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THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

APPEAL RICHLAND COUNTY  
Court of Common Pleas

Jean H. Toal, Senior Circuit Court Judge

Case No. 2016-CP-40-06177

**RECEIVED**

JUN 22 2017

**SC Court of Appeals**

ALEXANDER N. GEE, JR., aka  
Sandy Gee and KAREN B. GEE,  
a/k/a KAREN  
GEE,.....Respondents,

vs.

ERNEST E. YARBOROUGH,  
a/k/a Ernest  
Yarborough.....Appellant.

**PETITION FOR WRIT OF SUPERSEDEAS TO  
STAY ORDER UNDER APPEAL**

NOW COMES APPELLANT, ERNEST E. YARBOROUGH (hereinafter sometimes referred to as "Yarborough", "Petitioner", or "Appellant"), in a self-represented capacity, petitioning the court pursuant to Rule 241, SCAR, for an order imposing a supersedeas of matters decided in the order which is the subject matter of this appeal. In support of this Petition, Yarborough alleges, pleads, and shows the Court the following:

## FACTS

This case involves a dispute over a piece of real estate located at 117 Ashley Hall Road, Columbia, South Carolina (the “Disputed Property”). This Disputed Property has served as Yarborough’s personal residence since February 2008.

On January 8, 2008, Yarborough searched the internet for home to purchase under a “rent-to-on” or “contract-for-deed” type of arrangement. Yarborough discovered a house located at 117 Ashley Hall Road, Columbia, SC 29229, County of Richland, State of South Carolina, that was being advertised by the Respondents as a “Rent to Own” home. A copy of the original ad that was placed on the internet by the Respondents or their agent is attached to this Affidavit which is *Exhibit A to this Petition*. Yarborough researched the property records for the house, and he discovered that it was owned by the Respondents. The Disputed Property bore tax map Identification Number R203009-01-12. Yarborough contacted Respondent Alexander “Sandy” Gee, Jr. and made arrangement to view the home. After reviewing the home, Yarborough began negotiating with the Respondents, one or both, to acquire possession of the home.

The Respondents and Yarborough reached an agreement to give Yarborough possession of the house, and the parties<sup>1</sup> subsequently signed a Residential Lease Agreement on or about January 25, 2008. See *Exhibit “B” to Petition* [hereinafter referred to as “Lease Agreement”]. On this same day, Respondents, represented by signature of Karen Gee only, and Yarborough also signed an Option to Purchase Agreement which was a separate agreement but part of the Lease Agreement. See *Exhibit “C” to this Petition* [hereinafter referred to as “Option to Purchase”].

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<sup>1</sup>Use of the word “parties” throughout this Petition refers to the Appellants and Respondents.

On January 10, 2008, Yarborough met with an agent for the Respondents in order to pay the necessary consideration to gain occupancy of the house. Respondents sent Mr. Larry Pfizer as their agent because they were out of town. Per the parties' agreement, the Respondents sent an Addendum to the Lease and the Option to Purchase, which include the additional terms of their agreement. *See Attachment No. 3 to the Affidavit at Exhibit "A" to this Petition [hereinafter referred to as the "Addendum"]*. The Addendum contained a crucial requirement for the Respondents to repair the chimney foundation of the Disputed Property at their sole expense. *See, Paragraph 1 of the Addendum*. This requirement was crucial because there was visible damage to the foundation of the house, and Yarborough knew that he could not acquire conventional or VA financing of the house with such visible damage. Moreover, Yarborough knew that the repair costs would be more than he could bear financially at the time. Therefore, Yarborough specifically negotiated and achieved the contractual requirements for the Respondents to make the repairs to the chimney foundation.

Yarborough has continually occupied the house as his primary residence since on or about February 01, 2008 to this date. From January 2008 to June 2016<sup>2</sup>, Respondents gave Yarborough numerous assurances that they would make the repairs to the chimney foundation, and they knew that Yarborough could not move forward with financing external financing of the home until the repairs were made. On one or more occasions, Yarborough informed Sandy Gee that he could not obtain VA financing of the house with

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<sup>2</sup>From August 2008 to December 2012, Yarborough did not put a lot of pressure on the Respondents to repair the foundation because such delay served all the parties well. Yarborough's wife was battling cancer at the time and she eventually died in December 2012. Therefore, the Respondents delay in fixing the foundation was not a big issue why Yarborough was dealing with his wife's health issues and because the relationship between the parties was good. Yarborough was in possession of the home and was paying monthly under a Contract of Sale that was filed with the Tax Assessor's Office.

the chimney foundation being damage—obtaining external financing for the house was the parties expectation from the very first date Yarborough took possession of the home.

From January 2008 to the present, the foundation has gotten visibly worse. On the outside of the house, one can visibly see that the chimney is starting to separate from the house. Inside of the house, the hardwood floors, running straight from the chimney to the front door, have started to buckle. Even the drive way has started to crack and separate. Respondents are aware of the issues which would prevent the house from being financed, but to this date, they have been neglectful in making these crucial repairs.

The issues between the parties <sup>came 5/24</sup> can to a head in June 2016. Respondents started making demands on Yarborough. In June 2016 Yarborough discovered that the Respondents had unilaterally changed his occupancy status at the Richland County Tax Assessor's office. This fact is very important: from June 13, 2009 until June 2016, Yarborough and the Respondents converted Yarborough's possession of the home to possession under a written contract for sale. From June 13, 2009 until June 2016, Yarborough or the Respondents paid the owner's occupancy tax rate on the Disputed Property. The contract for sale is dated June 13, 2009, and Yarborough's occupancy of the house proceeded forward under the contract for sale from the said date. *See Attachment No. 4 of the Affidavit which is attached to this Petition as Exhibit "A" [hereinafter referred to as "Contract for Sale"]*. By written agreement, the parties agreed that the Contract for Sale would be retroactively applied to January 10, 2008, the date of the original Lease. *See Attachment No. 2 of the Affidavit which is attached to this Petition as Exhibit "A"*. By written agreement, with retroactive application, Yarborough's occupancy of 117 Ashley Hall Road, the Disputed Property, is under a

“contract of sale of a dwelling” as envisioned by S.C. Code 27-40-120(2). Of importance, the Respondents were aware that the Yarborough would never rent the house under a simple lease agreement. From the very first meeting, Yarborough made it clear that he was looking for a purchase to purchase, not to rent.

**Yarborough justifiably stopped payments in June 2016**

By Yarborough’s best estimate, he has paid the Respondents in of **excess of \$140,000.00** to occupy the house which has a value of approximately \$180,000.00—a value that would be substantially reduced if the defective foundation issue is taken into consideration. Yarborough stopped paying the Respondents in June 2016 after a dispute arose, and refused all payments after the Respondents unilaterally changed his occupancy status at the Richland County Tax Assessor’s office. Despite the impasse in June 2016, the parties eventually agreed to resolve the dispute with Yarborough paying the amount due and then moving forward in financing the home within an established time frame. The Respondents agreed to have the legal documents prepared, and they retained counsel to prepare the documents. The settlement agreement was not completed because, in part, the Respondents tried to Yarborough sign a quitclaim deed conveying his interest in house. *See Attachment No. 5 to the Affidavit which is attached to this Petition as Exhibit “A” [hereinafter referred to as “Quitclaim Deed”].*

**The Amount owed is vehemently disputed.**

Yarborough vehemently disputes the amount that the Respondents claim that he owes, and such dispute is raised in Yarborough’s answer. Additionally, Yarborough asserts that if the Court finds that he is a “mere tenant” as the Respondents claim, then the Respondents may be indebted to him because he spent thousands of dollars on taxes,

home owners' association fees, and repairs to the house—costs that he would not be required to bear as a “mere tenant” and amounts that would substantially offset any amount that the Respondents claim is due in what they characterize as “rent”.

**Appellant has never had a hearing to determine the amount, if any is due.**

At this procedural juncture<sup>3</sup>, there has never been a hearing to assess the amount, if any, that the Appellant may owe the Respondents or the Respondents may owe the Appellant. Yarborough continued to pay on this house for many years—again to the tune of at least \$140,000.00—because the Respondents promised him that they would repair the foundation so he could get the house financed. There is absolutely no way Yarborough would have simply rented the house from the Respondents without some expectation of equitable interest in the home

**Dealings with the Tax Assessor shows Yarborough's Equitable Interest in the Disputed Property**

As additional proof of Yarborough's equitable interest in the Disputed Property, he offers the court the following information: After the Yarborough took possession of the house, Respondents complained and whined about the amount of property taxes being billed on the Disputed Property and the amount of taxes billed on their other properties. Because of the conversations between the Yarborough and Respondents, Yarborough consulted with the Tax Assessor's Office for the County of Richland (“Tax Assessor”), State of South Carolina in August 2009. After Yarborough consulted with the Tax Assessor's Office in August 2009, Yarborough informed Respondent that he, Appellant, was entitled to the Legal Residence Tax Rate for the subjected property if his option to

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<sup>3</sup>The character of the hearing before the trial court is unknown, meaning, Appellant does not know whether it was a 12(6) Hearing or a Summary Judgment hearing of what type of hearing. In any event, the record will show that the Appellant was not agreeing to converting the matter to one for Summary Judgment.

purchase was converted in a way to give him an equitable interest in the property. Respondents agreed to provide the Tax Assessor Office with the information establishing Yarborough's equitable ownership in the property, and they further agreed to sign and provide the Tax Assessor's Office with the required paperwork establishing Yarborough's ownership interest in the property. On August 24, 2009, Yarborough, based upon his equitable ownership interest in the property, provided the Tax Assessor's Office with required documentation to allow Yarborough, as equitable owner, to receive the legal residence tax rate for the property located at 117 Ashley Hall Road, Columbia, South Carolina. Such application for the reduced rate was made with the representations from the Respondents and with the consent of the Respondents that Yarborough enjoyed an equitable ownership interest in the property located at 117 Ashley Hall Road. Such representations from the Respondents were relied upon by the Yarborough and the Tax Assessor's Office. From August 2009 until June 2016, Respondents led Yarborough and the Tax Assessor's Office to believe that Yarborough owned an equitable interest in the property which is the subject matter of this litigation. Consequently, based upon the representations by the Respondents, the Tax Assessor's Office reduced the Respondents' property taxes on the subjected property for about \$2,000.00-\$3,000.00 per year (estimated) for almost 9 years. Respondents received a tax reduction on the subject property for a total of approximately \$36,000.00. Respondents readily received the tax reduction, and they knew, because I informed them, that the only way this tax reduction could apply is that I had to maintain my equitable ownership interest in the house as my primary residence, and they knew because sometimes they paid the tax bill with expectation of reimbursement from me. From August 2009 until the dispute arose in

June 2016, Yarborough's name was listed with the Tax Assessor and Treasurer's Office as the "Care of" person for the house on the tax bill. As stated earlier, after the dispute arose, the Respondents went to the Tax Assessor's Office and unilaterally removed Yarborough's name from the tax records. In the trial court, the Respondents are alleged that Yarborough does not have an equitable ownership in the subject property, a position that cannot be reconciled with the position that they took with the Tax Assessor to receive the substantial tax savings as alleged above. Yarborough asserts that the Respondents have misled others and the Tax Assessor to receive the reduced tax rate for other properties that they own, and such representation caused Yarborough to pay the Respondents around \$140,000.00 for a house that is worth not more than \$180,000.00.

In continuing to pay the Respondents the substantial sum for the house, Yarborough relied upon their representation and the representations to the tax assessor's office that Yarborough owned an equitable interest in the Disputed Property. Moreover, as a result of this reliance, Yarborough changed his position and continued with the occupancy of the property based upon his belief that he shared an equitable interest in the property and that the Respondents would repair the foundation in order to facilitate financing. The chimney foundation is a major structural defect to the subject property, which virtually makes its incapable of being financed through the Veteran's Administration or any other conventional mortgage program. In June 2016, Respondents, through their words and conduct, made unambiguous promise to the Yarborough that if he would consent to working with a credit repair specialist and realtor, they would allow the home in question to be purchased at the agreed upon rate not later than September 2017, if the Yarborough commenced paying the monthly rate of 1250.00.

Yarborough did everything he asked to do to resolve this dispute, and the settlement agreement was not consummated solely because the Respondents disingenuously attempted to get Yarborough to sign his interest away in the property through a Quitclaim Deed.

### **GROUND FOR THE PETITION**

1. The Court erred in applying the Landlord Tenant Acts to the facts of the case because Yarborough occupies the property subject to a contract for sale which takes the matter outside the purview of the Landlord Tenant Act pursuant to S.C. Code 27-40-120(2);
2. Even if Yarborough was a tenant and subject to the Landlord Tenant Act, the trial court erred in defectively applying the S.C. Code 27-40-790 and by summarily deciding the amount Yarborough was required to pay because the amount owed was in dispute and such dispute necessitates that Yarborough be given a hearing to determine the amount due.
3. In this case, the circuit court judge was exercising concurrent jurisdiction in an ejectment proceeding that is statutorily relegated to the power of a magistrate court judge. The trial judge erred in failing to give Yarborough statutorily required hearing before a jury as Yarborough requested in the pleadings. Moreover, the trial judge violated Yarborough's fundamental due process rights by requiring Yarborough to pay a substantial sum of money before his defenses can be interposed.

## ARGUMENTS

### **A. THE LANDLORD TENANT ACT DOES NOT APPLY TO THE TRANSACTION UNDER REVIEW BY THE COURT.**

The matter came before the court for hearing on April 07, 2017 on Respondents' Motion to Strike Defendant's Answer and Counterclaims. During the hearing of this matter, Appellants did not offer a single affidavit nor a single witness but the order under review contains over two pages of findings of fact by the trial judge. The only evidence put before the Court was the affidavit of Yarborough, which unequivocally established that he has possession of the property pursuant to a contract of sale that he enjoys with the Respondents. Once the transcript is obtained, it will show that the trial judge has serious concern with factual point, and the Respondents absolutely failed to rebut this crucial factual point. The Residential Landlord Tenant Act states the following, in pertinent parts: "The following arrangements are not governed by this chapter: . . . (2) occupancy under a contract of sale of a dwelling unit or the property of which it is a part, if the occupant is the purchaser or a person who succeeds to his interest. See, S.C. Code Section 27-40-120(2). The unequivocal evidence in this case shows that Yarborough occupancy of 117 Ashley Hall Road is under a contract of sale of dwell. Since 2009, the Respondents took advantage of the property tax breaks and represented to the Tax Assessor, through their action or inaction, that Yarborough occupied the dwelling unit under a contract for sale. The only evidence properly before the trial court was that Yarborough occupied the property subject to a contract for sale. Therefore, under the plain language of the Act, the transaction before this Court is not subject to the Resident, and was harmful error for the trial court to order Yarborough to pay over \$16,000.00

based upon her interpretation of S.C. Code 27-40-790. For this reason alone, the Court should issue the Writ until this matter can be heard by this Court on its merits.

**B. EVEN IF THIS COURT FINDS THAT THE LANDLORD TENANT ACT IS APPLICABLE, THE WRIT SHOULD STILL ISSUE BECAUSE THE COURT ERRED IN APPLYING S.C. 27-790 AND IN SUMMARILY DETERMINING THAT YARBOROUGH OWES OVER \$16,000.00 AS A PRE-REQUISITE OF HAVING HIS DEFENSES HEARD.**

The trial judge determined that the only way Yarborough's defenses and counterclaims can be heard is that he must pay all pay due rents. Fundamentally, this sounds constitutionally defective. However, at this point, Yarborough is not challenging the constitutionality of the section of law used by the trial judge. Yarborough asserts that the trial judge's application of S.C. 27-40-790. Section 27-40-790 provides, in part, the following:

In any action where the landlord sues for possession and the tenant raises defenses or counterclaims pursuant to this chapter or the rental agreement:

(a) The tenant is required to pay the landlord all rent which **becomes due after the issuance of a written rule requiring the tenant to vacate or show cause as rent becomes due and the landlord** is required to provide the tenant with a written receipt for each payment except when the tenant pays by check. If the landlord and tenant disagree as to the amount of rent or the time of payments thereof, the court shall hold a hearing as soon as feasible after the issues have been joined, and preliminarily determine the matter.

*See, S.C. Code Section 27-40-790(a) (emphasis added).* This provision makes it clear that the tenant is required to pay all rent which becomes dues after the issuance of written rule requiring the tenant to vacate. There is no ambiguity concerning this requirement. No written rule has ever been issued to Yarborough to show cause or vacate. Therefore, until such rule issues, no amount is required to be paid under Section 27-40-790(a). If such rule ever issues, Yarborough would be required to pay only that amount which

becomes after the issuance of the written rule. Here, a major injustice is occurring. The trial judge is ordering Yarborough to pay over \$16,000.00 as pre-requisite to Yarborough having his day in Court. With all due respect to the Court, this sounds like something that happens in a third world country.

There is still another problem with the way the Court applied Section 27-40-70. The cited provision of this statute states that “[i]f the landlord and tenant disagree as to the amount of rent or the time of payments thereof, the court shall hold a hearing as soon as feasible after the issues have been joined, and preliminarily determine the matter.

*Id.* The Yarborough’s pleadings and affidavit submitted to the trial court disputed vehemently the amount due. *See, Answer, Exhibit “C” to this Petition.* Therefore, as a minimum, Yarborough is entitled to hearing to determine the amount due. In this case, the Court summarily decided that Yarborough should pay over \$16,000.00 or face having his furnishing sat out in the streets by the sheriff. To this Honorable Court, this is not right. Yarborough is entitled to a hearing before any amount can be assessed. The trial judge did not give Yarborough such a hearing.<sup>4</sup> For this reason, the Writ should issue.

**D. THE TRIAL JUDGE ERRED IN SUMMARILY ORDERING EJECTMENT AND FAILED TO ACCORD YARBOROUGH THE RIGHTS AFFORDED UNDER THE EJECTMENT STATUTORY LAW.**

For this argument, Yarborough assumes that the Court found correctly that he was a tenant subject to the Residential Landlord Tenant Act. If this is the case, Yarborough could only be ejected under the procedures outlined in S.C. Section 27-37-10 et. seq.

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<sup>4</sup>Yarborough does not have the transcript at this time. However, he reasonably recalls bringing this issue up at the hearing before the trial judge. The trial judge stated that we would cross that bridge once we got to it because she was not ordering ejectment—first she had to determine Yarborough’s status and he would be heard on this issue before being ejected.

(“the Ejectment Statutes”). The proceedings for ejectment are covered in S.C. Code 27-37-20. This section provides as follows:

SECTION 27-37-20. Ejectment proceedings.

Any tenant may be ejected in the following manner, to wit: Upon application by the landlord or his agent or attorney any magistrate having jurisdiction shall issue a written rule requiring the tenant forthwith to vacate the premises occupied by him or to show cause why he should not be ejected before the magistrate within ten days after service of a copy of such rule upon the tenant.

*S.C. Code 27-37-20.* Assuming that the trial judge was correctly exercising concurrent subject matter jurisdiction, once she determined that Yarborough was a tenant subject to the Residential Landlord and Tenant Act, she was required to follow the ejectment proceedings outlined in Section 27-37-20. She did not follow the ejectment proceedings as outlined above. No application was ever made. No written rule was ever issued. The trial summarily decided that ejectment was in order, and she ordered ejectment without following the prescribed procedures. Moreover, Section 27-37-80 gave Yarborough a statutory right to a jury trial before ejectment, if such was requested. Yarborough requested a jury trial but was not given a jury trial before the ejectment. As a matter of fact, an ejectment hearing never occurred. The trial judgment summarily ordered ejectment in violation of the above-stated statutory provisions. Therefore, this Court should issue the Writ staying the matters in the order until this matter can be heard.

**APPLICATION TO THE LOWER COURT FOR RELIEF**

On June 15, 2017, Appellant requested a stay of the order from the trial court. Judge gave the permission to communicate with her via email<sup>5</sup>. *A copy of this email is*

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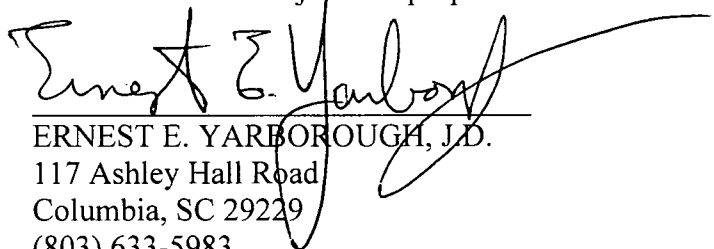
<sup>5</sup>Appellant has used email before to communicate with Judge Toal in this matter, and she responded with the relief requested. Therefore, it was reasonable to use email given the time requirements in this matter.

*attached at Exhibit "D" to this Petition.* Therefore, the request was made via email in the interest of time. To date, no response A copy of the email is attached. Further, extraordinary circumstances exist for this court to issue the Writ without waiting on the trial court to response. Specifically, the trial court denied Yarborough the basic protections of statutory law. It is unreasonable to believe that the trial court is going to grant Yarborough the extraordinary remedy of a writ. The Yarborough urges the Court to consider his request for the Writ without waiting on the trial court. Alternatively, Yarborough requests the Court to issue the Writ with the instructions to Yarborough to file a formal Petition for Supersedeas with the Trial Court. Time does not allow Yarborough to wait any longer—other than this Court’s mercy, the only other avenue to save Yarborough’s home is the drastic step of bankruptcy. To that end, Yarborough requests this Court to consider the matter now before it.

WHEREFORE, having provided the factual grounds and arguments to justify the issuance of the Writ, Yarborough request the Court to issue the Writ to Stay all matters in the order under appeals on such terms the Court determines to be just and proper.

At Columbia, SC

Dated: June 21, 2017

  
ERNEST E. YARBOROUGH, J.D.  
117 Ashley Hall Road  
Columbia, SC 29229  
(803) 633-5983  
eyarborough001@gmail.com

Appellant, Self-Represented

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

APPEAL RICHLAND COUNTY  
Court of Common Pleas

Jean H. Toal, Senior Circuit Court Judge

Case No. 2016-CP-40-06177

ALEXANDER N. GEE, JR., aka  
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a/k/a KAREN  
GEE,.....Respondents,

vs.

ERNEST E. YARBOROUGH,  
a/k/a Ernest  
Yarborough.....Appellant.

VERIFICATION

I, Ernest E. Yarborough, the named Appellant in the above-captioned case, certify that that I prepared the Petition, that the facts stated therein, including the facts noted in the footnotes, are true to the best of my information and belief, and the same of based upon my personal knowledge unless otherwise stated.

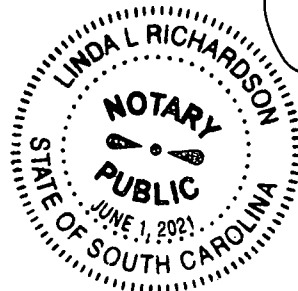
Sworn and subscribed before me,

this the 21<sup>st</sup> day of June, 2017

*Linda L Richardson*  
Notary Public of South Carolina

*Ernest E. Yarborough*  
Ernest E. Yarborough

My Commission Expires: 1 June 2021  
(Notary Seal)



THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

APPEAL RICHLAND COUNTY  
Court of Common Pleas

Jean H. Toal, Senior Circuit Court Judge

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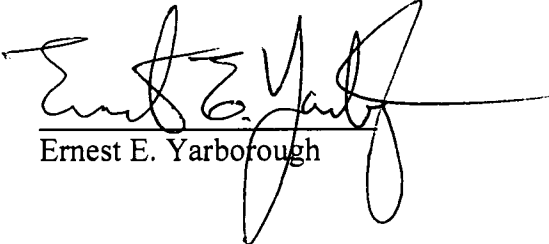
ERNEST E. YARBOROUGH,  
a/k/a Ernest  
Yarborough.....Appellant.

PROOF OF SERVICE

I, Ernest E. Yarborough, the above-named Appellant, certify that I have served a copy of the foregoing Petition for Writ of Supersedeas on the individuals listed below on June 21, 2017 by the depositing the same in the United States mail, postage prepaid, addressed as follows:

Leonard R. Jordan, Jr., Esquire  
JORDAN LAW FIRM  
211 Veterans Road, Suite D  
Columbia, SC 29209

Dated: June 21, 2017

  
Ernest E. Yarborough

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

APPEAL RICHLAND COUNTY  
Court of Common Pleas

Jean H. Toal, Senior Circuit Court Judge

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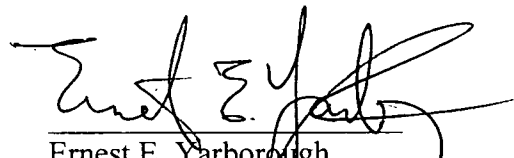
ERNEST E. YARBOROUGH,  
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Yarborough.....Appellant.

**LIST OF EXHIBITS  
PETITION FOR WRIT OF SUPERSEDEAS TO  
STAY ORDER UNDER APPEAL**

The following Exhibits are attached to the foregoing Petition:

- Exhibit:
- A-Affidavit of Ernest E. Yarborough, with Attachments;
- B-Initial Lease Agreement;
- C-Option to Purchase;
- D-Complaint;
- E-Answer;
- F-Plaintiff's Motion, with Enclosures
- G-Copy of Email to Judge Toal

Dated: June 21, 2017



Ernest E. Yarborough

**EXHIBIT "A"-**

**Affidavit of Ernest E. Yarborough, with Attachments**

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF RICHLAND )

IN THE COURT OF COMMON PLEAS  
FIFTH JUDICIAL CIRCUIT

ALEXANDER N. GEE, JR., aka )  
Sandy Gee and KAREN B. GEE, )  
a/k/a KAREN GEE, )  
 )  
Plaintiffs, )

Case No.: 2016-CP-40-6177

vs. )

**AFFIDAVIT  
OF  
ERNEST E. YARBOROUGH**

ERNEST E. YARBOROUGH, )  
a/k/a Ernest Yarborough, )  
 )  
Defendant. )  
\_\_\_\_\_ )

NOW COMES DEFENDANT, ERNEST E. YARBOROUGH, in a self-represented capacity, deposing and saying the following under oath:

1. I am the named Defendant in the above-captioned matter. I am of sound mind and have no reason to believe that I am incompetent to give this affidavit under oath and under the penalty of perjury. To the contrary, I am competent to give this affidavit.
2. This Affidavit is submitted in opposition to Plaintiff's Motions which were filed in this matter on December 07, 2016. This affidavit is limited to facts that Defendant believes are reasonably pertinent to address the issues raised in the Motions as identified above, and this affidavit is not designed to address every factual issue that may become relevant as subsequent procedural juncture of the case.

3. On January 8, 2008, I searched the internet for home to purchase under a “rent-to-on” or “contract-for-deed” for deed arrangement. I discovered a house located at 117 Ashley Hall Road, Columbia, SC 29229, County of Richland, State of South Carolina, that was being advertised by the Plaintiffs as a “Rent to Own” home. A copy of the original ad that was placed on the internet by the Plaintiffs or their agent is attached to this Affidavit as Attachment No. 1 [this house is hereinafter referred to as the “disputed property” or “house”].
4. I researched the property records for the house, and I discovered that is was owned by the Plaintiffs, and it bore tax map Identification Number R203009-01-12. I contacted Plaintiff Alexander “Sandy” Gee, Jr. and made arrangement to view the home. After reviewing the home, I began negotiating with the Plaintiff, one or both (I cannot recall) in an effort to acquire possession of the home.
5. The Plaintiffs and I were able to reach an agreement to give me possession of the house, and we subsequently signed a Residential Lease Agreement on or about January 25, 2008. See Exhibit “A” to Plaintiff’s Memorandum in Support of Motions [hereinafter referred to as “the Lease Agreement”]. On this same day, Plaintiffs, represented by signature of Karen Gee only, and Defendant also signed an Option to Purchase Agreement which was a separate agreement but part of the agreement. See Exhibit “B” to Plaintiff’s Memorandum in Support of Motions [hereinafter referred to as “the Option to Purchase”].
6. On January 10, 2008, Defendant met with an agent for the Plaintiffs in order to pay the necessary consideration to gain occupancy of the house. Plaintiff sent Mr. Larry Pfizer as their agent because they were out of town. Per our agreement, the Plaintiff

sent an Addendum to the Lease and the Option to Purchase, which include the additional terms of their agreement. See Attachment No. 3 to this Affidavit [hereinafter referred to as the "Addendum"].

7. The Addendum contained a crucial requirement for the Plaintiffs to repair the chimney foundation at their sole expense. Paragraph 1, Addendum. This requirement was crucial because there was visible damage to the foundation of the house, and Defendant knew that he could not acquire conventional or VA financing of the house with such visible damage. Moreover, Defendant knew that the repair costs would be more than he could bear financially at the time. Therefore, Defendant specifically negotiated and achieved the contractual requirements for the Plaintiffs to make the repairs to the chimney foundation.
8. Defendant has continually occupied the house as his primary residence since on or about February 01, 2008, and to this date, the Plaintiffs, despite their numerous assurances from January 2008 to June 2016 to make the repairs to the chimney foundation, has failed to make the repairs to the chimney foundation. On one or more occasions, Defendant informed Sandy Gee that he could not obtain VA financing of the house with the chimney foundation being damage.
9. From January 2008 to the present, the foundation has gotten visibly worse. On the outside of the house, one can visibly see that the chimney is starting to separate from the house. Inside of the house, the hardwood floors, running straight from the chimney to the front door, have started to buckle. Even the drive way has started to crack and separate. Plaintiffs are aware of these issues which would prevent the

house from being financed, but to this date, they have been neglectful in making these crucial repairs.

10. By written agreement, dated June 13, 2009, the Plaintiffs and Defendant entered a contract for sale of the house, and Defendant's occupancy of the house proceeded forward under the contract for sale. See Attachment No. 4 of this Affidavit [hereinafter referred to as "Contract for Sale"]. By written agreement, the Plaintiffs and Defendant agreed that the Contract for Sale would be retroactively applied to January 10, 2008, the date of the original Lease. See Attachment 2 to this Affidavit, page 02 of 03, paragraph 3.
11. By written agreement, with retroactive application, Defendant's occupancy of 117 Ashley Hall Road, the disputed property, is under a "contract of sale of a dwelling" as envisioned by S.C. Code 27-40-120(2).
12. Of importance, the Plaintiffs were aware that the Defendant would never rent the house under a simple lease agreement. From the very first meeting, Defendant made it clear that he was looking for a purchase to purchase, not to rent.
13. By my estimate, I have paid the Defendant in excess of \$140,000.00 in order to occupy the house which has a value of approximately \$180,000.00—a value that would be substantially reduced if the foundation issue is taken into consideration.
14. I stopped the Plaintiff's in June 2016 after a dispute arose. The Plaintiffs and I agreed to resolve our dispute, with me paying the amount that was due at the time. The Plaintiffs agreed to have the legal documents prepared and they retained counsel to prepare the documents. Our agreement was not completed because, in part, the Plaintiffs tried to have me sign a quitclaim deed getting rid of my interest

in the house. See Attachment No. 5 [hereinafter referred to as “Quitclaim Deed”—this is a copy of the Deed that the Plaintiffs tried to get me to sign].

15. I vehemently dispute the amount that the Plaintiffs claim that I owe. Additionally, I am asserting that if the Court finds that I am “mere tenant” as the Plaintiffs claim, then the Plaintiffs may be indebted to because I spent thousands of dollars on taxes, home owners’ association fees, and repairs to the house—an amount that would substantially offset an amount that the Plaintiffs claim is due in what they characterize as “rent”.
16. At this procedural juncture, there has never been a hearing to assess the amount, if any, that I owe the Plaintiffs.
17. I continued to pay on this house for many years—again to the tune of at least \$140,000.00—because the Plaintiffs promised me that they would repair the foundation so I can get the house financed. There is absolutely no way I would have simply rented the house from the Plaintiffs without some expectation of equitable interest in the home.
18. As prove of my equitable interest, in addition to the information previously provided, I offer the court the following information: After the I took possession of the house, Plaintiffs complained and whined about the amount of property taxes being billed on the property occupied by the Defendant and the amount of taxes billed on their other properties. As a result of the conversations between the Plaintiff and Defendant, Defendant consulted with the Tax Assessor’s Office for the County of Richland (“Tax Assessor”), State of South Carolina in August 2009.

19. After Defendant consulted with the Tax Assessor's Office in August 2009, Defendant informed Plaintiff's that he, Defendant, was entitled to the Legal Residence Rate for the subjected property if his option to purchase was converted in a way to give him an equitable interest in the property. Plaintiff's agreed to provide the Tax Assessor Office with the information establishing the Defendant's equitable ownership in the property, and they further agreed to sign and provide the Tax Assessor's Office with the required paperwork establishing Defendant's ownership interest in the property.
20. On August 24, 2009, Defendant, based upon his equitable ownership interest in the property, provided the Tax Assessor's Office with required documentation to allow Defendant, as equitable owner, to receive the legal residence tax rate for the property located at 117 Ashley Hall Road, Columbia, South Carolina. Such application for the reduced rate was made with the representations from the Plaintiff's and with the consent of the Plaintiff's that Defendant enjoyed an equitable ownership interest in the property located at 117 Ashley Hall Road. Such representations from the Plaintiff's were relied upon by the Defendant and the Tax Assessor's Office.
21. From August 2009 until July 2016, Plaintiff's led Defendant and the Tax Assessor's Office to believe that Defendant owned an equitable interest in the property which is the subject matter of this lawsuit. Consequently, based upon the representations by the Plaintiff, the Tax Assessor's Office reduced the Plaintiff's' property taxes on the subjected property for about \$2,000,00-\$3,000.00 per year (estimated) for

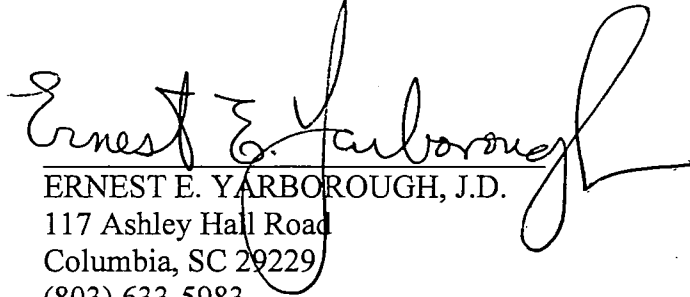
almost 9 years. Plaintiffs received a tax reduction on the subject property for a total of approximately \$36,000.00. ✓

22. Plaintiffs readily received the tax reduction, and they knew, because I informed them, that the only way this tax reduction could apply is that I had to maintain my equitable ownership interest in the house as my primary residence. From August 2009 until the dispute arose in 2016, Defendant's name was listed with the Tax Assessor and Treasurer's Office as the Care of Person for the house on the tax bill. After the dispute arose, the Plaintiff went to the Tax Assessor's Office and unilaterally removed the Defendant's name from the tax records.
23. Now, the Plaintiffs are before this Court alleging that the Defendant does not have an equitable ownership in the subject property, a position that cannot be reconciled with the position that the took with the Tax Assessor to receive the substantial tax savings as alleged above. Defendant asserts that the Plaintiffs have misled others and the Tax Assessor to receive the reduced tax rate for other properties that they own, and such representation caused the Defendant to pay the Plaintiffs between \$130,000.00 and \$140,000.00 for a house that is worth less than \$180,000.00.
24. In continuing to pay the Plaintiffs the substantial sum for the house, I relied upon their representation to me and the tax assessor's office that I owned an equitable interest in the property. Moreover, as a result of this reliance, I changed my position and continued with the occupancy of the property based upon my believe that I shared an equitable interest in the property and that the Plaintiffs would repair the foundation in order to facilitate financing.

25. The chimney foundation is a major structural defect to the subject property, which virtually makes its incapable of being financed through the Veteran's Administration or any other conventional mortgage program. In June 2016, Plaintiffs, through their words and conduct, made unambiguous promise to the Defendant that if he would consent to working with a credit repair specialist and realtor, they would allow the home in question to be purchased at the agreed upon rate not later than September 2017, if the Defendant commenced paying the monthly rate of 1250.00. From on or about February 2011[also made in writing from the very beginning of the occupy] and continuing until June 2016, Plaintiffs made the unambiguous promise that they would make the necessary repairs to the foundation to the property located at 117 Ashley Hall Road, Columbia, South Carolina, and allow the Defendant to move forward with the VA Financing within a reasonable time.
26. Defendant reasonably relied upon both promises made by Plaintiffs and continued paying Plaintiffs the monthly sum of \$1250.00 per month with the expectation that he would be allowed to purchase the home at the rate originally agreed upon. In further reliance on the Plaintiffs' promises, Defendant signed up with the realtor/credit repair agent that the Plaintiffs requested, and allowed this agent to view Defendant's most private information.
27. By my signature below, I swear that the information contained in this Affidavit is true to the best of my knowledge, information, or belief, and I voluntarily sign this Affidavit before a Notary.

[Only the signature block and notarization are contained on this page]

At Columbia, SC

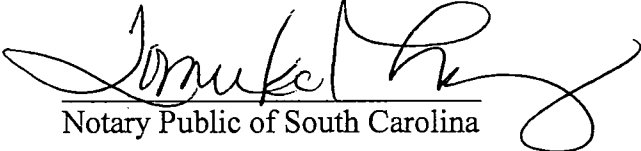


ERNEST E. YARBOROUGH, J.D.  
117 Ashley Hall Road  
Columbia, SC 29229  
(803) 633-5983  
eyarborough001@gmail.com

Defendant, Self-Represented

Sworn and subscribed before me,

this the 7 day of April, 2017



Notary Public of South Carolina

My Commission Expires: March 10, 2025

(Seal)

Attachments to this Affidavit:

1-Internet Flyer for 117 Ashley Hall Road;

2-Amendment to Option to Purchase Commitment (sic) Agreement and Amendment to Residential Lease Agreement with Probate and Acknowledgment for Option to Purchase for 117 Ashley Hall Road;

3-Addendum;

4-Agreement to Buy and Sell Real Estate Residential;

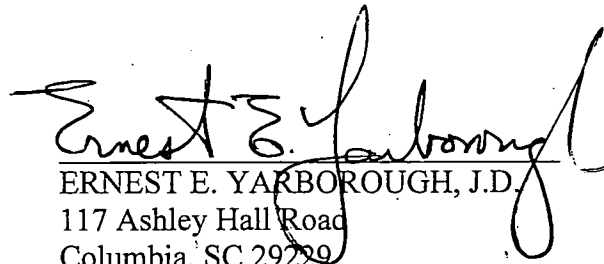
5-Quit Claim Deed

**PROOF OF SERVICE**

I, Ernest E. Yarborough, the above-named Defendant, certify that I have served a copy of the foregoing Affidavit on the Attorney for the Plaintiffs on April 7, 2017 by hand-delivery in open court or before Court by giving it to:

Leonard R. Jordan, Jr., Esquire  
JORDAN LAW FIRM  
211 Veterans Road, Suite D  
Columbia, SC 29209

At Columbia, SC



ERNEST E. YARBOROUGH, J.D.  
117 Ashley Hall Road  
Columbia, SC 29229  
(803) 633-5983  
eyarborough001@gmail.com

Defendant, Self-Represented

[Redacted]

[Redacted]

[Redacted]

**Rent To Own**  
Only \$ 5,900 Down and \$1,250 a Month!


**Rent To Own Homes**  
**SC Rent To Own**



-200  
1050

Handwritten scribbles and a circled '9'.

**Midlands Homes - Basic Features**

<b>List Price:</b> \$189,900	<b>Bedrooms:</b> 4	<b>Type:</b> Single Family	117 Ashley Hall Road Columbia, SC 29229
<b>List Date:</b> 01/07/2008	<b>Baths:</b> 2.5	 <b>View Map</b> Click Here	
<b>Sq Ft:</b> Approx 2,300	<b>Status:</b> Active	<b>Year Built:</b> 1995	
<b>Garage:</b> 2 car	<b>Levels:</b> 2		

**Feature Details**

<b>Fireplace:</b> Gas Logs	<b>Deck:</b> Yes	<b>HVAC:</b> Central	Heated 2672 total 3386
<b>Floor:</b> Carpet / hardwoods	<b>School Dist.:</b> Rich. 2	<b>Subdivision:</b> Ashley Hall	
<b>Seller:</b> Gee	<b>Phone:</b> 803-960-2529	<b>Seller email:</b> sandkgproperties@mindspring.com	

**Additional Information**

4 Br/2.5 Ba. Carpeted master downstairs, separate tub/shower enclosure in bath. Beautiful hardwoods throughout rest of lower level. Enter home into a very large living/dining room combination. Pass by wet bar entering into open concept kitchen /breakfast area/den with gas fireplace. Second story has 3 bedrooms, 2 car garage. Deck overlooking large fenced backyard. Sprinkler system

[Redacted]

Property

property shows com/apt 159

① Price \$177,000

② Terms

③ Amt as credit during option period

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF RICHLAND )

**AMENDMENT TO OPTION TO PURCHASE COMMITMENT  
AGREEMENT AND AMENDMENT TO RESIDENTIAL RENTAL  
AGREEMENT, January 10, 2008**

WHEREAS, Karen and Alexander Gee (hereinafter the "Landlords/Sellers") and Ernest E. Yarborough (hereinafter referred to as "Tenant/Buyer") entered an Option to Purchase Agreement and Residential Rental Agreement pertaining to the property located at 117 Ashley Hall Road, Columbia, South Carolina 29229, on January 10, 2008;

WHEREAS, for valuable consideration and mutual promises given by the parties, the parties now have agreed to amend the Option to Purchase Commitment Agreement and the Residential Lease Agreement;

BE IT RESOLVD, THE PARTIES AGREE AS FOLLOWS:

1. The Option to Purchase Commitment Agreement and the Residential Lease Agreement are amended and the parties agree as follows;

a. The Residential Lease Agreement is extended and shall remain in effect until and including January 31, 2011; all other terms of the said lease said remain in effective unless changed by this amendment;

b. The Option to Purchase Commitment Agreement is amended as follows:

\*Tenant agrees to Purchase the Property at the price of Two Hundred and Five Thousand Dollars (\$205,000.00);

\*The future value of the property listed in the original Option to Purchase Commitment Agreement is hereby deleted.

\*Buyer/tenant shall exercise his option to purchase and close on the said property not later than February 01, 2011;

\*All other elements in the original Option to Purchase Commitment Agreement and the Residential Rental Agreement shall remain the same.

2. Tenant/Buyer agrees to be responsible for the property taxes on said property beginning with Tax year 2009 and continuing until he closes on the property , which shall be paid to Landlords/Sellers within 90 days of this agreement;


Attachment NO. 2  
1/23

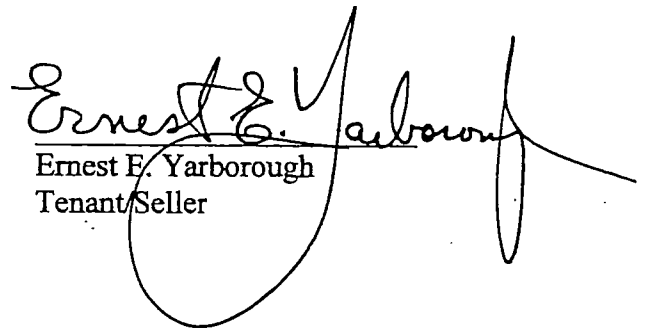
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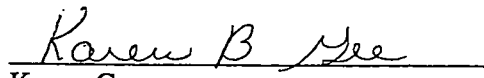
Ernest E. Yarborough  
Karen & Alex Gee

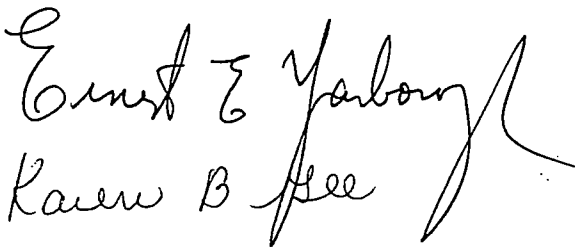
3. The parties agree to enter into an Agreement to Buy and Sell Real Estate Residential Agreement, and said document is retroactively effective to January 10, 2008;
4. A copy of this agreement shall have the same force and effect as the original agreement.

Agreed to by the parties on June 13, 2009.

  
\_\_\_\_\_  
Alexander N. Gee  
Landlord/Seller

  
\_\_\_\_\_  
Ernest E. Yarborough  
Tenant/Seller

  
\_\_\_\_\_  
Karen Gee  
Landlord/Seller



COUNTY OF RICHLAND )  
 )  
STATE OF SOUTH CAROLINA )

**PROBATE AND ACKNOWLEDGMENT FOR OPTION TO PURCHASE FOR  
PROPERTY LOCATED AT 117 ASHLEY HALL ROAD, COLUMBIA SOUTH  
CAROLINA 29229**

AFTER FILING: RETURN TO ERNEST YARBOROUGH, 117 ASHLEY HALL ROAD, COLUMBIA, SC 29229

TAX MAP ID. NO.: R20309-01-12

WHEREAS, the undersigned parties entered an Option to Purchase/Option to Purchase Commitment Agreement (hereinafter "Option to Purchase") bearing a signature of January 10, 2008;

WHEREAS, the undersigned parties amended said Option to Purchase in writing on June 13, 2009;

WHEREAS, the Option to Purchase and all associated agreements are still active;

WHEREAS, parties have been advised to probate the Option to Purchase for filing;

Be advised, the Option to Purchase and its associated amendment is hereby probated as follows:

Personally appeared before me \_\_\_\_\_ (Witness #) and made the oath that (s)he saw the within named **Karen B. Gee and Ernest E. Yarborough**, sign seal and as his act and deed, deliver the within instrument and a copy of the Option to Purchase and Amendment for the uses and purposes therein mentioned and that (s)he, with \_\_\_\_\_ (Witness #1) witnessed the execution thereof. All signatures were recorded on October 29, 2009.

Karen B Gee  
Karen B. Gee

Ernest E Yarborough  
Ernest E. Yarborough

Beverly H. Caraway  
Notary Public for South Carolina

Alfred A. M...  
Witness No. 1

My Commission Expires: April 23, 2010

Beverly H. Caraway  
Witness No. 2

393

**Addendum:**

- 1) The chimney foundation will be repaired by Tera Tec. *TO BE PAID FOR BY OPTIONOR* <sup>EEY</sup>
- 2) The back deck will be painted.
- 3) Half of the 'option payment' (\$2,950.00) will be paid on Jan 10, 2008 with the balance due prior to move-in.
- 4) The 'Option to Purchase Agreement' and the Lease Agreement will be signed by both parties when we (the Optionors) return to Columbia.

As agreed on this day:

10th day of January 2008

Ernest E. Yarborough

(optionee)

(optionee)

[Signature] For FANEA (SEE ATT)

(optionor)

Attachment No. 3 1071



AGREEMENT TO BUY AND SELL REAL ESTATE  
RESIDENTIAL

1. PARTIES: This legally binding Agreement entered into on June 13 2009  
between, Buyer(s), ERNEST YARBOROUGH, (hereinafter called "BUYER"), and  
Seller(s), ALEXANDER N & KAREN B GEE, (hereinafter called "SELLER"). The  
property shall be deeded in the name(s) of \_\_\_\_\_

THE BUYER SELLER IS LICENSED UNDER THE LAWS OF SOUTH CAROLINA AS A REAL ESTATE LICENSEE.

2. PROPERTY TO BE SOLD: Subject to terms and conditions herein, Seller agrees to sell and Buyer agrees to buy the  
following described property with improvements and fixtures thereon:

Lot \_\_\_\_\_ Block \_\_\_\_\_ Section \_\_\_\_\_ Subdivision ASHLEY HALL  
Address 117 ASHLEY HALL RD  
Tax Map # R20309-01-12 City COLUMBIA Zip 29229  
County of RICHLAND, State of South Carolina.

Seller represents that the property is connected to  public sewer system or to  septic tank or to  public water or  
to  well system or to  other \_\_\_\_\_

No personal property will convey as a part of this sale, except as described: N/A

3. CONVEYANCE SHALL BE MADE: Conveyance shall be made subject to all easements as well as covenants of record  
(provided they do not make the title unmarketable) and to all governmental statutes, ordinances, rules and regulations. Seller  
agrees to convey by marketable title and deliver a proper general warranty deed, if applicable, free of encumbrances, except  
as herein stated. Seller agrees to pay all statutory deed recording fees. The deed shall be delivered at the stipulated place  
of closing, and transaction closed on or before FEB 1, 2011, not later than 9:00 p.m. Time is of the  
essence. Seller and Buyer authorize their respective attorneys and the settlement agent to furnish to Listing Broker and  
Selling Broker copies of the final HUD-1 settlement statement for the transaction for their review prior to closing.

4. POSSESSION: Possession of said property will be given to Buyer at the time of closing. Seller agrees to deliver property  
free of debris and in a clean condition. The property, including but not limited to, landscaping and lawn, shall be maintained  
in the same condition from the effective date of this agreement until possession is delivered, ordinary wear and tear  
excepted. Possession by Buyer before closing or by Seller after closing shall be subject to the terms and conditions of a  
separate agreement to be executed prior to closing or occupancy.

5. PURCHASE PRICE shall be \$ 205,000.00 dollars.

6. METHOD OF PAYMENT: Purchase price shall be paid as follows:  Cash; or  Subject to Financing. Financing to  
be obtained by  Conventional  Seller  VA  FHA  Other terms: \_\_\_\_\_

7. EARNEST MONEY: This offer is accompanied by an earnest money deposit of \$ 5,900.00  
Buyer and Seller authorize KAREN & ALEXANDER GEE, as Escrow Agent, to hold and  
disburse earnest money according to the terms of this agreement. Earnest money paid by  Cash,  Check, or  Other.  
Broker does not guarantee payment of a check or checks accepted as earnest money. All escrow money received shall be  
deposited as required by South Carolina law and South Carolina Real Estate Commission Rules and Regulations. At the  
consummation of this sale, the earnest money deposit shall be credited to the Buyer.

EEJ BUYER  BUYER AKG SELLER  SELLER HAVE READ THIS PAGE

Attachment No. 4 196

THE PARTIES UNDERSTAND THAT, UNDER ALL CIRCUMSTANCES, INCLUDING DEFAULT, THE ESCROW AGENT HOLDING THE EARNEST MONEY DEPOSIT WILL NOT DISBURSE IT TO EITHER PARTY UNTIL BOTH PARTIES HAVE EXECUTED AN AGREEMENT AUTHORIZING THE DISBURSEMENT OR UNTIL A COURT OF COMPETENT JURISDICTION HAS DIRECTED A DISBURSEMENT.

8. **LOAN PROCESSING AND APPLICATION:** Buyer's obligation under this agreement is contingent on Buyer obtaining said loan. Buyer shall apply for a maximum \_\_\_\_\_% loan (loan-to-value ratio) within \_\_\_\_\_ days from the execution of this Agreement and shall provide Seller with written satisfactory loan approval within \_\_\_\_\_ days. Time is of the essence. The written loan approval shall contain no stipulations, and shall be subject only to the provisions of Paragraph 20 of this agreement. Should the Buyer fail to make loan application or receive approval within said period, and to diligently pursue the application, the Seller shall have the option to terminate this Agreement, with written notice. Buyer also agrees to provide all documents or information requested by the lending company in a prompt and timely manner. Buyer will take any action that is needed or requested by Lender to process the loan application. Buyer further hereby gives permission to Lender to disclose pertinent information concerning the Buyer's credit-worthiness or any other information needed for the loan processing to the listing or cooperating broker(s) or agent(s). If Buyer fails to comply with these above conditions, Buyer shall be in default of this agreement subject to the terms of paragraph 16.

FHA Mortgage Insurance [ ] will [ ] will not be added to the mortgage. VA funding fee [ ] will [ ] will not be added to the mortgage.

9. **CLOSING COSTS:** Unless otherwise agreed, closing costs, including all loan charges and prepaid recurring items, shall be paid as follows:

(a) SELLER shall provide or pay for preparation of deed, any recording charge based on value of property, and all costs necessary to deliver a marketable title, including recording of satisfactions and property taxes to the day of closing.

(b) BUYER shall pay, unless otherwise agreed herein, the cost of the Buyer's credit report, property insurance, appraisal, survey, cost of obtaining loan, discount points, title examination, escrow deposits, and prepaid expenses. The Buyer shall also pay, if applicable, interim interest and mortgage insurance premium or VA funding fee. Buyer's hazard insurance policy shall provide coverage as required by lender. Other terms: N/A

10. **HOME PROTECTION PLAN COVERAGE:** Both parties understand that a third party home warranty Plan [ ] will [X] will not be issued at closing. If applicable, the warranty premium will be paid at closing by the [ ] Buyer or [ ] Seller not to exceed \$ \_\_\_\_\_.

11. **EXPIRATION OF OFFER:** The offer from Buyer shall be withdrawn at \_\_\_\_\_ 5 o'clock \_\_\_\_\_ P M. on FEB 1, 2011 unless accepted or countered by Seller in written form prior to such time. Time is of the essence.

12. **EXTENSION AGREEMENT:** If the transaction has not closed within the stipulated time limit because a contingency has not been satisfied through no fault of either party, then both parties agree to extend this agreement for a period not to exceed 15 consecutive days from the original closing date. Closing shall occur within this time extension, but in no event shall closing occur later than the above extension date. Time is of the essence.

13. **ADJUSTMENTS:** Taxes, water, all sewer assessments, sewer charges, fuel oil, rents as when collected, insurance premiums, if applicable, and other assessments, including homeowner's association fees, shall be adjusted as of the date of closing. Tax prorations pursuant to this Agreement are to be based on the tax information available on the date of closing, and are to be prorated on that basis. **BUYER TO BE RESPONSIBLE FOR APPLYING FOR ANY APPLICABLE TAX EXEMPTIONS.** Property taxes and rent, as well as other expenses and income of the property, if applicable, shall be apportioned to the date of closing. Annual expenses or income shall be apportioned using 365 days. Monthly property expenses or income shall be apportioned by the number of days in month of closing. Prorations at closing shall be final.

14. **NON-RESIDENT TAX:** Seller covenants and agrees to comply with the provisions of South Carolina Code Section 12-8-580 (as amended) regarding withholding requirements of sellers who are not residents of South Carolina as defined in the said statute.

15. **RISK OF LOSS OR DAMAGE:** In case the property herein referred to is destroyed wholly or partially by fire or other casualty prior to delivery of deed, Buyer or Seller shall have the option for ten (10) days thereafter of proceeding hereunder, or of terminating this Agreement.

[Signature] BUYER [ ] BUYER [Signature] SELLER [ ] SELLER HAVE READ THIS PAGE

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16. **DEFAULT:** If Buyer or Seller fails to perform any covenant of this Agreement, the other may elect to seek any remedy provided by law, including but not limited to attorney fees and actual costs incurred (as defined in paragraph 17), or terminate this Agreement with a five day written notice. If terminated, both parties shall execute a written release of the other from this contract and both shall agree to hold the Escrow Agent harmless. If either Buyer or Seller refuses to execute release, Escrow Agent will hold the earnest money in trust until said releases are executed or until a court of competent jurisdiction dictates legal disposition.

17. **ACTUAL COST INCURRED** shall include all costs and expenses incurred or obligated for by Buyer, Seller or Broker in an effort to consummate this sale. Such costs shall include, but are not limited to, cost of credit report, appraisal, survey, inspections and reports, title examination, and Broker's fee or commission for this sale.

18. **SURVEY, TITLE EXAMINATION, AND INSURANCE:** The Listing and Cooperating Broker(s) and their Agent(s) recommend that Buyer have a survey of the subject property made, have examination as to the title to the property, obtain owner's title insurance, and that Buyer obtain appropriate hazard insurance coverage effective with the time of closing. All hazard insurance to be canceled and new policies furnished by Buyer at closing unless otherwise stipulated in this Agreement. Flood insurance, if required by Lender at Buyer's option, shall be assigned to Buyer with permission of carrier, and premium prorated to date of closing.

19. **CONDITION OF PROPERTY:**

(A) **Seller's Property Condition Disclosure Statement:** (check one)

Buyer and Seller agree that Seller will not complete nor provide Buyer a Seller's Property Condition Disclosure statement in accordance with South Carolina Code of Laws, as amended, Section 27-50-30, Paragraph (13).

Buyer and Seller agree that a Seller's Property Condition Disclosure statement, as required by South Carolina Code of Laws, as amended, Section 27-50-10, et seq., has been provided to Buyer by Seller prior to the ratification of this agreement. If the Seller discovers, after his delivery of a disclosure statement to a Buyer, a material inaccuracy in the disclosure statement or the disclosure is rendered inaccurate in a material way by the occurrence of some event or circumstance, the Seller shall correct promptly the inaccuracy by delivering a corrected disclosure statement to the Buyer or make reasonable repairs necessitated by the occurrence before closing. Buyer understands that the Seller's Property Condition Disclosure statement is not intended to replace a professional home inspection. Buyer understands and agrees that the Seller's Property Condition Disclosure statement contains statements made solely by the Seller. The Buyer and Seller agree that the Listing and Selling Broker and all affiliated agents are not responsible for the accuracy of any information contained in the Seller's Property Condition Disclosure statement. The Buyer and Seller understands and agrees that the Listing and Selling Broker and all affiliated agents has fully met the requirements of Section 27-50-70 of the South Carolina Code of Laws, as amended.

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~~(B) **Inspection:** Buyer at Buyer's expense shall have the privilege and responsibility of inspecting the structure, square footage, environmental concerns including but not limited to mold, radon gas, lead-based paint and lead-based paint hazards, wetlands study, appurtenant buildings, heating, air conditioning, electrical and plumbing systems as well as built-in appurtenant equipment or appliances. All inspections shall be completed by \_\_\_\_\_, 20\_\_\_\_. In the event repairs are necessary to place the heating system, air conditioning, plumbing, and electrical system to be conveyed in operative condition and to make the roof free of leaks, and the dwelling structurally sound, the Seller shall be notified in writing of the specific defects or deficiencies within 48 hours after the inspection date mentioned above. **Time is of the essence.** If Buyer fails to notify Seller within this time, Buyer shall have waived any and all rights under the terms of this paragraph. If Lender's commitment requires any additional inspections or certifications, these are to be provided by Buyer.~~

(C) **Maintenance:** After any inspection by Buyer and after repairs, if any, made as a result of any such inspection, the Seller agrees to maintain the heating, air conditioning, plumbing, and electrical systems, as well as all appliances to be conveyed in operative condition, normal wear and tear excepted, until the day of closing or the day possession is given, whichever occurs first. Seller agrees to maintain the property, including lawn, shrubbery and grounds until the day of closing or possession, whichever occurs first.

(D) **Wood Infestation Report:** If the property to be sold has been previously occupied,  The Buyer  The Seller shall, at their expense, have the property inspected and shall obtain a current Wood Infestation Report (CL100) from a licensed and bonded pest control operator, on or before FEB 1, 2011. **Time is of the essence.** If Buyer is responsible for having the property inspected as indicated above, but fails to have the property inspected by this date, Buyer shall have waived any and all rights under the terms of this paragraph. The Seller makes no warranties with regard to matters

BUYER  BUYER  SELLER  SELLER HAVE READ THIS PAGE

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covered by such report or any other improvement unless specifically stated in this agreement. If the infestation report reveals the presence of or damage by termite infestation or other wood destroying organisms, Seller shall remedy such deficiencies subject to section (E) below, and shall furnish Buyer with a report of a qualified inspector that property is free from infestation or damage herein mentioned or that infestation or damage has been treated and/or repaired as appropriate in a workmanlike manner on or before closing.

If the property to be sold has not been previously occupied, Seller shall certify that the dwelling has been treated by soil poisoning for the prevention of termites and other wood destroying organisms and shall provide the Buyer, at closing, a written certification from a licensed pest control operator.

(E) **Repairs:** The cost of all repairs to heating system, air conditioning, plumbing, and electrical system to be conveyed, and to make the roof free of leaks, to address environmental concerns and to make the dwelling structurally sound and provide wood infestation treatment, if any, required by section (B) and (D) above, to be paid by Seller. If the Seller refuses to make these repairs and treatment, the Buyer shall have the option to (1) accept the property in its present condition, (2) negotiate with the Seller for the payment of these repairs and treatment, or (3) terminate this Agreement, subject to paragraph 7. The repairs to any other items are the sole responsibility of Buyer. The obligations of Seller under paragraph 19 terminate on the day of closing or on the day possession is given, whichever occurs first.

(F) **Residential Dwellings Built before 1978:** (check one of the following)

This contract is contingent upon a risk assessment or inspection of the property for the presence of lead-based paint and/or lead-based paint hazards which shall be done, at the Buyer's expense, by midnight on the tenth day after ratification of this contract or by midnight on \_\_\_\_\_, 20\_\_\_\_. (Intact lead-based paint that is in good condition is not necessarily a hazard. See EPA pamphlet "Protect Your Family From Lead in Your Home" for more information). This contingency will terminate at the above predetermined deadline unless the Buyer (or Buyer's agent) delivers to the Seller (or Seller's agent) a written contract addendum listing the specific existing deficiencies and corrections needed, together with a copy of the inspection and/or risk assessment report. The Seller may, at the Seller's option, within \_\_\_\_\_ days after Delivery of the addendum, elect in writing whether to correct the condition(s) prior to settlement. If the Seller will correct the condition, the Seller shall furnish the Buyer with certification from a risk assessor or inspector demonstrating that the condition has been remedied before the date of the settlement. If the Seller does not elect to make the repairs or if the Seller makes a counter-offer, the Buyer shall have \_\_\_\_\_ days to respond to the counter-offer or remove this contingency and take the property in "as-is" condition or this contract shall become void. Upon such termination, the earnest money deposit of Buyer shall be returned to Buyer and neither party shall have any further rights hereunder. The Buyer may remove this contingency at any time without cause; or

Buyer waives the opportunity to conduct a risk assessment or inspection for lead-based paint and/or lead-based paint hazards.

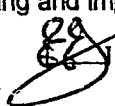

(G) **Megan's Law:** The Buyer and Seller agree that the Listing and Selling Broker and all affiliated agents are not responsible for obtaining or disclosing any information contained in the South Carolina Sex Offender Registry. The Buyer and Seller agree that no course of action may be brought against the Listing and Selling Broker and all affiliated agents for failure to obtain or disclose any information contained in the South Carolina Sex Offender Registry. The Buyer agrees that the Buyer has the sole responsibility to obtain any such information. The Buyer understands that Sex Offender Registry information may be obtained from the local sheriff's department or other appropriate law enforcement officials.

(H) **Disclaimer:** The Buyer acknowledges the Seller, except as provided in subparagraphs (B), (C), (D), and (E) of this section, gives no guarantee or warranty of any kind, expressed or implied, as to the physical condition of the property or to the conditions of or existence of improvements, services, appliances or system thereto, or as to merchantability or fitness for a particular purpose as to the property or improvements thereof, and any implied warranty is hereby disclaimed by the Seller. Neither Buyer nor Seller will hold Cooperating or Listing Broker responsible for any act of negligence or intent by any inspection or repair company employed by Seller or Buyer for the purposes of this agreement. The Seller is not required to make any repairs under any circumstances until Purchaser's financing has been approved.

20. **APPRAISED VALUE:** (check one)

This agreement is not contingent on the lot or parcel with building and improvements thereon, if any, appraising, according to the lender's appraisal or other appraisal as agreed, for the selling price.

This agreement is contingent on the lot or parcel with building and improvements thereon, if any, appraising, according to the lender's appraisal or other appraisal as agreed, for the selling price or more; if the lot or parcel with building and improvements thereon appraises for less than the selling price, the seller may elect to sell for the

 BUYER  BUYER  SELLER  SELLER HAVE READ THIS PAGE

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appraised value. In such case, the Buyer agrees to proceed with the consummation of this sale at the reduced price. However, if Seller does not agree to sell at the appraised value, the Buyer shall have the option of proceeding with the consummation of the Agreement without regard to the amount of the appraised valuation, or terminate the agreement without penalty.

**21. DISCLAIMER BY BROKERS AND AGENTS:** The parties acknowledge that the Listing and Cooperating Broker(s) and their Agent(s): (1) Give no guaranty or warranty of any kind, express or implied, as to the physical condition of the property or as to condition of or existence of improvement services or systems, thereto, included but not limited to termite damage, roof, basement, appliances, heating and air conditioning systems, plumbing, sewage, electric systems, and to the structure; (2) Give no warranty, express or implied, as to the merchantability or fitness for a particular purpose as to the property or such improvements thereto and any implied warranty hereby disclaimed; (3) Give no warranty as to title; (4) Give no guaranty on warranty concerning (a) any certification or inspection concerning the condition of the property, (b) any matters which would be reflected by current survey of the property, and (c) the accuracy of the published square footage of the property; (5) Buyer acknowledges that Seller and Seller's Agents have not made any oral or written commitments to Buyer regarding (a) projected income or economic benefit for Buyer from rentals; (b) rental arrangements except that Buyer may rent the unit if Buyer so desires or (c) other economic benefits to the Buyer.

**22. COASTAL TIDELANDS & WETLANDS ACT:** In the event the property is affected by the provisions of the South Carolina Coastal Tidelands & Wetlands Act (Section 48-39-10, et seq., South Carolina Code of Laws), an Addendum will be attached to this Agreement incorporating the required disclosures at [ ] Buyer's [ ] Seller's expense.

**23. MEDIATION CLAUSE.** Any dispute or claim arising out of or relating to this Agreement, the breach of this Agreement or the services provided in relation to this Agreement, shall be submitted to mediation in accordance with the Rules and Procedures of the Dispute Resolution System of the NATIONAL ASSOCIATION OF REALTORS®. Disputes shall include representations made by the Buyer(s), Seller(s) or any real estate broker or other person or entity in connection with the sale, purchase, financing, condition or other aspect of the property to which this Agreement pertains, including without limitation allegations of concealment, misrepresentation, negligence and/or fraud. Any agreement signed by the parties pursuant to the mediation conference shall be binding.

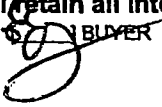

This mediation clause shall survive for a period of 120 days after the date of the closing. The following matters are excluded from mediation hereunder: (a) judicial or non-judicial foreclosure or other action or proceeding to enforce a deed of trust, mortgage, or land contract; (b) an unlawful detainer action; (c) the filing or enforcement of a mechanic's lien; (d) any matter which is within the jurisdiction of a probate court; (e) the filing of a interpleader action to resolve earnest money disputes. The filing of a judicial action to enable the recording of a notice of pending action, for order of attachment, receivership, injunction, or other provisional remedies, shall not constitute a waiver of the right to mediate under this provision, nor shall it constitute a breach of the duty to mediate.

**24. SURVIVAL:** If any provision herein contained which by its nature and effect is required to be observed, kept or performed after the closing, it shall survive the closing and remain binding upon and for the benefit of the parties hereto until fully observed, kept or performed.

**25. ENTIRE BINDING AGREEMENT:** This written instrument, including the additional terms and conditions set forth on any documents intended by the parties to be included, expresses the entire agreement and all promises, covenants, and warranties between the Buyer and Seller. It can be changed only by a subsequently written instrument signed by both parties. Both Buyer and Seller hereby acknowledge that they have not received or relied upon any statements or representations by either Broker or their agents which are not expressly stipulated herein. The benefits and obligations shall inure to and bind the parties hereto and their heirs, assigns, successors, executors, or administrators. Whenever used, singular includes plural, and use of any gender shall include all.

**26. FACSIMILE AND OTHER ELECTRONIC MEANS:** The parties agree that the offer, any counteroffer and/or acceptance of any offer or counteroffer may be communicated by use of a fax or other secure electronic means, including but not limited to electronic mail and the internet, and the signatures, initials and handwritten or typewritten modifications to any of the foregoing shall be deemed to be valid and binding upon the parties as if the original signatures, initials and handwritten or typewritten modifications were present on the documents in the handwriting of each party.

**27. TRUST ACCOUNT INTEREST/CHARITABLE CONTRIBUTION:** According to the rules and regulations of the South Carolina Real Estate Commission and the Code of Laws of South Carolina, 1976, as amended, any interest earned on Buyer's earnest money deposit would belong to Buyer until the closing of the transaction referenced in this agreement. It is understood that Broker [ ] may [ ] may not place deposited earnest monies into an interest bearing trust account. If Buyer's earnest money deposit is deposited into an interest bearing trust account, Broker will retain all interest earned in said account.

 BUYER [ ] BUYER  SELLER [ ] SELLER HAVE READ THIS PAGE

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28. CONTINGENCIES: These stipulations shall preempt printed matter herein:(attach and reference addendum if necessary) \_\_\_\_\_

**THIS IS A LEGALLY BINDING AGREEMENT. BOTH BUYER AND SELLER SHALL SEEK FURTHER ASSISTANCE IF THE CONTENTS ARE NOT UNDERSTOOD. BOTH BUYER AND SELLER ACKNOWLEDGE RECEIPT OF A COPY OF THIS AGREEMENT. BOTH BUYER AND SELLER ACKNOWLEDGE RECEIVING, READING, AND UNDERSTANDING THE SOUTH CAROLINA REAL ESTATE COMMISSION'S AGENCY DISCLOSURE FORM.**

**ALL TERMS AND CONDITIONS OF THIS AGREEMENT DO NOT SURVIVE CLOSING UNLESS OTHERWISE SPECIFIED.**

IN WITNESS WHEREOF, this Agreement has been duly executed by the parties.

BUYER: Ernest E Jarboe Date 6/13/09 Time 1300 hrs  
WITNESS: \_\_\_\_\_ Date \_\_\_\_\_ Time \_\_\_\_\_

BUYER: \_\_\_\_\_ Date \_\_\_\_\_ Time \_\_\_\_\_  
WITNESS: \_\_\_\_\_ Date \_\_\_\_\_ Time \_\_\_\_\_

SELLER: [Signature] Date 6/13/09 Time 1300 hrs  
WITNESS: \_\_\_\_\_ Date \_\_\_\_\_ Time \_\_\_\_\_

SELLER: Karen B Lee Date 6/13/09 Time 1300 hrs  
WITNESS: \_\_\_\_\_ Date \_\_\_\_\_ Time \_\_\_\_\_

LISTING AGENT AND COMPANY \_\_\_\_\_

SELLING AGENT AND COMPANY \_\_\_\_\_

SELLING AGENT IS PRESENTING THIS OFFER AS A [ ] BUYER'S AGENT OR [ ] SUBAGENT OF THE SELLER.

ESCROW AGENT ACKNOWLEDGMENT \_\_\_\_\_

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FORM 310 PAGE 6 of 6

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Deed Prepared by:  
Blair Cato Pickren Casterline, LLC  
700 Huger Street, Suite 102  
Columbia, SC 29201

STATE of SOUTH CAROLINA

COUNTY of RICHLAND

QUIT CLAIM DEED

WHEREAS, Alexander N. Gee, Jr. and Karen B. Gee, as owners of the below described real property, and Ernest Yarborough, as optionee, executed an Option to Purchase Agreement on January 25, 2008, which was thereafter amended on June 13, 2009; and

WHEREAS, the January 25, 2008, Option to Purchase Agreement granted Ernest Yarborough the right to purchase the below described real property (commonly known as 117 Ashley Hall Road, Columbia, South Carolina 29229, TMS# R20309-01-12), and the subsequently amended June 13, 2009 Option to Purchase Agreement extended the option to purchase period out to February 1, 2011; and

WHEREAS, the Option to Purchase Agreement and subsequent amendment were never recorded in the Office of the Register of Deeds for Richland County; and

WHEREAS, The right of Ernest Yarborough to purchase the below described real property expired on February 1, 2011; and

WHEREAS, Ernest Yarborough is hereby executing this quitclaim deed to relinquish any and all his right, title, and interest in and to the below described real property, if any, and to clarify and confirm title remains fully vested with Alexander N. Gee, JR. and Karen B. Gee; and

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS, that the undersigned **ERNEST YARBOROUGH** (hereinafter called "Grantor"), for and in consideration of the sum of Five and 00/100 Dollars (\$5.00) to the Grantor in hand paid

Attachment NO. 5 104

at and before the sealing of these presents by **ALEXANDER N. GEE, JR. AND KAREN B. GEE**, (hereinafter called "Grantee") in the State aforesaid, (the receipt and sufficiency of which is hereby acknowledged), has remised, released, and forever quit-claimed by these Presents does remise, release, and forever quit-claim unto the Grantee, the following described property:

All that certain piece, parcel or lot of land, with the improvements thereon, if any, situate, lying and being in the County of Richland, State of South Carolina, being shown and delineated as Lot 42, Ashley Hall Phase Two prepared by Civil Engineering of Columbia, dated March 23, 1995 and recorded in the Office of the RMC for Richland County in Plat Book 56 at page 1173; and further shown on a plat prepared for John T. Vogeltanz by Cox and Dinkins, Inc., dated December 3, 1998 and recorded in Record Book 258 at page 440. Reference hereby made to said latter plat for a more complete and accurate description.

This being the same property conveyed to Alexander N. Gee, Jr. and Karen B. Gee by deed of John T. Vogeltanz dated June 11, 2004, and recorded June 16, 2004, in Deed Book 947 at Page 58 in the office of the Richland County Register of Deeds.

Grantee's address: \_\_\_\_\_

TMS#: R20309-01-12

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

TO HAVE AND TO HOLD, all and singular the premises and the appurtenances thereto belonging or in anywise appertaining before mentioned unto the said Grantee, and the Grantee's successors and assigns forever, and all the estate, right, title, interest and claim whatsoever of Grantor, if any.

Any reference in this instrument to the singular shall include the plural, and vice versa. Any reference to one gender shall include the others, including the neuter. Such words of inheritance shall be applicable as are required by the gender of the Grantee.

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IN WITNESS WHEREOF, the Grantor has hereunto set his hand and seal.

Date: \_\_\_\_\_, 2016.

Signed, Sealed and Delivered  
in the presence of:

\_\_\_\_\_  
Witness #1

\_\_\_\_\_  
ERNEST YARBOROUGH

\_\_\_\_\_  
Witness#2/Notary

STATE OF SOUTH CAROLINA  
COUNTY OF \_\_\_\_\_

ACKNOWLEDGMENT  
S.C. §30-5-30  
(EFFECTIVE JANUARY 1, 1995)

I, a Notary Public for South Carolina, do hereby certify that the above named Grantor personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and seal this \_\_\_\_\_ of \_\_\_\_\_, 2016.

\_\_\_\_\_  
Notary Public for South Carolina  
My Commission Expires: \_\_\_\_\_

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STATE OF SOUTH CAROLINA )  
COUNTY OF RICHLAND )

AFFIDAVIT FOR TAXABLE OR EXEMPT TRANSFERS

PERSONALLY appeared before me the undersigned, who being duly sworn, deposes and says:

1. I have read the information on this affidavit and I understand such information.

2 The property being transferred is located at 117 Ashley Hall Road, Columbia, SC 29229, bearing County Tax Map Number 20309-01-12, was quitclaimed by Ernest Yarborough to Alexander N. Gee, Jr. and Karen B. Gee on \_\_\_\_\_, 2016.

3. Check one of the following: The deed is

- (a) \_\_\_\_\_ subject to the deed recording fee as a transfer for consideration paid or to be paid in money or money's worth.
- (b) \_\_\_\_\_ subject to the deed recording fee as a transfer between a corporation, a partnership, or other entity and a stockholder, partner, or owner of the entity, or is a transfer to a trust or as a distribution to a trust beneficiary.
- (c)  X  exempt from the deed recording fee because (See Information section of affidavit): #12

(If exempt, please skip items 4 - 7, and go to item 8 of this affidavit.)

If exempt under exemption #14 as described in the Information section of this affidavit, did the agent and principal relationship exist at the time of the original sale and was the purpose of this relationship to purchase the realty? Check Yes \_\_\_\_\_ or No \_\_\_\_\_

4. Check one of the following if either item 3(a) or item 3(b) above has been checked (See Information section of this affidavit.):

- (a) The fee is computed on the consideration paid or to be paid in money or money's worth in the amount of \$ \_\_\_\_\_; or
- (b) The fee is computed on the fair market value of the realty which is \$ \_\_\_\_\_; or
- (c) The fee is computed on the fair market value of the realty as established for property tax purposes which is \$ \_\_\_\_\_

5. Check Yes \_\_\_\_\_ or No \_\_\_\_\_ to the following: A lien or encumbrance existed on the land, tenement, or realty before the transfer and remained on the land, tenement, or realty after the transfer. (This includes, pursuant to Code Section 12-59-140(E)(6), any lien or encumbrance on realty in possession of a forfeited land commission which may subsequently be waived or reduced after the transfer under a signed contract or agreement between the lien holder and the buyer existing before the transfer.) If "Yes," the amount of the outstanding balance of this lien or encumbrance is: \$ \_\_\_\_\_.

6. The deed recording fee is computed as follows:

- (a) Place the amount listed in item 4 above here: \$ \_\_\_\_\_
- (b) Place the amount listed in item 5 above here: \$ \_\_\_\_\_  
(If no amount is listed, place zero here.)
- (c) Subtract Line 6(b) from Line 6(a) and place result here: \$0.00

7. The deed recording fee due is based on the amount listed on Line 6(c) above and the deed recording fee due is \$0.00

8. As required by Code Section 12-24-70, I state that I am a responsible person who was connected with the transaction as: Grantor

9. I understand that a person required to furnish this affidavit who wilfully furnishes a false or fraudulent affidavit is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than one year, or both.

\_\_\_\_\_  
Ernest Yarborough

SWORN to and subscribed before me this

\_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_\_

Notary (L.S.): \_\_\_\_\_  
Notary (printed name): \_\_\_\_\_  
Notary Public for \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_

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**EXHIBIT "B"-**

**Initial Lease Agreement**



# RESIDENTIAL RENTAL AGREEMENT

State of South Carolina  
County of RICHLAND

This rental agreement made at COLUMBIA, South Carolina, this 25<sup>th</sup> day of JAN, 2008, between ERNEST YARBOROUGH Tenant(s) (hereinafter called "TENANT"), and KAREN & SANDY GEE Agent for Owner (hereinafter called "LANDLORD"), shall provide as follows:

1. **LANDLORD TENANT ACT:** This Rental Agreement is governed by the South Carolina Residential Landlord and Tenant Act.
2. **LOCATION:** The Landlord hereby rents to the Tenant and the Tenant hereby rents from the Landlord a parcel of property located in the county of RICHLAND, State of South Carolina, which parcel of land with improvements will constitute the premises. Said parcel of land is more particularly described as follows:  
117 ASHLEY HALL RD  
COLUMBIA, S.C. 29229
3. **TERMS:** This Rental Agreement shall commence on the 1<sup>st</sup> day of FEB, 2008 and end on the LAST day of JAN, 2009. Tenant covenants that upon the termination of this Rental Agreement, or any extension thereof that Tenant will quietly and peaceably deliver up possession of the premises in good order and condition, reasonable wear and tear expected, free of Tenant's personal property, garbage and other waste, and return all keys to the Landlord.
4. **LEAD-BASED PAINT DISCLOSURE FOR MOST RESIDENTIAL PROPERTIES BUILT BEFORE 1978:** See Lead-Based Paint Disclosure Addendum attached (only applies to most rental properties built before 1978.)
5. **RENTAL APPLICATION:** The Tenant acknowledges that the Landlord has relied upon the rental application, a copy of which is attached hereto, as an inducement for entering into this agreement, and the Tenant warrants to the Landlord that the facts stated in the application are true to the best of Tenant's knowledge. If any facts stated in the rental application prove to be untrue, the Landlord shall have the right to terminate the residency immediately and to collect from the Tenant any damages including reasonable attorney fees resulting therefrom.
6. **RENT:** Tenant agrees to pay Landlord a rent of \$ 1250.00 per month, payable in advance, on or before the first day of every month during said term for a total rent of \$ 15,000.00. The rent is payable to: KAREN GEE 1074 The Woodlands 5700 AMB Columbia, SC 29223 or as Tenant may be advised from time to time in writing. 15 KGG

**NOTICE TO TENANT: IF TENANT DOES NOT PAY RENT WITHIN FIVE DAYS OF THE DUE DATE, LANDLORD CAN START TO HAVE TENANT EVICTED AND MAY TERMINATE THE RENTAL AGREEMENT, AS THIS CONSTITUTES WRITTEN NOTICE IN CONSPICUOUS LANGUAGE IN THIS WRITTEN AGREEMENT OF LANDLORD'S INTENTION TO TERMINATE AND PROCEED WITH EVICTION. TENANT WILL RECEIVE NO OTHER WRITTEN NOTICE AS LONG AS TENANT REMAINS IN THIS RENTAL UNIT.**

Tenant further agrees to pay a late fee of \$ 50.00 per day if rent is paid after the 5<sup>th</sup> day of the month, and an additional fee of \$ 75.00 after the 10<sup>th</sup> day of the month.

Where the term of the Rental Agreement commences or terminates on a day other than the first day of the month, Tenant shall pay rent unto the Landlord in the amount of \$ 41.66 per day for each day of the month of commencement or termination of the Rental Agreement, payable prior to the Tenant taking possession upon commencement of the Rental Agreement, and payable on the first day of the final month of the Rental Agreement upon termination.

TENANT  TENANT AND  LANDLORD HAVE READ THIS PAGE.

7. **OCCUPANTS:** Only persons designated in the rental agreement or as further modified or agreed to in writing by Landlord shall reside in the rented premises. For purposes of this rental agreement the designated occupants are:

\_\_\_\_\_

In no event shall more than \_\_\_\_\_ persons be allowed to occupy said premises.

8. **RETURNED CHECKS:** Tenant agrees to pay \$ 30.00 for each dishonored check for bookkeeping costs and handling charges, plus late charges if the check is not made good before the sixth day after the due date. All future rent and charges, if more than one check is returned, shall be paid in the form of cash, cashier's checks, certified check or money order. If any check for the security deposit or the first month's rent is returned for insufficient funds, Landlord may declare this rental agreement void and immediately terminated.

9. **RENEWAL TERMS:** With thirty (30) days written notice, as defined in Paragraph 18, either party may terminate this agreement at the end of the initial term, but if no notice is given, then the agreement will be extended on a month-to-month basis on the same terms and conditions contained in this agreement. Thirty (30) days written notice by either party is required prior to termination during such month-to-month term.

10. **SUBLEASE:** Tenant shall not assign or sublet said premises, or any part thereof without the written consent of Landlord. Tenant must have written permission from Landlord for guests to occupy the premises for more than 14 days.

11. **UTILITIES AND SERVICES:** Tenant agrees to pay for utilities and services except: N/A which will be paid by Landlord.

In the event of Tenant default on payment of utilities Landlord may pay and charge Tenant as additional rent together with any penalties, charges and interest. Tenant shall be liable for any inspections required by local authorities/utility companies due to Tenant's failure to obtain service at time of occupancy or to maintain said service during the term of this agreement. Tenant shall pay all costs of hook-ups and connection fees and security deposits in connection with providing utilities to premises during the term of the Lease.

12. **TENANT OBLIGATIONS:** Tenant agrees to keep the dwelling unit and all parts of the premises that he leases safe and clean. In the case of a single-family house or duplex, Tenant shall keep the yard mowed, watered and free of fire ants, keep the roof and gutters free of debris, the shrubs neatly trimmed, and landscaping maintained. Tenant agrees to be responsible for removal of Tenant's contagious and other hazardous materials. Tenant agrees to comply with the lease and rules and regulations the Landlord may adopt concerning the Tenants' use and occupancy of the premises;

Tenant, or any member of Tenant's family, guest or other person under the Tenant's control, shall conduct themselves in a manner that will not disturb other Tenants' and neighbors' peaceful enjoyment of the premises. Tenant, or any member of Tenant's family, guest or other person under the Tenant's control, shall not engage in or facilitate criminal or drug related activities. Any such violation constitutes a substantial violation of the Lease and a material noncompliance with the Lease and is grounds for termination of tenancy and eviction from the premises.

It is specifically understood that Tenant will, at Tenant's expense, keep sinks, lavatories, and commodes open, reporting any initial problem within five (5) days of occupancy, repair any and all damages caused by tenancy and replace any burned out light bulbs. Tenant agrees to report to Landlord any malfunction of or damage to electrical, plumbing, HVAC systems, smoke detectors, and any occurrence that may cause damage to the property. Tenant also agrees to pay for the cost of all repairs made necessary by negligence or careless use of the premises and pay for repairs/loss resulting from theft, malicious mischief or vandalism by Tenant and their guests. Tenant agrees to provide copies to Landlord of any inspection reports or repair estimates that Tenant may obtain.

Tenant agrees to be responsible for and to make at Tenant's expense all routine maintenance, including but not limited to, stoppage of sewer because of misuse or broken water pipes/fixtures due to neglect or carelessness of Tenant. No repairs, alterations or changes in or to said premises or the fixtures or appliances contained therein, shall be made except after written consent of Landlord, and shall be the responsibility of the Tenant for the cost of restoring said premises to their original condition if Tenant makes any such unauthorized modifications. **NO REPAIR COSTS SHALL BE DEDUCTED FROM RENT BY TENANT.** All improvements made by Tenant to the said premises shall become the property of the Landlord. Locks/Deadbolts shall not be changed without the expressed permission of the Landlord.

TENANT  TENANT AND  LANDLORD HAVE READ THIS PAGE.

Tenant is directly responsible for any damage caused by Tenant's appliances and/or furniture. Tenant is responsible for changing HVAC filters, reporting any water leaks, lighting pilot lights, checking for tripped breakers, changing smoke detector batteries and minor housekeeping repairs. Tenants will be help liable for damage to HVAC systems caused by dirty or missing filters and damages resulting from unreported problems.

Tenant acknowledges that Tenant has inspected the premises and agrees that the premises and any common areas are safe, fit and habitable condition. Tenant acknowledges receipt of instructions of smoke detector operation.

13. **MAINTENANCE OF PREMISES, PEST CONTROL:** Landlord agrees to make repairs and do what is necessary to keep the premises in a fit and habitable condition as specified in South Carolina Residential Landlord and Tenant Act. The Landlord further agrees to maintain in reasonably good and safe working condition, all electrical, gas, plumbing, sanitary, HVAC, smoke detectors and other facilities supplied by him. Landlord is not responsible for changing batteries in smoke detectors.
- Tenant shall report any pest problem within three (3) days of possession. Tenant's failure to identify any pest infestation with said three (3) days shall constitute Tenant's agreement that premises has no infestation of any kind. Tenant is responsible for reporting any suspected or known termite infestation but is not responsible for termite control. Any future infestation of any kind, less termites, shall be the responsibility of [] Tenant [  ] Landlord.
14. **ESSENTIAL SERVICES AND APPLIANCES:** The Landlord is required to provide essential services; meaning sanitary plumbing or sewer services; electricity; gas, where it is used for heat, hot water, or cooking; running water, and reasonable amounts of hot water and heat, except where the building that includes the dwelling unit is not required by law to be equipped for that purpose, or the dwelling unit is so constructed that heat or hot water is generated by an installation within the exclusive control of the Tenant and supplied by a direct public utility connection. The following appliances present in the dwelling unit are specifically included by this rental agreement as being deemed to be supplied by the Landlord: (  ) stove, (  ) refrigerator, (  ) dishwasher, (  ) disposal, (  ) washer, (  ) dryer, (  ) microwave, (  ) trash compactor, (  ) other: \_\_\_\_\_
15. **INSURANCE:** Tenant shall be responsible for insuring his/her own possessions against fire and other catastrophes. Landlord and Tenant hereby release each other from liability for loss or damage occurring on or to the leased premises or the premises of which they are a part of the contents of either thereof, caused by fire or other hazards ordinarily covered by fire and extended coverage insurance policies and each waives all rights of recovery against the other for such loss or damage. Willful misconduct lawfully attributable to either party, whether in whole or in part a contributing cause of the casualty giving rise to the loss or damage, shall not be excused under the foregoing release and waiver.
16. **RIGHT TO ACCESS:** The Tenant shall not unreasonably withhold consent to the Landlord to enter into the dwelling unit in order to inspect the premises; make necessary or agreed repairs, decorations, alterations, or improvements; supply necessary or agreed services; or exhibit the dwelling unit to prospective or actual purchasers, mortgagees, tenants, workmen, or contractors.

The Landlord or Landlord's agent may enter the dwelling unit without consent of the Tenant:

- (a) At any time in case of emergency, including but not limited to prospective changes in weather conditions which pose a likelihood of danger to the property may be considered an emergency; and
- (b) Between the hours of 9:00 a.m. and 6:00 p.m. for the purpose of providing regularly scheduled periodic services such as changing furnace and air-conditioning filters, providing termite, insect, or pest treatment, and the like, provided that the Landlord announces intent to enter to perform services; and
- (c) Between the hours of 8:00 a.m. and 8:00 p.m. for the purpose of providing services requested by the Tenant and that prior to entering the Landlord announces intent to enter to perform services.

The Landlord shall not abuse the right of access or use it to harass the Tenant. Except for section 16(a), 16(b), and 16(c), the Landlord shall give the Tenant at least 24 hours notice of intent to enter and may enter only at reasonable times.

The Landlord has no other right of access except: pursuant to court order, as permitted by the South Carolina Residential Landlord and Tenant Act when accompanied by a law enforcement officer at reasonable times for the purpose of service of process in ejection proceedings, or unless the Tenant has abandoned or surrendered the premises.

TENANT [  ] TENANT AND [  ] LANDLORD HAVE READ THIS PAGE.

17. **MILITARY CLAUSE:** If the Tenant is a member of the Armed Forces of the United States, stationed in the \_\_\_\_\_ area, and shall receive permanent change of station orders out of the \_\_\_\_\_ area, Tenant may, upon presentation of a copy of said orders of transfer to the Landlord, along with thirty (30) days written notice of intent to vacate and payment of all rent to the expiration date of such written notice, and any miscellaneous charges in arrears, terminate this Rental Agreement. Normal enlistment termination or other type discharge from Armed Forces, unless due to conditions beyond the service member's control, or acceptance of government quarters is not a permanent change of station and is not justification for lease termination. Withholding knowledge of pending transfer or discharge at time of entry into this Rental Agreement voids any consideration or protection offered by this section.
18. **DEFINITION OF "THIRTY (30) DAY NOTICE":** Any written notice given by either party to the other party in order to meet a thirty (30) day notice requirement will be deemed given, and the thirty (30) days deemed to commence on the first day of the calendar month following the date of receipt of said notice. Any termination permitted by other sections contingent upon a thirty (30) day notice will then be effective on the last day of the calendar month following receipt of said notice. If expiration date of lease is not on the last day of the calendar month, then thirty (30) days notice is required to conform to the expiration dates.
19. **DESTRUCTION OR DAMAGE TO PREMISES:** If the dwelling unit or premises are damaged or destroyed by fire or casualty to the extent that normal use and occupancy of the dwelling unit is substantially impaired, the Tenant may immediately vacate the premises and notify the Landlord in writing within seven days thereafter of Tenant's intention to terminate the rental agreement, in which case the rental agreement terminates as of the date of vacating; or if continued occupancy is lawful, vacate any part of the dwelling unit rendered unusable by the fire or casualty, in which case the Tenant's liability for rent is reduced in proportion to the diminution in the fair-market rental value of the dwelling unit. If the rental agreement is terminated, the Landlord shall return the security deposit and all prepaid rent. Accounting for rent in the event of termination or apportionment must be made as of the date of the fire or casualty.
20. **CONDEMNATION:** Tenant hereby waives any injury, loss or damage, or claim therefore against Landlord resulting from any exercise of a power of eminent domain of all or any part of the rented premises or surrounding grounds of which they are a part. All awards of the condemning authority for the taking of land, parking areas, or buildings shall belong exclusively to the Landlord. In the event substantially all of the rented premises shall be taken, this Rental Agreement shall terminate as of the date the right to possession vested in the condemning authority and rent shall be apportioned as of that date. In the event any part of the property and/or building or buildings of which the rented premises are a part (whether or not the rented premises shall be affected) shall be taken as a result of the exercise of a power of eminent domain, and the remainder shall not, in the opinion of the Landlord, constitute an economically feasible operating unit, Landlord may, by written notice to Tenant given within sixty (60) days after the date of taking, terminate this Rental Agreement as of a date set out in the notice not earlier than thirty (30) days after the date of the notice; rent shall be apportioned as of termination date.
21. **ABSENCE, NON-USE AND ABANDONMENT:** The unexplained absence of a Tenant from a dwelling unit for a period of 15 days after default in the payment of rent must be construed as abandonment of the dwelling unit. If the Tenant abandons the dwelling unit for a term beginning before the expiration of the rental agreement, it terminates as of the date of the new tenancy, subject to the other Landlord's remedies. If the Landlord fails to use reasonable efforts to rent the dwelling unit at a fair rental or if the Landlord accepts the abandonment as a surrender, the rental agreement is considered to be terminated by the Landlord as of the date the Landlord has notice of the abandonment. When a dwelling unit has been abandoned or the rental agreement has come to an end and the Tenant has removed a substantial portion of personal property or voluntarily and permanently terminated the utilities and has left personal property in the dwelling unit or on the premises with a fair-market value of \$500 or less, the Landlord may enter the dwelling unit, using forcible entry if required, and dispose of the property.
22. **SECURITY DEPOSIT:** Tenant agrees to deposit with Landlord a security deposit of \$ 1.00 to be held as security for the full and faithful performance by the Tenant of all terms and conditions herein, it being understood and agreed to that no part of this deposit is to be applied to any rent which may become due under this rental agreement. Upon termination of the tenancy, property or money held by the Landlord as security may be applied to the payment of accrued rent and the amount of loss of rents or damages which the Landlord has suffered by reason of the Tenant's noncompliance with the South Carolina Residential Landlord and Tenant Act. Any deduction from the security deposit must be itemized by the Landlord in a written notice of the Tenant together with the amount due, if any, within 30 days after termination of the tenancy and delivery of possession and demand by the Tenant, whichever is later. The Tenant shall provide the Landlord in writing with a forwarding address or new address to which the written notice and amount due from the Landlord may be sent.

TENANT  TENANT AND  LANDLORD HAVE READ THIS PAGE.

If the Tenant fails to provide the Landlord with the forwarding or new address and fails to return the following:  pool tags,  keys for mail box,  keys to unit (including deadbolt, storage area),  other N/A the Tenant is not entitled to damages under this subsection provided the Landlord (1) had no notice of the Tenant's whereabouts; and, (2) mailed the written notice and amount due, if any, to the Tenant's last known address. In the event the security deposit is not sufficient to pay all charges due, Tenant shall pay said charges within five (5) business days after receiving notice from the Landlord.

23. **NONCOMPLIANCE WITH RENTAL AGREEMENT OR FAILURE TO PAY RENT:** If there is a noncompliance by the Tenant with the rental agreement other than nonpayment of rent or a noncompliance with Paragraph 12 above, the Landlord may deliver a written notice to the Tenant specifying the acts and omissions constituting the breach and that the rental agreement will terminate upon a date not less than 14 days after receipt of the notice, if the breach is not remedied in 14 days.

The rental agreement shall terminate as provided in the notice except that: If the breach is remediable by repairs or otherwise and the Tenant adequately remedies the breach before the date specified in the notice, or if such remedy cannot be completed within 14 days, but is commenced within the 14-day period and is pursued in good faith to completion within a reasonable time, the rental agreement shall not terminate by reason of the breach.

If rent is unpaid when due and the Tenant fails to pay rent within <sup>15 days</sup> ~~five days~~ from the date due, the Landlord may terminate the rental agreement provided the Landlord has given the Tenant written notice of nonpayment and Landlord's intention to terminate the rental agreement. If the rent is not paid within that period, said notice is contained herein Paragraph 5. KCC

The Landlord may recover actual damages and obtain injunctive relief in magistrate's or circuit court without posting bond for any noncompliance by the Tenant with the rental agreement or Paragraph 12 above. If the Tenant's noncompliance is willful other than nonpayment of rent, the Landlord may recover reasonable attorney's fees. If the Tenant's nonpayment of rent is not in good faith, the Landlord is entitled to reasonable attorney's fees.

If there is noncompliance by the Tenant with Paragraph 12 above, materially affecting health and safety that can be remedied by repair, replacement of a damaged item, or cleaning and the Tenant fails to comply as promptly as conditions require in case of emergency, or within fourteen (14) days after written notice by the Landlord specifying the breach and requesting that the Tenant remedy it within that period of time, the Landlord may enter the dwelling unit and cause the work to be done in a workmanlike manner and shall in addition have the remedies available under the South Carolina Residential Landlord Tenant Act.

If there is noncompliance by the Tenant with Paragraph 12 above materially affecting health and safety other than as set forth in the preceding paragraph, and the Tenant fails to comply as promptly as conditions require in case of emergency, or within fourteen (14) days after written notice by the Landlord if it is not an emergency, specifying the breach and requesting that the Tenant remedy within that period of time, the Landlord may terminate the rental agreement. If the rental agreement is terminated, the Landlord has a right to possession and for rent and a separate claim for actual damages for breach of the rental agreement and reasonable attorney's fees. Any claim not satisfied by Tenant may be turned in to the credit bureau or collection agency.

24. **REMEDY AFTER TERMINATION:** If the rental agreement is terminated, the Landlord has a right to possession, for rent, and a separate claim for actual damages for breach of the rental agreement, reasonable attorney's fees, collection costs, and court costs.
25. **NOTICE:** A Landlord receives notice when it is delivered at the place of business of the Landlord through which the rental agreement was made or at any place held out by Landlord as the place of receipt of the communication.
26. **PROHIBITIVE EQUIPMENT/FURNITURE:** Tenant agrees not to place antennas, satellite dishes, waterbeds, and auxiliary heaters without written permission from Landlord.
27. **INVENTORY:** Any furnishing and equipment to be furnished by Landlord shall be set out in a special inventory. The inventory shall be signed by both Tenant and Landlord concurrently with this Rental Agreement and shall be a part of this Agreement.

 TENANT  TENANT AND  LANDLORD HAVE READ THIS PAGE.

28. **PETS:** Tenant shall not keep domestic or other animals on or about the premises without the PRIOR WRITTEN CONSENT of the Landlord. Landlord, at Landlord's sole discretion, may consent if Tenant makes the following payments: (1) a non-refundable deposit of \$ 500.00 and (2) rent for the pet(s) in the total amount of \$ 50.00 for the term of this agreement. Tenant shall be responsible for the animal, its behavior, and any damage done by the animal. The Landlord shall have the right to withdraw consent and demand removal of any previously permitted animal upon the first complaint registered against such animal or upon evidence of injury or damage to person or property caused by the animal.
29. **WAIVER:** A Tenant is considered to have waived violation of a Landlord's duty to maintain the premises as set forth by the Rental Agreement or violation of the Landlord's duties under the South Carolina Residential Landlord and Tenant Act, as defense in an action for possession based upon nonpayment of rent, or in an action for rent concerning a period where the Landlord has no notice of the violation of the duties, fourteen (14) days before rent is due for violations involving services other than essential services, or the Landlord has no notice before rent is due which provides a reasonable opportunity to make emergency repairs necessary for the provision of essential services. No modification, change, or cancellation hereof shall be valid unless in writing and executed by all parties hereto. No representation or promise has been made by either party hereto except as herein stated.
30. **PEACEFUL ENJOYMENT:** The Landlord covenants that the Tenant, on paying the rent and performing the covenants hereof, shall and may peaceably and quietly have, hold, and enjoy the rented premises for the term mentioned without hindrance or interruption by the Landlord.
31. **PROVISIONS:** The provisions of this Rental Agreement shall be binding upon and inure to the benefit of the Landlord and the Tenant, and their respective successors, legal representatives, and assigns.
32. **SUBORDINATION:** Tenant's rights are subject to any bona fide mortgage which now covers said premises and which may hereafter be placed on said premises by Landlord. Tenant shall upon request by Landlord execute a subordination of its rights under this Rental Agreement to any mortgage given by Landlord hereunder, whether to secure construction or permanent or other financing. Resident shall upon request by Landlord promptly execute a certification of good standing certifying the terms of this Rental Agreement, its due execution, the rental provisions hereof, or the terms of amendments hereto, if any, and any other information reasonably requested.
33. **RENTAL RATE ADJUSTMENT:** On and after the expiration of the initial term of this lease, the Landlord, at Landlord's discretion, may alter the rental rate in effect provided only that written notice of such alteration is delivered as first class mail to the US Postal Service, postage prepaid at least fifteen (15) days prior to the effective date of alteration. *After the initial period, rent may increase up to 10% (per cent). EE KBE*
34. **TRUST ACCOUNT INTEREST:** ACCORDING TO THE RULES AND REGULATIONS OF THE SOUTH CAROLINA REAL ESTATE COMMISSION AND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, AS AMENDED, THE BROKER-IN-CHARGE OR PROPERTY MANAGER-IN-CHARGE HAS THE OPTION TO PLACE TENANT'S SECURITY DEPOSIT INTO AN INTEREST BEARING ACCOUNT AND TO RETAIN ALL INTEREST INCURRED IN SAID ACCOUNT. TENANT AGREES TO AND UNDERSTANDS THAT THE TENANT HAS BEEN INFORMED OF TENANT'S RIGHT TO OWNERSHIP OF THE INTEREST BUT RELINQUISHES TO THE BROKER-IN-CHARGE OR PROPERTY MANAGER-IN-CHARGE BY THIS WRITTEN AGREEMENT SAID RIGHT OF OWNERSHIP.
35. **RULES AND REGULATIONS:** The common area facilities, if any such as swimming pool, laundry room, recreational, and other common area facilities, when open and operating, are subject to applicable rules and regulations posted by the Landlord. The Tenant agrees to observe faithfully all rules and regulations that the Landlord has now or may hereafter adopt for the use of the premises.
37. **JOINT RESPONSIBILITY:** If this Rental Agreement is executed by more than one (1) Tenant, the responsibility and liabilities herein imposed shall be considered and construed to be joint and several, and the use of the singular shall include the plural.

*EE* [ ] TENANT [ ] TENANT AND [ *KBE* ] LANDLORD HAVE READ THIS PAGE.

37. LANDLORD'S ADDRESS FOR COMMUNICATION: All notices, requests, and demands unless otherwise stated herein, shall be addressed and sent to :

Mail: KAREN GEE

10120 TWO NOTCH RD STE 2 PMB 6 COLUMBIA, SC 29223

CELL

Home Phone Number 960-9504 Work \_\_\_\_\_

SANDY Mobile 960-2539 Fax \_\_\_\_\_

38. Captions: Any heading preceding the text of any paragraph hereof is inserted solely for convenience Reference and shall not constitute a part of this Lease Agreement, nor shall they affect its meaning, construction or affect

39. FACSIMILE AND OTHER ELECTRONIC MEANS: The parties agree that this Agreement may be communicated by use of a fax or other secure electronic means, including but not limited to electronic mail and the internet, and the signatures, initials and handwritten or typewritten modifications to any of the foregoing shall be deemed to be valid and binding upon the parties as if the original signatures, initials and handwritten or typewritten modifications were present on the documents in the handwriting of each party.

40. ADDITIONAL TERMS:

- a. Lessee agrees to pay for the Homeowner's Association Dues if applicable.
- b. Lessee agrees to pay for any and all Home Warranty Service Call deductibles, which is usually around \$50.00 per service call. In addition Lessee agrees to pay for those Service calls outside of the Home Warranty Agreement.
- c. Lessee understands that the Investor ( Lessor) shall initiate the Eviction once a monthly Payment is 15 days late.
- d. Lessee fully understands and agrees that none of the monthly lease payment goes toward the purchase of the house.

WHEREFORE, the parties have executed this Rental Agreement or caused the same to be executed by their authorized representative, the day and year first above written.

THIS RENTAL AGREEMENT supersedes all prior written or oral agreements and can be amended only through a written signed by both parties. Provisions of this Rental Agreement shall bind and inure to the benefit of the Landlord and to the Tenant and their respective heirs, successors and assigns.

TENANT AGREES TO RECEIVE COMMUNICATIONS FROM LANDLORD AND THEIR AGENTS AT THE EMAIL ADDRESS, PHONE, AND FAX NUMBER LISTED BELOW.

IN WITNESS WHEREOF, the parties hereto have subscribed their names and affixed their seals in duplicate the day and year above written.

Ernest E. Jarby  
\_\_\_\_\_  
Tenant

Tenant

Tenant's Phone Number 803.633-5983  
803.748-1241

Karen A. Gie  
\_\_\_\_\_  
Landlord

Beverly H. Conway  
\_\_\_\_\_  
Witness to Tenant

Witness to Tenant

Email \_\_\_\_\_

Beverly H. Conway  
\_\_\_\_\_  
Witness to Landlord

**EXHIBIT "C"-  
Option to Purchase**

**OPTION TO PURCHASE**

This OPTION TO PURCHASE ("OPTION") made the 25<sup>th</sup> day of

JAN, 2008, to ERNEST YARBOROUGH as Buyer ("OPTIONEE"), Witnesseth, that Optionor for and in consideration of the sum of \$5,900.00 Five thousand nine hundred (the option money) to Optionor in hand paid by the Optionee, receipt of which is hereby acknowledged, does hereby give and grant Optionee, Optionee's heirs, successors, assigns or representatives, the exclusive right to option to purchase, all of that certain plot, piece or parcel of land, together with all improvements located thereon at,

Address 117 ASHLEY HALL DR

City COLUMBIA Zip 29229

County of RICHLAND, State of South Carolina

The terms and conditions of this option are as follows:

1. **OPTION PERIOD:** This option shall exist and continue until 5 o'clock P m on the LAST day of JAN 20 09 (Option Period). **TIME IS OF THE ESSENCE.** *option will be renewed with 5% increase to purchase price. E.E.* KOG

2. **PURCHASE PRICE:** The purchase price of the Property shall be \$ 185,850.00

3. **EXERCISE:** At any time during the "Option Period", Optionee may exercise this option by hand delivery or deposit, or written notice by certified or registered mail, return receipt requested, to Optionor at the following address:

Optionor: KAREN GEE

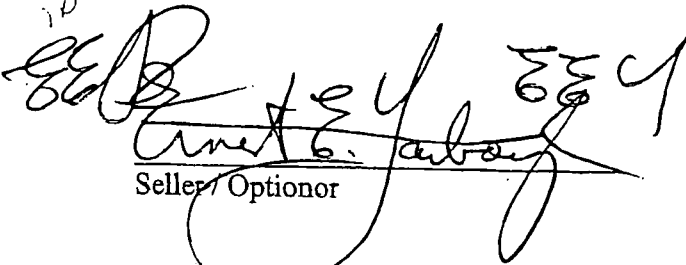
10120 TWO NOTCH RD STE 2 PMBG COLUMBIA SC  
29223

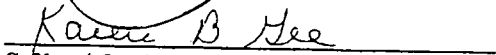
4. **APPLICATION OF OPTION MONEY:** The option Money () shall () shall not be applied to the purchase price at closing if this option is exercised. If this option is not exercised, the Optionor will retain the option money. E.E.

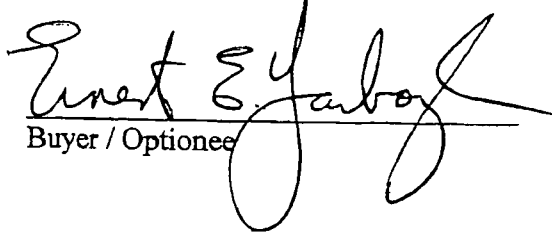
5. **CONDITION OF PROPERTY:** The property is being sold 'AS IS'.

6. In the event Optionee's residential Rental Agreement is terminated or breached, Optionee's option money shall be forfeited to Optionor and this Option to Purchase Agreement shall become null and void.
7. **EARLY BUYOUT:** Whereas, if Optionee elects to exercise their option to purchase said property per this agreement within the first 12 months of the Option Agreement date, Optionee agrees to reimburse Optionor, at closing, for those costs incurred by Optionor to purchase said property per this agreement and also for any short term capital gain taxes at the prevailing rate of the Optionor.
8. Option money is used *exclusively* as earnest money for the purchase of the home.

IN WITNESS WHEREOF, Optionor has hereunto set his/her hand and seal.

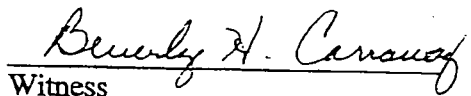
<sup>IBG</sup>  
  
 Ernest E. Jaboy  
 Seller / Optionor

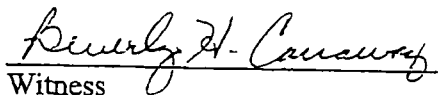
  
 Karen B. Hee  
 Seller / Optionor

  
 Ernest E. Jaboy  
 Buyer / Optionee

\_\_\_\_\_  
 Buyer / Optionee

\_\_\_\_\_  
 Witness

  
 Beverly H. Canaway  
 Witness

  
 Beverly H. Canaway  
 Witness

\_\_\_\_\_  
 Witness

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF RICHLAND )

IN THE COURT OF COMMON PLEAS

CERTIFIED TRUE COPY  
OF ORIGINAL FILED,

Alexander N. Gee, Jr., a/k/a Sandy Gee, )  
and Karen B. Gee, a/k/a Karen Gee, )  
 )  
Plaintiffs, )

*Janette W. McBride*  
C.C.P. & G.S. *10/17*  
RICHLAND COUNTY

-vs-

COMPLAINT SOUTH CAROLINA  
(Termination of Lease)  
(Request for Rule to Show Cause)

Ernest E. Yarborough, a/k/a Ernest )  
Yarborough, )  
 )  
Defendant. )

2016-01-17 PM 1:28  
RICHLAND COUNTY  
FILED  
JANETTE W. MCBRIDE  
C.C.P. & G.S.

The Plaintiffs, Alexander N. Gee, Jr., a/k/a Sandy Gee, and Karen B. Gee, a/k/a Karen Gee, complaining of the Defendant, Ernest E. Yarborough, a/k/a Ernest Yarborough, would respectfully show unto this Honorable Court:

1. That the Plaintiffs are citizens and residents of the County of Richland, State of South Carolina.
2. That the Defendant is a citizen and resident of the County of Richland, State of South Carolina.
3. That the real property hereinafter described, which is the subject of this action, is situated and located in the County of Richland, State of South Carolina.
4. That the Plaintiffs are the owners of record of the subject real property.
5. That on or about January 25, 2008, for value received, the Plaintiffs, as Landlord, and the Defendant, as Tenant, entered into a Residential Rental Agreement (the "Lease"), executed in writing, according to the terms and conditions set out therein, by which the Plaintiffs agreed to rent/lease the subject real property, known as 117 Ashley Hall Road, Columbia, South Carolina, to the Defendant.

6. That a copy of the Lease is attached hereto as Exhibit "A."
7. That by its express terms, the Lease is governed by the South Carolina Residential Landlord and Tenant Act. (See Paragraph 1 of the Lease.)
8. That the term of the Lease was extended through January 31, 2011, by a separate agreement by and between the Plaintiffs and the Defendant dated June 13, 2009.
9. That after January 31, 2011, the Lease continued, but it then constituted a month-to-month tenancy. (See Section 27-40-310(d), Code of Laws of South Carolina, 1986, as amended ("Code")).
10. That according to the terms and conditions of Lease, it is provided that the Defendant is obligated to make monthly rent payments to the Plaintiffs.
11. That the Defendant is in default of the Lease due to his failure to pay rent timely.
12. That the Defendant has not tendered a rent payment to the Plaintiffs since July, 2016.
13. That the Defendant has failed and refused to comply with the terms and conditions of the Lease and has not responded satisfactorily to the Plaintiffs' demands for payment.
14. That the payments of rent (accrued and due and payable) on the Lease are due for June 1, 2016 (balance \$550.00), and subsequent months.
15. That the Lease further provides:

**NOTICE TO TENANT: IF TENANT DOES NOT PAY RENT WITHIN 15 DAYS OF THE DUE DATE, LANDLORD CAN START TO HAVE TENANT EVICTED AND MAY TERMINATE THE RENTAL AGREEMENT, AS THIS CONSTITUTES WRITTEN NOTICE IN CONSPICUOUS LANGUAGE IN THIS WRITTEN AGREEMENT OF LANDLORD'S INTENTION TO TERMINATE AND PROCEED WITH EVICTION. TENANT WILL RECEIVE NO OTHER WRITTEN NOTICE AS LONG AS TENANT REMAINS IN THIS RENTAL UNIT.**

16. That the Plaintiffs notified the Defendant in writing on August 25, 2016 of the

termination of the Lease effective September 30, 2016, which notice was at least thirty days before the specified termination date.

FOR A FIRST CAUSE OF ACTION  
(Terminate Lease; Resume Possession)

17. That the Plaintiffs reallege Paragraphs 1 through 16 above as fully as if repeated herein verbatim.

18. That the Plaintiffs have declared, and by this Complaint do declare, that they have elected to terminate the Lease and all rights of the Defendant thereunder.

19. That the Plaintiffs desire, and are entitled, to resume possession of the subject real property.

20. That the Plaintiffs are informed and believe that they are entitled to an Order terminating the Lease and directing the Sheriff for Richland County to place and keep the Plaintiffs in quiet possession of the subject real property, if necessary.

FOR A SECOND CAUSE OF ACTION  
(Judgment for Rent, Etc.)

21. That the Plaintiffs reallege Paragraphs 1 through 20 above as fully as if repeated herein verbatim.

22. That the debt owed to the Plaintiffs pursuant to the Lease includes, in addition to unpaid rent (including accrued and accruing rent), late charges, pre-judgment interest (from June 1, 2016), reasonable attorney's fees and costs of collection due under the Lease.

23. That the Plaintiffs are informed and believe that the nonpayment of rent by the Defendant is not in good faith and that, as a consequence, they are entitled to reasonable attorney's fees. (See Code Section 27-40-710(c).)

24. That since the Lease has been terminated by the Plaintiffs, the Plaintiffs are

informed and believe that they have a right to possession and for rent and for their actual damages and for reasonable attorney's fees. (See Code Section 27-40-750.)

25. That the Defendant continues to remain in possession of the subject property after the termination of the Lease; and that, as a consequence of such holdover, the Plaintiffs are entitled to recover reasonable attorney's fees.

26. That the Plaintiffs are informed and believe that the Defendant's holdover is willful and that they are entitled to recover, in addition to accrued and accruing rent, the greater of three (3) months' rent or twice their actual damages along with reasonable attorney's fees. (See Code Section 27-40-770(c).)

27. That the Plaintiffs are informed and believe that they are entitled to a judgment against Defendant for all accrued but unpaid rent, late charges, pre-judgment interest, other damages, reasonable attorney's fees and all other costs of collection due under the Lease.

FOR A THIRD CAUSE OF ACTION  
(Request for Rule to Show Cause)

28. That the Plaintiffs reallege Paragraphs 1 through 27 above as fully as if repeated herein verbatim.

29. That the Plaintiffs hereby seek the issuance of a written rule requiring the Defendant to vacate the subject property or to show cause why he should not be ejected from the subject property. (See Code Sections 27-40-710 and 790.)

FOR A FOURTH CAUSE OF ACTION  
(Defendant Must Pay Rent to Raise Defenses)

30. That the Plaintiffs reallege Paragraphs 1 through 29 above as fully as if repeated herein verbatim.

31. That should the Defendant raise defenses or counterclaims, the Defendant is

required by statute to pay all unpaid (accrued and accruing) rent; and that if the Defendant fails to bring, and keep, current the rent due under the Lease during the pendency of this suit, the Plaintiffs must be placed in full possession of the subject property. (See Code Section 27-40-790.)

32. That the rent due under the Lease is due for June 2016, and subsequent months. The rent is \$1,250.00 per month due on the 1<sup>st</sup> day of each month. Also included in the rent are late fees of \$50.00 for each payment of rent made after the 5<sup>th</sup> of the month such rent is due and an additional \$75.00 for each payment of rent made after the 10<sup>th</sup> day of the month such rent is due (total \$125.00).

33. Without adding additional costs and expenses (including attorney's fees and other costs of collection and interest, as prayed for in the Complaint), for purposes of this cause of action, the Defendant presently owes rent as follows:

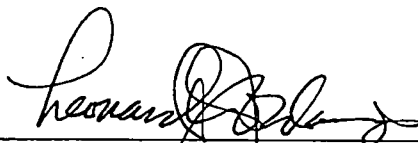
June 1, 2016 Rent	550.00
June 11, 2016 Late Fees	125.00
July 1, 2016 Rent	1,250.00
July 11, 2016 Late Fees	125.00
August 1, 2016 Rent	1,250.00
August 11, 2016 Late Fees	125.00
September 1, 2016 Rent	1,250.00
September 11, 2016 Late Fees	125.00
October 1, 2016 Rent	1,250.00
October 11, 2016 Late Fees	125.00
<b>TOTAL PRESENTLY DUE</b>	<b>\$6,175.00</b>

The aforesaid accounting will continue to accrue rent and late fees until paid current.

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

That the Court issue an Order declaring the Lease to be terminated and forever ended; that any and all rights of the Defendant under the Lease be extinguished; that the Court issue an Order directing the Sheriff for Richland County to place and keep the Plaintiffs in quiet possession of the

subject real property, if necessary; that the Plaintiffs be awarded a judgment against the Defendant in the amount equal to all accrued but unpaid rent, late charges, pre-judgment interest, other damages, reasonable attorney's fees and other costs of collection; that a rule to show cause be issued requiring the Defendant to vacate the property or show cause why he should not be ejected from the property and for such other and further relief as may be just and proper.



---

Leonard R. Jordan, Jr.  
JORDAN LAW FIRM  
211 Veterans Road, Suite D  
Columbia, South Carolina 29209  
(803) 726-1950 Tel  
(803) 726-1951 Fax  
ljordan@ljordanlaw.com  
Attorney for Plaintiffs

Columbia, South Carolina  
October 14, 2016

**EXHIBIT "D"-**

**Complaint**

**EXHIBIT "E"-**

**Answer**

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF RICHLAND )

IN THE COURT OF COMMON PLEAS  
FIFTH JUDICIAL CIRCUIT

**CERTIFIED TRUE COPY  
OF ORIGINAL FILED,**  
*Jeanette W. M. [Signature]*  
**C.C.C.P.&G.S. 19V**  
**RICHLAND COUNTY  
SOUTH CAROLINA**

ALEXANDER N. GEE, JR., aka )  
Sandy Gee and KAREN B. GEE, )  
a/k/a KAREN GEE, )

Case No.: 2016-CP-40-6177

Plaintiffs,

**ANSWER AND COUNTERCLAIMS**  
(Jury Trial Requested)

vs.

ERNEST E. YARBOROUGH, )  
a/k/a Ernest Yarborough, )

Defendant.

2016 DEC -1 PM 12:5  
Clerk of Court  
Richland County, SC

NOW COMES DEFENDANT, ERNEST E. YARBOROUGH, in a self-represented capacity, answering the Plaintiffs' Complaint and asserting his counterclaims as follows:

**AS A FIRST DEFENSE**  
(General Denial)

1. Defendant admits the allegations contained in paragraphs one, two, three, and four of the Complaint.
2. As to paragraph five of the Complaint, Defendant admits only that he signed a Residential Rental Agreement ("Lease"). To the extent that this allegation asserts, expressly or implicitly, that the Lease was the sole document governing the transaction between the parties, such allegation is expressly denied. Defendant further asserts that that Lease was amended by the parties on one or more occasions in writing and through the course of conduct of the parties.

3. Defendant denies paragraph six of the Complaint because no such lease was attached to the Complaint as Exhibit "A" at the time the Complaint was served on the Defendant.
4. Defendant denies paragraph seven of the Complaint and further asserts that the transaction between the parties did not fall within the Section 27-40-310(d), Code of Laws of South Carolina, 1986, as amended, due the subsequent and contemporaneous amendments to the Lease and due to the course of conduct between the parties.
5. Paragraph eight is hereby admitted but it is expressly denied the Lease ended on January 31, 2011, and it is further denied that the Lease continued a month-to-month.
6. Paragraph nine of the Complaint is expressly denied.
7. As to paragraph ten of the Complaint, Defendant asserts that the lease writing speaks for itself; however, this paragraph is expressly denied to the extent that Plaintiffs assert that the language alleged is controlling in the matter now before the Court.
8. Paragraphs ten, eleven, and twelve of the Complaint are denied. As to the tender of payment, Defendant asserts that payment was tendered directly and indirectly to the Plaintiffs but the Plaintiffs refused to accept such payments. Moreover, although payments were tendered and offered, Defendant asserts that Plaintiffs had no legal right to receive payments. Defendant further asserts that even to the date this pleading is signed that he has overpaid the Defendants and that he reasonably believes that he has a credit in is favor with the Defendants because of the payment for taxes, maintenance, and home owners' association dues that have been paid over the years by the Defendant.
9. Defendant denies paragraphs thirteen and fourteen of the Complaint.

10. As to paragraph fifteen of the Complaint, Defendant asserts that the lease writing speaks for itself; however, this paragraph is expressly denied to the extent that Plaintiffs assert that the language alleged is controlling in the matter now before the Court.
11. As to paragraph sixteen of the Complaint, Defendant admits only that he received a letter from the attorney purporting to represent the Plaintiffs in this matter. However, this paragraph is denied to the extent that it expressly or implicitly asserts that the "notice" was contractually or legally sufficient.
12. As to the incorporation paragraph alleged at paragraph seventeen of the Complaint, Defendant incorporates his previous answers.
13. Paragraphs eighteen, nineteen, and twenty of the Complaint are denied, EXCEPT it is admitted that the Plaintiffs have stated that they desire to terminate the business relationship with the Defendant. However, Plaintiffs' effort to unilaterally terminate the "Lease" are ineffective as a matter of law.
14. As to the incorporation paragraph alleged at paragraph twenty-one of the Complaint, Defendant incorporates his previous answers.
15. Defendant denies paragraphs twenty-two, twenty-three, twenty-four, twenty-five, twenty-six, and twenty-seven of the Complaint, EXCEPT it is admitted that Defendant maintains possession of the property.
16. As to the incorporation paragraph alleged at paragraph twenty-eight of the Complaint, Defendant incorporates his previous answers.
17. Defendant denies paragraphs twenty-nine of the Complaint.
18. As to the incorporation paragraph alleged at paragraph thirty of the Complaint, Defendant incorporates his previous answers.

19. Paragraphs thirty-one, thirty-two, and thirty-three of the Complaint are expressly denied.
20. All allegations are expressly denied unless otherwise heretofore admitted by the Defendant.

**AS A SECOND DEFENSE**  
(Affirmative Defense of Plaintiff's Unclean Hands)

21. After the Defendant took possession of the property which is the subject of this lawsuit, Plaintiffs complained and whined about the amount of property taxes being billed on the property occupied by the Defendant and the amount of taxes billed on their other properties.
22. As a result of the conversations between the Plaintiff and Defendant, Defendant consulted with the Tax Assessor's Office for the County of Richland ("Tax Assessor"), State of South Carolina in August 2009.
23. After Defendant consulted with the Tax Assessor's Office in August 2009, Defendant informed Plaintiff's that he, Defendant, was entitled to the Legal Residence Rate for the subjected property if his option to purchase was converted in a way to give him an equitable interest in the property. Plaintiffs agreed to provide the Tax Assessor Office with the information establishing the Defendant's equitable ownership in the property, and they further agreed to sign and provide the Tax Assessor's Office with the required paperwork establishing Defendant's ownership interest in the property.
24. On August 24, 2009, Defendant, based upon his equitable ownership interest in the property, provided the Tax Assessor's Office with required documentation to allow Defendant, as equitable owner, to receive the legal residence tax rate for the property located at 117 Ashley Hall Road, Columbia, South Carolina. Such application for the reduced rate was made with the representations from the Plaintiff and with the consent of

the Plaintiffs that Defendant enjoyed an equitable ownership interest in the property located at 117 Ashley Hall Road. Such representations from the Plaintiffs were relied upon by the Defendant and the Tax Assessor's Office.

25. From August 2009 until July 2016, Plaintiffs led Defendant and the Tax Assessor's Office to believe that Defendant owned an equitable interest in the property which is the subject matter of this lawsuit. Consequently, based upon the representations by the Plaintiff, the Tax Assessor's Office reduced the Plaintiffs' property taxes on the subjected property for about \$4,000.00 per year for almost 9 years. Plaintiffs received a tax reduction on the subject property for a total of approximately \$36,000.00.
26. Now, the Plaintiffs are before this Court alleging that the Defendant does not have an equitable ownership in the subject property, a position that cannot be reconciled with the position that the took with the Tax Assessor to receive the substantial tax savings as alleged above.
27. If the Court now finds that Defendant did not own an equitable interest in the subject property as Plaintiffs communicated to the Defendant and to the Tax Assessor's Office, directly and indirectly, Plaintiff asserts that the Plaintiffs acted unfairly and in bad faith in the subject matter of the litigation, all to Defendants' and the Tax Assessor's detrimental. In other words, the Plaintiffs, if the Court now concludes that the Plaintiffs acted in bad faith and or unfairly, the Court must find that the Plaintiffs are coming into this Court with unclean hands, which means, as a matter of law, that cannot receive the justice that seek because the law in this state closes the door of equity to one with unclean hands.
28. Defendant asserts that the Plaintiffs have misled others and the Tax Assessor to receive the reduced tax rate for other properties that they own, and such representation caused the

Defendant to pay the Plaintiffs between \$130,000.00 and \$140,000.00 for a house that is worth less than \$180,000.00.

29. Plaintiffs have acted criminally in this matter if the Court finds that the Plaintiff does not enjoy an equitable ownership interest in the subject property.
30. Plaintiffs are not entitled to the relief that seek as a matter of law because their hands are unclean.

**AS A THIRD DEFENSE AND FIRST COUNTERCLAIM**  
(Breach of Contract)

31. Plaintiffs and Defendant entered a written Option to Purchase Agreement with the Defendant on January 10, 2008.
32. To induce the Option to Purchase Agreement, Defendant paid the Plaintiffs \$5,900.00 in certified funds to enjoy the benefits of the Option to Purchase Agreement.
33. Pursuant to the Option to Purchase Agreement, Plaintiffs agreed to repair, at their own expense, the chimney foundation to the property located at 117 Ashley Hall Road, Columbia, South Carolina.
34. The chimney foundation is a major structural defect to the subject property, which virtually makes its incapable of being financed through the Veteran's Administration or any other conventional mortgage program.
35. In addition to repairing the foundation, Plaintiffs also agreed to paint the back deck to deter the back deck from rotting.
36. From January 10, 2008 until July 2016, Plaintiff's led the Defendant to believe that the foundation would be repaired to facilitate financing of the property.
37. Plaintiffs breached the Option to Purchase Agreement by failing to repair the chimney foundation and by failing to paint the deck. This breach was substantial and material.

38. As a direct and proximate result of Plaintiffs' breach of the Option to Purchase Agreement, Defendant was unable to move forward with the conventional financing of the property and the back deck rotten to the point that Defendant had to repair it at his own expense.
39. As a direct and proximate result of Plaintiffs' breach of the Option to Purchase Agreement, Defendant suffered damages more than \$150,000.00, all to be proved at trial.

**AS A FOURTH DEFENSE AND SECOND COUNTERCLAIM**  
(Misrepresentation)

40. From January 2008 until June 2016, Plaintiffs, through their words and conduct, made false representations to Defendant and the Richland County Tax Assessor's Office in order to induce the Defendant and the government to believe that the Defendant had an equitable interest in the property located at 117 Ashley Hall Road, Columbia, South Carolina, located in the County of Richland, State of South Carolina.
41. Based upon the writings between the parties, the course of conduct believe the parties, and the then-existing tax records, Defendant reasonably believed that the representations by the Plaintiffs were true.
42. At all relevant times, Defendant reasonably believed that the representations made by the Plaintiffs were true, and he reasonably relied upon the Plaintiff's representation which caused him to pay the Plaintiffs a sum more than \$150,000.00, which includes costs for repairs to the property. But for the misrepresentations made by the Plaintiffs, Defendant would not have paid the Plaintiffs the sum stated.
43. At the time Plaintiffs made the false representations to Defendant and the Tax Assessor, the Plaintiffs had a pecuniary interest in making the false representations.
44. The Plaintiffs owed the Defendant and the Tax Assessor's a duty of care to see that they communicated truthful information to the Defendant.

45. The Plaintiffs breached that duty by failing to exercise due care.
46. The Defendant and the Tax Assessor justifiably relied on the representations made by the Plaintiffs.
47. The Defendant suffered a pecuniary loss as the proximate result of his reliance upon the representations made by the Plaintiffs, all in a sum more than \$180,000.00, which includes the amount payable to the Tax Assessor if it is determined that the Defendant did not have an equitable interest in the property as represented to the Tax Assessor.
48. Plaintiffs' conduct in making the false representations to the Defendant were deliberate, reckless, and wanton, thereby, entitling the Defendant to awarded a sum for punitive damages, in an amount to be determined by the Court, but in no event less than \$500,000.00.

**AS FIFTH DEFENSE AND THIRD COUNTERCLAIM**  
(Promissory Estoppel)

49. Defendant incorporates by reference the allegations contained in paragraphs thirty-one through forty-eight above within this Fifth Defense and Third Counterclaim.
50. In June 2016, Plaintiffs, through their words and conduct, made unambiguous promise to the Defendant that if he would consent to working with a credit repair specialist and realtor, they would allow the home in question to be purchased at the agreed upon rate not later than September 2017, if the Defendant commenced paying the monthly rate of 1250.00.
51. Further, from on or about February 2011 and continuing until June 2016, Plaintiffs made the unambiguous promise that they would make the necessary repairs to the foundation to the property located at 117 Ashley Hall Road, Columbia, South Carolina, and allow the Defendant to move forward with the VA Financing within a reasonable time.

52. Defendant reasonably relied upon both promises made by Plaintiffs and continued paying Plaintiffs the monthly sum of \$1250.00 per month with the expectation that he would be allowed to purchase the home at the rate originally agreed upon. In further reliance on the Plaintiffs' promises, Defendant signed up with the realtor/credit repair agent that the Plaintiffs requested, and allowed this agent to view Defendant's most private information.
53. It was expected and foreseeable, based upon the course of conduct between the parties, that the Defendant would rely upon the promises that the Plaintiffs' made.
54. As a direct and proximate result of Defendant's reliance upon the Plaintiffs promises, Defendant suffered substantial damages in the form of paying them over \$140,000.00 for property they now claim that he does not have an ownership interest and he allowed a third party to invade his privacy, all in anticipation that the transaction would proceed to closing.
55. Defendant has suffered damages in an amount determined by the Court, and under the common law of this state Defendant is entitled to a declaration that he enjoys and equitable interest in the subject property, in an amount to be determined by the Court.

**AS SIXTH DEFENSE AND FOURTH COUNTERCLAIM**

(Violation of the Land Lord Tenant Act)

In the Alternative

56. Defendant incorporates by reference the allegations contained in paragraphs thirty-one through fifty-five above within this Sixth Defense and Fourth Counterclaim.
57. The property which is the subject matter of this lawsuit is in poor conditions. The heating until for the first floor has not worked in years and the landlord was informed of this fact on many occasions. The oven to the gas store does not work. The gas fireplace on the first floor does not work. The ceiling in two rooms are severely damaged due to water

leakage from a bad room (roof has been replaced). The floor is buckling. The foundation is visibly cracked and getting worse.

58. Cumulatively, the premises which is subject to this lawsuit is not habitable.
59. Pursuant to Section 27-40-440 of the Landlord Tenant Act, the Plaintiffs have a due to maintain the premises and must. Landlord to maintain premises must comply with the requirements of applicable building and housing codes materially affecting health and safety of the tenants.
60. Moreover, under the same Landlord the Plaintiffs must make all repairs and do whatever is reasonably necessary to put and keep the premises in a fit and habitable condition, which includes maintaining a proper heating source for the premises.
61. Based upon the aforementioned alleged problems with the home which is the subject of this lawsuit, Plaintiffs have the substantially violated Section 27-40-440 of the Landlord Tenant Act, and they willfully continued to violate the law even after written and verbal notice of the problems associated with the home, which they now claim is subject to a month-to-month lease.
62. Moreover, Defendant has made repairs to the home and is entitled to offset any amount, if any due to the Plaintiffs.
63. As a proximate result of the Plaintiffs' violation of the Landlord Tenant Act, Defendant and his family suffered damages in the form of emotional distress, loss of enjoyment of the premises, and other damages, all in an amount to be proved at trial.

**AS SEVENTH DEFENSE AND FIFTH COUNTERCLAIM**  
(Violation of the Unfair and Deceptive Trade Practice Act)

64. Defendant incorporates by reference the allegations contained in paragraphs thirty-one through sixty-three above within this Seventh Defense and Fifth Counterclaim.
65. Plaintiffs are in the business of selling and renting real estate to the public, and they transact such business on a large scale in the County of Richland, State of South Carolina.
66. In inducing the Defendant to pay them large sums of money, Plaintiffs used an unfair method of lying to the Defendant and the taxing authorities to the effect that Defendant was more than a renter. Such lying by the Plaintiffs went on for many years.
67. As direct and proximate result of the Plaintiffs' unfair and deceptive trade practices of making misrepresentations to the Defendant and the Tax Assessor, Defendant suffered an ascertainable loss of money more than \$150,000.00, that was paid to the Plaintiffs and paid to maintain the property.
68. Plaintiffs' conduct impacts the public because they are using such scheme in other real estate transactions in order to avoid paying the legal rate of taxes.
69. Plaintiffs' deceptive and unfair conduct violates the *South Carolina Unfair Trade Practices Act (UTPA)*, S.C. Code Ann. §§ 39-5-10 to -160 (1985 & Supp. 1999).
70. Plaintiffs conduct is willful and deliberate. Therefore, Defendant is entitled to an award of trebled damages, and Defendant is entitled as a matter of law that the of clerk of court shall mail a copy of the complaint or other initial pleading to the Attorney General for further investigation.

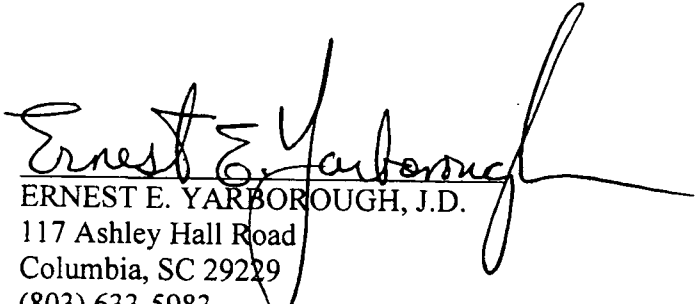
WHEREFORE, having answered the Plaintiffs' Complaint and upon proof of the allegations pertaining to one or more of the alleged Counterclaims, Defendant seeks the following relief:

- a. For an award and judgment of trebled actual damages in an amount to be proved at trial;
- b. For an award and judgment of punitive damages in an amount to be proved at trial;

c. For such further relief this court deems just and proper, including the appointment of a trustee to manage the property until this matter is concluded.

DEFENDANT REQUESTS A JURY TRIAL ON ALL ISSUES SO TRIABLE.

At Columbia, SC

  
ERNEST E. YARBOROUGH, J.D.  
117 Ashley Hall Road  
Columbia, SC 29229  
(803) 633-5983  
eyarborough001@gmail.com

Defendant, Self-Represented

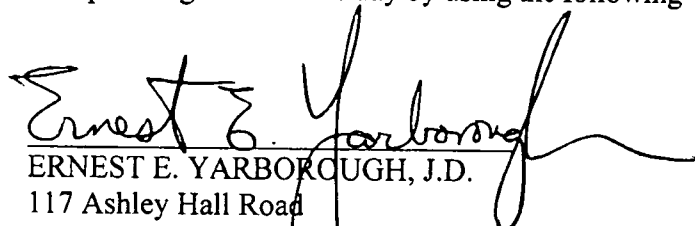
**PROOF OF SERVICE**

I, Ernest E. Yarborough, the above-named Defendant, certify that I have served a copy of the foregoing pleading on the Attorney for the Plaintiffs on November 28, 2016 by depositing a copy of the same in the United States mail, postage prepaid, addressed as follows:

Leonard R. Jordan, Jr., Esquire  
JORDAN LAW FIRM  
211 Veterans Road, Suite D  
Columbia, SC 29209

I also email Attorney Jordan a copy of this pleading on the same day by using the following email: ljordan@ljordanlaw.com

At Columbia, SC

  
ERNEST E. YARBOROUGH, J.D.  
117 Ashley Hall Road  
Columbia, SC 29229  
(803) 633-5983  
eyarborough001@gmail.com

Defendant, Self-Represented

2016 DEC -1 PM 12:51  
COURT REPORTER  
COLUMBIA, SC

**EXHIBIT "F"-**

**Plaintiff's Motion, ~~with Enclosures~~**

EEY

2 Separate Motions

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF RICHLAND )

Alexander N. Gee, Jr., a/k/a Sandy Gee, )  
and Karen B. Gee, a/k/a Karen Gee, )  
 )  
Plaintiffs, )

-vs-

Ernest E. Yarborough, a/k/a Ernest )  
Yarborough, )  
 )  
Defendant. )

IN THE COURT OF COMMON PLEAS  
CASE NO: 2016-CP-40617

**CERTIFIED TRUE COPY**  
**OF ORIGINAL FILED,**  
*Janette W. McBride*  
C.C.C.P.&G.S.  
RICHLAND COUNTY  
SOUTH CAROLINA

**MOTION TO STRIKE**  
**DEFENDANT'S ANSWER AND**  
**COUNTERCLAIM AND FOR WARRANT**  
**OF EJECTMENT**

RICHLAND COUNTY  
FILED  
DEC - 7 AM 11:58  
JANETTE W. HOBBS  
C.C.P. & G.S.

TO: DEFENDANT, ERNEST E. YARBOROUGH, A/K/A ERNEST YARBOROUGH:

The Plaintiff, Alexander N. Gee, Jr. a/k/a Sandy Gee and Karen B. Gee, a/k/a Karen Gee, will move before the Presiding Judge of the Court of Common Pleas for Richland County, on the tenth (10<sup>th</sup>) day after service hereof, or at such time as is convenient to the Court, for an order striking the Defendant's Answer and Counterclaim and for a warrant of ejectment, unless the Defendant complies promptly with S.C. Code Ann. §27-40-790.

This Motion is made on the grounds that the Defendant, as tenant, “. . . is required to pay the landlord all rent which becomes due after the issuance of a written rule requiring the tenant to vacate or show cause as rent becomes due . . . .” (§27-40-790(a)); and “[t]he tenant is required to pay landlord all rent allegedly owed prior to the issuance of the rule . . . .” (§22-40-790(b)); and “[s]hould the tenant not appear and show cause within ten days, the court shall issue a warrant of ejectment . . . .” (§27-40-790(c)).

As alleged in the Complaint, the rent due under the subject Residential Rental Agreement (“Lease”) is due for June 1, 2016, and subsequent months. The rent is \$1,250.00 per month, due on the 1<sup>st</sup> day of each month. Also included in the rent is “a late fee of \$50.00 if rent is paid after

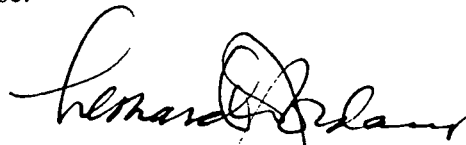
the 5<sup>th</sup> day of the month, and an additional fee of \$75.00 after the 10<sup>th</sup> day of the month.”

1. Without adding additional costs and expenses (including attorney’s fees and other costs of collection and interest, as prayed for in the Complaint), for purposes of this Motion, the Defendant presently owes rent as follows:

June 1, 2016 Rent	550.00
June 11, 2016 Late Fees	125.00
July 1, 2016 Rent	1,250.00
July 11, 2016 Late Fees	125.00
August 1, 2016 Rent	1,250.00
August 11, 2016 Late Fees	125.00
September 1, 2016 Rent	1,250.00
September 11, 2016 Late Fees	125.00
October 1, 2016 Rent	1,250.00
October 11, 2016 Late Fees	125.00
November 1, 2016 Rent	1,250.00
November 11, 2016 Late Fees	125.00
December 1, 2016 Rent	1,250.00
TOTAL PRESENTLY DUE	\$8,800.00

The aforesaid accounting will continue to accrue rent and late fees.

Plaintiff’s Complaint requests that “a rule to show cause be issued . . . requiring the Defendant to vacate the Plaintiff’s property or show cause why he should not be ejected from the property . . . .” This Motion renews this request, and any hearing on this Motion should have the same purpose and effect as a rule to show cause.



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Leonard R. Jordan, Jr.  
JORDAN LAW FIRM  
211 Veterans Road, Suite D  
Columbia, South Carolina 29209  
(803) 726-1950 Tel  
(803) 726-1951 Fax  
ljordan@ljordanlaw.com  
Attorney for Plaintiff

Columbia, South Carolina  
December 6, 2016

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF RICHLAND )

IN THE COURT OF COMMON PLEAS  
CASE NO: 2016-CP-40-6177

Alexander N. Gee, Jr., a/k/a Sandy Gee, )  
and Karen B. Gee, a/k/a Karen Gee, )

Plaintiffs, )

-vs- )

Ernest E. Yarborough, a/k/a Ernest )  
Yarborough, )

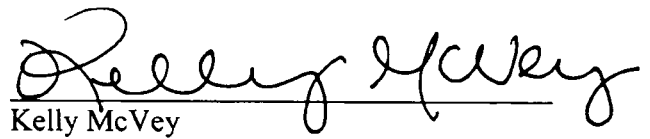
Defendant. )

CERTIFICATE OF MAILING

2016 DEC -7 AM 11:56  
RICHLAND COUNTY  
FILED  
JEANETTE W. HOSBRIE  
S.C.P. & G.S.

I, Kelly McVey, an employee of Jordan Law Firm, the Plaintiffs' Attorney, hereby certify that I have, this 6<sup>th</sup> day of December, 2016, served a copy of the Motion to Strike Defendant's Answer and Counterclaim and for Warrant of Ejectment upon the Defendant, Ernest E. Yarborough, by mailing a copy thereof to him, postage prepaid to the address indicated below:

Mr. Ernest E. Yarborough  
117 Ashley Hall Road  
Columbia, SC 29229

  
Kelly McVey

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF RICHLAND )

IN THE COURT OF COMMON PLEAS  
CASE NO: 2016-CP-40-6177

Alexander N. Gee, Jr., a/k/a Sandy Gee, )  
and Karen B. Gee, a/k/a Karen Gee, )

Plaintiffs, )

-vs- )

Ernest E. Yarborough, a/k/a Ernest )  
Yarborough, )

Defendant. )

**MOTION TO STRIKE**  
**(Pursuant to Rule 12, SCRPC)**

2016 DEC - 7 AM 11: 56  
JEANETTE W. MCBRIDE  
C.C.P. & G.S.

RICHLAND COUNTY  
FILED

TO: DEFENDANT, ERNEST E. YARBOROUGH, A/K/A ERNEST YARBOROUGH:

The Plaintiff, Alexander N. Gee, Jr. a/k/a Sandy Gee and Karen B. Gee, a/k/a Karen Gee, will move before the Presiding Judge of the Court of Common Pleas for Richland County, on the tenth (10<sup>th</sup>) day after service hereof, or at such time as is convenient to the Court, for an order striking the following Defenses and/or Counterclaims which are insufficient, immaterial, moot or otherwise improper, to wit:

1. The SECOND DEFENSE and the FOURTH DEFENSE AND SECOND COUNTERCLAIM. The matters of the real property taxes; the interaction between the Defendant and the Tax Assessor's Office for the County of Richland; the effect (in 2009) of the 2008 Option to Purchase (which, by the terms of the last Amendment to Option to Purchase. expired on February 11, 2011); and any alleged representation (in 2009) with regard to an alleged equitable interest in favor of the Defendant by virtue of such (now long-expired) Option to Purchase are now immaterial and moot, are irrelevant to the legal arrangement between the Plaintiffs and the Defendant and have resulted in no damages to the Defendant.

CERTIFIED TRUE COPY  
OF ORIGINAL FILED,  
*Jeanette W. McBride*  
C.C.P. & G.S. 12/7/16  
RICHLAND COUNTY  
SOUTH CAROLINA

2. The THIRD DEFENSE AND FOURTH COUNTERCLAIM. The Option to Purchase (which expired by its terms on February 1, 2011) is not enforceable, and any alleged damages claimed by the Defendant for breach of this (now long-expired) contract is a violation of the Statute of Frauds and is immaterial, moot and unsustainable.

3. The FIFTH DEFENSE AND THIRD COUNTERCLAIM. This matter directly involves a claim by the Defendant of a contract to purchase the Plaintiffs' real property, which does not exist, as the Defendant failed to exercise the Option to Purchase before it (by its terms) expired, and any alleged damages claimed by the Defendants for promissory estoppel based upon an unexercised Option to Purchase is violative of the Statute of Frauds and is immaterial, moot and unsustainable.

4. The SIXTH DEFENSE AND FOURTH COUNTERCLAIM. The subject Residential Rental Agreement in writing, as amended, having an extended term which expired on January 31, 2011, has (by its terms and by declaration of the Plaintiffs) terminated, and the Plaintiffs are entitled to possession of the leased premises. At present, the Defendant is a holdover tenant, and the Lease is (at most) a month-to-month tenancy. If the premises "is not habitable," the Defendant should vacate and return possession to the Plaintiffs, as his sole remedy, rather than seeking an offset of rent. The Defendant has made no proper demand upon the Plaintiffs to address the Defendant's claims of various maintenance issues.

5. The SEVENTH DEFENSE AND FIFTH COUNTERCLAIM. This claim of a violation of the South Carolina Unfair Trade Practices Act is based upon the allegations related to the preceding Defenses and/or Counterclaims (discussed hereinabove). As above, these allegations are immaterial, moot and unsustainable. The Plaintiff would also assert that the Unfair Trade Practices Act does not apply to a lease made pursuant to the Residential Landlord and Tenant Act.



---

Leonard R. Jordan, Jr.  
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211 Veterans Road, Suite D  
Columbia, South Carolina 29209  
(803) 726-1950 Tel  
(803) 726-1951 Fax  
ljordan@ljordanlaw.com  
Attorney for Plaintiffs

Columbia, South Carolina  
December 6, 2016

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF RICHLAND )

IN THE COURT OF COMMON PLEAS  
CASE NO: 2016-CP-40-6177

Alexander N. Gee, Jr., a/k/a Sandy Gee, )  
and Karen B. Gee, a/k/a Karen Gee, )

Plaintiffs, )

-vs- )

Ernest E. Yarborough, a/k/a Ernest )  
Yarborough, )

Defendant. )

CERTIFICATE OF MAILING

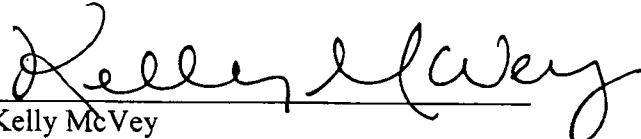
JEANETTE W. MCBRIDE  
C.P. & S.S.

2016 DEC - 7 AM 11:56

RICHLAND COUNTY  
FILED

I, Kelly McVey, an employee of Jordan Law Firm, the Plaintiffs' Attorney, hereby certify that I have, this 6<sup>th</sup> day of December, 2016, served a copy of the Motion to Strike (Pursuant to Rule 12, SCRCR) upon the Defendant, Ernest E. Yarborough, by mailing a copy thereof to him, postage prepaid to the address indicated below:

Mr. Ernest E. Yarborough  
117 Ashley Hall Road  
Columbia, SC 29229

  
Kelly McVey

**EXHIBIT "G"-**

**Copy of Email to Judge Toal**



Ernest Yarborough &lt;eyarborough001@gmail.com&gt;

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**Request for Telephonic Conference; Gee vs Yarborough**

1 message

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**Ernest Yarborough** <eyarborough001@gmail.com>

Thu, Jun 15, 2017 at 6:54 AM

To: "Toal, Jean" &lt;Jtoal@sccourts.org&gt;

Cc: "Leonard R. Jordan, Jr." &lt;ljordan@ljordanlaw.com&gt;

Dear Judge Toal:

I request a telephonic conference in the above-referenced case to allow me to Petition Your Honor for a stay of order that Your Honor entered in the above-referenced case.

I intend to seek review of the order in the Court of Appeals. However, as you aware, the Court of Appeals prefers that a Petition for stay be made to the trial judge in the first instant. One of the grounds for the appeal will be that the Court is ordering me to pay a sum of money but has denied me the statutorily required hearing to determine the owed, in that the amount is in substantial dispute. The order is fundamentally unfair because it closes the doors of the courthouse to me unless I pay a sum that is in dispute.

Time is essential in this matter, given the prospective effect of the order which requires me to surrender the property which is the subject matter of this suit.

I will waive the requirement of a court reporter for this telephonic conference.

In lieu of a telephonic conference, I request the court, without a hearing, to enter a form order denying my request for stay of the order or I request that the court enter a form order staying the order until such time the court can hear a formal petition on the record.

Please advise. Best wishes,

Ernest E. Yarborough