to admit such transferee under the Act as a Member.

7.6 Distributions and Allocations in Respect to Transferred Interests. If any Member's interest is sold, assigned or transferred, or any Person is otherwise admitted as a Member during any fiscal year in compliance with the provisions of this Agreement, net profits, net losses, each item thereof, and all other items attributable to such interest for such fiscal year shall be allocated among the Members by taking into account their varying interests during such fiscal year in accordance with Code §706(d). Unless otherwise required by the applicable Regulations, such sale, assignment, transfer or admission shall be deemed to have occurred at the end of the calendar month during which such event shall have actually occurred, and such allocations shall be determined and made pursuant to a pro forma closing of the books of the Company as of the end of such month. With respect to a transferred Member's interest or any interest therein, all distributions on or before the deemed date of such transfer shall be made to the transferor and all distributions thereafter shall be made to the transferee. The Company shall not incur any liability for making allocations and distributions in accordance with this provision.

8. **Death, Bankruptcy or Change of Ownership**. On account of a Member's (i) bankruptcy or assignment of its interest for the benefit of a creditor; (ii) the change of ownership of a Member as set forth in Section 5.2; or (iii) death ("Transferring Member"), the Company shall enjoy an option to purchase the Transferring Member's interest in the Company. If this option to purchase is exercised by the Company, it shall pay the purchase price in accordance with Section 8.1.

8.1 Purchase Price for Member's Interest. If this option to purchase is exercised by the Company, the purchase price shall be the fair market value of the Transferring Member's interest in the Company. For purposes of this Agreement, the fair market value of the Transferring Member's interest shall be as agreed upon by the Company and the Transferring Member's representative or estate. If a valuation can not be agreed upon, then such fair market value shall be determined by two independent M.A.I. appraisers, one selected by the Company and one selected by the Transferring Member's representative or estate. If the two appraisers set the fair market value at amounts which do not differ by more than thirty percent, then the average of the two values shall be the fair market value of the interest. If the differential of the two appraisals is greater than thirty percent (30%), then a third appraiser shall be appointed, by mutual agreement of the two appraisers, for the purpose of choosing which of the two appraisals more nearly reflects the fair market value of the interest. Whichever value the third appraiser chooses shall be the fair market value of the interest.

8.2 Terms of Purchase. If the Company elects to purchase the Transferring Member's interest in the Company, then the Company shall have the option of remitting the purchase price in a lump sum, or with a down payment equal to fifty percent (50%) of the purchase price and a promissory note for the remainder of the purchase price. If the purchase price is paid in a lump sum, then it shall be made within ninety days of the written election by the Company to purchase the interest. If the Company elects to make payment which includes a promissory note, the amount of the note shall be paid in equal consecutive monthly installments over a number of months, not exceeding one hundred twenty (120) months. The down payment of the purchase price shall be made within ninety (90) days of the written notice by the Company to purchase the interest. Any subsequent payments due thereafter shall commence on the first day of the first month following the payment of the down payment. Interest on the promissory note shall be adjusted annually and shall be at the prime rate of bank in which the Company has its primary operating account. The promissory note shall be subject to prepayment, without penalty, in whole or in part, at any time and, provided further, that the amounts due on account of the promissory note shall be accelerated upon default in the payment of the principal or interest due on said note.

8.3 Transfer of Member's Interest. Each Member agrees that upon receipt of cash or cash equivalents, or a promissory note in full payment of the purchase price for his interest in the Company, the legal representative of his estate will execute and deliver to the Company all the documents which are required to transfer the Transferring Member's interest in the Company to the Company.

9. Withdraw and Dissociation. No Member shall be allowed to withdraw or dissociate from the Company. Any attempted dissociation or withdraw by a Member shall be null and void and not recognized by the Company. If an event of dissociation occurs for any reason whatsoever, the Company shall not dissolve and the Member causing the dissociation, if any, shall be liable to the Company for such wrongful dissociation. In no event shall the dissociated Member be entitled to have its Ownership Interest purchased by the Company.

10. Dissolution and Deficit Capital Accounts. The Company shall be dissolved upon the written consent of all Members. Upon dissolution and notwithstanding anything contained in this Agreement or any custom or rule of law to the contrary, a Member's deficit capital account, if any, shall not be an asset of the Company and such Member shall not be obligated to contribute such amount to the Company to restore the balance of such Member's capital account to zero.

11. Distribution of Proceeds on Dissolution. Upon the dissolution of the Company, the Members shall proceed with the liquidation of the Company as promptly as possible, but in an orderly and businesslike manner and the proceeds therefrom and any other funds and assets of the Company shall be applied and distributed in the following order of priority:

11.1 First, to the payment of all debts of the Company owed to non-Members;

11.2 Second, to the payment of all debts owed to a Member on account of a loan made to the Company;

11.3 Third, to the Members in accordance and in proportion with the net credit balances of their respective capital accounts, as determined after taking into account all capital account adjustments for the Company's taxable year during which such liquidation or dissolution occurs;

11.4 Fourth, to the Members in accordance with their Ownership Percentages.

12. Miscellaneous Matters.

12.1 Captions and Headings. Section and paragraph headings or captions contained in this Agreement are inserted only as a matter of convenience and for reference and in no way define, limit, extend or describe the scope of this Agreement or the intent of any provision hereof.

12.2 Applicable Law. This Agreement is to be formed in the State of South Carolina and shall be governed by and construed in accordance with the laws of the State of South Carolina. Any action brought to enforce or interpret this Agreement shall be brought in the court of appropriate jurisdiction for Beaufort County, South Carolina.

12.3 Severability. Every provision of the Agreement is intended to be severable. If any term or provision hereof is deemed illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the validity or legality of the remainder of this Agreement.

12.4 Benefit. Except as herein otherwise provided to the contrary, this Agreement shall be binding upon and inure to the benefit of the parties, their heirs, personal representatives, successors and assigns.

12.5 Amendments. This Agreement may be amended only by a written instrument executed by all the Members.

12.6 Further Action. Each Member, upon the request of the other Member, agrees to perform all further acts and execute, acknowledge, and deliver any documents which may be reasonably necessary, appropriate, or desirable to carry out the provisions of this Agreement.

12.7 Construction and Interpretation. If any provision of this Agreement requires judicial interpretation, it is agreed that the court interpreting or considering this Agreement shall not apply the presumption that the terms hereof shall be more strictly construed against a party by reason of the rule or conclusion or agreement that a document shall be construed against the party who itself or through its agents prepared the same.

12.8 Attorney Representation. The Members acknowledges that McNair Law Firm, P.A. prepared this Agreement on behalf and in the course of its representation of the Company and that the Members have been advised by McNair Law Firm, P.A. that a conflict exists between their interests. Each Member acknowledges that it has had the opportunity to seek independent legal counsel.

12.9 Entire Agreement. This Agreement, including Exhibit "A", embodies the entire agreement and understanding between the Members relating to the subject matter hereof and supersedes all prior representations, agreements and understandings, oral or written, relating to such subject matter.

This Agreement is executed by the Members, effective as of the date first above written.

MEMBERS:

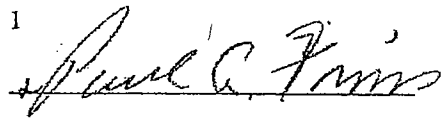
Silver Oak Land Management, LLC
a South Carolina limited liability company

By: _____
John M. McIntyre, Manager

[ADDITIONAL MEMBER SIGNATURES ON FOLLOWING PAGES.]

MEMBER SIGNATURE PAGE

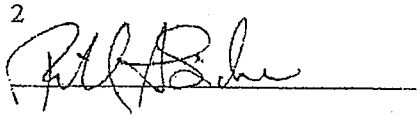
1



Paul A. Finn

MEMBER SIGNATURE PAGE

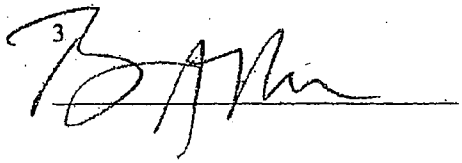
2



Richard A. Silver

MEMBER SIGNATURE PAGE

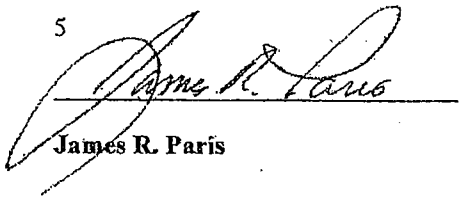
3



Brian Mone

MEMBER SIGNATURE PAGE

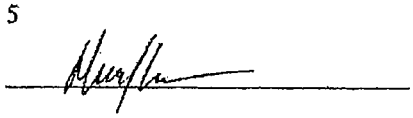
5



James R. Paris

MEMBER SIGNATURE PAGE

5



David Short

Exhibit A
Silver Oak Energy, LLC

MEMBERS, INITIAL CONTRIBUTIONS, AND OWNERSHIP PERCENTAGES

Member	Contribution	Ownership Percentage
Silver Oak Land Management, LLC	Management Services	35.0%
Paul A. Finn	$ 106,730.77	17.34375%
Richard A Silver	$ 99,375.00	16.25%
Brain Mone	$ 106,730.77	17.34375%
David Short	$ 61,538.46	10.00%
James R. Paris	$ 24,843.75	4.0625.00%
TOTAL	$ 399,218.75	**100%**

Silver Oak Energy, LLC

We hope that you have an interest in this project. We encourage you to return your membership offer form and a check as soon as you can. If you have any questions or need more information please call me anytime at 843-342-3363. All membership payments must be received before the deadline of November 15th, 2009.

We reserve the right, in our sole discretion, to accept or reject any membership, in whole or in part. We reserve the right to accept memberships on a first come, first serve basis. If the offering is oversold, or if we do not accept all or a portion of an interest, we will return the unaccepted portion.

Yours Truly,

Jack McIntyre

MEMBERSHIP OFFER

ATTN: JACK MCINTYRE
Silver Oak Energy,LLC.
P.O. Box 22827
Hilton Head Island, SC 29925

I hereby submit $49,687.50 for every 3.00% interest in Silver Oak Energy, LLC a South Carolina Limited Liability Company. Silver Oak Energy, LLC will establish commercial *Miscanthus x giganteus* rhizome production and joint venture biomass farms.

Number of Units: 1 at $49,687.50 each
Total $ 49,687.50
Date: 11/2/09
Print Name: PAUL A. FINN
Address: 8 LAMINGTON ROAD
Telephone Number: (508) 208-8557 (843) 785-2351
E-mail address: PAUL@COMMONWEALTHMEDIATION.COM
Signature: Paul C. Finn

Fax to: 843-342-3364
Email: jack@silveroaklandtrust.com
Voice: 843-342-3363

Silver Oak Energy, LLC

We hope that you have an interest in this project. We encourage you to return your membership offer form and a check as soon as you can. If you have any questions or need more information please call me anytime at 843-342-3363. All membership payments must be received before the deadline of December 31, 2009.

We reserve the right, in our sole discretion, to accept or reject any membership, in whole or in part. We reserve the right to accept memberships on a first come, first serve basis. If the offering is oversold, or if we do not accept all or a portion of an interest, we will return the unaccepted portion.

Yours Truly,

Jack McIntyre

MEMBERSHIP OFFER

ATTN: JACK MCINTYRE
Silver Oak Energy,LLC.
P.O. Box 22827
Hilton Head Island, SC 29925

I hereby submit $49,687.50 for every 3.00% interest in Silver Oak Energy, LLC a South Carolina Limited Liability Company. Silver Oak Energy, LLC will establish commercial *Miscanthus x giganteus* rhizome production and joint venture biomass farms.

Number of Units: 2 at $49,687.50 each
Total $ 99,375.00
Date: 11/7/09
Print Name: RICHARD A. SILVER
Address: 67 FUSKIE LANE
Telephone Number: 843-341-9252
E-mail address: richl0@hargray.com
Signature: Richard A Silver

Fax to: 888-254-0820
Email: jack@silveroaklandtrust.com
Voice: 843-342-3363

Silver Oak Energy, LLC

We hope that you have an interest in this project. We encourage you to return your membership offer form and a check as soon as you can. If you have any questions or need more information please call me anytime at 843-342-3363. All membership payments must be received before the deadline of December 31, 2009.

We reserve the right, in our sole discretion, to accept or reject any membership, in whole or in part. We reserve the right to accept memberships on a first come, first serve basis. If the offering is oversold, or if we do not accept all or a portion of an interest, we will return the unaccepted portion.

Yours Truly,

Jack McIntyre

MEMBERSHIP OFFER

ATTN: JACK MCINTYRE
Silver Oak Energy,LLC.
P.O. Box 22827
Hilton Head Island, SC 29925

I hereby submit $49,687.50 for every 3.00% interest in Silver Oak Energy, LLC a South Carolina Limited Liability Company. Silver Oak Energy, LLC will establish commercial *Miscanthus x giganteus* rhizome production and joint venture biomass farms.

Number of Units: _____ at $49,687.50 each
Total $_____
Date: 11/17/2009
Print Name: James R. Paris
Address: 3 Gannet Street, Hilton Head, S.C. 29928
Telephone Number: 843-785-5588
E-mail address: jim@hiltonheadrealestate.com

Signature: James R. Paris

Fax to: 888-254-0820
Email: jack@silveroaklandtrust.com
Voice: 843-342-3363

SILVER OAK ENERGY, LLC.

We hope that you have an interest in this project. We encourage you to return your membership offer form and a check as soon as you can. If you have any questions or need more information please call me anytime at 843-342-3363.
We reserve the right, in our sole discretion, to accept or reject any membership, in whole or in part. We reserve the right to accept memberships on a first come, first serve basis. If the offering is oversold, or if we do not accept all or a portion of an interest, we will return the unaccepted portion.

Yours Truly,

Jack McIntyre

MEMBERSHIP OFFER

ATTN: JACK MCINTYRE
Silver Oak Energy, LLC.
P.O. Box 22827
Hilton Head Island, SC 29925

I hereby submit $49,687.5 for every 8.125% interest in Silver Oak Energy, LLC a South Carolina Limited Liability Company. Silver Oak Energy, LLC will establish commercial Miscanthus x Giganteus rhizome production and joint venture biomass farms.

Number of Units: 1 at $49,687.50 each; Total $_____
Date: 6/5/2010
Print Name: DAVID C. SHORT
Address: 4 LOGGERHEAD CT. HHI SC 29926
Telephone Number: 843 342 2605 (H) 422 7705 (C)
E-mail address: DAVID.SHORT@RITZCARLTON.COM

Signature: _____

Fax to: 888-254-0820

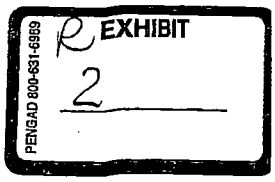
Number of Units: _____at $99,550 each;
Total $_____
Date: _____
Print Name: _____
Address: _____
Telephone Number: _____
E-mail address: _____

Signature: _____

Mail to:
JACK MCINTYRE
Silver Oak Land Trust, LLC.
P.O. Box 22827
Hilton Head Island, SC 29925

Or Fax: 888-254-0820

--- On **Sat, 11/19/11, Murray N. Reed** <*reedmurray@usa.net*> wrote:



From: Murray N. Reed <reedmurray@usa.net>
Subject: 278
To: ""Jim Paris" " <jim@hiltonheadrealestate.com>, ""Jack McIntyre" " <jack@jackmcintyre.com>
Date: Saturday, November 19, 2011, 12:21 PM

Hola Partners,
Wow does time fly by. The 5th of December is right around the corner. Since time may be of the essence I thought I would write down my understanding of what we have agreed on. So this is how I understand it.
Jack has negotiated the note down to 500,000 total due.
SOLT I has to come up with 350000 cash on or about December 5th.
There will be no further payments until June 5th, and that will be 150000 cash which will finalize the note.
How does the 350000 get paid???
Two people have invested 100000 each which Jack is holding in escrow. He had to spend 12000 of that while dealing with Meridian.

ROA_0983

So now we have:
188000 from two outside investors for which they will receive approximately 7.5% ??? of the deal each. Money invested by the partners will use this same formula.
25000 from DavejeffLLC (buying additional interest)
64000 from Martin (buying additional interest)
64000 from Murray (buying additional interest)
9000 from SOLT I timber ?????
350000.00
At this point we believe the money has to be available on or before Dec. 5th.
Jack and I and whoever else wants to be there, will be meeting with SOLT I's lawyer to draw up new paperwork, change of interest in properties etc. At that time I am changing my ownership to include Murray Jr as long as there are no objections from investors. Our lawyer will be handling the money transfer to the New Bank. Each investor needs to decide how to get the money to her in time.
I will head to Hilton Head about the 1st of December to work with Jack on this. At that time we will discuss with all partners how we get the 150000 to finish off note. After bills are paid we still have money left from timbering on Lake Murray and 278. After taking that into account and any other monies available we will know how much we have to find. Jack has other investors that might be interested. We all have to work on this.

Jack also has some ideas to make better use of the property. I am sure that all the partners will meet and discuss these things. We should put all this in writing as it is an ever changing landscape. We can get Martin involved via skype. The above is simply the way I understand things, I'm sure Jack can fill in more details and correct any math that might be a bit off. If this is not how any of you see it please let us know ASAP. Any input from partners will be greatly appreciated. Time is flying by and we have to make sure we take advantage of the situtation Jack has negotiated for us. Thanks, Murray