

EXHIBIT A

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

IN THE COURT OF COMMON PLEAS
NINTH JUDICIAL CIRCUIT
CIVIL ACTION NO.: 2015-CP-10-3919

ATHAN FOKAS,

Plaintiff,

v.

PHILIP FERDERIGOS, JACOB
FERDERIGOS, and SPIROS FERDERIGOS,

Defendants.

**ORDER GRANTING DEFENDANT
SPIROS FERDERIGOS' AMENDED
MOTION TO AMEND TAX RETURNS
AND CHANGE CHECKING ACCOUNT
AND FOR RESTRAINING ORDER**

This matter came before the Court for a hearing on March 1, 2017 for Defendant Spiros Ferderigos' Amended Notice of Motion and Motion to Amend Tax Returns and Change Checking Account and for Restraining Order. Present in the courtroom were Plaintiff Athan Fokas and his counsel Stanley Barnett, and Defendant Spiros Ferderigos and his counsel Dawes Cooke.

Having carefully reviewed the Motion, Exhibits, Memoranda, Affidavits and submissions of the parties and having heard arguments from the parties and after careful review of this matter and considering all of the evidence presented to this Court, this Court finds the arguments of Defendant to be compelling and hereby grants the relief requested in his Motion and this Court finds that it is appropriate to grant the relief requested by Defendant Spiros Ferderigos as set forth in his Motion, oral arguments, and supporting Affidavit. Accordingly, this Court hereby grants Defendant Spiros Ferderigos' Amended Notice Of Motion And Motion To Amend Tax Returns And Change Checking Account And For Restraining Order.

Based upon all the evidence, this Court finds that Plaintiff inappropriately filed incorrect 2015 Tax Returns for Old Towne Suites, LLC over the objections of the other members and

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JULIE J. RICHARDS
CLERK OF COURT

without the other members' consent. This Court further finds that Plaintiff inappropriately opened an unauthorized bank account for Old Towne Suites, LLC at First Citizens Bank in which only he had legal access to the exclusion of the other members. Moreover, over a period of several months, Plaintiff continued to ignore Defendant's repeated requests to close the unauthorized account and to open a new account with full access of all members. This Court further finds that Plaintiff has inappropriately taken unilateral action(s) and inappropriately made unilateral decision(s) for Old Towne Suites, LLC over the objections of the other members and without the other members' consent. These actions violated Plaintiff's statutory duty to the Defendant and other members and necessitated the filing of this present Amended Motion. It is therefore

ORDERED that Defendant Spiros Ferderigos is hereby authorized to amend the 2015 Tax Return for Old Towne Suites, LLC (hereinafter LLC) on behalf of the LLC as requested in his Amended Motion and supporting Affidavit. It is further

ORDERED that Plaintiff shall immediately close the unauthorized LLC bank account that he opened at First Citizens Bank (account number ending 7701) and immediately withdraw all funds from the First Citizens Bank account and deposit them into the LLC account with United Community Bank (account number ending 0089). The aforementioned United Community Bank account shall be the sole account used for the LLC. All LLC revenue, receipts, proceeds, profits, funds, etc. shall be deposited in the aforementioned United Community Bank account prior to distributions being made to the members from said account. All LLC expenses shall be paid directly from the aforementioned United Community Bank account. The property manager for the LLC is also directed to deposit all rental proceeds/profits and/or other funds for the LLC directly into the aforementioned United Community Bank

account. Defendant Spiros Ferderigos shall be reimbursed the initial \$1,500 deposit of his personal funds that he deposited into the aforementioned United Community Bank account that was required (as an approximate minimum balance) to initially open the account on behalf of the LLC. It is further

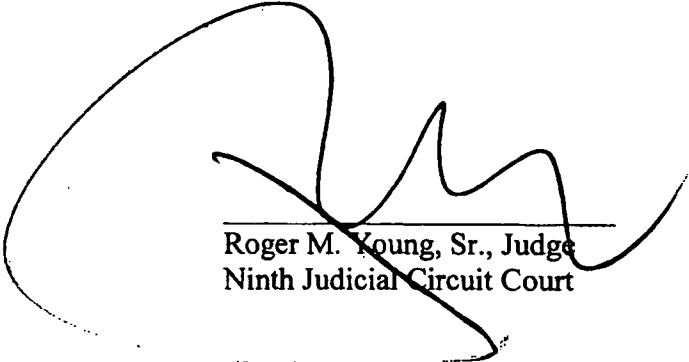
ORDERED that Plaintiff Athan Fokas is hereby strictly restrained from taking any unilateral action(s) and/or making any unilateral decision(s) without the ongoing consent of the majority of the members of the LLC. Any such consent shall be in writing. It is further

ORDERED that this Court is hereby appointing a Receiver for the LLC *sua sponte*, unless the parties inform the Court that they have reached a mutual written agreement, with details, resolving the need for a Receiver. If the parties cannot reach such an agreement, Defendant Spiros Ferderigos' counsel (M. Dawes Cooke, Jr.) shall select the Receiver to be appointed for the LLC and prepare a proposed Order for the Court Appointing said Receiver. It is further

ORDERED that failure to comply with this Order shall subject the violator to the Contempt Powers of this Court.

IT IS SO ORDERED!

April 10, 2017
Charleston, South Carolina



Roger M. Young, Sr., Judge
Ninth Judicial Circuit Court

EXHIBIT B

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)
Athan Fokas,)
Plaintiff,)
v.)
Philip Ferderigos, Spiros)
Ferderigos, and Jacob Ferderigos,)
Defendant(s).)

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT
Case No.: 2015-CP-10-3919

ORDER ON PLAINTIFF'S PETITION
FOR SUPERSEDEAS TO STAY ORDER

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2017 JUL -7 PM 2:20
JULIE J. ARMSTRONG
CLERK OF COURT

This matter comes before the Court on Plaintiff's Petition for Supersedeas to Stay the Order of this Court dated April 11, 2017 granting Defendant Spiros Ferderigos' Amended Motion To Amend Tax Returns And Change Checking Account And For Restraining Order (hereinafter Amended Motion). Plaintiff timely filed an appeal with the South Carolina Court of Appeals. Upon review of the filings of the parties, considering all the evidence and the relevant law, the Court finds that staying its Order filed April 11, 2017 granting Spiros Ferderigos' Amended Motion is not necessary to preserve jurisdiction over that appeal or to prevent a contested issue from becoming moot, as set forth herein.

IT IS THEREFORE ORDERED that the following provisions of this Court's Order filed April 11, 2017 are not stayed pending appeal:

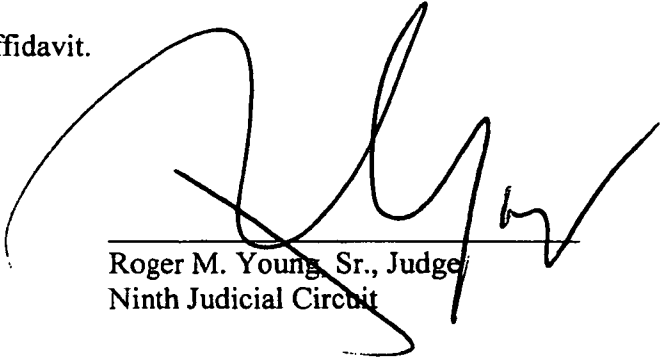
- (1) that Plaintiff shall immediately close the unauthorized LLC bank account that he opened at First Citizens Bank (account number ending 7701) and immediately withdraw all funds from the First Citizens Bank account and deposit them into the LLC account with United Community Bank (account number ending 0089). The aforementioned United Community Bank account shall be the sole account used for the LLC. All LLC revenue,

receipts, proceeds, profits, funds, etc. shall be deposited in the aforementioned United Community Bank account prior to distributions being made to the members from said account. All LLC expenses shall be paid directly from the aforementioned United Community Bank account. The property manager for the LLC is also directed to deposit all rental proceeds/profits and/or other funds for the LLC directly into the aforementioned United Community Bank account. Defendant Spiros Ferderigos shall be reimbursed the initial \$1,500 deposit of his personal funds that he deposited into the aforementioned United Community Bank account that was required (as an approximate minimum balance) to initially open the account on behalf of the LLC.

- (2) that Plaintiff Athan Fokas is hereby restrained from taking any unilateral action(s) and/or making any unilateral decision(s) without the consent of the majority of the members of the LLC. Any such consent shall be in writing; and
- (3) that Defendant Spiros Ferderigos is hereby authorized to amend the 2015 Tax Return for Old Towne Suites, LLC (hereinafter LLC) on behalf of the LLC as requested in his Amended Motion and supporting Affidavit.

AND IT IS SO ORDERED.

7/6, 2017
Charleston, South Carolina



Roger M. Young, Sr., Judge
Ninth Judicial Circuit

EXHIBIT C

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

Athan Fokas,

☐ Plaintiff

v.

Phillip Ferderigos, Spiros Ferderigos, And Jacob
Ferderigos,

☒ Defendant.

IN THE COURT OF COMMON PLEAS

CASE NO.

2015-CP-10-03919

MOTION AND ORDER INFORMATION
FORM AND COVER SHEET

Plaintiff's Attorney:

Stanley F. Barnett, Bar No.

Address:

Smith Bundy Bybee & Barnett, P.C.

P.O. Box 1542

Mt. Pleasant, SC 29465

phone: (843) 881-1623 fax: (843) 881-4406

e-mail: stanleyb@s3blaw.com other:

Defendant's Attorney:

M. Dawes Cooke, Jr., Esquire, Bar No.

Address:

Barnwell Whaley Patterson & Helms, LLC

288 Meeting Street, Suite #200 (29402)

P.O. Drawer H

Charleston, SC 29402

phone: (843) 577-7700 fax: (843) 577-7708

e-mail: mdc@barnwell-whaley.com other:

☒ MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and III)

☐ FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III)

☐ PROPOSED ORDER/CONSENT ORDER (complete SECTIONS II and III)

SECTION I: Hearing Information

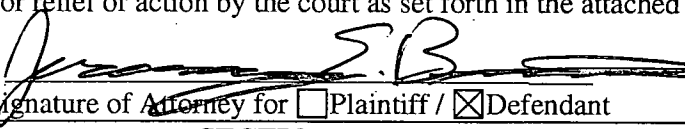
Nature of Motion: Amended Motion to Amend Tax Returns and Change Checking Account and for Restraining Order

Estimated Time Needed: 30 minutes Court Reporter Needed: ☒ YES / ☐ NO

SECTION II: Motion/Order Type

- ☒ Written motion attached
☐ Form Motion/Order

I hereby move for relief or action by the court as set forth in the attached proposed order.


Signature of Attorney for ☐ Plaintiff / ☒ Defendant

February 16, 2017

Date submitted

SECTION III: Motion Fee

- ☒ PAID – AMOUNT: \$25.00
☐ EXEMPT: ☐ Rule to Show Cause in Child or Spousal Support
(check reason) ☐ Domestic Abuse or Abuse and Neglect
☐ Indigent Status ☐ State Agency v. Indigent Party
☐ Sexually Violent Predator Act ☐ Post-Conviction Relief
☐ Motion for Stay in Bankruptcy
☐ Motion for Publication ☐ Motion for Execution (Rule 69, SCRCP)
☐ Proposed order submitted at request of the court; or,
reduced to writing from motion made in open court per judge's instructions
Name of Court Reporter:
☐ Other:

JUDGE'S SECTION

- ☐ Motion Fee to be paid upon filing of the attached order.
☐ Other:

JUDGE _____

CODE: _____ Date: _____

CLERK'S VERIFICATION

Collected by: _____

Date Filed: _____

- ☐ MOTION FEE COLLECTED: _____
☐ CONTESTED – AMOUNT DUE: _____

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

IN THE COURT OF COMMON PLEAS
NINTH JUDICIAL CIRCUIT
CIVIL ACTION NO.: 2015-CP-10-3919

ATHAN FOKAS,

Plaintiff,

v.

PHILIP FERDERIGOS, JACOB
FERDERIGOS, and SPIROS FERDERIGOS,

Defendants.

**AMENDED NOTICE OF MOTION and
MOTION TO AMEND TAX RETURNS
AND CHANGE CHECKING ACCOUNT
AND FOR RESTRAINING ORDER**

TO: STANLEY E. BARNETT, ATTORNEY FOR THE PLAINTIFF

YOU WILL PLEASE TAKE NOTICE THAT the Defendant, SPIROS FERDERIGOS (hereinafter referred to as "Mr. Ferderigos"), by and through his undersigned counsel, will hereby move before this Honorable Court, in the Charleston County Courthouse on the tenth (10th) day after service hereof, or at such other time and location as determined by the Court, for (1) an Order allowing and authorizing Mr. Ferderigos to amend the incorrect tax returns for Old Towne Suites, LLC (hereinafter "LLC"), unilaterally filed by Plaintiff over the objection of, and without the knowledge or consent of the other LLC members, to accurately reflect the true ownership and distributional interests of its members and (2) an Order requiring Plaintiff to close an unauthorized and non-consented-to LLC checking account with First Citizens Bank which restricts access from other members and to deposit the funds from the closed First Citizens Bank account to the LLC's new checking account with United Community Bank.

Further, Defendant respectfully requests (3) an Order prohibiting Plaintiff from taking any further unilateral actions without the consent of the majority of members of the LLC. Mr. Ferderigos and the other LLC members have asked on several occasions for Plaintiff to cease

from taking such unilateral actions; however, Plaintiff continues to take unilateral actions and refuses to comply with his obligations as an LLC member and the requirements of the LLC statute.

A. OLD TOWNE SUITES, LLC

Plaintiff and Defendants are the only members of Old Towne Suites, LLC. Plaintiff owns fifty percent (50%) of the membership interest, and Defendants own fifty percent (50%), which is divided among the three of them equally. Old Towne Suites, LLC (hereinafter referred to as the "LLC"), is a member-managed LLC, and its Operating Agreement merely lists the ownership interest of the LLC members, that being Plaintiff with 50% and Defendants with 50%. See Exhibit 1, Operating Agreement of LLC. As such, the Operating Agreement incorporates the LLC law concerning its governance and operation.

B. PLAINTIFF'S PRIOR CONTEMPT OF COURT

Importantly, this Court has already sanctioned Plaintiff for three willful violations of this Court's Order Granting a Preliminary Injunction in another case. See Exhibit 2, Iakovos Ferderigos and S&S Old Town, Incorporated v. Athan Fokas, C/A No. 2015-CP-10-5610, Order Granting Plaintiffs' Request for Preliminary Injunction dated 2/9/2016 and Order of Contempt dated 9/28/2016. In the -5610 case, Plaintiff (along with his father) also caused incorrect tax returns to be filed, and this Court granted Defendant Jacob (Iakovos) Ferderigos' Motion for Leave to Amend those incorrect returns. See Exhibit 3, Order Granting Motion to Amend Returns dated 9/28/2016. Plaintiff has done the exact same thing in this case, and Mr. Ferderigos is asking the Court to grant leave to amend the incorrect LLC returns so that correct tax returns are filed with the IRS, not the incorrect returns Plaintiff has unilaterally filed.

C. LLC TAX RETURN

On or about March 23, 2016, Plaintiff unilaterally filed incorrect 2015 tax returns for the LLC without authorization or consent from the other members. See Exhibit 4, unconsented to tax returns, dated March 23, 2016. Further, Mr. Ferderigos and the other LLC members had objected to the draft incorrect tax returns being filed by Plaintiff before Plaintiff filed the incorrect tax returns. Despite these objections, Plaintiff purposely filed the incorrect LLC returns anyway. Because Plaintiff is only one member in a four member (member-managed) LLC, he needed and still needs the authorization and consent from other members before acting on behalf of the LLC to file its tax returns. Plaintiff did not obtain any such authorization or consent from the other members, who objected to the incorrect LLC returns, and Plaintiff purposely filed the incorrect 2015 tax returns over the objections of the Defendants. See Exhibit 5, Defendants' Objection to Plaintiff Attempt to File Incorrect Tax Returns, email dated March 10, 2016.

Plaintiff's behavior in this instance is similar to Plaintiff's history and pattern of behavior set forth in Section B of this Memorandum.¹ In this case, as part of the LLC tax return, Plaintiff instructed the accountant to identify his father, Spiros Fokas, as a twenty-five (25%) distributional member, and the incorrect tax returns he filed identified his father as such.² The incorrect tax return identifies Spiros Fokas as a twenty-five percent (25%) member, and the members never voted to approve the addition of Spiros Fokas as a member or any such

¹ Initially, Plaintiff unilaterally had the accountant prepare and caused incorrect tax returns to be filed with the IRS in another case involving Plaintiff and Defendant Jacob Ferderigos, Old Towne Case No. 2015-CP-10-5610. In that case, Judge Nicholson granted Defendant Jacob Ferderigos' motion to amend the incorrect tax returns Plaintiff caused to be filed with the IRS. See Exhibit 3, Order of Judge Nicholson, Granting Motion to Amend Tax Returns, dated September 28, 2016.

² Plaintiff subsequently informed Defendants that he transferred this twenty-five percent (25%) distributional interest of the income from Old Towne Suites to his father and made his father a twenty-five percent (25%) member. However, per S.C. Code Ann. § 33-44-503, Plaintiff cannot add a member to the LLC or transfer a distributional membership interest without the unanimous consent of the other members.

assignment or addition of Plaintiff's father as a distributional member. S.C. Code Ann. § 33-44-503 (1976) allows the transferee of a distributional interest to become a member of the LLC only in accordance with the terms of the operating agreement or upon the consent of all members. Here, as the operating agreement merely lists the percentages of the members (Plaintiff 50% and Defendants 50%), Plaintiff required the consent of all members in order to transfer any distributional membership interest to his father pursuant to the LLC statute. Mr. Ferderigos and the other LLC members never consented to and reject such request.

As Mr. Ferderigos and the other LLC members objected to the incorrect LLC returns Plaintiff unilaterally demanded the accountant prepare, the accountant correctly advised Plaintiff that the members had to agree to the LLC returns before he would file any returns on behalf of the LLC. At this juncture, any reasonable member would have stopped. However, despite Plaintiff knowing that the LLC returns were not correct and that his father is not a member of the LLC, that the other members objected to the incorrect LLC returns, and that the accountant the LLC has previously used to prepare the LLC's tax returns would not file the incorrect returns until the majority of the members approved, Plaintiff took the incorrect tax returns to Pinnacle and had a separate accounting firm file them with the IRS. Mr. Ferderigos and the other LLC members objected to this action by Plaintiff and never consented to Plaintiff filing the very returns they objected to. Plaintiff then sent a letter to the members stating that an unnamed "tax attorney" will "handle" any problems that may arise with the IRS because of his incorrect filings. See Exhibit 6, letter from Athan Fokas, undated.³

³ Needless to say, Mr. Ferderigos and the other LLC members never consented to the incorrect tax returns or using Pinnacle One to file the LLC tax returns. Mr. Ferderigos also never consented to an unnamed "tax attorney" giving the LLC advice or counsel on applicable tax matters or "handling" the IRS if any problems arise because of the Plaintiff's incorrect filings on behalf of the LLC.

Based on the above, it is clear that Plaintiff's actions are reckless and a clear violation of his duties to Mr. Ferderigos and the other LLC members. Mr. Ferderigos and the other LLC members did not and will not consent to Plaintiff filing incorrect tax returns with the IRS on behalf of the LLC. For these reasons, Mr. Ferderigos respectfully requests this Honorable Court grant leave for him to amend the tax returns for the LLC to accurately reflect the actual ownership and distributional interests of its members and to file corrected tax returns with the IRS. Mr. Ferderigos also respectfully asks this Honorable Court to require Plaintiff to pay for the entire cost of the incorrect tax returns he made the accountant prepare and which Plaintiff improperly filed on behalf of the LLC, over the objections of Mr. Ferderigos and the other LLC members.

D. LLC CHECKING ACCOUNT

In addition, Plaintiff has also restricted Mr. Ferderigos and the other LLC members from accessing the checking account for the LLC with First Citizens Bank and has refused to cooperate in providing access to all members. Soon after the LLC was started and without the knowledge of the other members, Plaintiff inappropriately opened the LLC's checking account at First Citizen's Bank as a sub-account for S&S Old Town, Incorporated,⁴ giving only himself complete legal access to the account.⁵ When the other members discovered this issue, Mr. Ferderigos and the other LLC members requested and then demanded to be provided full access to the First Citizens Bank LLC checking account in accordance with their rights under South

⁴ S&S Old Town, Incorporated, is a separate corporation in which Defendant Jacob Ferderigos and Plaintiff are shareholders. Mr. Ferderigos and Phillip Ferderigos do not have any relationship with this business entity.

⁵ Initially, Mr. Ferderigos and the other LLC members believed that Plaintiff had opened a proper LLC account with access to all members. For years, Plaintiff and Defendant Jacob Ferderigos cut checks from the LLC account and Defendant Jacob Ferderigos had electronic access to the account. However, Mr. Ferderigos and the other LLC members recently discovered that only Plaintiff has legal access to the LLC account, and Mr. Ferderigos and the other LLC members were denied access to the LLC account when they attempted to gain access to the LLC account.

Carolina law. See Exhibit 7, Letter from Dawes Cooke, dated June 15, 2016. Initially, Plaintiff informed Mr. Ferderigos and the other LLC members that they had full legal access to the First Citizens Bank LLC account he opened purportedly on behalf of the LLC and that they should contact his bank to get the access verified. See Exhibit 8, Text from Plaintiff, dated June 16, 2016. However, after it became clear the First Citizens Bank LLC account was incorrectly set up by Plaintiff, he refused to comply with the repeated requests from Mr. Ferderigos and the other LLC members to open an account with full access to all members. Incredibly, Plaintiff has now taken the position that Mr. Ferderigos and the other LLC members cannot “change” the account at this juncture and that they somehow gave up their rights to having full access to the LLC account (when they were unaware of what Plaintiff had done). See Exhibit 9, Texts from and to the Plaintiff and members where Plaintiff refuses to open account with full access to all members.

Specifically, once Mr. Ferderigos and the other LLC members discovered that they did not have full access to the First Citizens Bank LLC account, Plaintiff advised them to go to the bank (which Plaintiff unilaterally selected) to get access to the LLC checking account. However, Plaintiff’s bank informed Mr. Ferderigos and the other LLC members that a new account would need to be opened with a new signature card. The bank also required the LLC members pass the bank’s mandatory resolution which would have required Mr. Ferderigos and the other LLC members to give up their rights and to expressly endorse and consent to all prior actions that Plaintiff unilaterally and previously took on the checking account in order for the account to stay at that bank. As such, Plaintiff’s bank required Mr. Ferderigos and the other LLC members to ratify an LLC account Plaintiff unilaterally opened without their consent, as well as give Plaintiff enhanced rights to bind the LLC in other matters. See Exhibit 10, Letter from Dawes Cooke,

dated July 1, 2016. Further, Plaintiff's bank required Mr. Ferderigos and the other LLC members to execute documentation giving up their rights in other matters, as well as to ratify the Plaintiff's past wrongful actions in other matters. Because of the ongoing litigation between the parties, Mr. Ferderigos and the other LLC members could not and do not consent to any such resolution that Plaintiff's bank would require.

For this reason, Mr. Ferderigos and the other LLC members investigated checking accounts offered by other banks, and they found a general business account at Tidelands Bank. The representative at Tidelands Bank agreed to strike any offensive or prejudicial language toward any member from its resolution documents. Through the undersigned attorney, Mr. Ferderigos informed Plaintiff that all members needed access to the LLC checking account and that the Tidelands account offered this opportunity without restricting the rights of any party. Mr. Ferderigos requested that Plaintiff and his attorney review the Tidelands Bank documentation provided and then contact Tidelands Bank to provide any additional information required to open a checking account for the LLC where all members had access to the LLC account. See Exhibit 10, Letter of Dawes Cooke, dated July 1, 2016. When Plaintiff did not contact Tidelands Bank, Mr. Ferderigos again followed up with Plaintiff, through his attorney, about the issue. See Exhibit 11, Letter from Dawes Cooke, dated November 15, 2016. Mr. Ferderigos again received no response. Instead, Plaintiff has subsequently set forth excuse after excuse justifying his improper actions, instead of simply agreeing that all members are entitled to full legal access to the LLC account. See Exhibit 9, Texts between members, including Plaintiff refusing to close his unauthorized account or open a new account with full access to all members.

Plaintiff has violated and continues to violate the rights of Mr. Ferderigos and the other LLC members by failing to comply with the request to change checking accounts. Because

Plaintiff is only one member of a four member (member-managed) LLC, he cannot “freeze out” the other members from having full access to the LLC funds. Because the First Citizens Bank checking account unilaterally opened by Plaintiff purportedly on behalf of the LLC restricts all other members from access and Plaintiff refuses to correct the issue, Mr. Ferderigos respectfully asks this Honorable Court to order Plaintiff to immediately close the unauthorized account on behalf of the LLC at his bank (First Citizens Bank) and order that the LLC solely use the newly opened United Community Bank checking account for the LLC that has now been properly opened and passed by a majority of the membership vote for all LLC financial matters. Mr. Ferderigos further respectfully asks this Honorable Court to order Plaintiff to withdraw all funds from the unauthorized account at First Citizens Bank and deposit those funds in the LLC’s United Community Bank checking account, as has been voted upon and properly passed by a majority of the members of the LLC.

E. PLAINTIFF’S UNAUTHORIZED AND UNILATERAL STOPPING OF CHECKS AND IMPROPER UNILATERAL COMMUNICATIONS/ ORDERS TO PROPERTY MANAGER.

In line with the above, Plaintiff continues to make unilateral decisions without the consent of the other LLC members. For example, as a matter of policy, the property manager advised that it could/would no longer make direct deposits into any bank account, including the LLC account that Plaintiff had improperly opened.⁶ Instead, the property manager issued a check to Old Towne Suites, LLC. Having received the LLC’s check, Mr. Ferderigos again wrote Plaintiff on November 30, 2016, See Exhibit 12, Letter from Dawes Cooke, dated November 30, 2016, advising that the other LLC members were in possession of the LLC check and the need for the members to open up a new LLC account with full access to all members so the LLC

⁶ This is the same LLC account Mr. Ferderigos and the other LLC members have repeatedly asked Plaintiff to close for several months, but Plaintiff has refused to do so.

check could be deposited and profits distributed. Instead of responding, Plaintiff directly contacted the property manager, ordered the property manager to stop payment on the first LLC check, and directed him to re-issue a new check to the LLC. Plaintiff required the property manager to give the new check directly to him, and then Plaintiff deposited the LLC check in the unauthorized LLC account at First Citizens Bank. Plaintiff took all these actions unilaterally and without the knowledge of the other members. Plaintiff then texted one other member about what he had done. See Exhibit 13, Monday text at 11:21 from Plaintiff to Defendant Jacob Ferderigos.

Initially, Plaintiff violated his LLC duties as Mr. Ferderigos is the agreed upon contact for the property manager, not Plaintiff.⁷ Also, Plaintiff breached his LLC duties to the Defendants by taking such unilateral actions to begin with by, (1) contacting the property manager, (2) ordering the property manager to issue a stop payment on the LLC check in possession of Defendants without the consent or approval of Defendants, (3) ordering the property manager to deliver an LLC check directly to him without the consent or approval of Defendants, (4) and Plaintiff taking the LLC check and depositing it in the unauthorized account without the consent or approval of the Defendants.

F. PLAINTIFF'S UNILATERAL ACTIONS MUST CEASE.

In South Carolina, a member of a member-managed LLC has "equal rights in the management and conduct in the company's business," and except for certain circumstances, "any matter relating to the business of the company may be decided by a majority of the members." S.C. Code Ann. § 33-44-404. Plaintiff, who is only one member of a four member (member-managed) LLC, purposefully refuses to understand that he cannot take unilateral actions on

⁷ Plaintiff and Defendants unanimously voted and agreed that Mr. Ferderigos was the point of contact for the LLC with the property manager. See Exhibit 14, Text between members, dated August 15, 2016, where all members agreed Mr. Ferderigos to be the point of contact. Despite such unanimous vote of the LLC, Plaintiff continues to demand the property manager take actions contrary to the decisions of the LLC.

behalf of the LLC without the consent of the majority of the LLC membership. Plaintiff cannot take unilateral actions opposed by the other members just because he feels such actions to be “business as usual” or he deems such actions to be “necessary” or he deems such action an “emergency.” Attached as Exhibit 15 are texts concerning the on-going business decisions of the LLC. A review of the emails reveals Plaintiff brazenly takes (and threatens to take) unilateral actions, failing to obtain the required consent of the majority of the LLC members (i.e., the other members/Defendants) before he does whatever he feels like doing. The following is an example of Plaintiff’s mentality when it comes to his constantly violating the rights of Mr. Ferderigos and the other LLC members:

Spiro cell: Athan, you are a single member in a four member LLC. You have no right to do anything without the prior knowledge of all members and prior approval of the majority of the members. Again, if you notice something needs attention, simply send a text to this text chain and we can both (I and I’m sure the other members) will do the same. It’s a simple text. Now I am done talking about this. You are (again) on notice.

Phillip cell: I agree and concur with Spiro...

843-813-5612 [Plaintiff Athan cell]: I am 50% owner and you guys are all 16%. If you start pulling your weight in checking on things that would be great but if a light bulb is out and you want approval to change it then maybe you need to take a 101 Business course to enlighten yourself. I think it is your fiduciary duty as owner to check on things?

Spiro cell: Athan, check the LLC statute. You cannot do anything without the prior knowledge and approval as set forth above. Neither can I. You are on notice again that everything needs the prior knowledge of all members and the prior approval of the majority of the membership interest. 50% does not get there. Again, I look forward to your text and the texts of the other members about what needs to be voted on for the Suites. I will do the same. I am not going to engage in conversation about how you feel the LLC obligations should be vs what they are by law. I expect the next text to be about a Suites decision that needs to be voted on. Thank you.

.....

Spiro cell: Athan our texts crossed...are you asking to do a vote on whether any individual member can make up to a \$25 expenditure for an emergency situation that arises for the LLC so long as notice of that expenditure is immediately given in this text chain?

843-813-5612 [Plaintiff Athan cell]: No I'm not asking for a vote. That has been standard practice for many years now and I expect it to continue until we have a sit down to iron out any details that need changing.

Spiro cell: I expect you to follow the law and the LLC statute. I have never agreed to you making any such expenditure. There is no such "standard practice" that I have been made aware of or ever agreed to. You are restricted from doing so unless we vote on it and agree. Things will be done correctly. The answer to your question then is no until a vote says otherwise.

843-813-5612 [Plaintiff Athan cell]: Our operating agreement does not state that we have to approve expenses this way so I'm going to continue as business as usual until we have a sit down and make changes in our owners meeting.

Phillip cell: I agree with Spiro and, as I've indicated, I am not going to have "sitdown" at this time. We have this text chain so we can have votes on matters that need to be voted upon. If Athan is not asking for a vote, then that is fine.

There is no standard practice or "business as usual" that I have ever been notified of or agreed to... The LLC statute is incorporated into the operating agreement as a matter of law and every member is on notice that each member must comply with the LLC statutes and respect the rights of all members in the LLC. If any member makes any unauthorized expenditure at all, without the majority vote of the LLC membership, such member would be violating the statute and thereby violating the rights of the other members.

Spiro cell: Athan, then you are on notice that you are violating your duties to me and you are liable for violating those duties. I do not consent to you doing anything without a majority approval. The LLC statute is clear that "to the extent the operating agreement does not otherwise provide, this chapter governs relations among members" ... The statute is crystal clear that any matter relating to the business requires a majority of the members.

Phillip cell: I agree with Spiro and, as I've indicated, I am not going to have "sitdown" at this time. We have this text chain so we can have votes on matters that need to be voted upon. If Athan is not asking for a vote, then that is fine.

There is no standard practice or "business as usual" that I have ever been notified of or agreed to... The LLC statute is incorporated into the operating agreement as a matter of law and every member is on notice that each member must comply

with the LLC statutes and respect the rights of all members in the LLC. If any member makes any unauthorized expenditure at all, without the majority vote of the LLC membership, such member would be violating the statute and thereby violating the rights of the other members.

843-813-5612 [Plaintiff Athan cell]: The statute states I can demand a managing member meeting and am therefore putting you all on notice. When are you guys available this week or next week for that meeting? We can meet in the back dining room of Old Towne.

Spiro cell: Athan, read it again. We are a member-managed LLC, not a manager-member LLC first of all. I have reviewed the statute and it specifically says in section 33-44-404 that members do not have to have a meeting to take action, but does require the majority vote of members for all actions, with the exception of certain actions that require the unanimous consent of all members. All of that is listed in the section I cited above. If you believe the statute gives you a right to force an in person member meeting then give me a cite to that right. You are again on notice that I am requiring you to follow the law and respect my rights as a member of the LLC. As you have not asked for a vote and have not received a majority consent, you are forbidden from doing anything until that vote goes through. I suggest you follow the law and ask for a vote to see if everyone is in agreement instead of trying to play games. Let me know when you want to vote.

.

843-813-5612 [Plaintiff Athan cell]: The air conditioning in the suites was not working properly and our guests were complaining last weekend and this week. Our repair guy Bill with McGomery repair worked on them for the last couple of days and received a check for \$447.00. He said the living room units in both A and B do not keep up and we may have to add a separate unit for the minisplit for the living rooms in near future.

Spiro cell: A couple of things. The property manager needs to inform all of the members of any problems with the suites. Not just you. He has been informed of this previously.

Second, you can not go in and spend LLC funds and do anything regarding the LLC without the prior consent from the majority of the members. You did not notify anyone, did not receive the required consent, and apparently wrote an LLC check without authorization. According to your text you have known about this for approximately a week.

Whether you like it or not you are one member for four and can not just do whatever you want. You are again put on notice that you can't do anything with the LLC without the majority consent of its members. We have already set up a

**Common Pleas
Julie Armstrong
Charleston County Judicial Center
Charleston, SC 29401**

Date: 2/24/2016
Transaction Number: 1
Clerk: Julie Armstrong
Received By: cocsmc

Received From: FERDERIGOS, Iakovos

Paying For: Iakovos FERDERIGOS

Payment Type: CK

Payment Amount: \$ 5,000.00

Reference Number: 6512

Case #

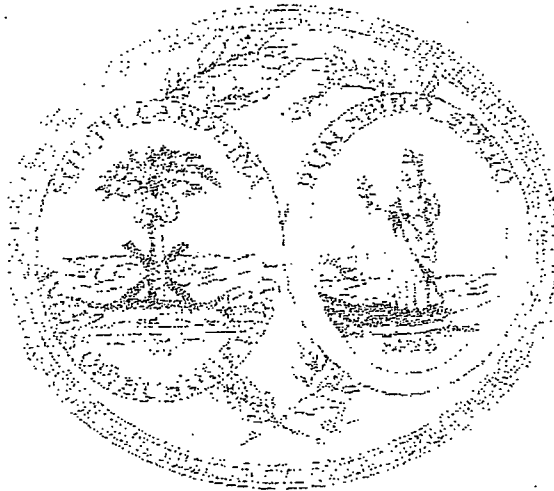
2015CP1005610

Caption

Iakovos Ferderigos , plaintiff, et al VS Athan
Fokas

Amount Paid

\$ 5,000.00



STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

IN THE COURT OF COMMON PLEAS
IN THE NINTH JUDICIAL CIRCUIT
C/A NO. 2015-CP-10-5610

S&S OLD TOWN INCORPORATED,
BY AND THROUGH ITS
SHAREHOLDER, IAKOVOS
FERDERIGOS AND IAKOVOS
FERDERIGOS, INDIVIDUCALLY,

Plaintiffs,

vs.

ATHAN FOKAS,

Defendant.

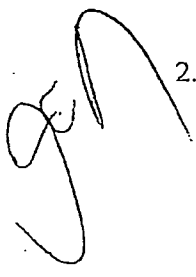
CONTEMPT ORDER

FILED
2016 SEP 29 PM 4:43
JULIE J. ARMS-TRONG
CLERK OF COURT

On August 1, 2016, this matter came before the undersigned for a hearing on various motions, including Plaintiff's Motion and Petition for a Rule to Show Cause, Contempt Against Defendant dated March 11, 2016 and Supplemental Motion and Petition for a Rule to Show Cause, Contempt Against Defendant dated June 6, 2016.

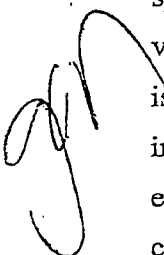
On February 22, 2016, the undersigned issued an Order granting the Plaintiffs' request for preliminary injunction restraining Defendant from commingling his side business projects with S&S Old Towne Incorporated (hereinafter Old Towne Restaurant or corporation). Specifically, the Court ordered that Defendant is "strictly restrained from and enjoined from commingling his Zeus business ... and/or any of Defendant's other side projects with S & S Old Town Incorporation (hereinafter Old Towne Restaurant) in any way whatsoever." The Court further ordered that "[t]his includes, but is not limited to, the following ... [c]ommingling, borrowing, trading, swapping and/or selling any inventory and/or resources between Old Towne Restaurant and Zeus (and/or any of Defendant's other side projects); and "[w]riting checks ... from Old Towne Restaurant's checking account and/or withdrawing funds from Old Towne Restaurant for anything related to Zeus (and/or any of Defendant's other side projects)." The Court further ordered that "any orders ... using Old Towne Restaurant resources shall be ordered directly by the customer from Old Towne Restaurant and shall

solely be Old Towne Restaurant's business." The following is a summary of the evidence that Plaintiffs presented during the hearing in support of their motions for contempt:

- 
1. A surveillance videotape recorded on April 8, 2016 clearly shows that Defendant intentionally and willfully violated this Court's Preliminary Injunction Order by taking the corporation's inventory from the corporation's vegetable cooler to be used for his side project catering event at the Volvo Car Open (formerly known as Family Circle Cup). The video shows Defendant entering the corporation in the early morning hours prior to the restaurant opening for business. Next, Defendant is shown entering the corporation's stock room with the lights turned on and walking around the stock room obviously looking for an item. Defendant then walked back to the stock room door entrance, turned off the lights to the stock room in an obvious attempt to hide his contemptuous actions, and picked up what is clearly an open, empty inventory box with one hand. With the empty inventory box dangling to his side, the video shows Defendant as he walked back through the stock room in darkness, entered the corporation's vegetable cooler for a period of time, and exited with the same box now obviously weighted and closed with the product/inventory that he took out the vegetable cooler belonging to the corporation. As he exited the restaurant, Defendant is further clearly shown as he bent down with both knees and two hands to put down the heavy box to turn the corporation's alarm on, and then, repeated that lifting motion with both knees and two hands to pick up the heavy box containing the corporation's inventory, and Defendant thereafter removed the box from the restaurant.
 2. Defendants' explanation of the video is not credible. Defendant claims that he entered the corporation that morning to obtain an empty box to use for his side catering project, but he alleges that he simply swapped out one of his smaller empty boxes for a bigger empty box belonging to the corporation to store spices for his side project catering event. The video surveillance, however, *unequivocally* shows that Defendant took a loaded box from the corporation's vegetable cooler, not just an empty box. The corporation's surveillance video captured the entire event despite Defendant's attempts to mask his contemptuous behavior by turning off the lights before going back through the stock room and taking the corporation's inventory for his own personal use and own pecuniary gain.
 3. On or about March 16, 2016, Defendant also intentionally and willfully, in violation of the Court's Preliminary Injunction Order, commingled the corporation's assets with another of his side projects (Old Towne Suites, LLC) by writing a check from the corporation's checking account to pay for preparation and filing of Old Towne Suites, LLC 2015 Tax Return.
 4. Furthermore, on March 24, 2016, Defendant took an order from a customer for thirty-six (36) orders of Baklava and fifteen (15) orders of Pita Bread. In willful violation of the Court's Preliminary Injunction Order, Defendant did not have the customer contact the corporation directly for the order. Then, to compound the violation, Defendant sold the corporation's order/inventory to the customer for a significantly reduced price below the menu costs for the items. Specifically, the Defendant allegedly had the corporation charge him directly twenty-six dollars and fifty-eight cents (\$26.58) for the corporation's

inventory that would have cost the customer two hundred and twenty-nine dollars and twenty-three cents (\$229.23). Defendant then had the customer come to the corporation to pick up her order later that afternoon. Accordingly, in addition to violating the clear Order of the Court by not having the customer contact the corporation directly for orders as required by the preliminary injunction, Defendant further cost the corporation in excess of \$200 in profits for his willful violation of this Court's Order.

The power to punish for contempt is inherent in all courts. Its existence is essential to the preservation of order in judicial proceedings, and to the enforcement of the judgments, orders and writs of the court, and consequently to the due administration of justice. Contempt results from the willful disobedience of an order of the court, and, before a person may be held in contempt, the record must be clear and specific as to the acts or conduct upon which such finding is based. *See Harris-Jenkins v. Nissan Car Mart, Inc.*, 348 S.C. 171, 557 S.E.2d 708, (Ct. App. 2001). Additionally, in a civil contempt proceeding, a contemnor may be required to reimburse a complainant for the costs he incurred in enforcing the court's prior order, including reasonable attorney's fees. *Id.* at 712.

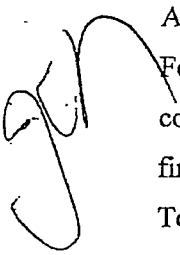


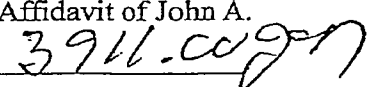
Based upon the evidence summarized above, I find that Plaintiffs have presented clear and specific evidence, and I hereby find that Defendant, Athan Fokas, intentionally and willfully violated the Court's Preliminary Injunction Order filed on February 22, 2016, and that Defendant is in willful civil contempt of court. The letter and the spirit of the Order granting the preliminary injunction was to make it clear that Defendant cannot use the corporation and its assets (facilities, equipment, inventory or personnel, etc.) for his personal benefit or anything other than for the corporation.

I find that the most willful blatant violation of the Court's Preliminary Injunction Order occurred on April 8, 2016. I find that the videotape recorded on that day clearly shows, as set forth above, Defendant entering the corporation's vegetable cooler with an empty box, but the box was clearly not empty when he exited the cooler. Furthermore, I find that Defendant deliberately attempted to conceal his activities by turning off the lights in the stock room before entering the cooler, which shows that he was aware that he was improperly removing inventory from the corporation to use for his side project. I assign a value of seventy-five dollars (\$75) to the inventory that Defendant improperly removed from the corporation to use for his own personal benefit.

Also, I find that Defendant is in willful violation of the Court's Preliminary Injunction Order by using the corporation's checking account and funds to pay three hundred dollars (\$300.00) to file tax returns for his side project Old Town Suites, LLC, which is a company separate and apart from the corporation. Although I find that there is no current monetary loss to the Plaintiffs for this willful violation because the corporation has been reimbursed the funds that Defendant inappropriately removed from the corporation's checking account, I find that Defendant is in clear and willful violation of the Court's Preliminary Injunction Order by commingling the corporation with one of his side projects and using the corporation's checking account for a company other than the corporation.

I further find Defendant willfully violated the Court's Preliminary Injunction Order when he sold the corporation's products, Baklava and Pita, at a significantly reduced price and in a manner restricted by the preliminary injunction as set forth above. Based on the evidence submitted, I find that Defendants' selling of those products at a significantly reduced price and in a manner restricted by the preliminary injunction resulted in a loss to the corporation in the amount of two hundred and twenty-nine dollars and twenty-five cents (\$229.25).

 I find that the record is clear and specific as to the contemptuous behaviors of Defendant, Athan Fokas, and that Defendant is in willful contempt of this court. As a sanction for Athan Fokas' willful, multiple violations of the preliminary injunction, I find Athan Fokas in willful civil contempt of this court and fine him one thousand dollars (\$1,000.00). Athan Fokas can purge the fine by paying three hundred and four dollars and twenty-five cents (\$304.25) directly to S&S Old Towne Incorporated within fifteen (15) days of the date of this Order. Athan Fokas shall provide written proof of this payment to Plaintiff's counsel within fifteen (15) days of the date of this Order.

Additionally, I find that Plaintiffs are entitled to an award of reasonable attorney's fees and costs for filing the motions that are the subject of this Order. Based upon the Affidavit of John A. Massalon, I find that Plaintiffs are entitled to recover fees in the amount of \$ 3911.00  Athan Fokas shall pay this award of attorney's fees, in full, within fifteen days (15) of the date of this order directly to Plaintiffs' attorney.

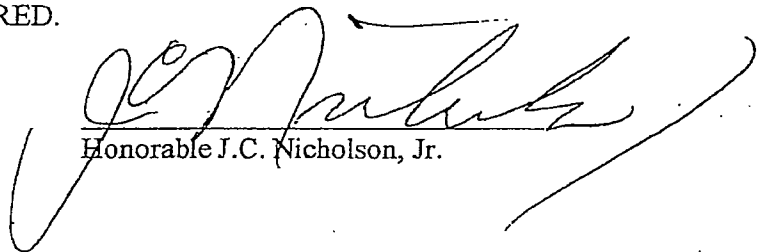
For the reasons set forth above, it is

ORDERED, that Plaintiffs' Motion and Petition For a Rule to Show Cause, Contempt Against Defendant dated March 11, 2016 and Supplemental Motion and Petition For a Rule to Show Cause, Contempt Against Defendant dated June 6, 2016 are granted. It is

FURTHER ORDERED, that Athan Fokas is hereby held in civil contempt of court. As a sanction for Athan Fokas' willful, multiple violations of the preliminary injunction, I find Athan Fokas in willful civil contempt of this court and fine him one thousand dollars (\$1,000.00). Mr. Fokas can purge the one thousand dollar (\$1,000.00) fine by paying three hundred and four dollars and twenty-five cents (\$304.25) directly to S&S Old Towne Incorporated within fifteen (15) days of the date of this Order. Athan Fokas shall provide written proof of this payment to Plaintiffs' counsel within fifteen (15) days of the date of this order. It is

FURTHER ORDERED, that Plaintiffs are entitled to, and hereby awarded, reasonable attorney's fees in the amount of \$ 3911.00 for costs Plaintiffs incurred in forcing Defendant to obey the Court's Order(s). Athan Fokas shall pay this award of attorney's fees, in full, within fifteen days (15) of the date of this order directly to Plaintiffs' attorney.

AND IT IS SO ORDERED.


Honorable J.C. Nicholson, Jr.

Charleston, SC
September 28, 2016

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

IN THE COURT OF COMMON PLEAS
IN THE NINTH JUDICIAL CIRCUIT
C/A NO. 2015-CP-10-5610

S&S OLD TOWN INCORPORATED,
BY AND THROUGH ITS
SHAREHOLDER, IAKOVOS
FERDERIGOS AND IAKOVOS
FERDERIGOS, INDIVIDUCALLY,

Plaintiffs,

vs.

ATHAN FOKAS,

Defendant.

**ORDER GRANTING PLAINTIFFS'
MOTION TO AMEND 2015
TAX RETURNS**

FILED
2016 SEP 29 PM 4:40
JULIE A. ARMSTRONG
CLERK OF COURT

On August 1, 2016, this matter came before the undersigned for a hearing on various motions, including Plaintiffs' Motion to Amend 2015 Tax Returns filed June 6, 2016. In support of this motion, Plaintiffs provided the Court with a copy of the 2015 U.S. Income Tax Return for an S Corporation (Form 1120S) that were submitted to the Department of the Treasury without the consent of the Plaintiff Iakovos Ferderigos. Form 1125-E titled "Compensation of Officers" and the Schedule K-1 attached to that tax return indicate that Athan Fokas and Spiros Fokas each owned 25% of the common stock of S&S Old Town Incorporated during the 2015 tax year. In pleadings and other documents filed in this lawsuit, Defendant has represented to the Court that he was an employee of the corporation and did not own any stock in S&S Old Town Incorporated until April 21, 2016, when Spiros Fokas conveyed 25% of the common stock to Defendant Athan Fokas. Additionally, the 2015 tax returns for S&S Old Town Incorporated indicate that Spiros Fokas is the President of S&S Old Town Incorporated, but all of the copies of the tax returns filed in prior years presented to the Court do not list Spiros Fokas as President of the corporation.

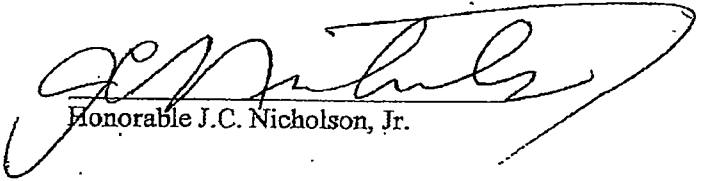


Based upon the pleadings and other evidence of record, Plaintiffs' Motion to Amend Corporate 2015 Tax Returns, the memoranda and the other documents filed with the Court, and the arguments of counsel, I find that the 2015 tax returns for S&S Old Town Incorporated should be amended as set forth in Plaintiffs' Motion to Amend Corporate 2015 Tax Returns filed on June 6, 2016. Accordingly, it is

ORDERED, that the Plaintiffs' Motion to Amend Corporate 2015 Tax Returns filed June 6, 2016 is hereby granted and Plaintiff Iakovos Ferderigos is hereby granted leave to amend S&S Old Town Incorporated's 2015 corporate tax returns as set forth in Plaintiffs' Motion to Amend

Corporate 2015 Tax Returns filed on June 6, 2016.

AND IT IS SO ORDERED.


Honorable J.C. Nicholson, Jr.

Charleston, SC
September 28, 2016

Form

1065**U.S. Return of Partnership Income****2015**Department of the Treasury
Internal Revenue Service

For calendar year 2015, or tax year beg. _____, 2015, ending _____, 20____.

Information about Form 1065 and its separate instructions is at www.irs.gov/form1065.

A Principal business activity REAL ESTATE	Type or Print	Name of partnership OLD TOWNE SUITES LLC	D Employer identification no. [REDACTED]
B Principal product or service RENTALS		Number, street, and room or suite no. If a P.O. box, see the instructions. 229 KING STREET	E Date business started 12/13/2011
C Business code number [REDACTED]		City or town, state or province, county, and ZIP or foreign postal code CHARLESTON SC 29401-	F Total assets (see the instr.) \$ 167,144.

G Check applicable boxes: (1) ☐ Initial return (2) ☐ Final return (3) ☐ Name change (4) ☐ Address change (5) ☐ Amended return
(6) ☐ Technical termination - also check (1) or (2)

H Check accounting method: (1) ☒ Cash (2) ☐ Accrual (3) ☐ Other (specify) _____

I Number of Schedules K-1. Attach one for each person who was a partner at any time during the tax year _____ 5

J Check if Schedules C and M-3 are attached _____ ☐

Caution. Include only trade or business income and expenses on lines 1a through 22 below. See the instructions for more information.

Income	1a	Gross receipts or sales	
	1b	Returns and allowances	
	1c	Balance. Subtract line 1b from line 1a	
	2	Cost of goods sold (attach Form 1125-A)	
	3	Gross profit. Subtract line 2 from line 1c	
	4	Ordinary income (loss) from other partnerships, estates, and trusts (attach statement)	
	5	Net farm profit (loss) (attach Schedule F (Form 1040))	
	6	Net gain (loss) from Form 4797, Part II, line 17 (attach Form 4797)	
Deductions (see the instructions for limitations)	7	Other income (loss) (attach statement)	
	8	Total income (loss). Combine lines 3 through 7	
	9	Salaries and wages (other than to partners) (less employment credits)	
	10	Guaranteed payments to partners	
	11	Repairs and maintenance	
	12	Bad debts	
	13	Rent	
	14	Taxes and licenses	
	15	Interest	
	16a	Depreciation (if required, attach Form 4562)	
	16b	Less depreciation reported on Form 1125-A and elsewhere on return	
	16c		
	17	Depletion (Do not deduct oil and gas depletion.)	
	18	Retirement plans, etc.	
	19	Employee benefit programs	
	20	Other deductions (attach statement)	
21	Total deductions. Add the amounts shown in the far right column for lines 9 through 20		
22	Ordinary business income (loss). Subtract line 21 from line 8		

Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct, and complete. Declaration of preparer (other than general partner or limited liability company member manager) is based on all information of which preparer has any knowledge.

Sign Here Signature of general partner or limited liability co. member manager _____ Date _____

May the IRS discuss this return with the preparer shown below (see instructions)? ☐ Yes ☒ No

Paid	Print/Type preparer's name JOHN A ROE	Preparer's signature JOHN A ROE	Date 03/23/2016	Check self-employed ☐ PTIN [REDACTED]
Preparer Use Only	Firm's name PINNACLE 1 DOWNTOWN TAX SERVICE	Firm's EIN [REDACTED]	Phone no. 843-722-3222	
	Firm's address 216 SPRING ST CHARLESTON SC 29403-			

For Paperwork Reduction Act Notice, see separate instructions.

Form **1065** (2015)

Schedule B Other Information

1 What type of entity is filing this return? Check the applicable box:				Yes	No
a	☐ Domestic general partnership	b	☐ Domestic limited partnership		
c	☒ Domestic limited liability company	d	☐ Domestic limited liability partnership		
e	☐ Foreign partnership	f	☐ Other ▶		
2 At any time during the tax year, was any partner in the partnership a disregarded entity, a partnership (including an entity treated as a partnership), a trust, an S corporation, an estate (other than an estate of a deceased partner), or a nominee or similar person?					X
3 At the end of the tax year:					
a Did any foreign or domestic corporation, partnership (including any entity treated as a partnership), trust, or tax-exempt organization, or any foreign government own, directly or indirectly, an interest of 50% or more in the profit, loss, or capital of the partnership? For rules of constructive ownership, see instructions. If "Yes," attach Schedule B-1, Information on Partners Owning 50% or More of the Partnership					X
b Did any individual or estate own, directly or indirectly, an interest of 50% or more in the profit, loss, or capital of the partnership? For rules of constructive ownership, see instructions. If "Yes," attach Schedule B-1, Information on Partners Owning 50% or More of the Partnership				X	
4 At the end of the tax year, did the partnership:					
a Own directly 20% or more, or own, directly or indirectly, 50% or more of the total voting power of all classes of stock entitled to vote of any foreign or domestic corporation? For rules of constructive ownership, see instructions. If "Yes," complete (i) through (iv) below					X
(i) Name of Corporation		(ii) Employer Identification Number (if any)	(iii) Country of Incorporation	(iv) Percentage Owned in Voting Stock	
				0.000	
				0.000	
				0.000	
				0.000	
				0.000	
b Own directly an interest of 20% or more, or own, directly or indirectly, an interest of 50% or more in the profit, loss, or capital in any foreign or domestic partnership (including an entity treated as a partnership) or in the beneficial interest of a trust? For rules of constructive ownership, see instructions. If "Yes," complete (i) through (v) below					X
(i) Name of Entity		(ii) Employer Identification Number (if any)	(iii) Type of Entity	(iv) Country of Organization	(v) Maximum Percentage Owned in Profit, Loss, or Capital
					0.000
					0.000
					0.000
					0.000
					0.000
5 Did the partnership file Form 8893, Election of Partnership Level Tax Treatment, or an election statement under section 6231(a)(1)(B)(ii) for partnership-level tax treatment, that is in effect for this tax year? See Form 8893 for more details					X
6 Does the partnership satisfy all four of the following conditions?					
a The partnership's total receipts for the tax year were less than \$250,000.					
b The partnership's total assets at the end of the tax year were less than \$1 million.					
c Schedules K-1 are filed with the return and furnished to the partners on or before the due date (including extensions) for the partnership return.				X	
d The partnership is not filing and is not required to file Schedule M-3 If "Yes," the partnership is not required to complete Schedules L, M-1, and M-2; Item F on page 1 of Form 1065; or Item L on Schedule K-1.					X
7 Is this partnership a publicly traded partnership as defined in section 469(k)(2)?					X
8 During the tax year, did the partnership have any debt that was cancelled, was forgiven, or had the terms modified so as to reduce the principal amount of the debt?					X
9 Has this partnership filed, or is it required to file, Form 8918, Material Advisor Disclosure Statement, to provide information on any reportable transaction?					X
10 At any time during calendar year 2015, did the partnership have an interest in or a signature or other authority over a financial account in a foreign country (such as a bank account, securities account, or other financial account)? See the instructions for exceptions and filing requirements for FinCEN Form 114, Report of Foreign Bank and Financial Accounts (FBAR). If "Yes," enter the name of the foreign country. ▶					X

Schedule B Other Information (continued)

	Yes	No
11 At any time during the tax year, did the partnership receive a distribution from, or was it the grantor of, or transferor to, a foreign trust? If "Yes," the partnership may have to file Form 3520, Annual Return To Report Transactions With Foreign Trusts and Receipt of Certain Foreign Gifts. See instructions		X
12a Is the partnership making, or had it previously made (and not revoked), a section 754 election? See instructions for details regarding a section 754 election.		X
b Did the partnership make for this tax year an optional basis adjustment under section 743(b) or 734(b)? If "Yes," attach a statement showing the computation and allocation of the basis adjustment. See instructions		X
c Is the partnership required to adjust the basis of partnership assets under section 743(b) or 734(b) because of a substantial built-in loss (as defined under section 743(d)) or substantial basis reduction (as defined under section 734(d))? If "Yes," attach a statement showing the computation and allocation of the basis adjustment. See instructions		X
13 Check this box if, during the current or prior tax year, the partnership distributed any property received in a like-kind exchange or contributed such property to another entity (other than disregarded entities wholly owned by the partnership throughout the tax year) ☐		
14 At any time during the tax year, did the partnership distribute to any partner a tenancy-in-common or other undivided interest in partnership property?		X
15 If the partnership is required to file Form 8858, Information Return of U.S. Persons With Respect To Foreign Disregarded Entities, enter the number of Forms 8858 attached. See instructions ▶ 0		
16 Does the partnership have any foreign partners? If "Yes," enter the number of Forms 8805, Foreign Partner's Information Statement of Section 1446 Withholding Tax, filed for this partnership. ▶ 0		X
17 Enter the number of Forms 8865, Return of U.S. Persons With Respect to Certain Foreign Partnerships, attached to this return. ▶ 0		
18a Did you make any payments in 2015 that would require you to file Form(s) 1099? See instructions		X
b If "Yes," did you or will you file all required Form(s) 1099?		
19 Enter the number of Form(s) 5471, Information Return of U.S. Persons With Respect To Certain Foreign Corporations, attached to this return. ▶ 0		
20 Enter the number of partners that are foreign governments under section 892. ▶ 0		

Designation of Tax Matters Partner (see Instructions)

Enter below the general partner or member-manager designated as the tax matters partner (TMP) for the tax year of this return:

Name of designated TMP ▶	ATHAN FOKAS	Identifying number of TMP ▶	[REDACTED]
If the TMP is an entity, name of TMP representative ▶		Phone number of TMP ▶	843-813-5612
Address of designated TMP ▶	229 KING STREET CHARLESTON SC 29401-		

Form 1065 (2015)

Schedule K Partners' Distributive Share Items		Total amount
Income (Loss)	1 Ordinary business income (loss) (page 1, line 22)	1
	2 Net rental real estate income (loss) (attach Form 8825)	2
	3a Other gross rental income (loss)	3a
	b Expenses from other rental activities (attach statement)	3b
	c Other net rental income (loss). Subtract line 3b from line 3a	3c
	4 Guaranteed payments	4
	5 Interest income	5
	6 Dividends: a Ordinary dividends	6a
	b Qualified dividends	6b
	7 Royalties	7
	8 Net short-term capital gain (loss) (attach Schedule D (Form 1065))	8
Deductions	9a Net long-term capital gain (loss) (attach Schedule D (Form 1065))	9a
	b Collectibles (28%) gain (loss)	9b
	c Unrecaptured section 1250 gain (attach statement)	9c
	10 Net section 1231 gain (loss) (attach Form 4797)	10
	11 Other Income (loss) (see inst.) Type ▶	11
	12 Section 179 deduction (attach Form 4562)	12
	13a Contributions	13a
	b Investment interest expense	13b
	c Section 59(e)(2) expenditures: (1) Type ▶ (2) Amount ▶	13c(2)
	d Other deductions (see instr.) Type ▶	13d
	Self-Employment	14a Net earnings (loss) from self-employment
b Gross farming or fishing income		14b
c Gross nonfarm income		14c
Credits	15a Low-income housing credit (section 42(j)(5))	15a
	b Low-income housing credit (other)	15b
	c Qualified rehabilitation expenditures (rental real estate) (attach Form 3468, if applicable)	15c
	d Other rental real estate credits (see instructions) Type ▶	15d
	e Other rental credits (see instructions) Type ▶	15e
	f Other credits (see instructions) Type ▶	15f
Foreign Transactions	16a Name of country or U.S. possession ▶	16a
	b Gross income from all sources	16b
	c Gross income sourced at partner level	16c
	Foreign gross income sourced at partnership level	
	d Passive category ▶ e General category ▶ f Other ▶	16f
	Deductions allocated and apportioned at partner level	
	g Interest expense ▶ h Other ▶	16h
	Deductions allocated and apportioned at partnership level to foreign source income	
	i Passive category ▶ j General category ▶ k Other ▶	16k
	l Total foreign taxes (check one): Paid ☐ Accrued ☐	16l
	m Reduction in taxes available for credit (attach statement)	16m
Alternative Minimum Tax (AMT) Items	n Other foreign tax information (attach statement)	
	17a Post-1986 depreciation adjustment	17a
	b Adjusted gain or loss	17b
	c Depletion (other than oil and gas)	17c
	d Oil, gas, and geothermal properties - gross income	17d
	e Oil, gas, and geothermal properties - deductions	17e
Other Information	f Other AMT items (attach statement)	17f
	18a Tax-exempt interest income	18a
	b Other tax-exempt income	18b
	c Nondeductible expenses	18c
	19a Distributions of cash and marketable securities	19a
	b Distributions of other property	19b
	20a Investment income	20a
b Investment expenses	20b	
c Other items and amounts (attach statement)		

Analysis of Net Income (Loss)

1 Net income (loss). Combine Schedule K, lines 1 through 11. From the result, subtract the sum of Schedule K, lines 12 through 13d, and 16l 1 150,561.

2 Analysis by partner type:	(i) Corporate	(ii) Individual (active)	(iii) Individual (passive)	(iv) Partnership	(v) Exempt organization	(vi) Nominee/ Other
a General partners		150,561.				
b Limited partners						

Schedule L Balance Sheets per Books		Beginning of tax year		End of tax year	
		(a)	(b)	(c)	(d)
Assets					
1 Cash			2,273.		6,534.
2a Trade notes and accounts receivable					
b Less allowance for bad debts					
3 Inventories					
4 U.S. government obligations					
5 Tax-exempt securities					
6 Other current assets (attach statement)					
7a Loans to partners (or persons related to partners)					
b Mortgage and real estate loans					
8 Other investments (attach statement)				200,409.	
9a Buildings and other depreciable assets		200,409.	125,344.	89,431.	110,978.
b Less accumulated depreciation		75,065.			
10a Depletable assets					
b Less accumulated depletion					
11 Land (net of any amortization)				56,814.	
12a Intangible assets (amortizable only)		53,814.	50,387.	7,182.	49,632.
b Less accumulated amortization		3,427.			
13 Other assets (attach statement)			178,004.		167,144.
14 Total assets					
Liabilities and Capital					
15 Accounts payable			35,492.		1,200.
16 Mortgages, notes, bonds payable in less than 1 year					
17 Other current liabilities (attach statement)					
18 All nonrecourse loans					
19a Loans from partners (or persons related to partners)					
b Mortgages, notes, bonds payable in 1 year or more					
20 Other liabilities (attach statement)			142,512.		165,944.
21 Partners' capital accounts			178,004.		167,144.
22 Total liabilities and capital					

Schedule M-1 Reconciliation of Income (Loss) per Books With Income (Loss) per Return

Note. The partnership may be required to file Schedule M-3 (see instructions).

1 Net income (loss) per books	150,561.	6 Income recorded on books this year not included on Schedule K, lines 1 through 11 (itemize):	
2 Income included on Schedule K, lines 1, 2, 3c, 5, 6a, 7, 8, 9a, 10, and 11, not recorded on books this year (itemize):		a Tax-exempt interest \$	
3 Guaranteed payments (other than health ins.)		7 Deductions included on Schedule K, lines 1 through 13d, and 16l, not charged against book income this year (itemize):	
4 Expenses recorded on books this year not included on Schedule K, lines 1 through 13d, and 16l (itemize):		a Depreciation \$	
a Depreciation \$		8 Add lines 6 and 7	
b Travel & entertainment \$		9 Income (loss) (Analysis of Net Income (Loss), line 1). Subtract line 8 from line 5	150,561.
5 Add lines 1 through 4	150,561.		

Schedule M-2 Analysis of Partners' Capital Accounts

1 Balance at beginning of year	142,512.	6 Distributions: a Cash	127,129.
2 Capital contributed: a Cash		b Property	
b Property		7 Other decreases (itemize):	
3 Net income (loss) per books	150,561.	8 Add lines 6 and 7	127,129.
4 Other increases (itemize):		9 Balance at end of year. Subtract line 8 from line 5	165,944.
5 Add lines 1 through 4	293,073.		

Schedule K-1
(Form 1065)
Department of the Treasury
Internal Revenue Service

For calendar year 2015, or tax

year beginning JAN 01, 2015
ending DEC 31, 2015

2015☐ Final K-1☐ Amended K-1

OMB No. 1545-0123

Partner's Share of Income, Deductions, Credits, etc. ▶ See back of form and separate instructions.

Part I Information About the Partnership

A Partnership's employer identification number

B Partnership's name, address, city, state, and ZIP code
OLD TOWNE SUITES LLC**229 KING STREET
CHARLESTON SC 29401-**C IRS Center where partnership filed return
E-FILED ☐ Check if this is a publicly traded partnership (PTP)**Part II Information About the Partner**

E Partner's identifying number

F Partner's name, address, city, state, and ZIP code
ATHAN FOKAS**229 KING STREET
CHARLESTON SC 29401-**G ☒ General partner or LLC member-manager ☐ Limited partner or other LLC memberH ☒ Domestic partner ☐ Foreign partnerI What type of entity is this partner? **INDIVIDUAL**J If this partner is a retirement plan (IRA/SEP/Keogh/etc.), check here ☐

J Partner's share of profit, loss, and capital (see instructions):

	Beginning	Ending
Profit	50.000 %	25.000 %
Loss	50.000 %	50.000 %
Capital	50.000 %	50.000 %

K Partner's share of liabilities at year end:

Nonrecourse \$
Qualified nonrecourse financing \$
Recourse \$

L Partner's capital account analysis:

Beginning capital account \$ **63,667.**
Capital contributed during the year \$
Current year increase (decrease) \$ **37,743.**
Withdrawals & distributions \$ **(31,783.)**
Ending capital account \$ **69,627.**

☒ Tax basis ☐ GAAP ☐ Section 704(b) book
☐ Other (explain)

M Did the partner contribute property with a built-in gain or loss?

☐ Yes ☒ No

If "Yes," attach statement (see instructions)

Part III Partner's Share of Current Year Income, Deductions, Credits, and Other Items

1	Ordinary business income (loss)	15	Credits
2	Net rental real estate income (loss) 37,743.		
3	Other net rental income (loss)	16	Foreign transactions
4	Guaranteed payments		
5	Interest income		
6a	Ordinary dividends		
6b	Qualified dividends		
7	Royalties		
8	Net short-term capital gain (loss)		
9a	Net long-term capital gain (loss)	17	Alternative minimum tax (AMT) items
9b	Collectibles (28%) gain (loss)		
9c	Unrecaptured section 1250 gain		
10	Net section 1231 gain (loss)	18	Tax-exempt income and nondeductible expenses
11	Other income (loss)		
12	Section 179 deduction	19	Distributions A 31,783.
13	Other deductions	20	Other Information
14	Self-employment earnings (loss)		

*See attached statement for additional information.

For IRS Use Only

Partner: ATHAN FOKAS

25.000

%

ID:

10a	Unrecaptured section 1250 gain for lines 10 and 11b		
11a	Other portfolio income (loss)		
b	Involuntary conversions		
(1)	Form 4684 at 28% rate		
c	1256 contracts and straddles		
d	Mining exploration costs recapture		
e	Cancellation of debt		
f	Other income (loss)		
(1)	Type and amount		
(2)	PTP income from other partnerships		
12a	Section 179 deduction for ordinary income or loss		
b	Section 179 deduction for rental real estate income or loss		
13	Other deductions		
a	Cash contributions - 50%		n Educational assistance benefits
b	Cash contributions - 30%		o Dependent care benefits
c	Noncash contributions - 50%		p Preproductive period expenses
d	Noncash contributions - 30%		q Commercial revitalization deduction from rental real estate
e	Cap. gain property to a 50% org. - 30%		r Pensions and IRAs
f	Capital gain property - 20%		s Reforestation expense deduction
g	Contributions - 100%		t Domestic production activities information
h	Investment interest expense		u Qualified production activities income
i	Deductions - royalty income		Qualified production activities income (oil related)
j	Section 59(e)(2) expenditures		v Employer's Form W-2 wages
k	Deductions - portfolio - 2% floor		w Penalty on early withdrawal of savings
l	Deductions - portfolio - other		(1) Form 4684, line 32
m	Amounts paid for medical insurance		(2) Other type and amount
14a	Net earnings (loss) from self-employment		
b	Gross farming or fishing income		
c	Gross nonfarm income		
15	Credits and credit recapture		
a	Low-income housing credit - section 42(j)(5), Form 8586 - pre-2008 buildings		
b	Low-income housing credit - other, Form 8586 - pre-2008 buildings		
c	Low-income housing credit - section 42(j)(5), Form 8586 - post-2007 buildings		
d	Low-income housing credit - other, Form 8588 - post-2007 buildings		
e	Qualified rehabilitation expenditures - rental real estate		
f	Other rental real estate credits		
g	Other rental credits		
h	Undistributed capital gains credit		
i	Alcohol and cellulosic biofuel fuels credit		
j	Work opportunity credit		
k	Disabled access credit		
l	Empowerment zone and renewal community employment credit		
m	Credit for increasing research activities		
n	Credit for employer social security and Medicare taxes		
o	Backup withholding		
p	Other credits - see information below		
	Form 3468, line 11m, credit from an electing large partnership		
	Form 3468, lines 9 and 13, credit from cooperatives		
RESERVED		Form 8881	
Form 8820		Form 8882	
RESERVED		Reserved	
Form 8835, Part I		Form 8908	
Form 8835, Part II		Form 8910	
Form 8845		Form 8936	
Form 8874		Form 8941	
		Other credits	

Partner: ATHAN FOKAS

25,000 % ID: [REDACTED]

16 a	Name of foreign country or U.S. possession	
b	Gross income from all sources	
c	Gross income sourced at partner level	
	Foreign gross income sourced at partnership level	
d	Passive	
e	General limitation	
f	Other	
	Deductions allocated and apportioned at partner level	
g	Interest expense	
h	Other	
	Deductions allocated and apportioned at partnership level to foreign source income	
i	Passive	
j	General limitation	
k	Other	
	Other information	
l	Total foreign taxes paid	
m	Total foreign taxes accrued	
n	Reduction in taxes available for credit	
o	Foreign trading gross receipts	
p	Extraterritorial income exclusion	
q	Other foreign transactions	
17 a	Post-1986 depreciation adjustment	
	Ordinary income	Rental
b	Adjusted gain or loss	
	Ordinary income	Rental
c	Depletion other than oil and gas	
d	Oil, gas, and geothermal properties - gross income	
e	Oil, gas, and geothermal properties - deductions	
f	Other AMT items. Pre-1987 depreciation adjustment included in line 17f	
	Ordinary income	Rental
	Other - type	Amount
18 a	Tax-exempt interest income	
b	Other tax-exempt income	
c	Nondeductible expenses	31,783.
19 a	Distributions of cash and marketable securities	
b	Distribution subject to section 737	
c	Distributions of other property	
20 a	Investment income	l Dispositions of property with section 179 deductions
b	Investment expenses	m Recapture of section 179 deduction
c	Fuel tax credit information	n Interest expense for corporate partners
d	Qualified rehabilitation expenses, other than rental real estate	o Section 453(l)(3) information
e	Basis of energy property	p Section 453A(c) information
f	Recapture of low-income housing credit, section 42(f)(5) applies	q Section 1260(b) information
g	Recapture of low-income housing credit - other	r Interest allocable to production expenditures
h	Recapture of investment credit	s CCF nonqualified withdrawal
i	Recapture of other credits	t Information needed to figure depletion - oil and gas
j	Look-back interest - completed long-term contracts	u Amortization of reforestation cost
k	Look-back interest - income forecast method	v Unrelated business taxable income
		w Precontribution gain (loss)
		x Section 108(f) information
		y Net investment income
		z Other information

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Partner: ATHAN FOKAS

25.000 % ID: [REDACTED]

20 Other information

a
b
c
d
e
f
g
h

Supplemental information for page 2, lines 20d and 20e

20d Qualified rehabilitation expenses, other than rental real estate

Rehabilitation credit (Part III)

Form 3468, line 11e, qualified expenditures ...

Form 3468, line 11f, qualified expenditures ...

Form 3468, line 11g, qualified expenditures ...

Form 3468, line 11h, qualified expenditures ...

Form 3468, line 11i, qualified expenditures ...

Form 3468, line 11j, qualified expenditures ...

Qualifying advanced energy project credit

Form 3468, line 7, qualified expenditures ...

Qualifying therapeutic discovery project credit

Form 3468, line 8, qualified expenditures ...

Energy credit (Part III)

Form 3468, line 12a, qualified expenditures ...

Form 3468, line 12b, qualified expenditures ...

Form 3468, line 12c, qualified expenditures ...

Form 3468, line 12d, kilowatt capacity ...

Form 3468, line 12f, qualified expenditures ...

Form 3468, line 12g, kilowatt capacity ...

Form 3468, line 12i, qualified expenditures ...

Form 3468, line 12j, kilowatt capacity ...

Form 3468, line 12l, qualified expenditures ...

Form 3468, line 12o, qualified expenditures ...

Form 3468, line 12q, qualified expenditures ...

Form 3468, line 12r, qualified expenditures ...

Form 3468, line 12s, qualified expenditures ...

20e Basis of energy property

Qualifying advanced coal project credit

Form 3468, line 5a, qualified expenditures ...

Form 3468, line 5b, qualified expenditures ...

Form 3468, line 5c, qualified expenditures ...

Qualifying gasification project credit

Form 3468, line 6a, qualified expenditures ...

Form 3468, line 6b, qualified expenditures ...

Amount

Compute partner's interest?

☒ Yes☐ No

A Beginning balance

B Partner's contributions

C Increase in share of partnership liabilities

D Ordinary income

E Separately stated income

F Subtotal

G Distributions

H Decrease in share of partnership liabilities

I Ordinary loss

J Separately stated losses and deductions

K Nondeductible expenses

L Other adjustments

M Ending balance

37,743.

37,743.

31,783.

5,960.

1 Ordinary business income (loss). You must determine

whether the income (loss) is passive or nonpassive. Then enter on
your return as follows:

Passive loss

Passive income

Nonpassive loss

Nonpassive income

Enter on

See the Partner's Instr.

Sch. E, line 28, column (g)

Sch. E, line 28, column (h)

Sch. E, line 28, column (i)

2 Net rental real estate income (loss)

3 Other net rental income (loss)

Net income

Net loss

Sch. E, line 28, column (g)

See the Partner's Instr.

Sch. E, line 28, column (j)

4 Guaranteed payments

5 Interest income

6a Ordinary dividends

6b Qualified dividends

7 Royalties

8 Net short-term capital gain (loss)

9a Net long-term capital gain (loss)

9b Collectibles (28%) gain (loss)

9c Unrecaptured section 1250 gain

10 Net section 1231 gain (loss)

Enter on

Form 1040, line 8a

Form 1040, line 9a

Form 1040, line 9b

Schedule E, line 4

Sch. D, line 5, column (f)

Sch. D, line 12, column (f)

28% Rate Gain Worksheet,

line 4 (Sch. D instructions)

See the Partner's Instr.

See the Partner's Instr.

US1065K4

Schedule K-1
(Form 1065)
Department of the Treasury
Internal Revenue Service

For calendar year 2015, or tax
year beginning JAN 01, 2015
ending DEC 31, 2015

2015

☐ Final K-1☐ Amended K-1

OMB No. 1545-0123

Partner's Share of Income, Deductions, Credits, etc.

▶ See back of form and separate instructions.

Part I Information About the Partnership

A Partnership's employer identification number

B Partnership's name, address, city, state, and ZIP code
OLD TOWNE SUITES LLC229 KING STREET
CHARLESTON SC 29401-C IRS Center where partnership filed return
E-FILED ☐ Check if this is a publicly traded partnership (PTP)

Part II Information About the Partner

E Partner's identifying number

F Partner's name, address, city, state, and ZIP code
Iakovos Ferderigos229 KING STREET
CHARLESTON SC 29401-G ☒ General partner or LLC member-manager ☐ Limited partner or other LLC memberH ☒ Domestic partner ☐ Foreign partnerI1 What type of entity is this partner? **INDIVIDUAL**I2 If this partner is a retirement plan (IRA/SEP/Keogh/etc.), check here ☐

J Partner's share of profit, loss, and capital (see instructions):

	Beginning	Ending
Profit	20.065 %	16.667 %
Loss	16.668 %	16.667 %
Capital	16.667 %	16.667 %

K Partner's share of liabilities at year end:

Nonrecourse \$
Qualified nonrecourse financing \$
Recourse \$

L Partner's capital account analysis:

Beginning capital account \$ 26,281.
Capital contributed during the year \$
Current year increase (decrease) \$ 25,108.
Withdrawals & distributions \$ (21,188.)
Ending capital account \$ 30,201.

☒ Tax basis ☐ GAAP ☐ Section 704(b) book
☐ Other (explain)

M Did the partner contribute property with a built-in gain or loss?

☐ Yes ☒ No

If "Yes," attach statement (see instructions)

Part III Partner's Share of Current Year Income, Deductions, Credits, and Other Items

1	Ordinary business income (loss)	15	Credits
2	Net rental real estate income (loss) 25,108.		
3	Other net rental income (loss)	16	Foreign transactions
4	Guaranteed payments		
5	Interest income		
6a	Ordinary dividends		
6b	Qualified dividends		
7	Royalties		
8	Net short-term capital gain (loss)		
9a	Net long-term capital gain (loss)	17	Alternative minimum tax (AMT) items
9b	Collectibles (28%) gain (loss)		
9c	Unrecaptured section 1250 gain		
10	Net section 1231 gain (loss)	18	Tax-exempt income and nondeductible expenses
11	Other income (loss)		
12	Section 179 deduction	19	Distributions A 21,188.
13	Other deductions		
		20	Other Information
14	Self-employment earnings (loss)		

*See attached statement for additional information.

For IRS Use Only

Partner: IAKOVOS FERDERIGOS		16.667 %	ID: [REDACTED]
10a	Unrecaptured section 1250 gain for lines 10 and 11b		
11a	Other portfolio income (loss)		
b	Involuntary conversions		
(1)	Form 4684 at 28% rate		
c	1256 contracts and straddles		
d	Mining exploration costs recapture		
e	Cancellation of debt		
f	Other income (loss)		
(1)	Type and amount		
(2)	PTP income from other partnerships		
12a	Section 179 deduction for ordinary income or loss		
b	Section 179 deduction for rental real estate income or loss		
13	Other deductions		
a	Cash contributions - 50%		n Educational assistance benefits
b	Cash contributions - 30%		o Dependent care benefits
c	Noncash contributions - 50%		p Preproductive period expenses
d	Noncash contributions - 30%		q Commercial revitalization deduction from rental real estate
e	Cap. gain property to a 50% org. - 30%		r Pensions and IRAs
f	Capital gain property - 20%		s Reforestation expense deduction
g	Contributions - 100%		t Domestic production activities information
h	Investment interest expense		u Qualified production activities income
i	Deductions - royalty income		Qualified production activities income (oil related)
j	Section 59(e)(2) expenditures		v Employer's Form W-2 wages
k	Deductions - portfolio - 2% floor		w Penalty on early withdrawal of savings
l	Deductions - portfolio - other		(1) Form 4684, line 32
m	Amounts paid for medical insurance		(2) Other. Type and amount
14a	Net earnings (loss) from self-employment		
b	Gross farming or fishing income		
c	Gross nonfarm income		
15	Credits and credit recapture		
a	Low-income housing credit - section 42(j)(5), Form 8586 - pre-2008 buildings		
b	Low-income housing credit - other, Form 8586 - pre-2008 buildings		
c	Low-income housing credit - section 42(j)(5), Form 8586 - post-2007 buildings		
d	Low-income housing credit - other, Form 8588 - post-2007 buildings		
e	Qualified rehabilitation expenditures - rental real estate		
f	Other rental real estate credits		
g	Other rental credits		
h	Undistributed capital gains credit		
i	Alcohol and cellulosic biofuel fuels credit		
j	Work opportunity credit		
k	Disabled access credit		
l	Empowerment zone and renewal community employment credit		
m	Credit for increasing research activities		
n	Credit for employer social security and Medicare taxes		
o	Backup withholding		
p	Other credits - see information below		
	Form 3468, line 11m, credit from an electing large partnership		
	Form 3468, lines 9 and 13, credit from cooperatives		
RESERVED		Form 8881	
Form 8820		Form 8882	
RESERVED		Reserved	
Form 8835, Part I		Form 8908	
Form 8835, Part II		Form 8910	
Form 8845		Form 8936	
Form 8874		Form 8941	
		Other credits	

Partner: IAKOVOS FERDERIGOS

16.667 % ID: [REDACTED]

16 a	Name of foreign country or U.S. possession	
b	Gross income from all sources	
c	Gross income sourced at partner level	
	Foreign gross income sourced at partnership level	
d	Passive	
e	General limitation	
f	Other	
	Deductions allocated and apportioned at partner level	
g	Interest expense	
h	Other	
	Deductions allocated and apportioned at partnership level to foreign source income	
i	Passive	
j	General limitation	
k	Other	
	Other information	
l	Total foreign taxes paid	
m	Total foreign taxes accrued	
n	Reduction in taxes available for credit	
o	Foreign trading gross receipts	
p	Extraterritorial income exclusion	
q	Other foreign transactions	
17 a	Post-1986 depreciation adjustment	
	Ordinary income	Rental
b	Adjusted gain or loss	
	Ordinary income	Rental
c	Depletion other than oil and gas	
d	Oil, gas, and geothermal properties - gross income	
e	Oil, gas, and geothermal properties - deductions	
f	Other AMT items. Pre-1987 depreciation adjustment included in line 17f	
	Ordinary income	Rental
	Other - type	Amount
18 a	Tax-exempt interest income	
b	Other tax-exempt income	
c	Nondeductible expenses	21,188.
19 a	Distributions of cash and marketable securities	
b	Distribution subject to section 737	
c	Distributions of other property	
20 a	Investment income	
b	Investment expenses	
c	Fuel tax credit information	
d	Qualified rehabilitation expenses, other than rental real estate	
e	Basis of energy property	
f	Recapture of low-income housing credit, section 42(j)(5) applies	
g	Recapture of low-income housing credit - other	
h	Recapture of investment credit	
i	Recapture of other credits	
j	Look-back interest - completed long-term contracts	
k	Look-back interest - income forecast method	
l	Dispositions of property with section 179 deductions	
m	Recapture of section 179 deduction	
n	Interest expense for corporate partners	
o	Section 453(l)(3) information	
p	Section 453A(c) information	
q	Section 1260(b) information	
r	Interest allocable to production expenditures	
s	CCF nonqualified withdrawal	
t	Information needed to figure depletion - oil and gas	
u	Amortization of reforestation cost	
v	Unrelated business taxable income	
w	Precontribution gain (loss)	
x	Section 108(f) information	
y	Net investment income	
z	Other information	

US1065K3

protocol to give/receive consent via text just like we did for the shower issues and electric issues.

843-813-5612 [Plaintiff Athan cell]: The property manager did call and said guests were complaining. The problem is urgent and needs to be addressed quickly. Bill from Montgomery repair is the only one who has worked on those units so he has the knowledge to work on them. The units needed Freon and needed to be cycled down and restarted.

Spiro cell: This does not absolve you of your obligation to give me the required notice and to obtain the required consent, which you intentionally failed to do. The LLC is not just yours, but mine and the other members as well. The shower was urgent as well and I had it fixed the same day by texting everyone in advance and receiving the required consent in advance. The rules must be followed and any member that fails to do so will be held accountable.

843-813-5612 [Plaintiff Athan cell]: We have nothing in writing that agrees to any of what you state. And it was never agreed on that we will use this thread so it will continue to be business as usual since we started in 2011. I was simply informing you of the expense that was necessary.

Spiro cell: You are in violation of the statute and my rights! You are to do nothing without the required statutory consent. We are an LLC and the SC statute governs the requirements of the members. We have been over this before in repeated communications and I am not going to keep repeating myself. I will hold you accountable for your violations against me as you are brazenly violating the LLC laws which are there to protect all members of the LLC. When you are in an LLC with others, you can't just do what you want.

Phillip: Athan, like Spiro said, you are one member of four and can not just do whatever you want. You are again put on notice that you can't do anything with the LLC without the majority consent of its members.

843-813-5612 [Plaintiff Athan cell]: I don't think anyone can disagree that the units needed to be checked since customers were complaining. You can call Kevin High and ask him about the incident. I think what you are really trying to do here is find some reason to file a lawsuit against me as an extension of the new suites lawsuit that were all agreed on to build. Good luck trying to do that over batteries that needed to be changed out in smoke alarms and air conditioning that needs to be looked at for not working properly. You are creating much humor in the lawyer/paralegal/court reporter/ and all affiliated with these legal proceedings community.

Spiro cell: This may be a joke to you, but it is not a joke to me. Trampling on the rights of your fellow members may be a joke to you, but it is not to me. The LLC

is not your playground to do whatever you want without the consent of the other members. I have a large investment in the LLC and my rights will be respected. I am not going back and forth with you. You will be hearing from my counsel.

843-813-5612 [Plaintiff Athan cell]: No jury will believe that it is not necessary to do those emergency things.

Spiro cell: Athan, you are in an LLC with three other members. You must receive the required consent from the other members before you can do anything regarding the LLC. Just like with the shower emergency that occurred and I fixed the same day, while at the same time meeting the required prior consent of the members. The rules apply to you just like everyone else.

843-813-5612 [Plaintiff Athan cell]: Since 2011 we have been fixing things when they are broken. We did not have a detailed operating agreement then and we don't now. To be in business we have to continue to fix something when it is broken. We will continue to use the repair guys that we have used in the past. Nothing has change with our operation and it will continue the same. Keep starting frivolous law suits and see where that gets you.

Spiro cell: Unbelievable...you give me no choice but to seek court intervention.

843-813-5612 [Plaintiff Athan cell]: If you like we can sign a contract with our management company to take care of all our needs and they can take it out of the rental income. That might be easier since we don't keep funds in the checking account.

Spiro cell: Athan, the statute is very clear about what our responsibilities are. I have no interest in giving up my right as an LLC member to be notified of issues occurring in my LLC, nor do I have any interest in giving up my right to require that my consent be required regarding anything be done regarding my LLC. It's really simple, there are four members and before anything can be done the required member consent is required. You may not like being in a membership with others, but you are and you are required to follow the law and not trample on the other members rights.

.....

Spiro cell: Athan, as we have made clear in prior written communications, any expense for the LLC needs to be paid directly from the LLC account, not one member advancing the expense and being reimbursed. Jacob, Phillip and I do not agree to any of us paying for LLC expenses and then being reimbursed for costs. Everything for the LLC will be clear, transparent, and easily traceable. We will authorize your reimbursement this one time, but not again. We appreciate you going to make the repair instead of us calling out a plumber, however, expenses

for the LLC are to be paid directly by the LLC, not advanced by a member and that member being reimbursed by the LLC.

843-813-5612 [Plaintiff Athan cell]: I saw a reimbursement check written out to Spiro and I'm not holding the checkbook this quarter - Jacob is. There is no this one time!!! Would you like me to get a debit card for the account that drafts out of the checking account. If I'm not holding the checkbook while there is an issue then I'll just have to get reimbursed just like Spiro did for his expense. If anything, my three repairs now have saved us over \$250.00! As you may be fully aware, any expenses that are necessary to let the suites operate business as usual can always be reimbursed without the consent of the other owners. This includes light bulbs, toilet flappers, air conditioner breaking down ect.

Spiro cell: We reject what you are saying and do not consent to it. Athan, we have been through this before and I referred you to the statute that makes it clear that you need the consent of the majority of members to do such things. In some instances, you need the unanimous consent of the members. Text me the authority that says that in a member run LLC a member can do things without the consent of the other members for such things. There is no such authority. We are a member managed LLC, not a manager managed LLC. You do not have the consent to do anything with the LLC without the required consent of the other members. You are on notice that you are violating your duties to the members of the LLC and we will hold you accountable. You cannot just do whatever you want. This is a one-time allowance and we will not allow it or reimburse you again. You are on notice that we are not reimbursing you again, so don't pay any expenses for the LLC and expect to be reimbursed because you will not be.

As for the debit card, I have repeatedly sent your attorney a letter to have an appropriate new account opened that is accessible to all members. This is because you, without our permission, opened an unauthorized LLC account that only you have access to. The rest of the members are completely closed out. I sent another letter out earlier this week putting you on notice that I will be filing a motion for the Court to force you to open an account that is accessible to all members with no improper strings attached. I have found such an account at Tideland's but you, thus far, have refused to cooperate. You are not the only member of the LLC. There are other members with rights and since you only have 50 percent interest in the LLC, you need consent from the other members. You are on notice.

As for me being reimbursed for something, I have no idea what you are talking about or the context of what any such reimbursement was in. What I can tell you is that you do not have the consent of the other members to pay for LLC expenses and then be reimbursed by the LLC. That convolutes expenses in a manner that the other members are not willing to consent to.

843-813-5612 [Plaintiff Athan cell]: Well then you need to be enlightened! No owner can stop another owner from taking care of the necessities to keep a business operating as usual and that owner will be reimbursed for his expense. Look it up brother and you will be enlightened!

[Emphasis added]

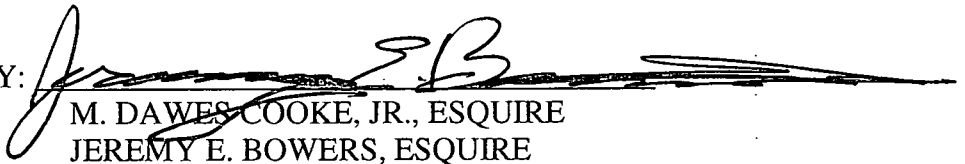
Plaintiff is only one member in a four member (member-managed) LLC. Pursuant to the LLC statute [Section 33-44-404 (a)], each members has equal rights and any matter relating to the business of the company requires a majority of the members, except those matters specifically listed in the statute that require unanimous consent of the members. As such, Plaintiff needs the consent of the majority of members (i.e., three out of the four members of the LLC) before he can make any decision on behalf of the LLC. Pursuant to the LLC statute, Plaintiff cannot take unilateral actions and make decisions he prefers because he claims it to be an emergency, necessary, or business as usual. Mr. Ferderigos requests the Court admonish Plaintiff as to what his obligations are in an LLC and to issue an Order, with contempt powers of the Court, restraining Plaintiff from violating the rights of Mr. Ferderigos and the other LLC members by taking unilateral and unauthorized actions.

G. CONCLUSION

Mr. Ferderigos bases this Motion to Amend Tax Returns and Change Checking Account and for Restraining Order upon the pleadings, deposition testimony, affidavits, any documents in the court file, the applicable law, and any memorandum of law to be submitted to the Court. Mr. Ferderigos also requests the Court issue an Order with the contempt powers of the Court so that Plaintiff can be restrained if he continues to ignore the rights of the other members of the LLC. Up until the filing of this Motion, Plaintiff continues to delay and attempt to excuse his actions. See Exhibit 16, Emails between Barnett, Plaintiff's counsel and Farrier, Defendant Phillip Ferderigos' counsel. However, as LLC members, Mr. Ferderigos and the other LLC members

have a right to have correct tax returns filed with the IRS and have a right to full access to the LLC checking account and no self-serving, self-declared "practice" or "business as usual" excuse by Plaintiff can take or has taken their rights away. Mr. Ferderigos asks the Court to protect his rights against the ongoing actions by Plaintiff as set forth herein, and for any other remedy the Court deems just and proper, and for an award of attorneys' fees for Plaintiff for the necessity of bringing this motion.

BARNWELL WHALEY PATTERSON & HELMS, LLC

BY: 

M. DAWES COOKE, JR., ESQUIRE
JEREMY E. BOWERS, ESQUIRE
288 Meeting Street, Suite #200 (29401)
Post Office Drawer H
Charleston, South Carolina 29402-0197
PHONE: (843) 577-7700
FACSIMILE: (843) 577-7708

ATTORNEYS FOR THE DEFENDANT SPIROS FERDERIGOS

February 16, 2017
Charleston, South Carolina

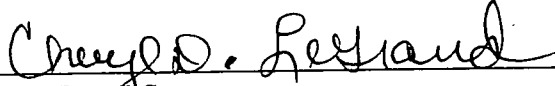
CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Amended Notice of Motion and Motion to Amend Tax Return and Change Checking Account and for Restraining Order on behalf of the Defendant, SPIROS FERDERIGOS, has been served via U.S. Mail, on this 16th day of February, 2017, to counsel of record as follows:

Stanley E. Barnett, Esquire
305 North Civitas Street
Mt. Pleasant, SC 29464

Richard A. Farrier, Jr., Esquire
Jennifer H. Thiem, Esquire
K&L Gates, LLP
134 Meeting Street, Suite #500
Charleston, SC 29401

John A. Massalon, Esquire
I. Ryan Neville, Esquire
Wills Massalon & Allen, LLC
P.O. Box 859
Charleston, SC 29402



Legal Secretary

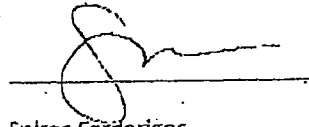
Operating Agreement for Old Towne Suites, LLC

This operating agreement confirms the members and interest of each member in Old Towne Suites, LLC and those members and interest are as follows:

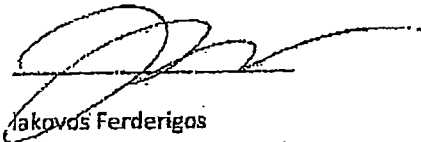
- (1) Athan Fokas is a member and has fifty (50) percent interest in Old Towne Suites, LLC.
- (2) Iakovos Ferderigos, Phillip Ferderigos and Spiros Ferderigos are members and have an equally combined fifty (50) percent interest in Old Towne Suites, LLC.



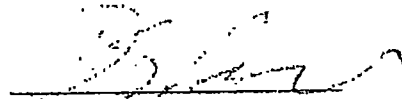
Athan Fokas



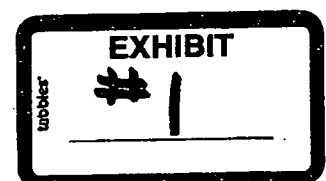
Spiros Ferderigos



Iakovos Ferderigos



Phillip Ferderigos



IN THE COURT OF COMMON PLEAS
IN THE NINTH JUDICIAL CIRCUIT
CASE NO.: 2015-CP-10-5610

Plaintiffs,

V.

ATHAN FOKAS,

Defendant.

ORDER GRANTING
PLAINTIFFS' REQUEST FOR
PRELIMINARY INJUNCTION

FILE
2016 FEB 22 AM 9:55
JULIE J. ARISTRONG
CLERK OF COURT

Having reviewed and considered all of the documents filed with and presented to the Court, the arguments of counsel, and the rules and laws of the State of South Carolina, I hereby find an irreparable injury to Plaintiffs, a likelihood of success on the merits by Plaintiffs, and no adequate remedy at law in accordance with Rule 65 of the Rules of Civil Procedure.

I hereby find an irreparable injury, loss, or damage will result if an injunction is not granted and that it is necessary to issue an injunction as requested by Plaintiffs to protect against the loss of rights to manage and control the Plaintiffs' business operations; breaches of corporate governance; the loss of profit and business opportunities; dilution, destruction, and/or loss of irreplaceable corporate assets; an inability to respond to an emerging and new market; loss of confidence and trust of customers, loss of goodwill, and loss of business reputation; threat of office and business stability; physical destruction of perishable assets; and/or present economic loss, which is unascertainable at this time, and future economic loss, which is presently incalculable. I further find that the relative harm to the Defendant by the granting of this motion is minor, whereas the on-going and continued harm to the Plaintiffs is much greater, and the injunction is necessary to protect the rights of the Plaintiffs during this pending litigation.

Having found that the Plaintiffs established that they would suffer an irreparable harm; that there is an inadequate legal remedy; and that they will likely succeed on the merits of the litigation, I hereby ORDER that Defendant, Athan Fokas, is hereby strictly restrained from and enjoined from commingling his Zeus business (also commonly referred to as Zeus Grill and Seafood, Inc.) (hereinafter "Zeus") and/or any of Defendant's other side projects with S & S Old Town Incorporated (hereinafter Old Towne Restaurant) in any way whatsoever. This includes, but is not limited to, the following:



- 
- a. Selling Zeus (and/or any of Defendant's other side projects) left-over cooked and/or uncooked food and/or inventory to Old Towne Restaurant;
 - b. Writing checks to himself and/or Zeus (and/or checks for Defendant's Zeus and/or other side projects) from Old Towne Restaurant's checking account and/or withdrawing funds from Old Towne Restaurant for anything related to Zeus (and/or any of Defendant's other side projects);
 - c. Storing and/or sending Zeus (and/or any of Defendant's other side projects) inventory to Old Towne Restaurant to be stored (accordingly, only Old Towne Restaurant inventory is to be stored at Old Towne Restaurant);
 - d. Cooking Zeus (and/or any of Defendant's other side projects) orders at Old Towne Restaurant;
 - e. Obtaining orders from Zeus (and/or any of Defendant's other side projects) phone numbers or other means of contact for Zeus (and/or any of Defendant's other side projects) and having Old Towne Restaurant cook the food for those orders (accordingly, any orders cooked at Old Towne Restaurant or using Old Towne Restaurant resources shall be ordered directly by the customer from Old Towne Restaurant and shall solely be Old Towne Restaurant's business);
 - f. Having Old Towne Restaurant employees, on Old Towne Restaurant's payroll, cook Zeus (and/or any of Defendant's other side projects) orders at Old Towne Restaurant;
 - g. Paying Old Towne Restaurant employees, both "on the clock" and/or "off the clock," to cook food at Old Towne Restaurant during business hours and/or before/after business hours for Zeus (and/or any of Defendant's other side projects);
 - h. Contract with a potential customer who was in communication with Old Towne Restaurant and from whom he became aware entirely by reason of his management role at Old Towne Restaurant. Nothing herein shall prevent Athan Fokas from contacting a person who was discussing doing business with Old Towne Restaurant, but who had ceased such negotiations and from entering into a contract with such person for the business that had been the subject of the negotiations with Old Towne Restaurant.
 - i. Creating customer confusion to the detriment of Plaintiffs' Iakovos Ferderigos and Old Towne Restaurant.
 - j. Commingling, borrowing, trading, swapping, and/or selling any inventory and/or resources between Old Towne Restaurant and Zeus (and/or any of Defendant's

other side projects). This includes, but is not limited to, any commingling of inventory as previously described by Defendant in his alleged "owe sheets";

- k. Using Old Towne Restaurant to subsidize Zeus (and/or any of Defendant's other side projects) in any way whatsoever;

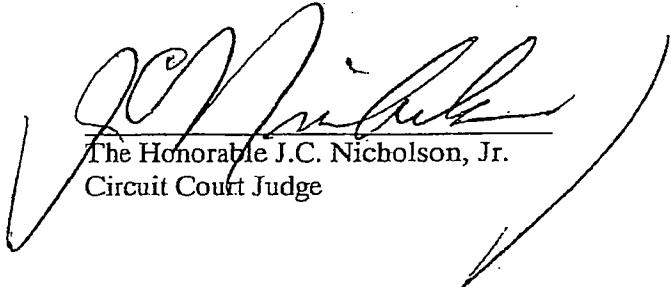
IT IS FURTHER ORDERED that this Preliminary Injunction shall take effect immediately and shall remain in effect pending trial in this action or further Order of this Court.

IT IS FURTHER ORDERED that the Plaintiffs are directed to file proof of bond, in the amount of Five Thousand Dollars (\$5,000.00) within seven days of this Order. The bond shall serve as security for all claims with respect to this Preliminary Injunction, and any additional injunctive relief ordered by the Court in this action. The injunction is not in effect until the bond is posted.

IT IS FURTHER ORDERED that failure to comply with this Order shall subject the violator to the Contempt Powers of this Court.

IT IS SO ORDERED!

2/19/16
Charleston, South Carolina


The Honorable J.C. Nicholson, Jr.
Circuit Court Judge

Partner: IAKOVOS FERDERIGOS

16.667 % ID: [REDACTED]

20 Other information

a	
b	
c	
d	
e	
f	
g	
h	

Supplemental information for page 2, lines 20d and 20e

20d Qualified rehabilitation expenses, other than rental real estate

Rehabilitation credit (Part II)

Form 3468, line 11e, qualified expenditures ...

Form 3468, line 11f, qualified expenditures ...

Form 3468, line 11g, qualified expenditures ...

Form 3468, line 11h, qualified expenditures ...

Form 3468, line 11i, qualified expenditures ...

Form 3468, line 11j, qualified expenditures ...

Qualifying advanced energy project credit

Form 3468, line 7, qualified expenditures ...

Qualifying therapeutic discovery project credit

Form 3468, line 8, qualified expenditures ...

Energy credit (Part III)

Form 3468, line 12a, qualified expenditures ...

Form 3468, line 12b, qualified expenditures ...

Form 3468, line 12c, qualified expenditures ...

Form 3468, line 12d, kilowatt capacity ...

Form 3468, line 12f, qualified expenditures ...

Form 3468, line 12g, kilowatt capacity ...

Form 3468, line 12i, qualified expenditures ...

Form 3468, line 12j, kilowatt capacity ...

Form 3468, line 12l, qualified expenditures ...

Form 3468, line 12o, qualified expenditures ...

Form 3468, line 12q, qualified expenditures ...

Form 3468, line 12r, qualified expenditures ...

Form 3468, line 12s, qualified expenditures ...

20e Basis of energy property

Qualifying advanced coal project credit

Form 3468, line 5a, qualified expenditures ...

Form 3468, line 5b, qualified expenditures ...

Form 3468, line 5c, qualified expenditures ...

Qualifying gasification project credit

Form 3468, line 6a, qualified expenditures ...

Form 3468, line 6b, qualified expenditures ...

Amount

Compute partner's interest?

☒ Yes☐ No

A	Beginning balance	
B	Partner's contributions	
C	Increase in share of partnership liabilities	
D	Ordinary income	25,108.
E	Separately stated income	25,108.
F	Subtotal	21,188.
G	Distributions	
H	Decrease in share of partnership liabilities	
I	Ordinary loss	
J	Separately stated losses and deductions	
K	Nondeductible expenses	
L	Other adjustments	3,920.
M	Ending balance	

1 Ordinary business income (loss). You must determine

whether the income (loss) is passive or nonpassive. Then enter on your return as follows:

Passive loss	Enter on
Passive income	See the Partner's Instr.
Nonpassive loss	Sch. E, line 28, column (g)
Nonpassive income	Sch. E, line 28, column (h)
	Sch. E, line 28, column (i)

2 Net rental real estate income (loss)

3 Other net rental income (loss)

Net income	Sch. E, line 28, column (g)
Net loss	See the Partner's Instr.

4 Guaranteed payments

Sch. E, line 28, column (j)

5 Interest income

6a Ordinary dividends

6b Qualified dividends

7 Royalties

8 Net short-term capital gain (loss)

9a Net long-term capital gain (loss)

9b Collectibles (28%) gain (loss)

9c Unrecaptured section 1250 gain

10 Net section 1231 gain (loss)

Enter on

Form 1040, line 8a

Form 1040, line 9a

Form 1040, line 9b

Schedule E, line 4

Sch. D, line 5, column (f)

Sch. D, line 12, column (f)

28% Rate Gain Worksheet,

line 4 (Sch. D Instructions)

See the Partner's Instr.

See the Partner's Instr.

Schedule K-1
(Form 1065)
Department of the Treasury
Internal Revenue Service

For calendar year 2015, or tax
year beginning JAN 01, 2015
ending DEC 31, 2015

2015

☐ Final K-1☐ Amended K-1

OMB No. 1545-0123

**Partner's Share of Income, Deductions,
Credits, etc.**

▶ See back of form and separate instructions.

Part I Information About the Partnership

A Partnership's employer identification number

B Partnership's name, address, city, state, and ZIP code

OLD TOWNE SUITES LLC

229 KING STREET

CHARLESTON SC 29401-

C IRS Center where partnership filed return

E-FILE

D ☐ Check if this is a publicly traded partnership (PTP)

Part II Information About the Partner

E Partner's identifying number

F Partner's name, address, city, state, and ZIP code

SPIRO FERDERIGOS

1971 SANDCROFT DRIVE

CHARLESTON SC 29407-

G ☒ General partner or LLC member-manager☐ Limited partner or other LLC memberH ☒ Domestic partner☐ Foreign partnerI What type of entity is this partner? INDIVIDUALJ If this partner is a retirement plan (IRA/SEP/Keogh/etc.), check here ☐

K Partner's share of profit, loss, and capital (see instructions):

	Beginning	Ending
Profit	14.968 %	16.667 %
Loss	16.667 %	16.667 %
Capital	16.667 %	16.667 %

K Partner's share of liabilities at year end:

Nonrecourse	\$
Qualified nonrecourse financing	\$
Recourse	\$

L Partner's capital account analysis:

Beginning capital account	\$ 26,283.
Capital contributed during the year	\$
Current year increase (decrease)	\$ 25,087.
Withdrawals & distributions	\$ (21,188.)
Ending capital account	\$ 30,182.

☒ Tax basis ☐ GAAP ☐ Section 704(b) book
☐ Other (explain)

M Did the partner contribute property with a built-in-gain or loss?

☐ Yes ☒ No

If "Yes," attach statement (see instructions)

**Part III Partner's Share of Current Year Income,
Deductions, Credits, and Other Items**

1	Ordinary business income (loss)	15	Credits
2	Net rental real estate income (loss) 25,087.		
3	Other net rental income (loss)	16	Foreign transactions
4	Guaranteed payments		
5	Interest income		
6a	Ordinary dividends		
6b	Qualified dividends		
7	Royalties		
8	Net short-term capital gain (loss)		
9a	Net long-term capital gain (loss)	17	Alternative minimum tax (AMT) items
9b	Collectibles (28%) gain (loss)		
9c	Unrecaptured section 1250 gain		
10	Net section 1231 gain (loss)	18	Tax-exempt income and nondeductible expenses
11	Other income (loss)		
12	Section 179 deduction	18	Distributions A 21,188.
13	Other deductions	20	Other information
14	Self-employment earnings (loss)		

*See attached statement for additional information.

For IRS Use Only

Partner: SPIRO FERDERIGOS		16.667	%	ID: [REDACTED]
10a	Unrecaptured section 1250 gain for lines 10 and 11b			
11a	Other portfolio income (loss)			
b	Involuntary conversions			
(1)	Form 4684 at 28% rate			
c	1256 contracts and straddles			
d	Mining exploration costs recapture			
e	Cancellation of debt			
f	Other income (loss)			
(1)	Type and amount			
(2)	PTP income from other partnerships			
12a	Section 179 deduction for ordinary income or loss			
b	Section 179 deduction for rental real estate income or loss			
13	Other deductions			
a	Cash contributions - 50%			n Educational assistance benefits
b	Cash contributions - 30%			o Dependent care benefits
c	Noncash contributions - 50%			p Preproductive period expenses
d	Noncash contributions - 30%			q Commercial revitalization deduction
e	Cap. gain property to a 50% org. - 30%			from rental real estate
f	Capital gain property - 20%			r Perisols and IRAs
g	Contributions - 100%			s Reforestation expense deduction
h	Investment interest expense			t Domestic production activities information
i	Deductions - royalty income			u Qualified production activities income
j	Section 59(e)(2) expenditures			Qualified production activities income (oil related)
k	Deductions - portfolio - 2% floor			v Employer's Form W-2 wages
l	Deductions - portfolio - other			w Penalty on early
m	Amounts paid for medical insurance			withdrawal of savings
				(1) Form 4684, line 32
				(2) Other, type and amount
14a	Net earnings (loss) from self-employment			
b	Gross farming or fishing income			
c	Gross nonfarm income			
15	Credits and credit recapture			
a	Low-income housing credit - section 42(j)(5)), Form 8586 - pre-2008 buildings			
b	Low-income housing credit - other, Form 8586 - pre-2008 buildings			
c	Low-income housing credit - section 42(j)(5)), Form 8586 - post-2007 buildings			
d	Low-income housing credit - other, Form 8588 - post-2007 buildings			
e	Qualified rehabilitation expenditures - rental real estate			
f	Other rental real estate credits			
g	Other rental credits			
h	Undistributed capital gains credit			
i	Alcohol and cellulosic biofuel fuels credit			
j	Work opportunity credit			
k	Disabled access credit			
l	Empowerment zone and renewal community employment credit			
m	Credit for increasing research activities			
n	Credit for employer social security and Medicare taxes			
o	Backup withholding			
p	Other credits - see information below			
	Form 3468, line 11m, credit from an electing large partnership			
	Form 3468, lines 9 and 13, credit from cooperatives			
RESERVED				Form 8881
Form 8820				Form 8882
RESERVED				Reserved
Form 8835, Part I				Form 8908
Form 8835, Part II				Form 8910
Form 8845				Form 8936
Form 8874				Form 8941
				Other credits

Partner: SPIRO FERDERIGOS

16.667 % ID: [REDACTED]

16 a	Name of foreign country or U.S. possession	
b	Gross income from all sources	
c	Gross income sourced at partner level	
	Foreign gross income sourced at partnership level	
d	Passive	
e	General limitation	
f	Other	
	Deductions allocated and apportioned at partner level	
g	Interest expense	
h	Other	
	Deductions allocated and apportioned at partnership level to foreign source income	
i	Passive	
j	General limitation	
k	Other	
	Other information	
l	Total foreign taxes paid	
m	Total foreign taxes accrued	
n	Reduction in taxes available for credit	
o	Foreign trading gross receipts	
p	Extraterritorial income exclusion	
q	Other foreign transactions	
17 a	Post-1986 depreciation adjustment	
	Ordinary income	Rental
b	Adjusted gain or loss	
	Ordinary income	Rental
c	Depletion other than oil and gas	
d	Oil, gas, and geothermal properties - gross income	
e	Oil, gas, and geothermal properties - deductions	
f	Other AMT items. Pre-1987 depreciation adjustment included in line 17f	
	Ordinary income	Rental
	Other - type	Amount
18 a	Tax-exempt interest income	
b	Other tax-exempt income	
c	Nondeductible expenses	
19 a	Distributions of cash and marketable securities	21,188.
b	Distribution subject to section 737	
c	Distributions of other property	
20 a	Investment income	
b	Investment expenses	
c	Fuel tax credit information	
d	Qualified rehabilitation expenses, other than rental real estate	
e	Basis of energy property	
f	Recapture of low-income housing credit, section 42(j)(5) applies	
g	Recapture of low-income housing credit - other	
h	Recapture of investment credit	
i	Recapture of other credits	
j	Look-back interest - completed long-term contracts	
k	Look-back interest - income forecast method	
l	Dispositions of property with section 179 deductions	
m	Recapture of section 179 deduction	
n	Interest expense for corporate partners	
o	Section 453(l)(3) information	
p	Section 453A(c) information	
q	Section 1260(b) information	
r	Interest allocable to production expenditures	
s	CCF nonqualified withdrawal	
t	Information needed to figure depletion - oil and gas	
u	Amortization of reforestation cost	
v	Unrelated business taxable income	
w	Precontribution gain (loss)	
x	Section 108(i) information	
y	Net investment income	
z	Other information	

Partner: SPIRO FERDERIGOS

16.667 % ID: [REDACTED]

20 Other Information

a	
b	
c	
d	
e	
f	
g	
h	

Supplemental information for page 2, lines 20d and 20e

20d Qualified rehabilitation expenses, other than rental real estate

Rehabilitation credit (Part III)		Qualifying advanced energy project credit	
Form 3468, line 11e, qualified expenditures ...		Form 3468, line 7, qualified expenditures ...	
Form 3468, line 11f, qualified expenditures ...		Qualifying therapeutic discovery project credit	
Form 3468, line 11g, qualified expenditures ...		Form 3468, line 8, qualified expenditures ...	
Form 3468, line 11h, qualified expenditures ...		Energy credit (Part III)	
Form 3468, line 11i, qualified expenditures ...		Form 3468, line 12a, qualified expenditures ...	
Form 3468, line 11j, qualified expenditures ...		Form 3468, line 12b, qualified expenditures ...	

20e Basis of energy property

Qualifying advanced coal project credit		Form 3468, line 12c, qualified expenditures ...	
Form 3468, line 5a, qualified expenditures ...		Form 3468, line 12d, kilowatt capacity ...	
Form 3468, line 5b, qualified expenditures ...		Form 3468, line 12f, qualified expenditures ...	
Form 3468, line 5c, qualified expenditures ...		Form 3468, line 12g, kilowatt capacity ...	
Qualifying gasification project credit		Form 3468, line 12i, qualified expenditures ...	
Form 3468, line 6a, qualified expenditures ...		Form 3468, line 12j, kilowatt capacity ...	
Form 3468, line 6b, qualified expenditures ...		Form 3468, line 12l, qualified expenditures ...	
		Form 3468, line 12o, qualified expenditures ...	
		Form 3468, line 12q, qualified expenditures ...	
		Form 3468, line 12r, qualified expenditures ...	
		Form 3468, line 12s, qualified expenditures ...	

Compute partner's interest?

☒ Yes☐ No

Amount

A Beginning balance		
B Partner's contributions		
C Increase in share of partnership liabilities		
D Ordinary income		25,087.
E Separately stated income		25,087.
F Subtotal		21,188.
G Distributions		
H Decrease in share of partnership liabilities		
I Ordinary loss		
J Separately stated losses and deductions		
K Nondeductible expenses		
L Other adjustments		3,899.
M Ending balance		

1 Ordinary business income (loss). You must determine

whether the income (loss) is passive or nonpassive. Then enter on your return as follows:

Passive loss	Enter on
Passive income	See the Partner's Instr.
Nonpassive loss	Sch. E, line 28, column (g)
Nonpassive income	Sch. E, line 28, column (h)
	Sch. E, line 28, column (i)

2 Net rental real estate income (loss)

3 Other net rental income (loss)

Net income	Sch. E, line 28, column (g)
Net loss	See the Partner's Instr.

4 Guaranteed payments

Sch. E, line 28, column (j)

5 Interest income

6a Ordinary dividends

6b Qualified dividends

7 Royalties

8 Net short-term capital gain (loss)

9a Net long-term capital gain (loss)

9b Collectibles (28%) gain (loss)

9c Unrecaptured section 1250 gain

10 Net section 1231 gain (loss)

Enter on

Form 1040, line 8a

Form 1040, line 9a

Form 1040, line 9b

Schedule E, line 4

Sch. D, line 5, column (f)

Sch. D, line 12, column (f)

28% Rate Gain Worksheet,

line 4 (Sch. D instructions)

See the Partner's Instr.

See the Partner's Instr.

US1065K4

Schedule K-1
(Form 1065)
Department of the Treasury
Internal Revenue Service

For calendar year 2015, or tax
year beginning JAN 01, 2015
ending DEC 31, 2015

2015

☐ Final K-1☐ Amended K-1

OMB No. 1545-0123

Partner's Share of Income, Deductions, Credits, etc. ▶ See back of form and separate instructions.

Part I Information About the Partnership

A Partnership's employer identification number

B Partnership's name, address, city, state, and ZIP code
OLD TOWNE SUITES LLC

**229 KING STREET
CHARLESTON SC 29401-**

C IRS Center where partnership filed return
E-FILE

D ☐ Check if this is a publicly traded partnership (PTP)

Part II Information About the Partner

E Partner's identifying number

F Partner's name, address, city, state, and ZIP code
SPIRO FOKAS

**49 SOWELL STREET
MOUNT PLEASANT SC 29464-**

G ☒ General partner or LLC member-manager ☐ Limited partner or other LLC member

H ☒ Domestic partner ☐ Foreign partner

I1 What type of entity is this partner? **INDIVIDUAL**

I2 If this partner is a retirement plan (IRA/SEP/Keogh/etc.), check here ☐

J Partner's share of profit, loss, and capital (see instructions):

	Beginning	Ending
Profit	0.000 %	25.000 %
Loss	0.000 %	0.000 %
Capital	0.000 %	0.000 %

K Partner's share of liabilities at year end:

Nonrecourse\$
Qualified nonrecourse financing\$
Recourse\$

L Partner's capital account analysis:

Beginning capital account\$
Capital contributed during the year\$
Current year increase (decrease)\$ **37,537.**
Withdrawals & distributions\$ **(31,782.)**
Ending capital account\$ **5,755.**

☒ Tax basis ☐ GAAP ☐ Section 704(b) book
☐ Other (explain)

M Did the partner contribute property with a built-in gain or loss?

☐ Yes ☒ No

If "Yes," attach statement (see instructions)

Part III Partner's Share of Current Year Income, Deductions, Credits, and Other Items

1	Ordinary business income (loss)	15	Credits
2	Net rental real estate income (loss) 37,537.		
3	Other net rental income (loss)	16	Foreign transactions
4	Guaranteed payments		
5	Interest income		
6a	Ordinary dividends		
6b	Qualified dividends		
7	Royalties		
8	Net short-term capital gain (loss)		
9a	Net long-term capital gain (loss)	17	Alternative minimum tax (AMT) items
9b	Collectibles (28%) gain (loss)	A	(395.)
9c	Unrecaptured section 1250 gain		
10	Net section 1231 gain (loss)	18	Tax-exempt income and nondeductible expenses
11	Other income (loss)		
12	Section 179 deduction	19	Distributions A 31,782.
13	Other deductions	20	Other information
14	Self-employment earnings (loss)		

*See attached statement for additional information.

For IRS Use Only

Partner: SPIRO FOKAS	25.000	%	ID: [REDACTED]
10a Unrecaptured section 1250 gain for lines 10 and 11b			
11a Other portfolio income (loss)			
b Involuntary conversions			
(1) Form 4684 at 28% rate			
c 1256 contracts and straddles			
d Mining exploration costs recapture			
e Cancellation of debt			
f Other income (loss)			
(1) Type and amount			
(2) PTP income from other partnerships			
12a Section 179 deduction for ordinary income or loss			
b Section 179 deduction for rental real estate income or loss			
13 Other deductions			
a Cash contributions - 50%			n Educational assistance benefits
b Cash contributions - 30%			o Dependent care benefits
c Noncash contributions - 50%			p Preproductive period expenses
d Noncash contributions - 30%			q Commercial revitalization deduction
e Cap. gain property to a 50% org. - 30%			from rental real estate
f Capital gain property - 20%			r Pensions and IRAs
g Contributions - 100%			s Reforestation expense deduction
h Investment interest expense			t Domestic production activities information
i Deductions - royalty income			u Qualified production activities income
j Section 59(e)(2) expenditures			Qualified production activities income (all related)
k Deductions - portfolio - 2% floor			v Employer's Form W-2 wages
l Deductions - portfolio - other			w Penalty on early
m Amounts paid for medical insurance			withdrawal of savings
			(1) Form 4684, line 32
			(2) Other. Type and amount
14a Net earnings (loss) from self-employment			
b Gross farming or fishing income			
c Gross nonfarm income			
15 Credits and credit recapture			
a Low-income housing credit - section 42(j)(5)), Form 8586 - pre-2008 buildings			
b Low-income housing credit - other, Form 8586 - pre-2008 buildings			
c Low-income housing credit - section 42(j)(5)), Form 8586 - post-2007 buildings			
d Low-income housing credit - other, Form 8588 - post-2007 buildings			
e Qualified rehabilitation expenditures - rental real estate			
f Other rental real estate credits			
g Other rental credits			
h Undistributed capital gains credit			
i Alcohol and cellulosic biofuel fuels credit			
j Work opportunity credit			
k Disabled access credit			
l Empowerment zone and renewal community employment credit			
m Credit for increasing research activities			
n Credit for employer social security and Medicare taxes			
o Backup withholding			
p Other credits - see information below			
Form 3468, line 11m, credit from an electing large partnership			
Form 3468, lines 9 and 13, credit from cooperatives			
RESERVED			Form 8881
Form 8820			Form 8882
RESERVED			Reserved
Form 8835, Part I			Form 8908
Form 8835, Part II			Form 8910
Form 8845			Form 8936
Form 8874			Form 8941
			Other credits

Partner: SPIRO FOKAS

25.000 % ID: [REDACTED]

16 a	Name of foreign country or U.S. possession	
b	Gross income from all sources	
c	Gross income sourced at partner level	
	Foreign gross income sourced at partnership level	
d	Passive	
e	General limitation	
f	Other	
	Deductions allocated and apportioned at partner level	
g	Interest expense	
h	Other	
	Deductions allocated and apportioned at partnership level to foreign source income	
i	Passive	
j	General limitation	
k	Other	
	Other information	
l	Total foreign taxes paid	
m	Total foreign taxes accrued	
n	Reduction in taxes available for credit	
o	Foreign trading gross receipts	
p	Extraterritorial income exclusion	
q	Other foreign transactions	
17 a	Post-1986 depreciation adjustment	
	Ordinary income	Rental (395.) (395.)
b	Adjusted gain or loss	
	Ordinary income	Rental
c	Depletion other than oil and gas	
d	Oil, gas, and geothermal properties - gross income	
e	Oil, gas, and geothermal properties - deductions	
f	Other AMT items. Pre-1987 depreciation adjustment included in line 17f	
	Ordinary income	Rental
	Other - type	Amount
18 a	Tax-exempt interest income	
b	Other tax-exempt income	
c	Nondeductible expenses	
19 a	Distributions of cash and marketable securities	31,782.
b	Distribution subject to section 737	
c	Distributions of other property	
20 a	Investment income	
b	Investment expenses	
c	Fuel tax credit information	
d	Qualified rehabilitation expenses, other than rental real estate	
e	Basis of energy property	
f	Recapture of low-income housing credit, section 42(j)(5) applies	
g	Recapture of low-income housing credit - other	
h	Recapture of investment credit	
i	Recapture of other credits	
j	Look-back interest - completed long-term contracts	
k	Look-back interest - income forecast method	
l	Dispositions of property with section 179 deductions	
m	Recapture of section 179 deduction	
n	Interest expense for corporate partners	
o	Section 453(l)(3) information	
p	Section 453A(c) information	
q	Section 1250(b) information	
r	Interest allocable to production expenditures	
s	CCF nonqualified withdrawal	
t	Information needed to figure depletion - oil and gas	
u	Amortization of reforestation cost	
v	Unrelated business taxable income	
w	Precontribution gain (loss)	
x	Section 108(j) information	
y	Net investment income	
z	Other information	

Partner: SPIRO FOKAS

25.000 % ID: [REDACTED]

20 Other information

a	
b	
c	
d	
e	
f	
g	
h	

Supplemental information for page 2, lines 20d and 20e

20d Qualified rehabilitation expenses, other than rental real estate

Rehabilitation credit (Part III)		Qualifying advanced energy project credit	
Form 3468, line 11e, qualified expenditures ...		Form 3468, line 7, qualified expenditures ...	
Form 3468, line 11f, qualified expenditures ...		Qualifying therapeutic discovery project credit	
Form 3468, line 11g, qualified expenditures ...		Form 3468, line 8, qualified expenditures ...	
Form 3468, line 11h, qualified expenditures ...		Energy credit (Part III)	
Form 3468, line 11i, qualified expenditures ...		Form 3468, line 12a, qualified expenditures ...	
Form 3468, line 11j, qualified expenditures ...		Form 3468, line 12b, qualified expenditures ...	

20e Basis of energy property

Qualifying advanced coal project credit		Form 3468, line 12c, qualified expenditures ...	
Form 3468, line 5a, qualified expenditures ...		Form 3468, line 12d, kilowatt capacity ...	
Form 3468, line 5b, qualified expenditures ...		Form 3468, line 12f, qualified expenditures ...	
Form 3468, line 5c, qualified expenditures ...		Form 3468, line 12g, kilowatt capacity ...	
Qualifying gasification project credit		Form 3468, line 12i, qualified expenditures ...	
Form 3468, line 6a, qualified expenditures ...		Form 3468, line 12j, kilowatt capacity ...	
Form 3468, line 6b, qualified expenditures ...		Form 3468, line 12l, qualified expenditures ...	
		Form 3468, line 12o, qualified expenditures ...	
		Form 3468, line 12q, qualified expenditures ...	
		Form 3468, line 12r, qualified expenditures ...	
		Form 3468, line 12s, qualified expenditures ...	

Compute partner's interest?

☒ Yes☐ No

Amount

A Beginning balance		
B Partner's contributions		
C Increase in share of partnership liabilities		
D Ordinary income		37,537.
E Separately stated income		37,537.
F Subtotal		31,782.
G Distributions		
H Decrease in share of partnership liabilities		
I Ordinary loss		
J Separately stated losses and deductions		
K Nondeductible expenses		
L Other adjustments		
M Ending balance		5,755.

1 Ordinary business income (loss). You must determine

whether the income (loss) is passive or nonpassive. Then enter on your return as follows:

Passive loss	Enter on
Passive income	See the Partner's Instr.
Nonpassive loss	Sch. E, line 28, column (g)
Nonpassive income	Sch. E, line 28, column (h)
	Sch. E, line 28, column (i)

2 Net rental real estate income (loss)

3 Other net rental income (loss)

Net income	Sch. E, line 28, column (g)
Net loss	See the Partner's Instr.

4 Guaranteed payments

Sch. E, line 28, column (i)

5 Interest income

6a Ordinary dividends

6b Qualified dividends

7 Royalties

8 Net short-term capital gain (loss)

9a Net long-term capital gain (loss)

9b Collectibles (28%) gain (loss)

9c Unrecaptured section 1250 gain

10 Net section 1231 gain (loss)

Enter on

Form 1040, line 8a

Form 1040, line 9a

Form 1040, line 9b

Schedule E, line 4

Sch. D, line 5, column (f)

Sch. D, line 12, column (f)

28% Rate Gain Worksheet,
line 4 (Sch. D instructions)

See the Partner's Instr.

See the Partner's Instr.

US1065K4

Schedule K-1
(Form 1065)
Department of the Treasury
Internal Revenue Service

For calendar year 2015, or tax
year beginning JAN 01, 2015
ending DEC 31, 2015

2015

☐ Final K-1☐ Amended K-1

OMB No. 1545-0123

Partner's Share of Income, Deductions, Credits, etc. ▶ See back of form and separate instructions.

Part I Information About the Partnership

A Partnership's employer identification number
[REDACTED]

B Partnership's name, address, city, state, and ZIP code
OLD TOWNE SUITES LLC

**229 KING STREET
CHARLESTON SC 29401-**

C IRS Center where partnership filed return
E-FILE

D ☐ Check if this is a publicly traded partnership (PTP)

Part II Information About the Partner

E Partner's identifying number
[REDACTED]

F Partner's name, address, city, state, and ZIP code
PHILLIP FERDERIGOS

**1668 SOUTHPORT DRIVE
CHARLESTON SC 29407-**

G ☒ General partner or LLC member-manager ☐ Limited partner or other LLC member

H ☒ Domestic partner ☐ Foreign partner

I What type of entity is this partner? **INDIVIDUAL**

J If this partner is a retirement plan (IRA/SEP/Keogh/etc.), check here ☐

J Partner's share of profit, loss, and capital (see instructions):

	Beginning	Ending
Profit	14.968 %	16.666 %
Loss	16.666 %	16.666 %
Capital	16.666 %	16.666 %

K Partner's share of liabilities at year end:

Nonrecourse \$
Qualified nonrecourse financing \$
Recourse \$

L Partner's capital account analysis:

Beginning capital account \$ 26,281.
Capital contributed during the year \$
Current year increase (decrease) \$ 21,188.
Withdrawals & distributions \$ (21,188.)
Ending capital account \$ 26,281.

☒ Tax basis ☐ GAAP ☐ Section 704(b) book
☐ Other (explain)

M Did the partner contribute property with a built-in gain or loss?

☐ Yes ☒ No

If "Yes," attach statement (see instructions)

Part III Partner's Share of Current Year Income, Deductions, Credits, and Other Items

1	Ordinary business income (loss)	15	Credits
2	Net rental real estate income (loss) <u>25,086.</u>		
3	Other net rental income (loss)	16	Foreign transactions
4	Guaranteed payments		
5	Interest income		
6a	Ordinary dividends		
6b	Qualified dividends		
7	Royalties		
8	Net short-term capital gain (loss)		
9a	Net long-term capital gain (loss)	17	Alternative minimum tax (AMT) items
9b	Collectibles (28%) gain (loss)	A	(264.)
9c	Unrecaptured section 1250 gain		
10	Net section 1231 gain (loss)	18	Tax-exempt income and nondeductible expenses
11	Other income (loss)		
12	Section 179 deduction	19	Distributions A <u>21,188.</u>
13	Other deductions	20	Other Information
14	Self-employment earnings (loss)		

*See attached statement for additional information.

For IRS Use Only

Partner: PHILLIP FERDERIGOS		16.666 %	ID: [REDACTED]
10a	Unrecaptured section 1250 gain for lines 10 and 11b		
11a	Other portfolio income (loss)		
b	Involuntary conversions		
(1)	Form 4684 at 28% rate		
c	1256 contracts and straddles		
d	Mining exploration costs recapture		
e	Cancellation of debt		
f	Other income (loss)		
(1)	Type and amount		
(2)	PTP income from other partnerships		
12a	Section 179 deduction for ordinary income or loss		
b	Section 179 deduction for rental real estate income or loss		
13	Other deductions		
a	Cash contributions - 50%		n Educational assistance benefits
b	Cash contributions - 30%		o Dependent care benefits
c	Noncash contributions - 50%		p Preproductive period expenses
d	Noncash contributions - 30%		q Commercial revitalization deduction
e	Cap. gain property to a 50% org. - 30%		from rental real estate
f	Capital gain property - 20%		r Pensions and IRAs
g	Contributions - 100%		s Reforestation expense deduction
h	Investment interest expense		t Domestic production activities information
i	Deductions - royalty income		u Qualified production activities income
j	Section 59(e)(2) expenditures		Qualified production activities income (oil related)
k	Deductions - portfolio - 2% floor		v Employer's Form W-2 wages
l	Deductions - portfolio - other		w Penalty on early
m	Amounts paid for medical insurance		withdrawal of savings
		(1) Form 4684, line 32	
		(2) Other. Type and amount	
14a	Net earnings (loss) from self-employment		
b	Gross farming or fishing income		
c	Gross nonfarm income		
15	Credits and credit recapture		
a	Low-income housing credit - section 42(j)(5)), Form 8586 - pre-2008 buildings		
b	Low-income housing credit - other, Form 8586 - pre-2008 buildings		
c	Low-income housing credit - section 42(j)(5)), Form 8586 - post-2007 buildings		
d	Low-income housing credit - other, Form 8588 - post-2007 buildings		
e	Qualified rehabilitation expenditures - rental real estate		
f	Other rental real estate credits		
g	Other rental credits		
h	Undistributed capital gains credit		
i	Alcohol and cellulosic biofuel fuels credit		
j	Work opportunity credit		
k	Disabled access credit		
l	Empowerment zone and renewal community employment credit		
m	Credit for increasing research activities		
n	Credit for employer social security and Medicare taxes		
o	Backup withholding		
p	Other credits - see information below		
	Form 3468, line 11m, credit from an electing large partnership		
	Form 3468, lines 9 and 13, credit from cooperatives		
RESERVED		Form 8881	
Form 8820		Form 8882	
RESERVED		Reserved	
Form 8835, Part I		Form 8908	
Form 8835, Part II		Form 8910	
Form 8845		Form 8936	
Form 8874		Form 8941	
		Other credits	

Partner: PHILLIP FERDERIGOS

16.666 % ID: [REDACTED]

16 a	Name of foreign country or U.S. possession		
b	Gross income from all sources		
c	Gross income sourced at partner level		
	Foreign gross income sourced at partnership level		
d	Passive		
e	General limitation		
f	Other		
	Deductions allocated and apportioned at partner level		
g	Interest expense		
h	Other		
	Deductions allocated and apportioned at partnership level to foreign source income		
i	Passive		
j	General limitation		
k	Other		
	Other information		
l	Total foreign taxes paid		
m	Total foreign taxes accrued		
n	Reduction in taxes available for credit		
o	Foreign trading gross receipts		
p	Extraterritorial income exclusion		
q	Other foreign transactions		
17 a	Post-1986 depreciation adjustment.		
	Ordinary income	Rental (264.)	(264.)
b	Adjusted gain or loss		
	Ordinary income	Rental	
c	Depletion other than oil and gas		
d	Oil, gas, and geothermal properties - gross income		
e	Oil, gas, and geothermal properties - deductions		
f	Other AMT items. Pre-1987 depreciation adjustment included in line 17f		
	Ordinary income	Rental	
	Other - type	Amount	
18 a	Tax-exempt interest income		
b	Other tax-exempt income		
c	Nondeductible expenses		21,188.
19 a	Distributions of cash and marketable securities		
b	Distribution subject to section 737		
c	Distributions of other property		
20 a	Investment income		
b	Investment expenses		
c	Fuel tax credit information		
d	Qualified rehabilitation expenses, other than rental real estate		
e	Basis of energy property		
f	Recapture of low-income housing credit, section 42(j)(5) applies		
g	Recapture of low-income housing credit - other		
h	Recapture of investment credit		
i	Recapture of other credits		
j	Look-back interest - completed long-term contracts		
k	Look-back interest - income forecast method		
		j	Dispositions of property with section 179 deductions
		m	Recapture of section 179 deduction
		n	Interest expense for corporate partners
		o	Section 453(l)(3) information
		p	Section 453A(c) information
		q	Section 1260(b) information
		r	Interest allocable to production expenditures
		s	CCF nonqualified withdrawal
		t	Information needed to figure depletion - oil and gas
		u	Amortization of reforestation cost
		v	Unrelated business taxable income
		w	Precontribution gain (loss)
		x	Section 108(f) information
		y	Net investment income
		z	Other information

US1085K3

Partner: PHILLIP FERDERIGOS

16.666 % ID: [REDACTED]

20 Other Information

a	
b	
c	
d	
e	
f	
g	
h	

Supplemental information for page 2, lines 20d and 20e

20d Qualified rehabilitation expenses, other than rental real estate

Rehabilitation credit (Part III)		Qualifying advanced energy project credit	
Form 3468, line 11e, qualified expenditures		Form 3468, line 7, qualified expenditures	
Form 3468, line 11f, qualified expenditures		Qualifying therapeutic discovery project credit	
Form 3468, line 11g, qualified expenditures		Form 3468, line 8, qualified expenditures	
Form 3468, line 11h, qualified expenditures		Energy credit (Part III)	
Form 3468, line 11i, qualified expenditures		Form 3468, line 12a, qualified expenditures	
Form 3468, line 11j, qualified expenditures		Form 3468, line 12b, qualified expenditures	

20e Basis of energy property

Qualifying advanced coal project credit		Form 3468, line 12c, qualified expenditures	
Form 3468, line 5a, qualified expenditures		Form 3468, line 12d, kilowatt capacity	
Form 3468, line 5b, qualified expenditures		Form 3468, line 12f, qualified expenditures	
Form 3468, line 5c, qualified expenditures		Form 3468, line 12g, kilowatt capacity	
Qualifying gasification project credit		Form 3468, line 12i, qualified expenditures	
Form 3468, line 6a, qualified expenditures		Form 3468, line 12j, kilowatt capacity	
Form 3468, line 6b, qualified expenditures		Form 3468, line 12l, qualified expenditures	
		Form 3468, line 12o, qualified expenditures	
		Form 3468, line 12q, qualified expenditures	
		Form 3468, line 12r, qualified expenditures	
		Form 3468, line 12s, qualified expenditures	

Amount

26,281.

Compute partner's interest? ☒ Yes ☐ No

A Beginning balance	
B Partner's contributions	
C Increase in share of partnership liabilities	
D Ordinary income	25,086.
E Separately stated income	51,367.
F Subtotal	21,188.
G Distributions	
H Decrease in share of partnership liabilities	
I Ordinary loss	
J Separately stated losses and deductions	
K Nondeductible expenses	
L Other adjustments	
M Ending balance	30,179.

1 Ordinary business income (loss). You must determine

whether the income (loss) is passive or nonpassive. Then enter on your return as follows:

Passive loss	Enter on
Passive income	See the Partner's Instr.
Nonpassive loss	Sch. E, line 28, column (g)
Nonpassive income	Sch. E, line 28, column (h)
	Sch. E, line 28, column (i)

2 Net rental real estate income (loss)

3 Other net rental income (loss)

Net income	Sch. E, line 28, column (g)
Net loss	See the Partner's Instr.

4 Guaranteed payments

Sch. E, line 28, column (j)

5 Interest income

6a Ordinary dividends

6b Qualified dividends

7 Royalties

8 Net short-term capital gain (loss)

9a Net long-term capital gain (loss)

9b Collectibles (28%) gain (loss)

9c Unrecaptured section 1250 gain

10 Net section 1231 gain (loss)

Enter on

Form 1040, line 8a

Form 1040, line 9a

Form 1040, line 9b

Schedule E, line 4

Sch. D, line 5, column (f)

Sch. D, line 12, column (f)

28% Rate Gain Worksheet,

line 4 (Sch. D Instructions)

See the Partner's Instr.

See the Partner's Instr.

US1065K4

**Rental Real Estate Income and Expenses of a
Partnership or an S Corporation**

OMB No. 1545-1186

Department of the Treasury
Internal Revenue Service

▶ See instructions on back.
▶ Attach to Form 1065, Form 1065-B, or Form 1120S.

Name
OLD TOWNE SUITES LLC

Employer identification number
[REDACTED]

1 Show the type and address of each property. For each rental real estate property listed, report the number of days rented at fair rental value and days with personal use. See instructions. See page 2 to listed additional properties.

	Physical address of each property - street, city, state, ZIP code	Type - Enter code 1-8; see page 2 for list	Fair Rental Days	Personal Use Days
A	229 KING STREET CHARLESTON SC 29401-	4	365	
B				
C				
D				

		Properties				
		A	B	C	D	
2	Rental Real Estate Income	172,561.				
3	Gross rents					
3	Rental Real Estate Expenses					
4	Advertising					
5	Auto and travel					
5	Cleaning and maintenance	1,231.				
6	Commissions					
7	Insurance	1,200.				
8	Legal and other professional fees	1,155.				
9	Interest	3.				
10	Repairs					
11	Taxes					
12	Utilities					
13	Wages and salaries					
14	Depreciation (see instructions)	14,366.				
15	Other (list) ▶ AMORTIZATION STMT 8A	3,755.				
15		290.				
16	Total expenses for each property. Add lines 3 through 15.	22,000.				
17	Income or (Loss) from each property. Subtract line 16 from line 2	150,561.				
18a	Total gross rents. Add gross rents from line 2, columns A through H					18a 172,561.
18b	Total expenses. Add total expenses from line 16, columns A through H					18b (22,000.)
19	Net gain (loss) from Form 4797, Part II, line 17, from the disposition of property from rental real estate activities					19
20a	Net income (loss) from rental real estate activities from partnerships, estates, and trusts in which this partnership or S corporation is a partner or beneficiary (from Schedule K-1)					20a
b	Identify below the partnerships, estates, or trusts from which net income (loss) is shown on line 20a. Attach a schedule if more space is needed:					
	(1) Name					
	(2) Employer identification number					
21	Net rental real estate income (loss). Combine lines 18a through 20a. Enter the result here and on:					21 150,561.
	• Form 1065 or 1120S: Schedule K, line 2, or					
	• Form 1065-B: Part I, line 4					

For Paperwork Reduction Act Notice, see instructions

Form **4562****Depreciation and Amortization**
(Including Information on Listed Property)

▶ Attach to your tax return.

▶ Information about Form 4562 and its separate instructions is at www.irs.gov/form4562

OMB No. 1545-0172

2015Attachment
Sequence No. 179Department of the Treasury
Internal Revenue Service (99)

Name(s) shown on return

OLD TOWNE SUITES LLC

Business or activity to which this form relates

229 KING STREET

Identifying number

Part I Election To Expense Certain Property Under Section 179

Note: If you have any listed property, complete Part V before you complete Part I.

1	Maximum amount (see instructions)	1	500,000.
2	Total cost of section 179 property placed in service (see instructions)	2	
3	Threshold cost of section 179 property before reduction in limitation (see instructions)	3	2,000,000.
4	Reduction in limitation. Subtract line 3 from line 2. If zero or less, enter -0-	4	
5	Dollar limitation for tax year. Subtract line 4 from line 1. If zero or less, enter -0-. If married filing separately, see instructions	5	
6	(a) Description of property	(b) Cost (business use only)	(c) Elected cost
7	Listed property. Enter the amount from line 29	7	
8	Total elected cost of section 179 property. Add amounts in column (c), lines 6 and 7	8	
9	Tentative deduction. Enter the smaller of line 5 or line 8	9	
10	Carryover of disallowed deduction from line 13 of your 2014 Form 4562	10	
11	Business income limitation. Enter the smaller of business income (not less than zero) or line 5 (see instructions)	11	
12	Section 179 expense deduction. Add lines 9 and 10, but do not enter more than line 11.	12	
13	Carryover of disallowed deduction to 2016. Add lines 9 and 10, less line 12	13	

Note: Do not use Part II or Part III below for listed property. Instead, use Part V.

Part II Special Depreciation Allowance and Other Depreciation (Do not include listed property.) (See instructions.)

14	Special depreciation allowance for qualified property (other than listed property) placed in service during the tax year (see instructions)	14	
15	Property subject to section 168(f)(1) election	15	
16	Other depreciation (including ACRS)	16	

Part III MACRS Depreciation (Do not include listed property.) (See instructions.)**Section A**

17	MACRS deductions for assets placed in service in tax years beginning before 2015	17	14,366.
18	If you are electing to group any assets placed in service during the tax year into one or more general asset accounts, check here ☐		

Section B — Assets Placed in Service During 2015 Tax Year Using the General Depreciation System

(a) Classification of property	(b) Month and year placed in service	(c) Basis for depreciation (business/investment use only - see instructions)	(d) Recovery period	(e) Convention	(f) Method	(g) Depreciation deduction
19a 3-year property						
b 6-year property						
c 7-year property						
d 10-year property						
e 15-year property						
f 20-year property						
g 25-year property			25 yrs.		S/L	
h Residential rental property			27.5 yrs.	MM	S/L	
i Nonresidential real property			27.5 yrs.	MM	S/L	
			39 yrs.	MM	S/L	

Section C — Assets Placed in Service During 2015 Tax Year Using the Alternative Depreciation System

20a Class life					S/L	
b 12-year			12 yrs.		S/L	
c 40-year			40 yrs.	MM	S/L	

Part IV Summary (See instructions.)

21	Listed property. Enter amount from line 28	21	
22	Total: Add amounts from line 12, lines 14 through 17, lines 19 and 20 in column (g), and line 21. Enter here and on the appropriate lines of your return. Partnerships and S corporations - see instructions	22	14,366.
23	For assets shown above and placed in service during the current year, enter the portion of the basis attributable to section 263A costs	23	

BCA For Paperwork Reduction Act Notice, see separate instructions.

Form 4562 (2015)

2015 ASSET DETAIL REPORT

Description	Date Acqd	Cost	Bus. 179+ Use Spec.	Basis	Method	Rec. Per.	Cv	Prior Depr.	Current Depr.	Next Year	Prior AMT	Current AMT	Gain/Price	Sales Price	Date Sold
-------------	-----------	------	---------------------	-------	--------	-----------	----	-------------	---------------	-----------	-----------	-------------	------------	-------------	-----------

Form: 229 KING STREET

Rental Property: N/A

Depreciation Class: Real property nonresidential

In Service Year: 2011

229 KING STR 09/11	191909	100		191909	MACRS	15.0	HY	96613	14366	11956	96613	14366			
Form Totals:	191909			191909				96613	14366	11956	96613	14366			

US 1065

State Information and 2014 Estimated Tax Payments

2015

Name: OLD TOWNE SUITES LLC

EIN: [REDACTED]

	State return is needed	Overpayment credited from 2014	First quarter 04/15/2015	Second quarter 06/15/2015	Third quarter 09/15/2015	Fourth quarter 12/15/2015	Total
Federal	Not applicable						
Alabama	☐						
Alaska	☐						
Arizona	☐						
Arkansas	☐						
California	☐						
Colorado	☐						
Connecticut	☐						
Delaware	☐						
DC	☐						
Florida	☐						
Georgia	☐						
Hawaii	☐						
Idaho	☐						
Illinois	☐						
Indiana	☐						
Iowa	☐						
Kansas	☐						
Kentucky	☐						
Louisiana	☐						
Maine	☐						
Maryland	☐						
Massachusetts	☐						
Michigan	☐						
Minnesota	☐						
Mississippi	☐						
Missouri	☐						
Montana	☐						
Nebraska	☐						
New Hampshire	☐						
New Jersey	☐						
New Mexico	☐						
New York	☐						
North Carolina	☐						
North Dakota	☐						
Ohio	☐						
Oklahoma	☐						
Oregon	☐						
Pennsylvania	☐						
Rhode Island	☐						
South Carolina	☒						
Tennessee	☐						
Texas	☐						
Utah	☐						
Vermont	☐						
Virginia	☐						
West Virginia	☐						
Wisconsin	☐						

USPSTINF

Information on Partners Owning 50% or More of the Partnership

OMB No. 1545-0099

▶ Attach to Form 1065. See separate instructions.

Name of partnership
OLD TOWNE SUITES LLC

Employer identification number (EIN)
[REDACTED]

Part I Entities Owning 50% or More of the Partnership (Form 1065, Schedule B, Question 3a)

Complete columns (i) through (v) below for any foreign or domestic corporation, partnership (including any entity treated as a partnership), trust, tax-exempt organization, or any foreign government that owns, directly or indirectly, an interest of 50% or more in the profit, loss, or capital of the partnership (see instructions).

(i) Name of Entity	(ii) Employer Identification Number (if any)	(iii) Type of Entity	(iv) Country of Organization	(v) Maximum Percentage Owned in Profit, Loss, or Capital
				0.000
				0.000
				0.000
				0.000
				0.000
				0.000
				0.000

Part II Individuals or Estates Owning 50% or More of the Partnership (Form 1065, Schedule B, Question 3b)

Complete columns (i) through (iv) below for any individual or estate that owns, directly or indirectly, an interest of 50% or more in the profit, loss, or capital of the partnership (see instructions).

(i) Name of Individual or Estate	(ii) Identifying Number (if any)	(iii) Country of Citizenship (see instructions)	(iv) Maximum Percentage Owned in Profit, Loss, or Capital
ATHAN FOKAS	[REDACTED]	US	50.000
			0.000
			0.000
			0.000
			0.000
			0.000
			0.000

For Paperwork Reduction Act Notice, see the Instructions for Form 1065.

Schedule B-1 (Form 1065) (Rev. 12-2011)

Form **8879-PE****IRS e-file Signature Authorization for Form 1065**

OMB No. 1545-0123

2015Department of the Treasury
Internal Revenue Service

▶ Do not send to the IRS. Keep for your records.

▶ Information about Form 8879-PE and its instructions is at www.irs.gov/form8879pe.

For calendar year 2015, or tax year beginning

, 2015, ending

, 20

Name of partnership

OLD TOWNE SUITES LLC

Employer identification number

Part I Return Information (Whole dollars only)

1	Gross receipts or sales less returns and allowances (Form 1065, line 1c)	1	
2	Gross profit (Form 1065, line 3)	2	
3	Ordinary business income (loss) (Form 1065, line 22)	3	
4	Net rental real estate income (loss) (Form 1065, Schedule K, line 2)	4	150,561
5	Other net rental income (loss) (Form 1065, Schedule K, line 3c)	5	

Part II Declaration and Signature Authorization of General Partner or Limited Liability Company Member
Manager (Be sure to get a copy of the partnership's return)

Under penalties of perjury, I declare that I am a general partner or limited liability company member manager of the above partnership and that I have examined a copy of the partnership's 2015 electronic return of partnership income and accompanying schedules and statements and to the best of my knowledge and belief, it is true, correct, and complete. I further declare that the amounts in Part I above are the amounts shown on the copy of the partnership's electronic return of partnership income. I consent to allow my electronic return originator (ERO), transmitter, or intermediate service provider to send the partnership's return to the IRS and to receive from the IRS (a) an acknowledgment of receipt or reason for rejection of the transmission and (b) the reason for any delay in processing the return. I have selected a personal identification number (PIN) as my signature for the partnership's electronic return of partnership income.

General Partner or Limited Liability Company Member Manager's PIN: check one box only

☒ I authorize PINNACLE 1 DOWNTOWN TAX SERVICE to enter my PIN [REDACTED] as my signature
ERO firm name do not enter all zeros
on the partnership's 2015 electronically filed return of partnership income.

☐ As a general partner or limited liability company member manager of the partnership, I will enter my PIN as my signature on the partnership's 2015 electronically filed return of partnership income.

General partner or limited liability company member manager's signature ▶

Date ▶ 03/15/2016Title ▶ MEMBER**Part III** Certification and Authentication

ERO's EFIN/PIN. Enter your six-digit EFIN followed by your five-digit self-selected PIN.

do not enter all zeros

I certify that the above numeric entry is my PIN, which is my signature on the 2015 electronically filed return of partnership income for the partnership indicated above. I confirm that I am submitting this return in accordance with the requirements of Pub. 3112, IRS e-file Application and Participation, and Pub. 4163, Modernized e-File (MeF) Information for Authorized IRS e-file Providers for Business Returns.

ERO's signature ▶ JOHN A ROEDate ▶ 03/23/2016

ERO Must Retain This Form - See Instructions
Do Not Submit This Form to the IRS Unless Requested To Do So

For Paperwork Reduction Act Notice, see instructions.

Form **8879-PE** (2015)

BCA



STATE OF SOUTH CAROLINA
PARTNERSHIP RETURN
Tax Year 2015

SC1065
(Rev. 10/21/15)
3087

Return is due on or before the 15th day of the fourth month
following the close of the taxable year.

For the year January 1 - December 31, 2015, or fiscal tax year
beginning 2015 and ending 2016

OLD TOWNE SUITES LLC

229 KING STREET

CHARLESTON SC 29401-

FEIN (Required):	SC File # (Required):	County:
---------------------	--------------------------	---------

Check applicable boxes:	☐ Initial return	☐ Final return	☐ Address change	☐ Amended return
Total Number of Partners:	Number of Partners that are Not SC Residents:		Taxpayer's Email:	

ATTACH A COPY OF FORM 1065 FEDERAL PARTNERSHIP RETURN AND COPIES OF ALL SCHEDULES.

☐ Check here if you filed a federal or state extension.	Read the instructions carefully and fill in all applicable lines and schedules.		
Location of business property:	City	State	Phone Number

COMPLETE SCHEDULE SC-K FIRST

Schedule W-H Withholding Tax on Income of Nonresident Partners

1. Total from line 21, page 2, SC1065	1.	149995	00
2. Amount of line 1 income taxable to nonresident partners (from SC1065 K-1s)	2.	0	00
3. Amount of line 2 exempt from withholding because of I-309 affidavit or composite filing	3.	0	00
4. Subtract line 3 from line 2, if less than zero, enter -0-	4.	0	00
5. Withholding tax due - line 4 times .05 (5%)	5.	0	00
6. Withholding from nonresident sale of real estate (Attach I-290) or SC Withholding from form 1099-MISC	6.	0	00
7. Amount paid with extension SC8736	7.	0	00
8. Add lines 6 and 7	8.	0	00
9. Subtract line 8 from line 5. If zero or less, enter zero here. This is the amount due with this return. Refunds cannot be issued from the SC1065. An overpayment must be claimed and refunded at the partner level	9.	0	00

I declare that this return and all attachments are true, correct and complete to the best of my knowledge and belief.

14-0832

Please Sign Here	Signature of general partner or LLC/LLP member		Date
	I authorize the Director of the Department of Revenue or delegate to discuss this return, attachments and related tax matters with the preparer. Yes ☐ No ☒		
Paid Preparer's Use Only	Preparer Printed Name	Check if self-employed ☐	Preparer telephone number
	JOHN A ROE		843-722-3222
	Preparer signature	JOHN A ROE	PTIN
	Firm's name (or yours if self-employed) and address	PINNACLE 1 DOWNTOWN 216 SPRING ST CHARLESTON SC 29403-	

Mail to:
Balance Due:
SC DEPARTMENT OF REVENUE
TAXABLE PARTNERSHIP
COLUMBIA SC 29214-0036

Zero Tax:
SC DEPARTMENT OF REVENUE
NONTAXABLE PARTNERSHIP
COLUMBIA SC 29214-0037

30871024 0000000000 454468382 1215 000000000000 0000



Form SC1065
SCHEDULE SC-K

PARTNERS' SHARES OF INCOME (LOSSES), DEDUCTIONS, CREDITS ETC. (See instructions.)

	(A)* Enter Amounts From Federal Schedule K	(B) Plus or Minus South Carolina Adjustment	(C) Federal Schedule K Amounts After SC Adjustments	(D) Amounts Allocated to SC	(E) Amounts Allocated to States Other Than SC	(F) Amounts Subject to Apportionment
1	Ordinary Business Income (loss) 0	0	0	0	0	0
2	Net Real Estate Rents (loss) 150,561	-566	149,995	149,995	0	0
3	Other Net Rents (loss) 0	0	0	0	0	0
4	Guaranteed Payments 0	0	0	0	0	0
5	Interest Income 0	0	0	0	0	0
6	Dividends 0	0	0	0	0	0
7	Royalties 0	0	0	0	0	0
8	Net Short Term Cap. Gain (loss) 0	0	0	0	0	0
9	Net Long Term Cap. Gain (loss) 0	0	0	0	0	0
10	Net § 1231 gain (loss) 0	0	0	0	0	0
11	Other Income (loss) 0	0	0	0	0	0
12	§ 179 Deduction 0	0	0	0	0	0
13a	Contributions 0	0	0	0	0	0
13b	Investment Interest Expense 0	0	0	0	0	0
13c	§ 59 (e)(2) Expenditures 0	0	0	0	0	0
13d	Other Deductions 0	0	0	0	0	0
14	Total 150,561	-566	149,995	149,995	0	0
15	Amounts from federal Schedule K (line 14, Schedule SC-K, Col. A)					150,561
16	Amounts Allocated to South Carolina (from line 14, Schedule SC-K, Col. D)					149,995
17	Net income (loss) subject to apportionment (from line 14, Schedule SC-K, Col. F)					0
APPORTIONMENT						
						TOTAL
						SC
						0
18	Total Sales or Gross Receipts					0
19	Apportionment factor (SC ÷ TOTAL). 100% if operating entirely within SC					100.0000 %
20	Net business income (loss) apportioned to SC (line 17 multiplied by line 19)					0
21	Net business income (loss) taxable to SC (line 16 plus line 20)					149,995

*Enter amounts from corresponding lines on your federal Schedule K in Column A.

30672022

SC

State K-1 Adjustment Worksheet

2015

Name: OLD TOWNE SUITES LLC

EIN: [REDACTED]

State additions to the amounts reported for Federal tax purposes		Amount
1	Interest and dividends from obligations of other states	
2	State tax paid and deducted on the Federal return	
3	Depreciation addition due to the states nonconformity	
4		
5		
6		
7		
8		
9		
10		
11	SOUTH CAROLINA MODIFIED INCOME	149,995.

State subtractions to the amounts reported for Federal tax purposes		Amount
12	Interest and dividends on obligations of the United States	
13	State tax refund included as income on the Federal return	
14	Wages taken as an employment credit and not deducted from Federal Income	
15	Depreciation subtraction due to the states nonconformity	
16	Adjustments to Income due to Federal credits	
17		
18		
19		
20		
21		
22		
23		

Credits (list type and amount)		Amount
24		
25		
26		
27		
28		
29		
30		
31		
32		
33		

Other Information

1045

STATE OF SOUTH CAROLINA
DEPARTMENT OF REVENUE
**PARTNER'S SHARE OF SOUTH CAROLINA
INCOME, DEDUCTIONS, CREDITS, ETC.**

SC1065 K-1
(Rev. 6/26/15)
3515

For calendar year **2015** or tax year beginning and ending

Partner's identifying number

Partnership's FEIN

Partner's name, address and Zip code
ATHAN FOKAS

Partnership's name, address and ZIP code
OLD TOWNE SUITES LLC

**229 KING STREET
CHARLESTON SC 29401-**

**229 KING STREET
CHARLESTON SC 29401-**

Check if applicable: (1) ☐ Final K-1 (2) ☐ Amended K-1 (3) ☐ Nonresident

		(A) Federal K-1 Amounts		(B) Plus or Minus SC Adjustments		(C) Amounts Not Allocated or Apportioned to SC		(D) Amounts Allocated or Apportioned to SC	
Income (Loss)	1 Ordinary business income (loss)	1		1		1		1	
	2 Net rental real estate income (loss)	2	37,743.	2	-142.	2		2	37,601.
	3 Other Net rental income (loss)	3		3		3		3	
	4 Guaranteed payments	4		4		4		4	
	5 Interest income	5		5		5		5	
	6 Dividends	6		6		6		6	
	7 Royalties	7		7		7		7	
	8 Net short-term capital gain (loss)....	8		8		8		8	
	9 Net long-term capital gain (loss)	9		9		9		9	
	10 Net Section 1231 gain (loss).....	10		10		10		10	
	11 Other income (loss)	11		11		11		11	
Deductions	12 Section 179 deduction	12		12		12		12	
	13 Other deductions	13		13		13		13	
	14 Net taxable income	14						14	37,601.
Credits	15 Withholding tax for nonresident partner (see SC1065 K-1 Instructions)	15						15	
	List applicable South Carolina tax credits. (Attach an additional sheet if needed.)								
	16							16	
	17							17	
	18							18	
	19							19	
	20 Total South Carolina tax credits	20						20	

35151018

SC

State K-1 Attachment

2015

Partner's name:
ATHAN FOKAS

ID: [REDACTED]

Partnership's name:
OLD TOWNE SUITES LLC

ID: [REDACTED]

Partner's profit percentage: 25.000 %

State additions to the amounts reported for Federal tax purposes		Amount
1	Interest and dividends from obligations of other states	
2	State tax paid and deducted on the Federal return	
3	Depreciation addition due to the states nonconformity	
4		
5		
6		
7		
8		
9		
10		37,743.
11	SOUTH CAROLINA MODIFIED INCOME	

State subtractions to the amounts reported for Federal tax purposes		Amount
12	Interest and dividends on obligations of the United States	
13	State tax refund included as income on the Federal return	
14	Wages taken as an employment credit and not deducted from Federal income	
15	Depreciation subtraction due to the states nonconformity	
16	Adjustments to income due to Federal credits	
17		
18		
19		
20		
21		
22		
23		

Credits (list type and amount)		Amount
24		
25		
26		
27		
28		
29		
30		
31		
32		
33		

Other Information

USK11065

1045

STATE OF SOUTH CAROLINA
DEPARTMENT OF REVENUE
**PARTNER'S SHARE OF SOUTH CAROLINA
INCOME, DEDUCTIONS, CREDITS, ETC.**

SC1065 K-1
(Rev. 6/26/15)
3515

For calendar year **2015** or tax year beginning and ending

Partner's identifying number
Partner's name, address and Zip code
IAKOVOS FERDERIGOS

Partnership's FEIN
Partnership's name, address and ZIP code
OLD TOWNE SUITES LLC

**229 KING STREET
CHARLESTON SC 29401-**

**229 KING STREET
CHARLESTON SC 29401-**

Check if applicable: (1) ☐ Final K-1 (2) ☐ Amended K-1 (3) ☐ Nonresident

	Partner's Share of Current Year Income, Deductions, Credits, etc.	(A) Federal K-1 Amounts		(B) Plus or Minus SC Adjustments		(C) Amounts Not Allocated or Apportioned to SC		(D) Amounts Allocated or Apportioned to SC	
Income (Loss)	1 Ordinary business income (loss)	1		1		1		1	
	2 Net rental real estate income (loss)	2	25,108.	2	-94.	2		2	25,014.
	3 Other Net rental income (loss)	3		3		3		3	
	4 Guaranteed payments	4		4		4		4	
	5 Interest income	5		5		5		5	
	6 Dividends	6		6		6		6	
	7 Royalties	7		7		7		7	
	8 Net short-term capital gain (loss)....	8		8		8		8	
	9 Net long-term capital gain (loss)	9		9		9		9	
	10 Net Section 1231 gain (loss).....	10		10		10		10	
	11 Other income (loss)	11		11		11		11	
Deductions	12 Section 179 deduction	12		12		12		12	
	13 Other deductions	13		13		13		13	
	14 Net taxable income							14	25,014.
	15 Withholding tax for nonresident partner (see SC1065 K-1 Instructions)							15	
	List applicable South Carolina tax credits. (Attach an additional sheet if needed.)							16	
Credits	16							17	
	17							18	
	18							19	
	19							20	
	20 Total South Carolina tax credits								

35151018

SC

State K-1 Attachment

2015

 Partner's name:
 IAKOVOS FERDERIGOS

ID: [REDACTED]

 Partnership's name:
 OLD TOWNE SUITES LLC

ID: [REDACTED]

 Partner's profit percentage: 16.667 %

State additions to the amounts reported for Federal tax purposes		Amount
1	Interest and dividends from obligations of other states	
2	State tax paid and deducted on the Federal return	
3	Depreciation addition due to the states nonconformity	
4		
5		
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11	SOUTH CAROLINA MODIFIED INCOME	25,108.

State subtractions to the amounts reported for Federal tax purposes		Amount
12	Interest and dividends on obligations of the United States	
13	State tax refund included as income on the Federal return	
14	Wages taken as an employment credit and not deducted from Federal income	
15	Depreciation subtraction due to the states nonconformity	
16	Adjustments to income due to Federal credits	
17		
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23		

Credits (list type and amount)		Amount
24		
25		
26		
27		
28		
29		
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31		
32		
33		

Other Information

Partner's Identifying number Partner's name, address and Zip code SPIRO FERDERIGOS 1971 SANDCROFT DRIVE CHARLESTON SC 29407-	Partnership's FEIN Partnership's name, address and ZIP code OLD TOWNE SUITES LLC 229 KING STREET CHARLESTON SC 29401-
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35151018

SC

State K-1 Attachment

2015

 Partner's name:
 SPIRO FERDERIGOS

ID: [REDACTED]

 Partnership's name:
 OLD TOWNE SUITES LLC

ID: [REDACTED]

 Partner's profit percentage: 16.667 %

State additions to the amounts reported for Federal tax purposes		Amount
1	Interest and dividends from obligations of other states	
2	State tax paid and deducted on the Federal return	
3	Depreciation addition due to the states nonconformity	
4		
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11	SOUTH CAROLINA MODIFIED INCOME	25,087.
State subtractions to the amounts reported for Federal tax purposes		Amount
12	Interest and dividends on obligations of the United States	
13	State tax refund included as income on the Federal return	
14	Wages taken as an employment credit and not deducted from Federal income	
15	Depreciation subtraction due to the states nonconformity	
16	Adjustments to income due to Federal credits	
17		
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23		
Credits (list type and amount)		Amount
24		
25		
26		
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31		
32		
33		

Other Information

1045

STATE OF SOUTH CAROLINA
DEPARTMENT OF REVENUE
**PARTNER'S SHARE OF SOUTH CAROLINA
INCOME, DEDUCTIONS, CREDITS, ETC.**

SC1065 K-1

(Rev. 6/26/15)

3515

For calendar year **2015** or tax year beginning and ending

Partner's identifying number	Partnership's FEIN
Partner's name, address and Zip code SPIRO FOKAS 49 SOWELL STREET MOUNT PLEASANT SC 29464-	Partnership's name, address and ZIP code OLD TOWNE SUITES LLC 229 KING STREET CHARLESTON SC 29401-
Check if applicable: (1) Final K-1 (2) Amended K-1 (3) Nonresident	

	Partner's Share of Current Year Income, Deductions, Credits, etc.	(A) Federal K-1 Amounts		(B) Plus or Minus SC Adjustments		(C) Amounts Not Allocated or Apportioned to SC		(D) Amounts Allocated or Apportioned to SC	
Income (Loss)	1 Ordinary business income (loss)	1		1		1		1	
	2 Net rental real estate income (loss)	2	37,537.	2	-142.	2		2	27,396.
	3 Other Net rental income (loss)	3		3		3		3	
	4 Guaranteed payments	4		4		4		4	
	5 Interest income	5		5		5		5	
	6 Dividends	6		6		6		6	
	7 Royalties	7		7		7		7	
	8 Net short-term capital gain (loss)....	8		8		8		8	
	9 Net long-term capital gain (loss)	9		9		9		9	
	10 Net Section 1231 gain (loss)	10		10		10		10	
	11 Other income (loss)	11		11		11		11	
Deductions	12 Section 179 deduction	12		12		12		12	
	13 Other deductions	13		13		13		13	
	14 Net taxable income							14	27,396.
	15 Withholding tax for nonresident partner (see SC1065 K-1 Instructions)							15	
Credits	List applicable South Carolina tax credits. (Attach an additional sheet if needed.)							16	
	16							16	
	17							17	
	18							18	
	19							19	
	20 Total South Carolina tax credits							20	

35151018

SC

State K-1 Attachment

2015

Partner's name:
SPIRO FOKAS

ID: [REDACTED]

Partnership's name: ID: [REDACTED]
OLD TOWNE SUITES LLC

Partner's profit percentage: 25.000 %

State additions to the amounts reported for Federal tax purposes		Amount
1	Interest and dividends from obligations of other states	
2	State tax paid and deducted on the Federal return	
3	Depreciation addition due to the states nonconformity	
4		
5		
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10		
11	SOUTH CAROLINA MODIFIED INCOME	37,537.
State subtractions to the amounts reported for Federal tax purposes		Amount
12	Interest and dividends on obligations of the United States	
13	State tax refund included as income on the Federal return	
14	Wages taken as an employment credit and not deducted from Federal income	
15	Depreciation subtraction due to the states nonconformity	
16	Adjustments to income due to Federal credits	
17		
18		
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23		
Credits (list type and amount)		Amount
24		
25		
26		
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29		
30		
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32		
33		

Other Information

1045

STATE OF SOUTH CAROLINA
DEPARTMENT OF REVENUE
**PARTNER'S SHARE OF SOUTH CAROLINA
INCOME, DEDUCTIONS, CREDITS, ETC.**

SC1065 K-1
(Rev. 6/26/15)
3516

For calendar year **2015** or tax year beginning and ending

Partner's identifying number PHILLIP FERDERIGOS 1668 SOUTHPORT DRIVE CHARLESTON SC 29407-	Partnership's FEIN OLD TOWNE SUITES LLC 229 KING STREET CHARLESTON SC 29401-
Check if applicable: (1) ☐ Final K-1 (2) ☐ Amended K-1 (3) ☐ Nonresident	

Partner's Share of Current Year Income, Deductions, Credits, etc.		(A) Federal K-1 Amounts	(B) Plus or Minus SC Adjustments	(C) Amounts Not Allocated or Apportioned to SC	(D) Amounts Allocated or Apportioned to SC
Income (Loss)	1 Ordinary business Income (loss)	1	1	1	1
	2 Net rental real estate income (loss)	2 25,086.	2 -94.	2	2 24,991.
	3 Other Net rental income (loss)	3	3	3	3
	4 Guaranteed payments	4	4	4	4
	5 Interest Income	5	5	5	5
	6 Dividends	6	6	6	6
	7 Royalties	7	7	7	7
	8 Net short-term capital gain (loss)....	8	8	8	8
	9 Net long-term capital gain (loss)	9	9	9	9
	10 Net Section 1231 gain (loss)	10	10	10	10
	11 Other income (loss)	11	11	11	11
Deductions	12 Section 179 deduction	12	12	12	12
	13 Other deductions	13	13	13	13
	14 Net taxable income			14	24,991.
	15 Withholding tax for nonresident partner (see SC1065 K-1 Instructions)			15	
Credits	List applicable South Carolina tax credits. (Attach an additional sheet if needed.)				16
	16				16
	17				17
	18				18
	19				19
	20 Total South Carolina tax credits			20	

35151018

SC

State K-1 Attachment

2015

Partner's name:

ID:

PHILLIP FERDERIGOS

Partnership's name:

ID:

OLD TOWNE SUITES LLC

Partner's profit percentage: 16.666 %

State additions to the amounts reported for Federal tax purposes		Amount
1	Interest and dividends from obligations of other states	
2	State tax paid and deducted on the Federal return	
3	Depreciation addition due to the states nonconformity	
4		
5		
6		
7		
8		
9		
10		
11	SOUTH CAROLINA MODIFIED INCOME	25,086.

State subtractions to the amounts reported for Federal tax purposes		Amount
12	Interest and dividends on obligations of the United States	
13	State tax refund included as income on the Federal return	
14	Wages taken as an employment credit and not deducted from Federal income	
15	Depreciation subtraction due to the states nonconformity	
16	Adjustments to income due to Federal credits	
17		
18		
19		
20		
21		
22		
23		

Credits (list type and amount)		Amount
24		
25		
26		
27		
28		
29		
30		
31		
32		
33		

Other Information

USK11065

From: Richard Homes <rhomes@rhomescpa.com>
Date: March 10, 2016 at 11:04:01 AM EST
To: Iakovos Ferderigos <iakovosstavros@gmail.com>
Subject: Re: REVISED DRAFT OLD TOWN RESTAURANT 2015 Tax Return Information

Jacob, thanks for letting me know that information. Given your litigation battles, it is best that my firm simply step away from preparing and filing these corporate and partnership tax returns for Old Town Restaurant and Old Town Suites until everyone, all shareholders and partners, can form a consensus on how they'd like to proceed.

Please know that the filing deadline for an extension is March 15th for Old Town Restaurant, and I'll need everyone's consent by this Monday to Efile an extension if you'd like for me to. The deadline for the Old Town Suites partnership tax filing is Apr 15th and I'll wait to hear from you all as to how you'd like for us to proceed.

Thanks again,

Richard

On Thu, Mar 10, 2016 at 10:02 AM, Iakovos Ferderigos<iakovosstavros@gmail.com> wrote:

Richard, you have informed me that (1) Athan Fokas has asked you to issue a K-1 to his father Spiros Fokas from Old Towne Suites LLC and (2) Athan Fokas has asked you to list his father Spiros Fokas as the president of Old Towne Restaurant for the current 2015 tax year corporate returns. I am sending this email response to make it abundantly clear that I do not consent or authorize you to provide Spiros Fokas with a k-1 Old Towne Suites LLC or list Spiros Fokas as the president of Old Towne Restaurant.

First, as to Old Towne Suites LLC, based upon the Operating Agreement, the only members of the LLC are me, Spiros Ferderigos, Phillip Ferderigos and Athan Fokas. Spiros Fokas is not a LLC member and it is my understanding that no K-1 should issue from the LLC directly to Spiros Fokas, who is a non-member. You indicate that Athan Fokas told you to do that; however, he did not clear that by his other members in the LLC beforehand. The remaining members of the LLC (myself, Spiros and Phillip), who are 50% owners of the LLC, do not authorize K-1s to be issued directly to non-members of the LLC.

Second, as to Old Town Restaurant, Athan Fokas and his father, Spiros Fokas, have most recently filed affidavits/pleadings with the court stating that Athan is an employee of Old Towne Restaurant. I am hereby notifying you that I do not authorize Athan Fokas to make any representations on behalf of Old Towne Restaurant to you. This includes Athan Fokas' representation to you that his father is the president of Old Towne Restaurant. Furthermore, I have reviewed the last few years of corporate returns and Spiros Fokas is not listed as the president on those returns. I am 50% shareholder and was recently informed for the first time that Athan's father, Spiros Fokas, indicates that he is the other 50% shareholder. Given the litigation that is on-going and the representations made by Athan Fokas and Spiros Fokas in the litigation, I ask that you revise the corporate returns to indicate that I am a 50% owner/shareholder and, based on their current filings with the court, that Spiros Fokas is the other 50% owner/shareholder. This request also includes any potential K-1's being issued to Athan Fokas who is now claiming in his Court filings to be an employee with no ownership interest in Old Town Restaurant. As he is not a shareholder, my understanding is that K-1's should not be issued directly to him from the corporation.



From: Richard Homes <rhomes@rhomescpa.com>
Date: March 14, 2016 at 12:36:50 PM EDT
To: Jacob Ferderigos <iakovosstavros@gmail.com>
Subject: Old Town Restaurant extension

Jacob, thanks for coming by this a.m. to sign off on the Old Town Restaurant corp income tax filing extension forms, but Athan just informed me that he's not interested in getting extensions for this 1120s tax preparation and that he will take care of the Old Town Restaurant corporate income tax filing with another accounting firm.

Just wanted to give you a heads up that my firm will not be efilng this corporate income tax extension for Old Town Restaurant that is due by midnight tomorrow.

—
Richard B. Homes, CPA, LLC

102 Wappoo Creek Dr., Ste. 11

Charleston, SC 29412

(843)795-0819

(843)795-8760 fax

www.rhomescpa.com

IRS Circular 230 Notice: The IRS requires that our firm disclose to you that any tax advice that you receive from us via this email or attachments hereto is not intended or written to be used, and cannot be used for the purpose of avoiding U.S. federal, state or local tax penalties. This electronic transmission may contain confidential or privileged information, and if you have received this message in error, please notify the sender by replying to this email and delete the message without copying or disclosing it.

Athan Fokas
34 Fernandina St.
Mt. Pleasant, SC 29464
(843) 813-5612

Gentlemen,

Our taxes for Old Towne suites LLC and S&S Old Towne Incorporated were filed on time. Richard Holmes expressed that he did not want to be involved in our family feud so he gave me all the information in draft format and my father and I took them to Pinnacle 1 to be processed on time. Richard expressed that your concern was the percentages of me giving 25% of the revenue for Old Towne Suites. This is perfectly legal and I have confirmation from a tax attorney that reviewed this information before it was filed. We have a document stating that I have given my father 25% of the income only with no voting rights or membership in Old Towne Suites LLC. Richard also mentioned that you expressed concern that my father Spiro Fokas has given his 25% distribution of income in the S&S Old Towne Inc. This percentage has been filed this way for over 13 years by Richard Holmes and I had a tax attorney review and he gave his blessing on this as well. Once again we have documentation dated January 1, 2003 that this was income distribution and no change to ownership or voting rights. All of these concerns have to do with the Internal Revenue Service and if there is ever a question then the tax attorney will handle it with them.

Yours truly,
Athan Fokas





M. Dawes Cooke, Jr., Member
mdc@barnwell-whaley.com

June 15, 2016
Via U.S. Mail & E-mail

Stanley Barnett, Esquire
Smith Bundy Bybee & Barnett, P.C.
Post Office Box 1542
Mount Pleasant, SC 29465
stanleyb@s3blaw.com

RE: Old Towne Suites, LLC

Dear Stan:

My client discovered that Athan Fokas wrote an unauthorized check to himself from the Old Towne Suites, LLC, checking account. The LLC bank account exists for the property manager to deposit net rental proceeds and to temporarily hold those profits until they are distributed to the members, with fifty percent to Athan Fokas and fifty percent to the Ferderigos members. The property manager oversees the daily LLC business and deducts its fees and expenses for the LLC prior to depositing the net rental proceeds into the LLC checking account.

Upon investigating, my client learned that Athan Fokas opened the LLC checking account to the exclusion of the other members. He is the only signatory, only he has access to the checking account, and he has apparently connected the checking account to another business that my client has no interest in. This is the first time my client has ever heard any of this, and Athan Fokas has no right to restrict the LLC checking account to the exclusion of its other members, or do any other of the above.

My client demands that Athan Fokas immediately open a new LLC checking account under the names of all the members, with no restrictions on access by any of the members, and with no connection to any other business. Mr. Fokas must immediately close the current, improper LLC checking account and transfer the LLC funds to the new checking account that includes all the members.

As for Mr. Fokas writing an authorized check to himself from the LLC checking account, please remind him that he is only a fifty percent member in the member-managed LLC and cannot write checks to himself or do anything whatsoever without the required statutory consent of the other members. This includes, but is not limited to, making distributions to himself without equal distribution to the Ferderigos membership, and includes withdrawing funds, paying alleged expenses, and/or making any decisions whatsoever for the LLC for any reason whatsoever without the statutorily required consent from the other members.

(00823503.DOC.1

www.barnwell-whaley.com

SOUTH CAROLINA OFFICE:
288 Meeting Street, Suite 200, Charleston, SC 29401
P 843.577.7700 F 843.577.7708

NORTH CAROLINA OFFICE:
1427 Military Cutoff Road, Suite 202, Wilmington, NC 28403
P 910.679.1388 F 910.679.4663

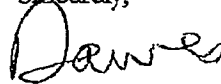
REPRESENTING CLIENTS IN ALL COURTS IN SOUTH CAROLINA AND NORTH CAROLINA AND IN THE UNITED STATES PATENT AND TRADEMARK OFFICE



The check that Athan Fokas wrote to himself was only for around \$17.00. However, any distributions, withdrawals, or alleged expenses, for any reason whatsoever, no matter how small, require the knowledge, consent and approval of the majority interest, and in some instances unanimous consent, of the LLC members as set forth in the LLC statute. Any future unauthorized distribution, withdrawal, or alleged expense without the statutorily required consent of the membership will be considered a material breach of the offending member's duties to the other members and to the LLC, and the other members will reimburse themselves via a similar distribution/withdrawal from the LLC profits.

Please let me know immediately if Mr. Fokas cannot or will not comply with this request within five (5) business days of this letter. My client intends to take appropriate legal action if Mr. Fokas fails or refuses to comply. Please give me a call if you have any questions or if you wish to discuss this matter.

Sincerely,



M. Dawes Cooke, Jr.

c: Richard A. Fartier, Jr., Esquire (Richard.fartier@klgates.com)
John A. Massalon, Esquire (JMassalon@wmalawfirm.net)

(843) 813-5612



I'll contact him.

9:09 PM

Jacob



I agree also

9:10 PM

Me

I'm in favor and fine with that

9:10 PM

(843) 813-5612



I don't think we need Jacobs vote because one of your votes makes it 66.6%. Just saw he chimed in.

9:10 PM

Thursday, June 9, 2016

Spiro Cell



Does anyone consent to asking Eric the electrician to give us an estimate so we can consider adding additional lights to the outside stairwell/hallway? Kevin said the lack of sufficient lighting in the stairwell/hallway is the number 1 repeated complaint about the Suites. Please let me know who agrees to get an estimate for additional lights in the outside stairwell/hallway.

3:31 PM

(843) 813-5612



We don't need everyone's approval all we need is me and one of you 16.6% owners. Spiro you already agreed and said how much you like Eric so it's settled. I will follow up with Eric.

3:34 PM

Thursday, June 16, 2016

(843) 813-5612



Hello folks. I just got a note from my attorney that you guys would like access to the Old Towne Suites account. Jacob has always had access to that account on line but this is the first time you guys said you wanted to be on signature cards. Just go by First Citizens bank at 903 Johnnie Dodds Blvd. Mount Pleasant 29464 and Erik Sugar will get you all set up. He asked if you could do it within a week.

12:10 PM

Monday, June 20, 2016

(843) 813-5612



Just got this from management company:
"The showerhead in the master bedroom in B is leaking."
I looked at it and it's not a simple shower head replacement. Water won't turn off. Jacob sent in a plumber for the same problem on another bathroom I think and I'm ok with him calling in the same plumber.

10:53 AM



Spiro Cell

We reject what you are saying and do not consent to it. Athan, we have been through this before and I referred you to the statute that makes it clear that you need the consent of the majority of members to do such things. In some instances, you need the unanimous consent of the members. Text me the authority that says that in a member run LLC a member can do things without the consent of the other members for such things. There is no such authority. We are a member managed LLC, not a manager managed LLC. You do not have the consent to do anything with the LLC without the required consent of the other members. You are on notice that you are violating your duties to the members of the LLC and we will hold you accountable. You cannot just do whatever you want. This is a one time allowance and we will not allow it or reimburse you again. You are on notice that we are not reimbursing you again, so don't pay any expenses for the LLC and expect to be reimbursed because you will not be.

As for the debit card, I have repeatedly sent your attorney a letter to have an appropriate new account opened that is accessible to all members. This is because you, without our permission, opened an unauthorized LLC account that only you have access to. The rest of the members are completely closed out. I sent another letter out earlier this week putting you on notice that I will be filing a motion for the Court to force you to open an account that is accessible to all members with no improper strings attached. I have found such an account at Tidelands but you, thus far, have refused to cooperate. You are not the only member of the LLC. There are other members with rights and since you only have 50 percent interest in the LLC, you need consent from the other members. You are on notice.

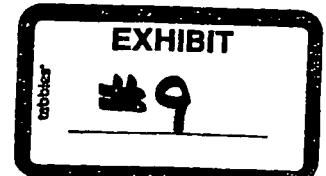
1:54 PM

As for me being reimbursed for something, I have no idea what you are talking about or the context of what any such reimbursement was in. What I can tell you is that you do not have the consent of the other members to pay for LLC expenses and then be reimbursed by the LLC. That convolutes expenses in a manner that the other members are not willing to consent to.

(843) 813-5612

Well then you need to be enlightened! No owner can stop another owner from taking care of the necessities to keep a business operating as usual and that owner will be reimbursed for his expense. Look it up brother and you will be enlightened!

2:00 PM



(843) 813-5612



And Jacob and I opened that account with your consent when we first started the suites. This is the first time since 2010 that I have heard that you don't like the account there.

2:03 PM

Jacob



I do not agree with what Athan just said.

2:35 PM

(843) 813-5612



I'm sure you don't agree now that we have all these fun lawsuits but you did then or you would have mentioned something in the last six years. I guess we will leave it to a jury to decide that one.

2:38 PM

Spiro Cell

Athan, then please enlighten me as to your legal authority and send it to me. We no longer consent to you doing work at the LLC. A professional can be called out to make the repair with the consent of the parties.

As for the checking account, I have sent at least three letters to your attorney over many many months now with no response. Are you telling me that you agree to open the account at Tideland's bank that I detailed in my prior letters to your attorney? Let me know if you do, I will contact the representative today and get it all set up so all you need to do is go sign paperwork. Every member has a legal right to access the LLC account and your current account only lets you access the account.

2:42 PM



Also, I never consented to you opening the current account.

(843) 813-5612



I agree to business as usual as we have always been doing it!

2:44 PM

Spiro Cell



So you insist on maintaining an account that only you have access to to the exclusion of other members?

2:45 PM

Me

Athan, let me be clear. I never consented to your opening up any account for the LLC, certainly not one where I do not have access to as a member. My lawyer has also sent your lawyer letters to deal with the LLC checking account issue, but you have failed to respond. Regrettably, it appears the court will have to force you to comply.

2:46 PM

(843) 813-5612



Your brother Jacob who always handled the Ferderigos half of the suites sure did.

2:54 PM

Spiro Cell



Are you going to agree to open the account I have requested that ensures all members have access? Yes or no?

2:55 PM

(843) 813-5612



We will keep everything the same as it has been since 2010. Your brother Jacob who has always handled the Ferderigos half and has the same access as I do and he consented to opening the account. I guess we can let a jury decide if there has been any harm in the way the accounts were set up in the beginning.

3:00 PM

Spiro Cell



I do not agree with your texts. In addition, Jacob does not have access to the LLC account. Only you do. Read the letters I sent to your attorney. Call your bank. You have inappropriately shut everyone but yourself out of the account. Will you agree to open an account that all members have access to?

3:02 PM

Me

Athan, I reject what you are saying and am not going to respond to your nonsense. You are willfully violating my rights.

3:03 PM

Jacob



I do not agree with what Athan is saying. I am no longer going to respond to these texts.

3:05 PM

(843) 813-5612



Then why haven't you complained that we should change the Old Towne suites account anytime since 2010 until your brothers who have never held the checkbook started complaining recently?

3:08 PM

(843) 813-5612



Jacob does have access just like I do. We both sign the checks in the quarter that we hold the books and we both see all the information on line and you have access to all the on line stuff as well. Are you saying that Phillip and Spiro no longer want Jacob to handle the Ferderigos half of the suites account?

3:12 PM

Jacob

Athan, I just found out that you were the only one on the LLC account at the same time my brothers did. A letter was sent to your attorney to have an account opened that everyone has access to. I had no idea that you restricted the account to only yourself. I do not have the same access like you do. I have no access unless you call the bank first and tell them they can talk to me. Spiro has no access. Phillip has no access. I can only see what is online if you allow me to. I was just shut out of the online account about a week ago and the bank would not let me get into the account until they called you first and got your permission. When I recently tried to talk to the bank, they told me they could not talk to me because I was not on the account and they had to get your permission first. I can't complain about something I do not know about.

3:45 PM

Apparently, you have done the same thing with the restaurant account, which is why my attorney asked your attorney to have you agree to open up a new account for the restaurant as well that we can both agree to. You have shut me out of everything and you have no right to do that. You have also shut me and my brothers out from the LLC account and you have no right to do that either. Will you agree to open new general checking accounts that we can all agree to like Spiro has asked for the LLC? You never told me that only you have access to all of these accounts. I had to find out the hard way. I am not going back and forth. This is my last text. I also never told you that I handle the account for my brothers or anyone else. Are you going to agree to open the new accounts like Spiro has asked?



Spiro Cell

Phillip and I have nothing to do with Old Towne Restaurant.

Athan, will you agree to the new account like I have repeatedly asked through counsel that all members have access to or will you continue to inappropriately shut out the LLC members with your current account?

3:52 PM



(843) 813-5612

Jacob, the account was opened with you on it. Let me know when you are available and we will go to First Citizens Bank together to see what you are talking about.

3:53 PM



Spiro Cell

Athan, you clearly have not paid attention to the letters that have been sent to your attorney. Please go read them. You are the only one on the account. I do not consent to being cut out or any other member being cut out. My brothers and I have already gone to your bank and went through the process of trying to get everything fixed. Your bank can't do it the way that is needed. It is all documented in the letters that have been sent to your attorney. I don't understand your reluctance. Please call your lawyer, get the numerous letters (I believe it is three) that I sent, read the attachments to the letters from the bank that make everything very clear, and let us know immediately when you are ready to open the new accounts. I have already given your attorney a ten day deadline or a motion will be filed that also seeks reimbursement of my attorneys fees. I don't prefer to handle it that way but I have no choice if you continue to shut everyone out of the account.



4:07 PM

Me

Athan, you and Jacob cannot take away my statutory rights. Consent with my request to open an account that I have access to or I will regrettably ask the court to force you to comply. I will also ask the court for sanctions. Please talk to your lawyer immediately and do what is required by law. You are on notice once again that you are violating my rights with your actions.

4:08 PM

(843) 813-5612

Phillip, I never heard a peep out of you till recently that you wanted to be on the account that Jacob and I set up when we first opened the Old Towne Suites. Jacob has always handled the Ferderigos half and he and I swap the checkbooks every quarter and to my knowledge everything has been hunky dory. You have never expressed interest that I know of but now you want it changed? Has Jacob not paid you your 1/3 profit of the Ferderigos half? What damages have you suffered? As far as I know, Jacob has told me that he deposits the Ferderigos half in an account called Ferderigos enterprises and you all split the money in third's from there. What has changed since the suites started?



4:16 PM

Me

Athan, I am not going to go back-and-forth with you. You are willfully violating my statutory rights and unfortunately, I'm going to have ask the court to make you stop.

4:23 PM

(843) 813-5612



Your brother set up the account with me back in 2010. He can meet me there to see what needs to change if anything. Just let me know when is convenient.

4:25 PM

Spiro Cell

Athan, are you purposefully ignoring our texts? We have already tried with your bank. Read the letters to your attorney. Do you agree or do you not agree for us to open the account I requested so that everyone has equal access? We are not going to keep going back and forth. It is a simple yes or no. We are not going to let you trample on the rights of the LLC members and do whatever you please in the LLC. You are not the only member. Will you do it voluntarily, or will you make us file a motion and seek sanctions/costs? You do not have a right to shut out the other members and be the sole person on the account. What is your answer? If it is no, we have already told you above what you will force us to do even though we prefer not to. You will give us no choice.

4:30 PM



(843) 813-5612



I know that you guys showed up to the bank and you put an x all over their form. I don't know any of the details though. Jacob can meet me there so we can figure out what the problem is.

4:33 PM

Spiro Cell

No one is meeting you during the pending lawsuits. It is not appropriate. We are not going to give you an opportunity to allege we said something that we never said by meeting with you in person. Every communication about the LLC needs to be in writing. That is why we have this text chain. The letters I sent to your attorney make it very clear what the problem is and why a new account needs to be opened with everyone having access. Please call your lawyer and re-read them. I am done texting you and going back and forth. You give us no choice but to file our motion.

4:47 PM



(843) 813-5612

Well then I'm confused about why the bank account is coming up now and nothing has been mentioned in the last five plus years. And I'm also confused at what damages you have suffered. Your brother Jacob and I set up the account when the suites first opened and all suites checks have been paid 50% to Ferderigos and 50% Fokas. If you don't agree the way Jacob is dispersing the Ferderigos 50% then maybe you should sue him. In the end it will all go to a jury and they will see through the lies. I've always been on the up and up and have never taken a dime from any of you. If anything I save everyone money with my knowledge and hard work. Judgement day is around the corner!

5:03 PM



Spiro Cell

Athan, I do not agree and I'm not discussing all of these other issues with you. You are purposefully mixing up things that have nothing to do with opening an account that everyone has access to. Our texts are clear. We are done texting since you will not agree to an account that everyone has access to. You give me no choice but to file my motion.

5:21 PM



(843) 813-5612

Well when the account was set up in 2010 you had no interest in having access to the Old Towne Suites checkbook because you let Jacob handle the Ferderigos half. Are you now wanting to change things? Do you and Phillip now want to hold the Old Towne Suites checkbook 1/6 of the time each. I'm confused in what you are looking to change.

5:26 PM



Spiro Cell

I do not agree. You are not confused. You are saying you are confused on purpose. Stop playing games. Do you agree to opening an account that everyone has access to yes or no? It is a simple question. Read my prior texts, I am done discussing this with you anymore.

5:30 PM



(843) 813-5612

Please tell me why you want things changed now? What is the purpose? I am confused. Do you want to take the checkbook away from your brother Jacob and have it 1/6 th of the time for yourself? Please explain your motive.

5:32 PM



Spiro Cell

You are not confused. There is no motive. I (and the other members) have a right to access the LLC account and you don't have a right to shut me out (or the other members). As soon as we found out that you shut us out numerous letters went to your attorney. Will you agree to open an account that we can all agree to and have access or not? Simple, straight forward question. Yes or no?

5:44 PM



(843) 813-5612

That is hogwash. No-one was shut out and everything is the same as it was when the suites first opened in 2010. Jacob has been handling the Ferderigos account since the beginning and he and I set up the account. Continue with your lies or fake beliefs and see where that gets you.

6:01 PM



Spiro Cell

I do not agree. So are you saying that Phillip, Jacob and I are on the Suites account?

6:03 PM



(843) 813-5612

It is the same as it has always been when Jacob and I set it up and we heard no complaints then. Once again your brother Jacob has always handled the Ferderigos half. Are you trying to change that set up.

6:05 PM



Spiro Cell

I disagree. You had no right to unilaterally open an LLC account in which only you have access to. Again, as soon as we found out that you opened an LLC account that only you had access to, we immediately contacted your attorney (numerous times) to have it fixed, but you refused to even respond to the letters. You have no right to open an LLC account with only you having access. We are going in circles. I am done texting you. Read the texts. You are not a dictator, but one member of many in an LLC. Goodnight sir.

6:15 PM



(843) 813-5612

Your brother and I opened the account when we first opened the suites business back in 2010 because he has always been handling the Ferderigos half. What has changed today with the suits? Absolutely nothing! Jacob and I continue to swap the Suites checkbook every quarter and all suites reimbursements are paid to Fokas half and Ferderigos half. Good night to you as well!

6:35 PM



Spiro Cell

I disagree. Read the prior texts from me, Phillip, Jacob and the letters to your attorney. You are trying so hard to be the only one with access to the LLC profits in the account and it is very off putting and speaks volumes. You only have a right to 1/2 of the profits in the LLC account, but you are demanding that you are the only one with 100 percent access to everyone's profits. We will get that remedied now that we know what you have done. Since you won't agree to everyone having access to the account where everyone's profits are deposited, we will file the motion to have access to the LLC account and our profits. Goodnight and please stop texting me.

6:49 PM

(843) 813-5612

Hogwash again. All profit checks are written by your brother Jacob or myself and they are always split in half to both families. Jacob and I set up the account when the suites first opened and neither you nor Phillip had any issues for the last five plus years. Once again are you trying to take the checkbook away from your brother Jacob? Let me know what you are trying to change.

6:55 PM

Spiro Cell

Athan, I disagree. Read the prior texts. You are purposefully mixing up the difference between you "allowing" Jacob to hold onto the checkbook for a few months vs who is on the actual bank account. I am talking about who is listed on the bank account. Apparently, you are the only one on the bank account for the LLC and that is inappropriate. You know exactly what I am talking about and it is not confusing at all. You are purposefully trying to mix and confuse things. Goodnight.

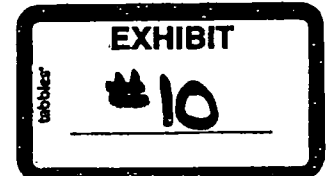
8:20 PM



M. Dawes Cooke, Jr., Member
mdc@barnwell-whaley.com

July 1, 2016
Via U.S. Mail & E-mail

Stanley Barnett, Esquire
Smith Bundy Bybee & Barnett, P.C.
Post Office Box 1542
Mount Pleasant, SC 29465
stanleyb@s3blaw.com



RE: Old Towne Suites, LLC

Dear Stan:

As you are aware, per my prior letter to you on June 15, 2016, Athan Fokas inappropriately opened an Old Towne Suites, LLC, account as a sub-account for Old Towne Restaurant, giving only himself access to the account. He subsequently advised Spiros and other members to go to First Citizens to get access to the LLC account. Spiros and the other members of the LLC went to First Citizens to open a general checking account (unaffiliated with Old Towne Restaurant) with access to all members, as set forth in my prior letter. First Citizens informed them that, in order to keep the account at First Citizens, a new account would need to be opened with a new signature card and First Citizens' proposed Resolution would need to be completed by all members. Unfortunately, First Citizens stated that in order to open a new account, they would need to sign a Resolution that they, among other items, would expressly endorse and consent to all prior actions that Athan Fokas has taken on the LLC account. I have attached the proposed Resolution of First Citizens with the deletions that would need to be made to keep the LLC account at First Citizens. Of course, it would be inappropriate for them to sign any such Resolution and the members do not and would not agree to those proposed paragraphs.

All that is needed is a general business checking account where funds are deposited and checks are issued; there is no need for anything more complicated than such a simple account. Due to the requirement of the inappropriate paragraphs in the proposed Resolution by First Citizens, my client contacted Tideland Bank to see if they have a general business checking account for depositing and withdrawing funds. Tideland Bank does have a general business account, and it has agreed to strike from their Resolution form anything inappropriate having to do with prior endorsements or other extraneous matters. Tideland is willing to provide a general checking account which suits the needs of the LLC and all members have equal access to.

Please see attached a copy of the Tideland Bank documentation that the members would need to sign in order to open the general business checking account there. Tideland Bank has already agreed to the indicated

(00827432.DOC.1)

www.barnwell-whaley.com

SOUTH CAROLINA OFFICE:
288 Meeting Street, Suite 200, Charleston, SC 29401
P 843.577.7700 F 843.577.7708

NORTH CAROLINA OFFICE:
1427 Military Cutoff Road, Suite 202, Wilmington, NC 28403
P 910.679.1388 F 910.679.4663

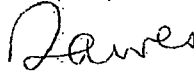
REPRESENTING CLIENTS IN ALL COURTS IN SOUTH CAROLINA AND NORTH CAROLINA AND IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

changes in language struck out and added in red ink. Furthermore, Tidelands Bank requires a copy of each member's driver's license, their social security number, and a phone number for each member to prepare its paperwork. The contact at Tidelands Bank is Tamirez "Tez" Smalls, and his number is 843-513-1927. The physical location of the bank is 946 Orleans Road, Charleston, SC 29407.

Please have your client contact Mr. Smalls to provide him with a copy of his driver's license, phone number, and social security number so that Mr. Smalls can prepare a copy of the attached paperwork for the LLC. The other members will do the same. My client would be willing to use First Citizens for an LLC checking account; however, First Citizens would need to remove the offensive sections of its Stock Resolution in order for the LLC checking account to stay at First Citizens. First Citizens stated that they are unable to do so.

I would appreciate your prompt response to this letter and having your client contact Mr. Smalls by the end of next week to provide him with the information he needs to prepare the paperwork to open the Old Towne Suites, LLC, checking account with full access to all members, so the LLC funds may be transferred as soon as possible. Please confirm when your client has provided the information to Tidelands so that the other members can complete their portion of the paperwork as well.

Sincerely,



M. Daves Cooke, Jr.

c: Richard A. Farrier, Jr., Esquire (Richard.farrier@kkgates.com)
John A. Massalon, Esquire (JMassalon@wmalawfirm.net)

**DECLARATION OF
UNINCORPORATED BUSINESS/ENTITY**
Concerning Deposit Accounts, Borrowing, and Other Relationships

OLD TOWNE SUITES, LLC
[Legal name of Business/Entity]

[Assumed business name (DBA) under which the Business/Entity operates or does business (if different from legal name)]

DECLARATION

The undersigned, whether one or more, hereby certify(ies) to First-Citizens Bank & Trust Company ("Bank") that the unincorporated business or other unincorporated entity identified above (the "Entity") is a(n):

- | | |
|---|---|
| ☒ Limited Liability Company (LLC) | ☐ Sole Proprietorship (owned by one individual) |
| ☐ General Partnership (GP) | ☐ Sole Proprietorship (owned by two spouses) |
| ☐ Limited Partnership (LP) | ☐ Unincorporated church or charitable/civic organization |
| ☐ Registered Limited Liability Partnership (LLP) | ☐ Unincorporated governmental or municipal organization |
| | ☐ Other unincorporated entity: _____ |

The undersigned further certify that (i) the legal name shown above is the CORRECT legal name of the Entity; (ii) the state in which the Entity was organized or formed is South Carolina; (iii) the Entity is validly existing and in good standing; (iv) the Entity is duly authorized to transact business in each state in which it is doing business, having made all necessary filings and obtained all necessary governmental licenses, permits, and approvals; (v) the Entity has filed and recorded all documents required by law relating to use of the assumed business name recorded above (if applicable); and (vi) the execution, delivery, and performance of this Declaration have been duly authorized by all necessary actions of the Entity and do not conflict with, result in a violation of, or constitute a default under any provisions of the Entity's organizational documents, any documents that govern, regulate or limit the Entity's business activities or affairs, any agreement or other instrument binding upon the Entity, or any law, governmental regulation, court decree or order, applicable to the entity or the Entity's assets.

DEPOSIT AND DEPOSIT-RELATED SERVICES RELATIONSHIP

1. **Designation of Bank as a Depository and Authority of Bank.** Bank is designated a depository of the Entity. Funds of the Entity may be deposited in accounts maintained by Bank in the name of the Entity. All such deposit accounts shall be subject to the rules of Bank as set forth in the First Citizens Bank Deposit Account Agreement, as amended from time to time.

Bank is authorized:

- a. To honor, receive or pay all checks, drafts, and all other instruments or orders for payment or withdrawal made on behalf of the Entity and to charge any deposit account held by Bank in name of Entity, and to honor any authorization for the transfer of funds between different accounts, whether such orders are transmitted to Bank by telephone, computer, automated clearing house, wire transfer system or other means, for whatever purpose and to whomever payable, even though payment may create an overdraft, even though such items may be drawn or endorsed to the order of the signer for exchange or cashing or in payment of the individual obligation of such signer, or for deposit to such signer's personal account, or for any other use or disposition, when signed by an original, facsimile or electronic signature of, or otherwise initiated by, any ONE Authorized Signer, and Bank shall be not required under any obligation to inquire as to the circumstances of the issuance or use of any such item or to the application or disposition of such item or the proceeds.
- b. To honor the endorsement of any ONE Authorized Signer on checks, drafts, notes or all other types of instruments payable or belonging to the Entity, whether such endorsement be made manually, or by other means such as by endorsement stamp or facsimile signature, and whether the instrument is presented for deposit, for collection, or otherwise, and/or to receive cash or part cash for same, or to make "less cash" deposits by receiving cash for part or all of the amount of such instruments and depositing the balance, if any, when such instruments are signed, accepted, or otherwise endorsed as previously described, with the Entity assuming full responsibility for any and all payments made by Bank in reliance upon the endorsement of an Authorized Signer and with the Entity agreeing to indemnify and hold Bank harmless against any loss, cost, damage, or expense suffered or incurred by Bank arising out of the misuse or unlawful/unauthorized use by any person of such stamp or facsimile signature.

2. **Authorized Signers.** For purposes of this Declaration, the term "Authorized Signer" refers individually to each person listed below with an "X" in the column headed "Authority / Deposit / Authorized Signers." If none of the persons identified below is so designated, the term "Authorized Signer" shall apply to all persons listed below.
3. **Authority with Respect to Deposit Accounts.** Each Authorized Signer is authorized:
 - a. To open and close one or more deposit accounts with Bank, and pledge any account in an assignment or control agreement.
 - b. To apply for and obtain credit from Bank under one or more revolving lines of credit providing overdraft protection for such deposit accounts.
 - c. To transact all business with respect to any such accounts, including, but not limited to, writing checks, drafts, notes and all other orders for payment or transfer of funds and endorsing checks, drafts, notes and all other types of instruments payable or belonging to the Entity.
 - d. To authorize in any letter, form, signature card or notice other persons not listed below with an "X" in the "Authority / Deposit / Authorized Signers" column as additional Authorized Signers who may execute a signature card on behalf of the Entity and transact business on any deposit account held by the Entity.
4. **Authority with Respect to Specific Deposit-Related Services.** Each Authorized Signer is authorized:
 - a. **Certificates of Deposit (CDs).** To purchase CDs, bonds and all other types of intangible personal property from Bank.
 - b. **ATM and Debit Cards.** To obtain from Bank and use an ATM or debit card to withdraw funds from any deposit account with Bank, and to designate other persons not so designated herein to use an ATM or debit card to withdraw funds from any of the Entity's accounts.
 - c. **Night Depository Agreements.** To execute night depository agreements, designate from time to time the agents empowered to act on behalf of the Entity in connection with night deposit transactions, and revoke such designations.
 - d. **Other Deposit-Related Products and Services.** To enter into agreements for the use of any other deposit and/or treasury-related products or services offered by Bank including, but not limited to, electronic funds transfer services (such as ACH and wire transfer services) online/electronic banking services, cash management services and merchant services, and initiate and conduct transactions pursuant to such agreements.
 - e. **Safe Deposit Boxes.** To enter into safe deposit box agreements, designate deputies and other agents empowered to have access to any safe deposit box, revoke such designations, and terminate safe deposit box agreements.

BORROWING AND OTHER CREDIT RELATIONSHIPS

1. **Authorized Representatives.** For purposes of this Declaration, the term "Authorized Representative" refers individually to each person identified below with an "X" in the column headed "Authority / Borrowing / Authorized Representatives." If none of the persons identified below is so designated, then the term "Authorized Representative" shall apply to all persons listed below. The term "Authorized Representative" shall also refer to such additional persons named as being so authorized in any letter, form or notice signed by any Authorized Representative.
2. **General Borrowing Authority.** Each Authorized Representative is authorized to borrow or otherwise obtain credit from Bank from time to time in such sums and upon such terms and conditions as to repayment, rate of interest, and security therefor as he or she may determine, and to execute and deliver in the name and on behalf of the Entity applications, notes, credit agreements and any and all other agreements, evidences of indebtedness with respect to all sums so borrowed or credit otherwise obtained, and to obligate the Entity to repay Bank the indebtedness and obligations so incurred. Each Authorized Representative is further authorized:
 - a. To pledge, mortgage or otherwise create security interests in any property held by or belonging to the Entity.
 - b. To execute and deliver deeds of trust, mortgages, security deeds, security agreements, and all other security instruments whether of obligation or hypothecation which they may determine necessary or appropriate to secure sums borrowed or credit obtained by the Entity.
3. **Authority with Respect to Specific Credit Relationships.** Each Authorized Representative is authorized:
 - a. **Credit Cards.** To obtain credit from Bank by the use of a MasterCard®, Visa® or other credit card (collectively, "Credit Card") issued by Bank in such sums as may seem advisable to the Authorized Representative, and upon such terms as may be prescribed by Bank, to designate other persons to use a Credit Card in the name of and on behalf of Entity, and to execute applications and agreements of any type in connection with a Credit Card.
 - b. **Revolving Lines of Credit.** To obtain credit from Bank under one or more other revolving lines of credit (including, but not limited to, lines of credit providing overdraft protection for deposit accounts) offered or issued by Bank, in such sums as may seem advisable to the Authorized Representative and upon such terms as may be prescribed by Bank, to sign, or designate other persons to sign checks or other items drawn on any checking account of the Entity which may activate

loans under such revolving lines of credit, to sign special (direct advance) checks or other instruments which activate loans under such revolving lines of credit, and to execute applications and agreements of any type in connection with lines of credit.

- c. **Letters of Credit.** To apply for and receive letters of credit and, from time to time, increase the amount, extend the date of expiration or amend the terms of any outstanding letters of credit.

4. **Payment of Proceeds.** Bank is authorized and directed to pay the proceeds of any such loans, lines of credit or other borrowings or credit arrangements as directed by an Authorized Representative, whether or not to the order of said person in his or her individual capacity, for deposit to his or her individual credit, or to be applied or deposited in any manner for his or her individual credit, and Bank shall not be required to inquire as to the circumstances for the application or use of any such credit.

ADDITIONAL STATEMENTS

1. **Effectiveness.** The foregoing declarations shall remain in full force and effect until written notice of their amendment or rescission has been received by Bank. The receipt of such notice shall not affect any action taken by Bank prior thereto.
2. **Previous Banking Declarations.** Any and all previous banking declarations relating to Bank that are in conflict with the foregoing declarations are hereby superseded.
3. **Prior Transactions.** All prior transactions by any of the proprietors, authorized partners, authorized managers, otherwise authorized officials, employees or other representatives of the Entity, in its name and for its account or within the authority given by the foregoing declarations if said authority had been in effect, are hereby approved and ratified.

IN WITNESS WHEREOF, each undersigned owner, manager and/or other responsible party hereby certifies to Bank that he or she has read the foregoing declarations, that the foregoing declarations are true and correct, that the foregoing declarations are the understanding and agreement of the Entity with Bank, and that no party other than those identified below has a general ownership interest in (or in the case of a limited liability company, is a manager of) the Entity.

This the 22nd day of June, 2016

Title	Name	Signature	Authority	
			Deposit Authorized Signers	Borrowing Authorized Representatives
Manager or Member/Manager	<i>Member</i> Iakovos Ferderigos		☒	☒
Manager or Member/Manager	<i>Member</i> Phillip Ferderigos		☒	☒
Manager or Member/Manager	<i>Member</i> Spiros Ferderigos		☒	☒
Proprietor/Owner			☐	☐
Proprietor/Owner			☐	☐
Partner			☐	☐
Partner			☐	☐
Other Titles (Please type or print)				
Member	Athan Fokas		☒	☒
			☐	☐
			☐	☐
			☐	☐

For Bank Use Only:

ERIK SUGAR

Name of Associate Submitting Document

50063

Employee ID #

222

Br. #

RESOLUTION
LIMITED LIABILITY COMPANY
Tidelands Bank
875 Lowcountry Blvd
Mt Pleasant SC 29464
(888)-877-8433



BUSINESS ENTITY NAME AND ADDRESS

[REDACTED]

Initial Resolution:

DATE OF RESOLUTION	ACCOUNT NUMBER
August 31, 2015	[REDACTED]

By signing below, I certify to Tidelands Bank ("Financial Institution") that: I am the Member, or authorized representative, as designated in the Operating Agreement, of the above named for profit Limited Liability Company ("Company"), validly organized and operating under the laws of the State of South Carolina; the following is a true and complete copy of the Resolution, properly adopted at a duly called meeting held on August 1, 2015 by a quorum of the Members as provided in the Articles or Certificate of organization or in the Operating Agreement; this Resolution is contained in the minutes of that meeting and that such Resolution is still in force and effect and has not been amended or rescinded, and was and still is in accordance with the By-Laws of the Company; the Financial Institution has been provided a true and complete copy of the Articles or Certificate of organization and the Operating Agreement as in effect as of the date of this Resolution; provided below are the correct names, titles, and genuine signatures of the persons authorized to exercise the powers provided in the Resolution ("Authorized Signers"); and the Financial Institution may rely upon my certification as to my authority to execute this Resolution and to make the representations in this Resolution.

IT IS RESOLVED:

The Authorized Signers shall possess the powers indicated as contained in this Resolution.

DEPOSITORY ACCOUNT. Perform the following activities in regards to the depository account(s) indicated above in the name of the Company, subject to any terms and conditions governing the account(s), including:

- Account Opening and Maintenance. Open and maintain the Company account(s).
Number of signers required: 1
- Make Deposits. Make deposits to the Company account(s).
Number of signers required: 1
- Endorsements. Endorse for negotiation, negotiate, and receive the proceeds of any negotiable instrument, check, draft, or order for the payment of money payable to or belonging to the Company, by writing, stamp, or other means permitted by this Resolution without the designation of the person endorsing.
Number of signers required: 1
- Make withdrawals. Make withdrawals from the Company account(s) in any manner permitted by the account(s) regardless whether such action will create or increase an overdraft of the involved account.
Number of signers required: 1

CASH MANAGEMENT. Enter into a Cash Management Agreement with Financial Institution, and exercise all rights and be subject to all responsibilities under the Agreement. This requires written consent by all authorized signers.
Number of signers required: 1

IT IS FURTHER RESOLVED THAT:

DESIGNATED DEPOSITORY. Financial Institution is designated as a depository for the funds of the Company and to provide other financial accommodations indicated in this Resolution.

AUTHORIZED SIGNER'S POWERS. Authorized Signers are authorized to make any and all other contracts, agreements, stipulations, and orders which the Authorized Signers may deem advisable for the effective exercise of their powers.

SIGNATURES. The Financial Institution shall be indemnified and held harmless by the Company for any claims, expenses, damages, or attorney fees resulting from the honoring of any signature, authorized by this Resolution, or refusing to honor any signature not so



authorized, regardless of whether or not such signature was genuine; If such signature reasonably resembles the specimen provided to the Financial Institution. The Financial Institution shall also be permitted to rely upon non-signature security and verification codes which it provides to or receives from an Authorized Signer and shall be indemnified and held harmless by the Company for any claims, expenses, damages, or attorney fees resulting from their use.

IMPROPER ENDORSEMENT. Any negotiable instrument, check, draft or order for the payment of moneys not clearly endorsed by an Authorized Signer may be returned to the Company by the Financial Institution. The Financial Institution, in its sole discretion, alternatively may endorse on behalf of the Company any negotiable instrument, check, draft, or order for the payment of money not clearly endorsed in order to facilitate collection. Financial Institution shall have no liability for any delay in the presentment or return of any negotiable instrument, check, draft, or order for the payment of money which is not properly endorsed.

DISPOSITION OF FUNDS. When withdrawal or transfer powers are granted to an Authorized Signer, the Financial Institution is directed and authorized to act upon and honor withdrawal or transfer instructions issued and to honor, pay, transfer from, and charge to any depository account(s) of the Company, all negotiable instruments, checks, drafts, or orders for the payment of money so drawn when signed consistent with the Resolution without inquiring as to the disposition of the proceeds or the circumstances surrounding the issuance of the negotiable instrument, check, or order for the payment of money involved, whether such negotiable instruments, checks, drafts, or orders for the payment of money are payable to the order of, or endorsed or negotiated by any Authorized Signer signing them or any Authorized Signer in their individual capacities or not, and whether they are deposited to the individual credit of or (endorsed in payment of the individual obligation or account of any Authorized Signer signing them or of any other Authorized Signer.

PRIOR ENDORSEMENTS. All negotiable instruments, checks, drafts, or orders for the payment of money deposited with prior endorsements are guaranteed by the Company.

PRE-RESOLUTION TRANSACTIONS. All actions by Authorized Signers in accordance with this Resolution but before the adoption of this Resolution are approved, ratified, adopted, and confirmed by the Company.

WARRANTY. That the Financial Institution may rely upon the certification as to the Company authority to execute this Resolution and make the representations in this Resolution.

NOTIFICATION OF CHANGES. The Company shall notify Financial Institution in writing at its address shown above in advance of any changes which would affect the validity of any matter certified in this Resolution.

REVOCATION AND MODIFICATION. An act ("Act") to modify, terminate, amend or replace this Resolution will not immediately affect the ability of the Financial Institution to rely upon this Resolution. The Act shall not affect any action by the Financial Institution in reliance on this Resolution before the date the Act becomes effective as set forth in the next sentence. An Act will not become effective until all of the following occur: (a) Financial Institution receives written notification of the Act in a form and substance satisfactory to the Financial Institution and (b) the Financial Institution has had a reasonable period of time to act upon such notification. Until the Act is effective, this Resolution shall remain in full force and bind the Company, its legal representatives, heirs, successors and assigns.

DESIGNATION OF AUTHORIZED SIGNERS

NAME/TITLE/SIGNATURE	AUTHORITY CODE/LIMITATIONS
 Date	Account Opening and Maintenance; Cash Management; Make Deposits; Endorsements; Make Withdrawals
 Date	Account Opening and Maintenance; Cash Management; Make Deposits; Endorsements; Make Withdrawals

CERTIFICATION. I certify that the foregoing are the names, titles, and genuine signatures of the authorized signers of the Company authorized by the Resolution.

IN WITNESS WHEREOF, I have subscribed my name on the date shown below.

 Date
Authorized Signer



ACCOUNT INFORMATION
CHECKING ACCOUNT
Tidelands Bank
875 Lowcountry Blvd
Mt Pleasant SC 29464
(888)-877-8433



ACCOUNT TITLE AND ADDRESS

[Redacted]

ACCOUNT OPEN DATE	ACCOUNT NUMBER	OWNERSHIP TYPE	PRODUCT NAME	INITIAL DEPOSIT
January 22, 2016	[Redacted]	Limited Liability Company Tax Classification: C	Small Business Checking	\$0.00

BUSINESS ENTITY INFORMATION

Name: [Redacted]
Address: [Redacted]

Business Filing State: SC
Date Established: August 31, 2015
Regulation Date: August 31, 2015
Business does not engage in Internet Gambling.

DEFINITIONS. "You," "your," and "account owner" refer to the Customer, whether or not there are one or more Customers named on the account, and the terms "we," "us," and "our" refer to the Bank, Tidelands Bank.

IMPORTANT INFORMATION ABOUT PROCEDURES FOR OPENING A NEW ACCOUNT

To help the government fight the funding of terrorism and money laundering activities, Federal law requires all financial institutions to obtain, verify, and record information that identifies each person who opens an account.

What this means for you: When you open an account, we will ask for your name, address, date of birth, and other information that will allow us to identify you. We may also ask to see your driver's license or other identifying documents.

ACKNOWLEDGMENT. By signing this document, you acknowledge that you have opened the type of account designated above. The undersigned certify that all information provided to the Bank is true and accurate. As the account is in the name of a business entity, you acknowledge that you are acting on behalf of the business entity, and with respect to which you have legal authority to transact business. Your signature acknowledges the receipt of the appropriate Account Agreement for the type of account designated above and that you agree to be bound by the Account Agreement. You acknowledge that you have received a Funds Availability Policy Disclosure. All signers authorize this Bank to make inquiries from any consumer reporting agency, including a check protection service, in connection with this account.

One Signer Required for Withdrawals

[Redacted]

[Redacted] Date
Its: Authorized Signer

[Redacted] Date
Its: Authorized Signer



Signer:
Address:

Title/Capacity:
Identification Document
Drivers License:
ID Issuing Location:
ID Issue Date:
ID Expiration:

Signer:
Address:

Title/Capacity:
Identification Document
Drivers License:
ID Issuing Location:
ID Issue Date:
ID Expiration:

TAXPAYER IDENTIFICATION NUMBER (T.I.N.) CERTIFICATION

Under penalties of perjury, I certify that:

1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me), and
2. I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding, and
3. I am a U.S. citizen or other U.S. person (defined in the instructions for the IRS Form W-9), and
4. The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.

Certification Instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contribution to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the Certification, but you must provide your correct TIN.

Signature of U.S. person:

Exemptions (see IRS Form W-9 instructions):

Exempt payee code (if any) Not applicable

Exemption from FATCA reporting code (if any) Not applicable

Signature

Date

BANK REPRESENTATIVE SIGNATURE

By: Tamirez Smalls
Its: Bank Representative

Date





M. Dawes Cooke, Jr., Member
mdc@barnwell-whaley.com

November 15, 2016

Via Email and U.S. Mail

stanleyb@s3blaw.com
Stanley Barnett, Esquire
Smith Bundy Bybee & Barnett, P.C.
Post Office Box 1542
Mount Pleasant, SC 29465

RE: Old Towne Suites, LLC

Dear Stanley:

I am following up on my letters of June 15th and July 1st concerning the unauthorized LLC account. To date, I have received no response. Regrettably, I will need to file a motion to have your client comply with our request. Your client is not entitled to have an unauthorized LLC account which restricts access to LLC funds from other members of the LLC. In addition, your client unilaterally filed incorrect tax returns on behalf of the LLC, listing his father as having a distributional interest or being a member of the LLC. Your client did so without authorization or consent of my client or the other members of the LLC, despite the objections of my client/other members of the LLC. Your client is not entitled to unilaterally file incorrect tax returns on behalf of the LLC. I ask that your client undo the harm that he has caused by amending the incorrect tax returns he improperly submitted on behalf of the LLC.

If I do not hear back from you in regard to the two items set forth in this letter within 10 business days, I will regrettably be required to file motions with the Court to seek your client's compliance and will ask that the Court award sanctions against your client for his behavior.

Sincerely,

A handwritten signature in cursive script that reads "Dawes".

M. Dawes Cooke, Jr.

c: Richard A. Farrier, Jr., Esquire (Richard.farrier@klgates.com)
John A. Massalon, Esquire (JMassalon@wmalawfirm.net)

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www.barnwell-whaley.com

SOUTH CAROLINA OFFICE:
288 Meeting Street, Suite 200, Charleston, SC 29401
P 843.577.7700 F 843.577.7708

NORTH CAROLINA OFFICE:
1427 Military Cutoff Road, Suite 202, Wilmington, NC 28403
P 910.679.1388 F 910.679.4663

REPRESENTING CLIENTS IN ALL COURTS IN SOUTH CAROLINA AND NORTH CAROLINA AND IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

M. Dawes Cooke, Jr., Member
mdc@barnwell-whaley.com

November 30, 2016

VIA MAIL AND FAX: 881-4406

Stanley E. Barnett, Esquire
Smith, Bundy, Bybee & Barnett, P.C.
1037 Chuck Dawley Blvd., Building F, Suite 100
Mt. Pleasant, SC 29464

RE: Athan Fokas vs. Spiros Ferderigos, Jacob Ferderigos and Phillip Ferderigos
C/A No. 2015-CP-10-3919

Dear Stanley:

As your client has repeatedly ignored our request to open an Old Towne Suites, LLC checking account that is accessible to all members, we are reluctantly prepared to file a Motion to (1) have the Court order Mr. Fokas to close the unauthorized LLC account, which the other members do not have full access to, and (2) to open a new LLC account accessible to all members. While this motion is being filed due to Mr. Fokas' failure to respond to my prior letters (see my prior June 15th, July 1st, and November 15th letters), in the meantime, it appears that the Old Towne Suites, LLC's property manager's bank has undergone a transition and the property manager is no longer able or willing to directly deposit checks into any bank account. He has advised that currently, due to the new bank's policies and procedures, he has decided to mail checks to clients instead. This is something that applies to all of the property manager's clients. Here, it appears that the property manager recently mailed the last Old Towne Suites, LLC check to 229 King Street, which was sent to Old Towne Restaurant.

Based on the above, Mr. Fokas' unwillingness to open a LLC account that is accessible to all members has created additional problems. The majority of the members need to come to an agreement as to (1) where the Old Towne Suites checks will be mailed to in the future, and (2) what bank account will the Old Towne Suites, LLC checks be deposited into (it cannot be your client's unauthorized and non-consented-to account that is not accessible to all members). As I have requested in my prior letters, the members need to open a LLC account that is accessible to all members. These matters continue to be of the utmost importance and time is of the essence, but your client has refused to respond to my letters concerning this matter for several months.



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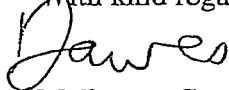
REPRESENTING CLIENTS IN ALL COURTS IN SOUTH CAROLINA AND NORTH CAROLINA AND IN THE UNITED STATES PATENT AND TRADEMARK OFFICE.

November 30, 2016

Page 2

I look forward to hearing from you and your client immediately about these issues so that we can deposit the LLC check (and future LLC checks) into an account that every member has access to and for timely distribution to occur to all members thereafter.

With kind regards,

A handwritten signature in cursive script, appearing to read "Dawes", written in black ink.

M. Dawes Cooke, Jr.

MDCJr/bbm



Athan



comes out around the same day every month. Vivian always sent me that payment ahead of time so I would get with her so you can keep track of the balance.

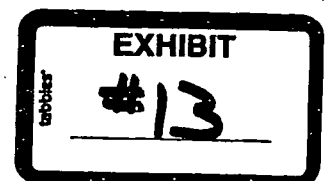
Saturday 10:20 AM

I transferred the overdraft down the \$2100.00 needed out of the checking account to bring it back to 0. I also paid \$534.00 towards my Old Towne credit card which is the minimum due today.

Hopefully we will have a great Second Sunday tomorrow and we can get caught up. IFH still keeps charging my Old Towne card and on this statement it is \$8098.69.

Monday 11:28 AM

I deposited \$6728.33 in the suites account today. Cut checks for \$3350.00 each. There was one check for \$3531.43 that they said they mailed out a while ago but it was never deposited so I had then stop payment and reissue. That check is included in this deposit.



iMessage



(843) 813-5612

Let's meet up there next week and I'll show you what needs to be addressed.

6:33 PM

Monday, August 15, 2016

(843) 813-5612

The air at 229 A is having a problem again. We had to move the tenants from A to B. New tenants come in on Friday so we have to have something figured out by then. Walk Away Stays asked who our preferred vender was. McGomery repair is going back over tomorrow to take a look at it. Last time Bill said they were 2006 units but were installed 2010. They were both low on charge. I'm not sure what the problem is but we may have to buy a bigger unit. Every summer we have had complaints that our units don't keep cool enough. B is usually 5-10 degrees warmer since its on the 3rd floor.

5:19 PM

Spiro Cell

Thank you for the information and please let us know what the estimate is from Montgomery so we can all decide the best way to move forward. We agree that an estimate is needed. Please let me know who contacted you from walk away stays as they are supposed to email all of us about any issues that arise. We need to make sure everyone is in the loop from the beginning. Thank you.

5:31 PM

(843) 813-5612

Walk away stays wants one point of contact. I don't mind if you want to be that point of contact. I just want to make sure the job gets done and you have the time to check on things. We also have broken tile in a restroom that needs repair and a towel holder that keeps falling off. I would love it if one of you takes on the tasks but I'm not so sure things will get taken care of as efficiently as they need to. All talk and no work does not lead to a successful operation.

5:46 PM

Spiro Cell

I will be the point of contact for Walkaway Stays. I will make sure to forward out information as I receive it from Kevin to all members. I will contact Kevin and let him know. Thanks.

5:56 PM

(843) 813-5612

Ok great! Let's meet there this week so we can address all the items that need to be fixed. When is good for you?

6:02 PM



Friday, June 3, 2016

Spiro Cell

Athan, it has just come to my attention that you have sporadically done minor repair work to the Suites and at times used profits for minor "expenses" without my knowledge, consent or approval. You are one member of four, and you do not have the right to do anything without the other members prior knowledge and the approval of the majority of the members (i.e. majority interest in the LLC). Prior to you doing anything with the Suites you need to inform all the members and receive the consent of the majority of the members in writing. This is the text chain for you to use to contact the other members (me, Phillip, and Jacob) regarding the Suites.

2:37 PM

I only agree to communicate with you via writing/text message. I look forward to hearing from you regarding any Suites matters that come up.

On a side note, it has also come to my attention that you asked member Jacob if the Suites should pay to take new professional pictures. The pictures that we currently have are great and have been working well. We do not need to waste money on new pictures and I do not consent to new pictures and vote against the LLC making any new such expenditure.



(843) 813-5612

I think the only expense was changing 9 volt batteries out of smoke detectors and any light bulbs that need replacing. What expenses are you referring to. Also lets have a sit down to discuss the photo's cause they are not all clear and outdated.

2:40 PM



Me

This is Phillip. I agree with Spiro. I will only communicate with members about any decisions concerning old town suites LLC in writing via this text chain.

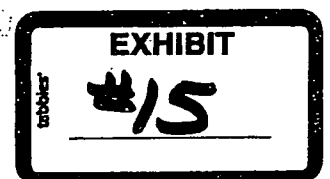
2:54 PM

I currently vote "no" to the additional expenditure request but am happy to reconsider my decision after I have a chance to look into this matter in greater detail.

Spiro Cell

I am referring to any/all expenses and I am referring to anything regarding the Suites. Every member needs prior knowledge, and everything needs the prior approval of the majority membership. As for now my vote is no for the pictures. I will look into it further and text you back if my vote changes.

2:58 PM



(843) 813-5612



Do you want approval to change out a light bulb when it burns out and changing out a battery in a smoke alarm?

3:32 PM

Spiro Cell

Yes, prior knowledge and approval for everything. And it obviously goes without saying, but any expenditure that is approved is to be paid directly from the Suites checking account. Everyone needs to know exactly what is going with the Suites and prior approval by the majority membership as set forth above. Use this text chain for communications.

4:00 PM



(843) 813-5612



In that case we need more on site management from all the owners. Having light bulbs out and smoke detector's beeping is unprofessional for our customers. What days would you like to be responsible for checking on them?

4:08 PM

Spiro Cell



Athan, if you get notice that there is an issue with the Suites send a message to this text chain and we will address it accordingly as set forth above by majority vote. Jacob, Phillip and I will do the same.

4:12 PM

(843) 813-5612



Well if you are not going to pull your weight as an owner and agree to check on the suites equally then I have to disagree with you that when a light bulb is out we have to get everyone's approval to change it. It is a necessary fix that needs to be done immediately to keep our guests happy! Same goes for a smoke alarm battery, a broken shower head, a broken toilet handle, broken TV, broken air conditioner ect.

4:19 PM

Spiro Cell



Athan, you are a single member in a four member LLC. You have no right to do anything without the prior knowledge of all members and prior approval of the majority of members. Again, if you notice something needs attention, simply send a text to this text chain and we can vote. I (and I'm sure the other members) will do the same. It's a simple text. Now I am done talking about this. You are (again) on notice.

4:24 PM

Me

I agree and concur with Spiro

4:25 PM

(843) 813-5612

I am 50% owner and you guys are all 16%. If you start pulling your weight and checking on things that would be great but if a light bulb is out and you want approval to change it then maybe you need to take a 101 business course to enlighten yourself.

4:28 PM



I think it is your fiduciary duty as owner to check on things?

Spiro Cell

Athan, check the LLC statute. You can not do anything without the prior knowledge and approval as set forth above. Neither can I. You are on notice again that everything needs the prior knowledge of all members and the prior approval of the majority of the membership interest. 50 percent does not get there. Again, I look forward to your text and the texts of the other members about what needs to be voted on for the Suites. I will do the same. I am not going to engage in conversation about how you feel the LLC obligations should be vs what they are by law. I expect the next text to be about a Suites decision that needs to be voted on. Thank you.

4:34 PM



(843) 813-5612

Speaking of fiduciary duty, I was a little shocked when I read in Stan Barnetts affidavit that you Spiro Ferderigos told him that it may be your fiduciary duty to inform the police as a current solicitor that you should tell them that I was involved in the fire at Old Towne without any proof whatsoever. That is a grave error from a solicitor. Does your boss know about that comment you made? Who exactly is your boss?

4:36 PM



Spiro Cell

Athan, do you have a question to ask about a decision that needs to be made regarding the Suites? Otherwise, stop abusing this text chain.

4:50 PM



(843) 813-5612

This chain was started by you on October 19, 2014 saying that you had to hold off signing the paperwork for the new suites cause you were trying to become a judge. How did that work out for you?

5:01 PM



Spiro Cell

Athan, do you have a question to ask about a decision that needs to be made regarding the Suites? Otherwise, stop abusing this text chain.

5:09 PM



(843) 813-5612



There is no abuse of this thread. Read back to 2014 to see what this thread is about.

5:11 PM

Spiro Cell



Athan, do you have a question to ask about a decision that needs to be made regarding the Suites? Otherwise, stop abusing this text chain.

5:12 PM

(843) 813-5612



Let's meet there when it's convenient for you all to go over any items that may need addressing. Just tell me when. I'm good any day next week except Wednesday.

5:14 PM

Spiro Cell



You expect me to meet with you after you just threatened and insulted me? Every communication needs to be in writing through this text chain. Again, I look forward to everyone's texts regarding a vote for decisions for the Suites. Have a good day sir.

5:19 PM

(843) 813-5612



Where do you see any threats or insults? Keep over exaggerating and see where that gets you. Yes as 50% owner I would love to have a sit down with the three 16% other owners to go over any items addressing the Old Towne Suites. I suggest you call Kevin High to see why it is important to have professional pictures of the Old Towne Suites. Let me know when is good for you guys next week. Ya'll have a great weekend!

5:26 PM

Spiro Cell



Again, please use this text message as I previously stated above. We can communicate and vote regarding the Suites easily this way. Everything between us needs to continue to be in writing. I am not going to meet with you in person. This way, everyone knows exactly what is going on and what has been agreed to.

5:32 PM

Me

I agree with Spiro. Given the on going legal matters, I will not meet in person as every communication about old town suites LLC needs to continue to be in writing.

5:38 PM

(843) 813-5612

We do need to meet down there and all agree on whether there is excessive wear and tear on certain items that may need replacing. We can meet, look at the items, and then vote on this thread if you like.

So far I've heard from Spiro and Phillip that I think you both want to be told if a light bulb needs replacing.

How does Jacob feel about your idea that all minor expenses such as a light bulb needs to be agreed on by all?

5:41 PM

Monday, June 6, 2016

Jacob

Yes, I agree with Phillip and Spiro.

2:03 PM

Spiro Cell

Gentlemen, I just spoke with Kevin. He does not believe it is necessary to take new photos, but thinks it would be helpful for a fresh perspective online and couldn't hurt. It is \$200 per unit and he would directly deduct the costs. After speaking to Kevin, I am not opposed to the picture expenditure. I vote yes for the new pictures. How does everyone else vote, please each member let me know if you agree or disagree to Kevin taking and charging for new pictures.

2:10 PM

(843) 813-5612

I vote for pictures but Kevin thought he could get both done for \$300.00.

2:14 PM

Jacob

I agree with Kevin taking new pictures.

2:16 PM

Me

Given Kevin's recommendation, I'll vote in favor of pictures as well...

2:16 PM

Spiro Cell

Thank you. Kevin said it is \$400 total tops, but he is meeting with the photographer tomorrow and trying to get it for \$300 total. I told him he was good to go with the pictures given our vote.

2:20 PM

Spiro Cell

Kevin also confirmed to me that the cleaning crew checks and changes lightbulbs that are burnt out and other such minor matters at no extra cost to the LLC. Of course, we still need to vote on all matters via this text chain, however, the light bulb concern that was previously raised is moot since the property manager/cleaning crew takes care of it. All expenditures need to be voted on and please use this text chain for that purpose so everyone is in the loop.

2:31 PM



(843) 813-5612

He had me put in LED bulbs a while ago because the regular ones were burning out too often. That was one expense and the other was changing out smoke alarm batteries.

2:35 PM



(843) 813-5612

I still believe there should be a minimum about that is not necessary for a vote such as a smoke alarm battery needing replacing or an led lightbulb, or a toilet handle that is broken. What if one of you are in court and we need something fixed quickly. Maybe we can say anything under \$25.00 can be fixed immediately. Also what if the air conditioning breaks down while a guest is occupying our suits. We need to call the repair guy as soon as possible. If one of you guys is in court or vacation, we can't afford the delay in response time.

2:41 PM



Spiro Cell

Thank you. Kevin has confirmed that he will be taking care of those things so they should not be an issue. If they become an issue in the future and an expenditure needs to be made then that is why we have this text chain to address it immediately. Of course, all LLC expenditures must be paid from the LLC checking account directly.

2:42 PM



Spiro Cell

Athan, our texts crossed...are you asking to do a vote on whether any individual member can make up to a \$25 expenditure for an emergency situation that arises for the LLC so long as notice of that expenditure is immediately given in this text chain?

2:48 PM



(843) 813-5612

No I'm not asking for a vote. That has been standard practice for many years now and I expect it to continue until we have a sit down to iron out any details that need changing.

2:51 PM



Spiro Cell

I expect you to follow the law and the LLC statute. I have never agreed to you making any such expenditure. There is no such "standard practice" that I have been made aware of or ever agreed to. You are restricted from doing so unless we vote on it and agree. Things will be done correctly. The answer to your question then is no until a vote says otherwise.

2:57 PM



(843) 813-5612

Our operating agreement does not state that we have to approve expenses this way so I'm going to continue as business as usual until we have a sit down and make changes in our owners meeting.

3:00 PM



Me

I agree with Spiro and as I've indicated, I am not going to have "sitdown" at this time. We have this text chain so we can have votes on matters that need to be voted upon. If Athan is not asking for a vote, then that is fine.

There is no standard practice or "business as usual" that I have ever been notified of or agreed to. The LLC statute is incorporated into the operating agreement as a matter of law and every member is on notice that each member must comply with the LLC statutes and respect the rights of all members in the LLC. If any member makes any unauthorized expenditure at all, without the majority vote of the LLC membership, such member would be violating the statute and thereby violating the rights of the other members.

3:16 PM

Spiro Cell

Athan, then you are on notice that you are violating your duties to me and you are liable for violating those duties. I do not consent to you doing anything without a majority approval. The LLC statute is clear that "to the extent the operating agreement does not otherwise provide, this chapter governs relations among members" ... The statute is crystal clear that any matter relating to the business requires a majority of the members.

3:13 PM



Me

I agree with Spiro and as I've indicated I am not going to have "sitdown" at this time. We have this text chain so we can have votes on matters that need to be voted upon. If Athan is not asking for a vote, then that is fine.

There is no standard practice or "business as usual" that I have ever been notified of or agreed to. The LLC statute is incorporated into the operating agreement as a matter of law and every member is on notice that each member must comply with the LLC statutes and respect the rights of all members in the LLC. If any member makes any unauthorized expenditure at all, without the majority vote of the LLC membership, such member would be violating the statute and thereby violating the rights of the other members.

3:17 PM

(843) 813-5612

The statute states I can demand a managing member meeting and am therefore putting you all on notice. When are you guys available this week or next week for that meeting? We can meet in the back dining room of Old Towne.

4:03 PM



Spiro Cell

Athan, read it again. We are a member-managed LLC, not a manager-member LLC first of all. I have reviewed the statute and it specifically says in section 33-44-404 that members do not have to have a meeting to take action, but does require the majority vote of members for all actions, with the exception of certain actions that require the unanimous consent of all members. All of that is listed in the section I cited above. If you believe the statute gives you a right to force an in person member meeting then give me a cite to that right. You are again on notice that I am requiring you to follow the law and respect my rights as a member of the LLC. As you have not asked for a vote and have not received a majority consent, you are forbidden from doing anything until that vote goes through. I suggest you follow the law and ask for a vote to see if everyone is in agreement instead of trying to play games. Let me know when you want to vote.

4:37 PM



(843) 813-5612

Great! member managed then. I am exercising my right according to the statute to demand a meeting between Jacob, Spiro, and Phillip Ferderigos to discuss the Old Towne Suites LLC. I too spoke with Kevin High and he said he does not change out lightbulbs in the hall way, and he also said we need to touch up where suitcases have hit the walls and we need to fix the air conditioning that keeps leaking. We can discuss all this at our meeting. When is good for you guys this week or next week?

5:22 PM



Me

Athan, please refer me to the statute you are referring to. Spiro's review of the statutes reveal there is no obligation for members to attend a meeting in person. If you have a portion of the LLC statute that says something differently, then let me know and I will reconsider.

5:28 PM

If the appropriate LLC statute requires me to attend a meeting in person, I will comply with my statutory duty. If it does not, I have no obligation to attend any such meeting and, for the reasons I've already stated, I will not do so.

Spiro Cell

Give me the cite to where you have a right to a meeting in the LLC statute. I am asking you to provide that again because I do not see it. To the contrary, I texted the cite that shows no meeting is required and a majority vote is necessary for the issue at hand. I was going to bring to a vote via this text chain regarding touching up paint and adding lights to the stairwell that Kevin recommended to me. We never got that far because you single handily announced in the text that you are not going to abide by the law. If you want an in face meeting, please (again) tell me where that right is cited. I am not comfortable meeting with you in person, but will if the statute requires me to do so. Provide me with that cite.

5:29 PM



Tuesday, June 7, 2016

(843) 813-5612

Message below from our management company. Do y'all agree I should call in a electrician?

Hey Athan,

Over at 229 we have some bulbs that are constantly burning out:

229A & B - Mastbedroom ceiling bulbs keep going out

229 Common - Stairwell bulbs keep going out

I wanted to let you know, because we aren't sure if this might be an electrical issue. Please let me know how you would like to move forward.

Thanks!

Allie



3:46 PM

Spiro Cell

Athan, are you asking us to vote on whether an electrician should be called out for the light bulbs that are going out to give us an estimate?



3:49 PM

(843) 813-5612

I'm just saying do you guys agree that an electrician should be called in to fix the problem. It might be a pricey fix.



3:51 PM

Spiro Cell

We need to vote on that...Athan, are you asking for us to vote on whether an electrician should be called out to give us an estimate for that issue?



3:52 PM

(843) 813-5612

I'm not playing your game. Either reply yes you agree with calling an electrician or reply no.



3:53 PM

Spiro Cell

This is no game Athan. Business will be done correctly with votes. Do you want to vote or not. If you do not want to vote, then everyone is on notice that no action can be taken and that they will be in violation of the law and violating the rights of the other members. So I ask you again, do you want to vote, yes or no. Clearly, this needs to be voted upon.



3:55 PM

(843) 813-5612

I wouldn't have sent out the text if I didn't agree with bringing in an electrician. Therefore I agree that we should get an electrician to fix the problem. What about the rest of you? Do you agree or disagree?



3:58 PM

Spiro Cell

Whether you call it a "vote" or by another name, it does not matter, the statute is clear that business matters are decided by a majority of its members. It is the same thing so long as a majority consents. I don't want to get stuck in semantics of whether we call something a vote or call it consent or another name, it doesn't matter what it is called so long as the majority of the membership agrees.

I spoke to Kevin just now and he confirmed that his company does change out all of the lightbulbs when they are out as a courtesy, including the bulbs in question and hallway bulbs. The bulbs in question go out more often than the others and he believes it may be an electrical issue. Athan has given his consent to have an electrician look into the issue of whether there is an electrical problem with those lights.

6:11 PM

Before we get the consent from the other members, we need to know which electrical company is being considered. Kevin does not have an electrician he recommends. I recommend "Charleston Electric" (843-408-0245) company. The service call is \$150 per hour and they got excellent reviews for home and business work. If anyone knows of a better priced electric company they want to be considered I am happy to entertain that company and please text that name to this chain. Just let me know so I can look up the reviews so I am comfortable it is done correctly.

Before anything happens, we need consent of the majority of members. First, does anyone want to throw out any names other than Charleston Electric to be considered? Charleston Electric got great reviews.



(843) 813-5612



I recommend Eric Bell's company because he installed all the electrical and is more familiar with the suits operation.

6:15 PM

Spiro Cell

I like Eric. He has done work for me in the past and does a good job. I consent to using Eric to check and fix the lights if they are broken. He needs to be paid directly by the Suites checking account for the service he performs. Who wants to take the lead in contacting Eric and getting him up to the Suites? I am happy to do it unless someone else wants to.

6:25 PM



Me

I agree with Spiro and vote in favor, who wants to contact him?

9:08 PM

(843) 813-5612



I'll contact him.

9:09 PM

Jacob



I agree also

9:10 PM

Me

I'm in favor and fine with that

9:10 PM

(843) 813-5612



I don't think we need Jacobs vote because one of your votes makes it 66.6%. Just saw he chimed in.

9:10 PM

Thursday, June 9, 2016

Spiro Cell

Does anyone consent to asking Eric the electrician to give us an estimate so we can consider adding additional lights to the outside stairwell/hallway? Kevin said the lack of sufficient lighting in the stairwell/hallway is the number 1 repeated complaint about the Suites. Please let me know who agrees to get an estimate for additional lights in the outside stairwell/hallway.

3:31 PM



(843) 813-5612

We don't need everyone's approval all we need is me and one of you 16.6% owners. Spiro you already agreed and said how much you like Eric so it's settled. I will follow up with Eric.

3:34 PM



Thursday, June 16, 2016

(843) 813-5612

Hello folks. I just got a note from my attorney that you guys would like access to the Old Towne Suites account. Jacob has always had access to that account on line but this is the first time you guys said you wanted to be on signature cards. Just go by First Citizens bank at 903 Johnnie Dodds Blvd. Mount Pleasant 29464 and Erik Sugar will get you all set up. He asked if you could do it within a week.

12:10 PM



Monday, June 20, 2016

(843) 813-5612

Just got this from management company:
"The showerhead in the master bedroom in B is leaking."
I looked at it and it's not a simple shower head replacement. Water won't turn off. Jacob sent in a plumber for the same problem on another bathroom I think and I'm ok with him calling in the same plumber.

10:53 AM



Spiro Cell

Thanks for the update. I vote that Jacob call the plumber he has used before to fix that issue and pay him from the account without having to further check in to vote on the cost. Is there consent for that?

10:58 AM



(843) 813-5612

I need confirmation that the plumber was called. We currently have a steady flow of continuous water.

11:49 AM



Spiro Cell

You never responded to the text for consent so that Jacob can call the plumber. Don't want to make a call without your consent. Do you consent to my text above so the plumber can be called and get the issue fixed promptly?

11:51 AM



(843) 813-5612

I've already sent in my consent. If you read my first text it said that I'm ok with Jacob calling in the same plumber.

11:54 AM



Spiro Cell

I see that now.

11:57 AM



Spiro Cell

Jacob, please text back as soon as you get a hold of the plumber. Thanks.

11:58 AM



Jacob

I talked to the plumber. He will be there today after he finishes his current job. Please leave a Suites LLC check there for him to be paid after his job is complete.

12:03 PM



Jacob

I can meet the plumber there to give him the check once he completes the job.

12:05 PM



(843) 813-5612

I prefer that I mail him a check. I don't currently have the checkbook with me. I think all plumbers should accept a check mailed out today.

12:34 PM



Spiro Cell

Thank you for the text. This plumber expects payment as soon as the work is done. I can call another plumber if you like from another company, but this one previously used expects immediate payment. Let me know if you prefer for me to call another plumber so you don't need to drop off a check.

On a side note, please leave a couple of checks so that we don't need to keep handing off checks every time something comes up. Makes sense for everyone to have access to checks in case this very type of situation arises.

12:39 PM

Let me know if you can't get a check down so I can call another plumber that may be willing to postpone payment via mail.



(843) 813-5612

Leaving checks is a possibility but they will get out of order and the bookkeeper may not like them continuing being outstanding. What is the plumbers number and I will arrange to get him payment?

12:42 PM



Jacob



The plummers name is Ed (843) 478-7839

12:53 PM

(843) 813-5612

The plumber fixed it for \$135.00. We keep around \$200.00 balance in the account so we have enough to pay him. He also said mailing a check is fine. Should I cut myself a check for the stamp reimbursement?

3:23 PM



Spiro Cell

You have my consent to write a check from the LLC account to reimburse yourself for the stamp you will be using to mail the payment.

3:36 PM



(843) 813-5612

Great! nice to be cooperating in a logical manner for a change.

3:41 PM



Friday, July 29, 2016

(843) 813-5612

The air conditioning in the suites was not working properly and guests were complaining last weekend and this week. Our repair guy Bill with McGomery repair worked on them for the last couple of days and received a check for \$447.00. He said the living room units in both A and B do not keep up and we may have to add a separate unit for the minisplit for the living rooms in near future.

10:33 AM



Spiro Cell

A couple of things. The property manager needs to inform all of the members of any problems with the suites. Not just you. He has been informed of this previously.

Second, you can not go in and spend LLC funds and do anything regarding the LLC without the prior consent from the majority of the members. You did not notify anyone, did not receive the required consent, and apparently wrote an LLC check without authorization. According to your text you have known about this for approximately a week.

10:59 AM

Whether you like it or not you are one member of four and can not just do whatever you want. You are again put on notice that you can't do anything with the LLC without the majority consent of its members. We have already set up a protocol to give/receive consent via text just like we did for the shower issues and the electric issues.



(843) 813-5612

The property manager did call and said guests were complaining. The problem is urgent and needs to be addressed quickly. Bill from Montgomery repair is the only one who has worked on those units so he has the knowledge to work on them. The units needed freon and needed to be cycled down and restarted.



11:18 AM

Spiro Cell

This does not absolve you of your obligation to give me the required notice and to obtain the required consent, which you intentionally failed to do. The LLC is not just yours, but mine and the other members as well. The shower was urgent as well and I had it fixed the same day by texting everyone in advance and receiving the required consent in advance. The rules must be followed and any member that fails to do so will be held accountable.



11:39 AM

(843) 813-5612

We have nothing in writing that agrees to any of what you state. And it was never agreed on that we will use this thread so it will continue to be business as usual since we started in 2011. I was simply informing you of the expense that was necessary.



11:46 AM

Spiro Cell

You are in violation of the statute and my rights! You are to do nothing without the required statutory consent. We are an LLC and the SC statute governs the requirements of the members. We have been over this before in repeated communications and I am not going to keep repeating myself. I will hold you accountable for your violations against me as you are brazenly violating the LLC laws and my rights as a member of the LLC. You clearly only care about doing what you want to do instead of following the LLC laws which are there to protect all members of the LLC. When you are in an LLC with others, you can't just do what you want.

11:58 AM



Me

Athan, like Spiro said, you are one member of four and can not just do whatever you want. You are again put on notice that you can't do anything with the LLC without the majority consent of its members.

12:02 PM

(843) 813-5612

I don't think anyone can disagree that the units needed to be checked since customers were complaining. You can call Kevin High and ask him about the incident. I think what you are really trying to do here is find some reason to file a lawsuit against me as an extension of the new suites lawsuit that were all agreed on to build. Good luck trying to do that over batteries that needed to be changed out in smoke alarms and air conditioning that needs to be looked at for not working properly. You are creating much humor in the lawyer/paralegal/court reporter/ and all affiliated with these legal proceedings community.

12:31 PM



Spiro Cell

This may be a joke to you, but it is not a joke to me. Trampling on the rights of your fellow members may be a joke to you, but it is not to me. The LLC is not your playground to do whatever you want without the consent of the other members. I have a large investment in the LLC and my rights will be respected. I am not going back and forth with you. You will be hearing from my counsel.

12:40 PM



(843) 813-5612

No jury will believe that it is not necessary to do those emergency things.

12:51 PM



Spiro Cell

Athan, you are in an LLC with three other members. You must receive the required consent from the other members before you can do anything regarding the LLC. Just like with the shower emergency that occurred and I fixed the same day, while at the same time meeting the required prior consent of the members. The rules apply to you just like everyone else.

1:07 PM



(843) 813-5612

Since 2011 we have been fixing things when they are broken. We did not have a detailed operating agreement then and we don't now. To be in business we have to continue to fix something when it is broken. We will continue to use the repair guys that we have used in the past. Nothing has change with our operation and it will continue the same. Keep starting frivolous law suits and see where that gets you.

1:15 PM



Spiro Cell

Unbelievable...you give me no choice but to seek court intervention.

1:22 PM



(843) 813-5612

If you like we can sign a contract with our management company to take care of all our needs and they can take it out of the rental income. That might be easier since we don't keep funds in the checking account.

1:46 PM



Spiro Cell

Athan, the statute is very clear about what our responsibilities are. I have no interest in giving up my right as an LLC member to be notified of issues occurring in my LLC, nor do I have any interest in giving up my right to require that my consent be required regarding anything be done regarding my LLC. It's really simple, there are four members and before anything can be done the required member consent is required. You may not like being in a membership with others, but you are and you are required to follow the law and not trample on the other members rights.

2:40 PM



(843) 813-5612

I spoke with Kevin from Walk Away Stays and he said he will be happy to take on the responsibility of taking care of everything that needs to be addressed along with hiring whoever is needed and he will take the cost out of our rental income. Are you guys all good with that?

3:02 PM



Spiro Cell

Athan, I just texted you a few minutes ago that I do not agree to give up my membership rights in the LLC. Stop trying to pin the property manager against me. The answer is no.

3:11 PM

(843) 813-5612

Let's meet at suites at your earliest convenience so we can go over this issue. There is a good bit of wear and tear on the units that need addressing as well.

4:32 PM

Spiro Cell

Athan, this has been addressed in prior texts. We keep going round and round. See the prior text chain regarding meeting in person.

Again, you are in an LLC membership with three other members. As is clear by the LLC rules and the LLC laws, no one member can do anything without the required consent of the LLC members. That as well has been addressed in detail in prior communications.

5:12 PM

(843) 813-5612

Then how are we going to address the wear and tear issue if you want even go over to the suits. Have you even stepped in the property since they were operating in 2011?

5:18 PM

(843) 813-5612

Suites that is.

5:18 PM

Spiro Cell

I have and it looks great. As we have stated repeatedly...if there is something that needs to be addressed then any member can send a text message so that it can be voted on.

It does not matter how many times you try to water things down. I will not give up any of my rights as a member including my rights to be notified and require my consent for anything regarding the LLC. If you have an issue that you feel needs attention, send out a text like the times before so it can be voted on by the members. I am not texting you back anymore today. I keep having to repeat myself. You are not going to wear me down into giving up my rights as a member. Again, you will be hearing from my counsel since you are blatantly trampling on my rights as a member of the LLC and trying to bully me into letting you do whatever you want. Any decision for the LLC requires the previously stated required membership approval (as set forth crystal clear in the LLC statute).

5:34 PM

(843) 813-5612



Let's meet up there next week and I'll show you what needs to be addressed.

6:33 PM

Monday, August 15, 2016

(843) 813-5612



The air at 229 A is having a problem again. We had to move the tenants from A to B. New tenants come in on Friday so we have to have something figured out by then. Walk Away Stays asked who our preferred vender was. McGomery repair is going back over tomorrow to take a look at it. Last time Bill said they were 2006 units but were installed 2010. They were both low on charge. I'm not sure what the problem is but we may have to buy a bigger unit. Every summer we have had complaints that our units don't keep cool enough. B is usually 5-10 degrees warmer since its on the 3rd floor.

5:19 PM

Spiro Cell



Thank you for the information and please let us know what the estimate is from Montgomery so we can all decide the best way to move forward. We agree that an estimate is needed. Please let me know who contacted you from walk away stays as they are supposed to email all of us about any issues that arise. We need to make sure everyone is in the loop from the beginning. Thank you.

5:31 PM

(843) 813-5612



Walk away stays wants one point of contact. I don't mind if you want to be that point of contact. I just want to make sure the job gets done and you have the time to check on things. We also have broken tyle in a restroom that needs repair and a towel holder that keeps falling off. I would love it if one of you takes on the tasks but I'm not so sure things will get taken care of as efficiently as they need to. All talk and no work does not lead to a successful operation.

5:46 PM

Spiro Cell



I will be the point of contact for Walkaway Stays. I will make sure to forward out information as I receive it from Kevin to all members. I will contact Kevin and let him know. Thanks.

5:56 PM

(843) 813-5612



Ok great! Let's meet there this week so we can address all the items that need to be fixed. When is good for you?

6:02 PM

Spiro Cell

Athan, we have repeatedly been over meeting in person in prior texts, we are in the middle of litigation and I am not comfortable meeting with you in person. Send the group a text of everything you believe needs attention, everyone can go look at it and vote on what to do with it. Anyone other member that has concerns/repairs that they feel need attention please also send it via text to everyone. Thank you.

6:10 PM

(843) 813-5612

You can have a walk through with the Walk Away Stays staff then and see what items need to be addressed. Set that up with them.

6:17 PM

Tuesday, August 16, 2016

Spiro Cell

McGomery is still working on the units trying to figure out what is malfunctioning. He is coming back in the morning. Wanted to make sure everyone is in the loop.

8:22 PM

(843) 813-5612

Great! Did you get a chance to see the broken tile in the restroom? There is also a towel holder that keeps falling off.

8:25 PM

Spiro Cell

I did see those and I was going to send a separate text about those. The tile doesn't look that bad but I have not problem asking Kevin to come check it out for an estimate. I did notice an anchor is loose for one of the towel holders and also that foam has been put around another towel holder to keep it up. We should probably get estimates from Kevin to see how much it would cost for him to fix it and make it look nice.

8:28 PM

(843) 813-5612

I think that foam is glue that someone put on there. It looks a little tacky and it is in a couple of bathrooms.

8:31 PM

Spiro Cell

I agree. I'll get Kevin to come take a look and give us an estimate. Doesn't hurt and I think we need to make the suites look as good as possible. I'll shoot out a text so we can decide if it is worth the cost to have him repair after Kevin takes a look at it if you guys are fine with that.

8:34 PM

(843) 813-5612

Good with me and that's all you need cause you now have 66.6% of the vote.

8:36 PM

Wednesday, August 17, 2016

Spiro Cell

Gentlemen, Bill is trying one more fix but if that doesn't work he is going to have to order a new unit for outside. He informed me that he believes it will be a max of \$3,900 for the new unit if the new unit outside is needed. If his last attempt doesn't work do you guys consent to installing the new unit? He believes he can have it up and running tomorrow and the new unit in if we agree. We have guests coming in Friday.

3:51 PM



Spiro Cell

Athan, please respond by the end of the day with whether you consent to the repair work so I can let the A/C man know if he has the green light to replace the outside unit. Phillip and Jacob agree and I'm just waiting on your consent. We have guests coming Friday and I don't want to inconvenience them. The property management is also waiting on a response if the suites will be ready but I can't give them an answer until I receive your consent. Thank you and please let me know so I can have the suites ready for our customers.

5:29 PM



(843) 813-5612

Been in meetings all day. I'm hoping he can fix it since the unit is less than five years old. Units shouldn't need replacing till after 10-15 years. Let's see what the diagnosis is.

7:07 PM



Spiro Cell

He said the unit needs to be replaced. He tried one more fix this evening and it apparently did not work. Please feel free to give him a call. After you talk with him today, please text back today with whether you consent to the replacement. I need to let him know tonight so it can be replaced first thing tomorrow to be ready for the patrons. Seems to be our only option if we are going to remain open for business. We have guests book for this Friday. Please let me know today if you consent after you speak with him.

7:26 PM



(843) 813-5612

That's not exactly the conversation I had with him. He is currently still diagnosing.

7:38 PM



(843) 813-5612

It sucks but he said he tried everything the factory told him to do to no avail. I'm not so sure he understands the mini splits well enough. He wants \$3900.00 including labor. We currently don't have that money in the account so to pay him we'll have to put funds in the account.

10:22 PM



Spiro Cell

That does stink. I will text Bill in the morning to go ahead and replace the unit since you consent to the replacement. I am not, however, going to deposit funds into an account that I have no control over nor have authorized. My attorney has already written your attorney about that and the need to open a new account that everyone has equal access over and has been authorized from by everyone. My attorney is still waiting for a response from your attorney. To that end, why don't we each write a check for our share and get it to Bill tomorrow. You write one for your 50 percent of the invoice and we will write one for our fifty percent of the invoice.

10:42 PM



(843) 813-5612

It needs to be expensed out of the suites account. We have had the same account since the beginning and you can see all the activity on line. From the beginning Jacob has been taking care of the Ferderigos half with your consent and he has full access as well. If we can't agree to expense out of the suites account then I'll ask Kevin if he can move the tenants to another unit until funds become available. Or you can cut a Ferderigos 50% to the suites account and I will do the same to get this taken care of ASAP. I can cut my check and get it to Jacob so he can take care of it if you like. Currently, the only holders of the suites checkbook have been Jacob 50% of the time and Me 50% of the time. Jacob has been the communicator of the Ferderigos half since the beginning. Has anything changed between you guys since then?

11:31 PM



Spiro Cell

Athan, I do not consent. The letter from my attorney is clear and straight forward. I refer you to that letter. The expense can still be to the Suites as we will have an invoice to the Suites. I will be writing a check for the Ferderigos fifty percent directly to the AC man early tomorrow and you can do the same. I absolutely do not consent losing our customers that have already been booked. I will hold you accountable for any loss of business from your refusing to pay your fifty percent for the AC repair man that you called out to repair the AC. I have discussed this with Phillip and Jacob and they agree with me. I will make sure to tell the AC man to contact you before doing the replacement, to make sure that the invoice is to Old Towne Suites LLC, and he will have the Ferderigos 50 percent payment. You can arrange with him to give your 50 percent payment directly to him.

11:47 PM



• • •

Wednesday, November 16, 2016

Spiro Cell

Just checked the toilets at the first level apartments. They are still running and it does not appear to be a tightening issue. I just tightened them and they are still running. Seems to me that water is leaking from the tank into the bowl. May be a seal issue. Do you guys consent to me getting a plumber out there to fix?

12:11 PM

(843) 813-5612

No I'll come look at it. You didn't mention it was the first floor toilet bowl. The upstairs sink had a bunch of hair stuck in the p trap which was an easy fix.

12:13 PM

Spiro Cell

It is the master and guest bathroom toilets.

12:16 PM

Thursday, November 17, 2016

(843) 813-5612

Easy fix again! Two toilet flappers needed replacing. Jacob you owe me a check out of the suites account for \$11.91 for two flappers from True Value Hardware.

12:12 PM

Spiro Cell

Athan, as we have made clear in prior written communications, any expense for the LLC needs to be paid directly from the LLC account, not one member advancing the expense and being reimbursed. Jacob, Phillip and I do not agree to any of us paying for LLC expenses and then being reimbursed for costs. Everything for the LLC will be clear, transparent, and easily traceable. We will authorize your reimbursement this one time, but not again. We appreciate you going to make the repair instead of us calling out a plumber, however, expenses for the LLC are to be paid directly by the LLC, not advanced by a member and that member being reimbursed by the LLC.

12:53 PM

(843) 813-5612

I saw a reimbursement check written out to Spiro and I'm not holding the checkbook this quarter - Jacob is. There is no this one time!!! Would you like me to get a debit card for the account that drafts out of the checking account. If I'm not holding the checkbook while there is an issue then I'll just have to get reimbursed just like Spiro did for his expense. If anything, my three repairs now have saved us over \$250.00!

1:01 PM

As you may be fully aware, any expenses that are necessary to let the suites operate business as usual can always be reimbursed without the consent of the other owners. This includes light bulbs, toilet flappers, air conditioner breaking down ect.



Spiro Cell

We reject what you are saying and do not consent to it. Athan, we have been through this before and I referred you to the statute that makes it clear that you need the consent of the majority of members to do such things. In some instances, you need the unanimous consent of the members. Text me the authority that says that in a member run LLC a member can do things without the consent of the other members for such things. There is no such authority. We are a member managed LLC, not a manager managed LLC. You do not have the consent to do anything with the LLC without the required consent of the other members. You are on notice that you are violating your duties to the members of the LLC and we will hold you accountable. You cannot just do whatever you want. This is a one time allowance and we will not allow it or reimburse you again. You are on notice that we are not reimbursing you again, so don't pay any expenses for the LLC and expect to be reimbursed because you will not be.

As for the debit card, I have repeatedly sent your attorney a letter to have an appropriate new account opened that is accessible to all members. This is because you, without our permission, opened an unauthorized LLC account that only you have access to. The rest of the members are completely closed out. I sent another letter out earlier this week putting you on notice that I will be filing a motion for the Court to force you to open an account that is accessible to all members with no improper strings attached. I have found such an account at Tideland's but you, thus far, have refused to cooperate. You are not the only member of the LLC. There are other members with rights and since you only have 50 percent interest in the LLC, you need consent from the other members. You are on notice.

1:54 PM

As for me being reimbursed for something, I have no idea what you are talking about or the context of what any such reimbursement was in. What I can tell you is that you do not have the consent of the other members to pay for LLC expenses and then be reimbursed by the LLC. That convolutes expenses in a manner that the other members are not willing to consent to.



(843) 813-5612

Well then you need to be enlightened! No owner can stop another owner from taking care of the necessities to keep a business operating as usual and that owner will be reimbursed for his expense. Look it up brother and you will be enlightened!



2:00 PM

Phillip Ferderigos

From: Farrier, Jr., Richard A. <Richard.Farrier@klgates.com>
Sent: Wednesday, December 21, 2016 8:53 AM
To: Phillip Ferderigos; M. Dawes Cooke; Jeremy Bowers; Thiem, Jennifer H.; Spiros Ferderigos
Subject: Fwd: LLC Meeting [KLG-USE_Active01.FID93803]

Begin forwarded message:

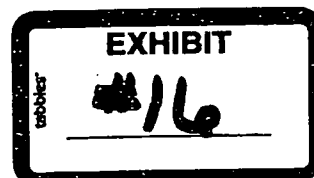
From: Stan Barnett <Stan.Barnett@yahoo.com>
Date: December 21, 2016 at 8:17:56 AM EST
To: "Farrier, Jr., Richard A." <Richard.Farrier@klgates.com>
Subject: RE: LLC Meeting [KLG-USE_Active01.FID93803]

I am getting with Athan on this and will get back to you as soon as I can.

From: Farrier, Jr., Richard A. [mailto:Richard.Farrier@klgates.com]
Sent: Monday, December 19, 2016 12:45 PM
To: Stan Barnett (Stan.Barnett@yahoo.com) <Stan.Barnett@yahoo.com>
Cc: Jeremy Bowers (jbowers@barnwell-whaley.com) <jbowers@barnwell-whaley.com>; M. Dawes Cooke <mdc@barnwell-whaley.com>; John A. Massalon <jmassalon@wmalawfirm.net>
Subject: LLC Meeting [KLG-USE_Active01.FID93803]

Stan, I am writing in follow up to our call and your email on the LLC Statute. The LLC statute does not require members of an LLC to have an in person membership meeting. If you believe that the statute requires members of an LLC to hold an in person meeting and that we are misinformed on this point, please send me the citation where that is required, and I will forward it to my client. My client has always complied with the law and will continue to comply with the law. The Ferderigos members have already communicated in writing with your client about this in detail via text and provided the information indicating that they are not required to meet with him in person.

You mentioned that the Ferderigos members are attempting to "change a 5 year practice" regarding the LLC bank account. This is simply incorrect. No one is trying to change a consented to or an agreed upon bank account practice. Your client unilaterally opened an LLC bank account *that only he has full access to, to the exclusion of the other members*. The other members did not authorize your client or consent to your client opening an LLC account to which *only your client* has full access. As soon as the Ferderigos members became aware of these issues, they promptly moved to exercise their rights as members and you promptly received numerous letters from Ferderigos counsel over the span of several months informing you that the unauthorized account needed to be closed immediately. You were further informed through numerous letters from Ferderigos counsel that the Ferderigos members were willing to open a new LLC bank account to which *all members* have access. You failed to respond to those letters until yesterday. I implore you to go back and read all of those letters, as you will see in "real time" what has transpired.



The current LLC bank account to which only your client has full access, to the exclusion of the other members, is unauthorized and has never been authorized by the other members. It needs to be closed immediately. If your client wants to have an LLC bank account, a new account will need to be opened that all members are agreeable to and have equal access to. Until the other members discovered your client's actions, your client has been able to hide the truth about how he was excluding the Ferderigos members from the LLC bank account by "allowing" a Ferderigos member to hold onto the LLC checking account checks on a quarterly basis (where Jacob Ferderigos would also sign checks), and "allowing" the Ferderigos members to view the online account balance, giving the Ferderigos members a false impression that they had full and equal access to the LLC bank account. It was not until one of the Ferderigos members went to the bank to have a counter check issued from the LLC bank account that the bank informed the Ferderigos member, *for the first time*, that only Athan Fokas is listed on the account and only Athan Fokas had any access to the account.

As such, as to the LLC account, your client unilaterally and improperly opened an account which purported to have access to all members. However, several months ago, when the members discovered that the LLC account your client improperly opened restricted full access only to him, our clients reached out to remedy the problem. Your client has refused to remedy the problem for months and your client refuses to close the unauthorized LLC account as well. The LLC account currently holds the personal profits of each of the members, and your client can not restrict the other members access to their profits. The fact that you assert that the Ferderigos members want to make a "change" to a "five year long practice" underlies your client's inappropriate actions in this regard. Once the other members discovered that the LLC account was restricted, they requested that the LLC account be opened with access to all members. As such, there is no "change" in a "five year long practice"; rather, the members demand that your client undo the harm that he caused by opening up an LLC checking account that purported to be on behalf of all members, but restricted access from other members. The Ferderigos members have a right to full access to any LLC account. The fact that your client has refused to provide such access for months is not acceptable.

Also, for all matters, the business of the LLC requires the majority of its membership to take authorized actions and your client has taken unilateral actions without the consent and over the objections of the other members. For the tax returns, your client unilaterally filed incorrect tax returns over the objections of the other members. Your client caused this harm and has refused to remedy it. I respectfully disagree with your belief that any LLC member can simply file whatever tax returns such member wants without the approval of the majority of the membership. Likewise, I respectfully disagree with your belief that a member can unilaterally take action by opening up a restricted bank account purportedly on behalf of the LLC, which restricts members from having full access.

Based on the above, your current position and your client's actions continue to violate the Ferderigos members' rights. Your client's months long delay in addressing these issues is simply unacceptable and, after trying to resolve these issues amicably for months, we will regrettably seek the Court's assistance concerning these matters.

Richard A. Farrier, Jr.
Partner
K&L Gates LLP
P. O. Box 22092 (zip code 29413-2092)
134 Meeting Street, Suite 500

Charleston, South Carolina 29401
Phone: 843-579-5619
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Phillip Ferderigos

Subject: FW: New Address and letter on bank account [KLG-USE_Active01.FID93803]

From: Stan Barnett [<mailto:Stan.Barnett@yahoo.com>]

Sent: Wednesday, December 14, 2016 2:12 PM

To: Farrier, Jr., Richard A.

Subject: RE: New Address and letter on bank account [KLG-USE_Active01.FID93803]

Having a record is not a problem. Tape the meeting. Take notes. If they wish to hire a court reporter as has been suggested in the restaurant case, go for it. But on their dime. But they have to meet. They don't have to agree of course. But if they see a need to change a five year long practice, it makes sense to work something out.

From: Farrier, Jr., Richard A. [<mailto:Richard.Farrier@klgates.com>]

Sent: Wednesday, December 14, 2016 12:39 PM

To: Stan Barnett <stan.barnett@yahoo.com>

Cc: M. Dawes Cooke <mdc@barnwell-whaley.com>; Jeremy Bowers <jbowers@barnwell-whaley.com>; John A. Massalon <jmassalon@wmalawfirm.net>

Subject: RE: New Address and letter on bank account [KLG-USE_Active01.FID93803]

Stan: Thanks for your response. I think the Code does not define the medium of a meeting, and our clients prefer to have a record. This is the basis for communication in writing. Richard

From: Stan Barnett [<mailto:stan.barnett@yahoo.com>]

Sent: Wednesday, December 14, 2016 12:34 PM

To: Farrier, Jr., Richard A.

Cc: M. Dawes Cooke; Jeremy Bowers; John A. Massalon

Subject: Re: New Address and letter on bank account

Since Athan is not a manager or managing member of the LLC I am at a loss as to why any other member can't file a corrected return. Similarly, a change in bank accounts is either something they agree to together or something any one of them could do. They have taken the position that any expenditure including for replacement light bulbs must be made by agreement of all four members. If all four members have to agree then it seems to me an effort to force a change only three agree to would be....maybe frivolous? What am I missing here. The account has been in place since 2011 so what your clients demand is a fundamental change. Also, not to stand on statutory authority or anything like that, but doesn't the code require a meeting if one is requested? I don't recall an exception for a pending lawsuit or for hurt feelings. Let me know your thoughts by the end of the day please.

Sent from my iPhone

On Dec 14, 2016, at 12:24 PM, Farrier, Jr., Richard A. <Richard.Farrier@klgates.com> wrote:

Stan: I have consulted with my client regarding a meeting of the LLC. I am informed that the members are not going to meet in person with Athan while they are pending lawsuits. Instead, they prefer every communication related to the LLC continue to be in writing. This issue has already been directly addressed via text between the members themselves. Athan has refused to consent to members opening a bank account with access to all members and has also filed incorrect tax returns without the consent of, and over the objections of, the other members. Please respond by the end of the day if your client consents to opening up an LLC account with full access to all members and if he consents to correcting the incorrect LLC tax returns he filed.

Thank you, Richard

From: Stan Barnett [<mailto:Stan.Barnett@yahoo.com>]
Sent: Wednesday, December 14, 2016 9:49 AM
To: Farrier, Jr., Richard A.; 'M. Dawes Cooke'; 'Jeremy Bowers'
Cc: 'John A. Massalon'
Subject: New Address and letter on bank account

In the rigors of moving, perhaps I did not send out this message. My new address is:

Stan Barnett
305 North Civitas Street
Mt. Pleasant, SC 29464

The old address, both PO Box and street address, are no longer any good for me and service to me there is not sufficient. So far no problems with that, but I just picked up some mail related to the Fokas/Ferderigos matter there.

My cell number, 843-708-4887, and new office land line, 843-884-1031, are good to contact me.

The new email address is: stan.barnett@yahoo.com

I just received the letter of Nov 30 from Jeremy related to the bank account for the suites LLC. I have not had a chance to look at it in detail or talk to Athan. My first reaction is that I don't understand the concern, but perhaps that will become evident when I have time to look at it. I was unaware of the change described to the procedures of the management company.

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Jeremy E. Bowers, Associate
jbowers@barnwell-whaley.com

January 9, 2017
VIA HAND DELIVERY

5033.001
Charleston County Clerk of Court
100 Broad Street, Suite #106
Charleston, South Carolina 29401-2258

RE: Fokas v. Ferderigos, et al.
Case No.: 2015-CP-10-3919

Dear Madam Clerk:

Enclosed please find the original and one (1) copy of the Motion to Amend Tax Returns and Change Checking Account and for Restraining Order filed on behalf of the Defendant, Spiros Ferderigos, in the above-referenced matter. Also, enclosed please find the Motion Coversheet and a check in the amount of Twenty-Five Dollars (\$25.00) for the motion filing fee. Please file the original Motion and return the filed stamped copy to me via our courier.

By copy of this letter, I am informing all counsel of record of this communication with the Court and serving them with a copy of the Motion. If you have any questions, please do not hesitate to contact me at (843) 577-7700. Again, thank you for your cooperation in this matter. With kind regards, I am

Sincerely,

A handwritten signature in black ink, appearing to read "Jeremy E. Bowers", is written over a horizontal line.

Jeremy E. Bowers

Encl.

cc w/encl.: Stanley E. Barnett, Esquire (via U.S. Mail)
Richard A. Farrier, Jr., Esquire (via U.S. Mail)
John A. Massalon, Esquire (via U.S. Mail)

www.barnwell-whaley.com

SOUTH CAROLINA OFFICE:
288 Meeting Street, Suite 200, Charleston, SC 29401
P 843.577.7700 F 843.577.7708

NORTH CAROLINA OFFICE:
1427 Military Cutoff Road, Suite 202, Wilmington, NC 28403
P 910.679.1388 F 910.679.4663

REPRESENTING CLIENTS IN ALL COURTS IN SOUTH CAROLINA AND NORTH CAROLINA AND IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

EXHIBIT D

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT

Case No.: 2015-CP-10-3919

**PLAINTIFF'S RESPONSE IN
OPPOSITION TO MOTION FOR
RESTRAINING ORDER BY
DEFENDANT SPIROS FERDERIGOS**

Defendant(s).

FILED
2017 FEB 27 PM 1:22
JULIE J. ARNONE
CLERK OF COURT
FOR
RIDERIGOS

As to the substance of the tax return request, Plaintiff is prepared to correct the one aspect of the return Defendant complains of, the issuance of a K-1 to a non-member, this being the wrong way to document an otherwise valid transfer of part of Plaintiff's distributional interest pursuant to S.C. Code 33-44-501. Regarding the request to force use of a new bank account and Defendant's claims that Plaintiff has acted improperly by taking "unilateral" action, the law governing member managed LLCs, like the one at issue, provides that all members may take unilateral action binding on the LLC, as can general partners. Nothing Plaintiff has done

violated the LLC statute as alleged by Defendant. Moreover, the Defendants all consented to let Plaintiff manage the LLC as if he were designated its manager, including as to opening and managing the bank account they now complain of and otherwise managing the business operated by the LLC, a rental suites business at 229 King Street in Charleston. Finally, the LLC statute, contrary to Defendant's assertion, provides that in a member managed LLC, "each member has equal rights in the management and conduct of the company's business" unless "otherwise provided in an operating agreement." S.C. Code 33-44-404(a)(1) and Comment. The operating agreement to this LLC (Exhibit 1 to Defendant's Motion) provides as follows:

"This operating agreement confirms the members and interest of each member in Old Towne Suites, LLC and those members an interest are as follows:

(1) Athan Fokas is a member and has fifty (50) percent interest in Old Towne Suites, LLC,

(2) Iakovos Ferderigos, Phillip Ferderigos and Spiros Ferderigos are members and have an equally combined fifty (50) percent interest in Old Towne Suites, LLC."

As the operating agreement specifies a specific interest, of each member, that interest includes the voting power of each member. Plaintiff's fifty percent interest includes fifty percent of the voting rights.

I.

THE MOTION IS NOT PROPER IN THIS CASE

This case is one involving claims by Plaintiff of breach of contract, for specific performance and for breach of the duty of loyalty provided for in the LLC statute – all arising from the refusal of Defendants to carry out their obligations under a contract they formed and commenced performance of to add two floors to 229 King Street so as to add more rental suites.

It should be noted that the LLC at issue in this motion does not own 229 King Street. It is owned by the Plaintiff and Defendants as tenants in common, Plaintiff owning fifty percent and Defendants owning equal shares of the other fifty percent.

Defendant's Answer includes counterclaims for breach of the duty of loyalty in the LLC statute, negligent misrepresentation, concealment and promissory estoppel – all based on allegations in the Answer related to the parties' communications and actions in furtherance of adding two floors to 229 King Street. The Answer also includes counterclaims unrelated to the parties' communications surrounding the plan to add additional floors to 229 King Street – defamation, abuse of process and frivolous proceedings. Nothing in the complaint or answer in any way touches on how Old Towne Suites is managed or how its taxes are filed.

This motion is simply an attempt to enlist this Court in Defendants' bitter family dispute with Plaintiff. Defendant would have the Court become the arbiter – outside of a properly filed lawsuit – of their disagreements with Plaintiff. Plaintiff submits that this is not a proper use of motions practice. If Defendant or other LLC members have disagreements over how the LLC is managed, their remedy, failing negotiating a resolution, is to file an action asserting their rights. The LLC is not a party to this lawsuit and the issues in this lawsuit do not relate to the LLC, but to the parties as 1) owners of the building, and 2) as contracting parties. For this reason, Plaintiff respectfully requests that the Court deny Defendant's motion without prejudice to his right to assert them in a proper manner.

II.

THE TAX RETURN FOR 2015 WAS CORRECT AND DOES NOT AFFECT THE RIGHTS OF ANY PARTY

The LLC statute at S.C. Code 33-44-501 allows without reservation the transfer or a distributional interest of a member to a non-member. That is what Plaintiff did in 2015 by

transferring one half of his fifty percent distribution to his father, Spiros Fokas. The tax preparer filed a K-1 indicating that Spiros Fokas was receiving 25% of the distribution, but not indicating that he was an owner of any part of the LLC. The K-1 does not indicate Spiros Fokas owns any of the capital in the LLC and, in fact, the return correctly reflects the proper ownership interest of each member as set forth in the LLC operating agreement. This was correct information and the income of all parties was properly reported to the IRS. Plaintiff has confirmed the proper filing of the return with the tax preparer, Tony Roe at Pinnacle One.

III.

DEFENDANT INCORRECTLY CHARACTERIZES PLAINTIFF'S ACTIONS AS IMPROPER, UNILATERAL ACTIONS

Most of Defendant's motion is devoted to trying to characterize Plaintiff as some sort of out of control individual who must be restrained by the Court to protect Defendant's interests. Well over half of Defendant's submittals related to another litigation in which Defendant is not a party – a suit filed by Jacob Federigos related to the operation of the restaurant at 229 King, Old Towne. In that suit, Jacob complained that long standing practices by Plaintiff were no longer acceptable to him. Plaintiff was ordered to cease these practices including borrowing food inventory for his catering business and paying back the restaurant business using "owe sheets" which the business accountant testified had long been used and accounted for this trading.

The upshot of this unrelated suit is that while the parties were on good terms, none of these practices were a problem. Unsurprisingly, once the disagreement over the contract to enlarge the building erupted, previously agreed upon practices were no longer agreed to. Plaintiff was found by Judge Nicholson to have violated his order requiring separation of the restaurant business and his catering business and required to pay Jacob a few hundred dollars. This too, while in a perfect world, it should have been avoided, is unsurprising. Family business

practices going back decades are hard for most people to change. The issues have been resolved however, and dragging them into the discussion of Defendant's motion is purely a distraction.

The purpose of this tactic is clear. It is to paint Plaintiff in a bad light. There are many issues between the parties. Plaintiff is suing two of the Defendants in this action for defamation in a separate lawsuit. Using that suit to paint them in a bad light to gain some advantage in this motion argument would be just as improper as Defendant's attempt to use the proceedings in the suit between he and Jacob. The only factors that should be considered in deciding Defendant's motion are those directly related to the subject of the motion.

The LLC at issue in this motion was established on December 13, 2011. From that date until the middle of 2016 when Defendants began to argue with Plaintiff over even the most minor matter – the check for \$17.00 to reimburse Plaintiff for replacing lightbulbs and smoke detector batteries in the rental suites – Defendants allowed, indeed, wanted, Plaintiff to manage the LLC's business. Exhibit A, Affidavit of Athan Fokas. The checking account they complain of now was established with their knowledge and consent. In fact, they were paid their portion of the considerable profits from the business Plaintiff was managing *for them all out of this account*. For four and one half years, this bank account was no problem for Defendants. Nor was it a problem for them for Plaintiff to get the tax returns prepared and filed. Only when the parties fell into an exceedingly bitter series of disputes, did Defendants "discover" that their rights were supposedly being trampled upon.

Their rights have not been trampled upon, however. The LLC statute allows every member of a member managed LLC to make binding commitments regarding the business. That is what Plaintiff was doing for 4 and one half years. There is no suggestion in anything submitted by Defendant that Plaintiff unfairly or improperly profited from anything he did. All

of his actions were directed at the proper management of the business from which they were all profiting. Defendant's characterization of him now as acting improperly is nothing more than an extension of the spite that permeates the parties' disputes. It is nothing more than harassment. It does serve the interests of the LLC in any way. The issues Defendant raises should be resolved on their own merits and not with relation to the unfair and unjust characterization of Plaintiff.

III.

THE LLC OPERATING AGREEMENT PROVIDES FOR PROPORTIONAL INTEREST IN THE LLC, INCLUDING MANAGEMENT RIGHTS

As quoted above, the LLC operating agreement specifies the interest of each member in the LLC, Plaintiff having fifty percent. The LLC statute, as clarified in the comment to the S.C Code publication of the statute, provides that members in a member managed LLC have equal rights in the management of the LLC unless the operating agreement provides otherwise. In this case, the question is whether specifying percentage interests of members also specifies their voting rights. There does not seem to be any law in South Carolina dealing specifically with the question.

The meaning of "interest" as defined in Blacks's Law Dictionary is, "More particularly it means a right to have the advantage accruing from anything; any right in the nature of property, but less than title; a partial or undivided right; a title to a share." In the context of an LLC, "interest" has been construed to denote two types of interests, ownership of property and a contract right of the member to participate in the management of the business. *In re Hankel*, 512 B.R. 539, 548 (U.S. Bankcy Ct, D.S.C. 2014), holding that an interest in Hanckel Marine "consisted of both his management rights and distributional interest." See also Exhibits B and C, articles on member managed LLCs.

Plaintiff's interest in Old Towne Suites, LLC, is, therefore, both his interest in distribution of profits and his management rights. As Plaintiff has fifty percent interest in the LLC, he has fifty percent interest in its management through voting. It would be better if the LLC statute were clearer or that the operating agreement were more detailed in defining how the LLC is to be managed. In the absence of clarity from either source, the operating agreement must be construed according to the legal import of the "interest" defined in the agreement. As that interest encompasses both a property right to distributions and a contractual right to management voice, it must be interpreted so as to provide for equal voting rights for the two halves of its ownership – one half for Plaintiff and one half for the Federigos brothers. This ownership interest division is the same as their ownership of the building at 229 King Street.

Given that Plaintiff and Defendants each have one half the voting rights, in order for a change in the previously agreed upon checking account to be required, more than one half of the voting rights must be cast in favor of that change. Plaintiff has half of those rights and does not consent, so the change Defendant seeks is not authorized or required by the operating agreement.

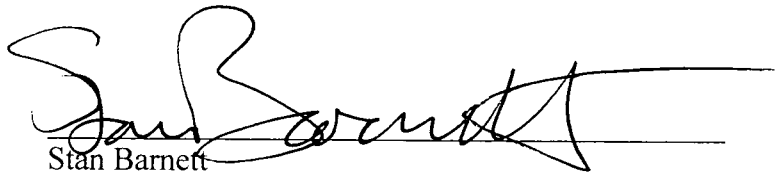
In spite of this fact, Plaintiff tried to accommodate Defendants' desire to be signatories on the bank account. Instead of executing the forms provided by the bank to place them on the account as signatories, they tried to alter the forms by lining through certain provisions. Banks not being typically open to such alteration of their forms, refused to accept this conditional agreement by Defendants. Recently, Defendants have opened a new account in the name of the LLC, without Plaintiff's approval and have demanded, again without Plaintiff's approval, that the management company, Walk Away Stays, use that account exclusively. Exhibit D. This account has a minimum balance of \$5,000.00.

In this motion, Defendant is not only seeking to reverse half a decade of management protocol for the LLC, he seeks to eviscerate one of the two key provisions of the operating agreement – provision of management rights in proportion to the defined interests of each member.

CONCLUSION

Based on the foregoing, Plaintiff respectfully requests this Court deny the Motion by Defendant, Spiros Ferderigos.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Stan Barnett", with a long horizontal line extending to the right.

Stan Barnett
305 North Civitas Street
Mt. Pleasant, South Carolina 29464
Telephone: (843) 884-1031/(843) 708-4887
Attorney for Plaintiff

February 27, 2017
Mt. Pleasant, South Carolina

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)

Athan Fokas,)

Plaintiff,)

v.)

Phillip Ferderigos, Jacob Ferderigos,)
and Spiros Ferderigos,)

Defendant(s).)
_____)

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT

Case No.: 2015-CP-10-3919

CERTIFICATE OF SERVICE

FILED
2017 FEB 27 PM 1:22
JULIE J. ARMSTRONG
CLERK OF COURT
BY _____

I, Stan Barnett, hereby certify that true and correct copies of Plaintiff's Memorandum in Opposition to Motion by Spiros Ferderigos for Restraining Order were served on the undersigned parties by depositing copies of same in the United States Mail, postage prepaid, first class, this 27th day of February, 2017, addressed as follows:

Richard A. Farrier, Esquire
Jennifer H. Thiem, Esquire
K&L Gates, LLP
134 Meeting Street, Suite 200
Charleston, SC 29401

M. Dawes Cooke, Jr., Esquire
Jeremy E. Bowers, Esquire
Barnwell Whaley Patterson & Helms
288 Meeting Street
Charleston, SC 29401

John A. Massalon, Esquire
Wills, Massalon and Allen, LLC
97 Broad Street
Charleston, SC 29401


Stan Barnett

Mt. Pleasant, South Carolina

EXHIBIT A

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)
Athan Fokas,)
Plaintiff,)
v.)
Philip Ferderigos, Spiros)
Ferderigos, and Jacob Ferderigos,)
Defendant(s).)
_____)

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT

Case No.: 2015-CP-10-3919

**AFFIDAVIT OF ATHAN FOKAS IN OPPOSITION TO MOTION BY SPIROS
FERDERIGOS**

After being sworn, Affiant testified as follows:

1. I am Athan Fokas, a resident of Mount Pleasant, South Carolina and the Plaintiff in this case.
2. Old Towne Suites, LLC was established and registered with the S.C. Secretary of State on December 13, 2011 pursuant to the operating agreement attached hereto.
3. Since its formation, and until mid-2016, the members of the LLC, myself and my first cousins, Jacob, Phillip and Spiros Ferderigos, have managed the LLC with the understanding that our management rights were as specified in the operating agreement. I have one half the management rights as part of my one half interest in the LLC and they share the other one half of the management rights. This division of interests in the LLC was agreed upon by us to reflect our ownership interests in the property at 229 King Street.
4. Shortly after formation of the LLC, Jacob and I opened an LLC account at First Citizens Bank to handle the deposits of and distributions from the LLC. Jacob's brothers, Phillip and

Spiros, were not interested in being signatories on the account. There is no minimum deposit required in this account. All of the distributions of profit from the LLC business – which is operation of a rental suites business on the top floor of 229 King Street – have been from this account.

5. At no time have any of my cousins, Phillip and Spiros, objected to use of this account or made any demands for a change in its set up until mid-2016. In response to their desire to be made signatories on the checking account, I arranged for that to be done. However, instead of signing the forms provided for this purpose by the bank, they lined through certain provisions attempting to make changes on the bank forms. The bank understandably refused to accept this alternation of their forms.

6. As a further accommodation to the desires of my cousins, I have agreed to move our LLC account to another bank so long as there is no high minimum balance. For the entire time we have operated the LLC, based on my recent review of the bank statements of the First Citizens account, there has been a minimal balance left in the account, averaging less than \$200.00. This minimum balance is good for the business as it does not tie up the LLC's funds. Increasing the minimum balance to \$5,000.00 would work a hardship not only the LLC, but on me personally, as half of that balance would be my portion of the assets of the LLC.

7. On January 1, 2015, I executed a document transferring one half of my right to distributions from the LLC to my father, Spiros Fokas.

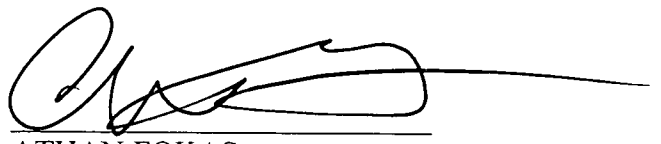
8. In early 2016, as I have done every year since the formation of the LLC, I arranged with the accountant who has done the accounting for both the Old Towne Suites, LLC and the corporation which operates Old Towne Restaurant, Richard B. Holmes, CPA, to prepare tax returns for both entities. I provided him with the Assignment of Membership Interest I had

executed the year before. Shortly before the taxes were due, my cousins began contacting Mr. Holmes communicating that they did not want him to file the returns. As I understood him, he became frightened of becoming embroiled in the dispute between my cousins and I and told me he did not want to file the returns. Mr. Holmes recommended I take the package he had prepared for the returns to Tony Roe at Pinnacle One in Charleston. I did so and Mr. Roe completed the returns and filed them. Requesting an extension would have imposed a substantial financial hardship on me personally and for that reason I did not consent to the extension my cousins asked for at the last minute.

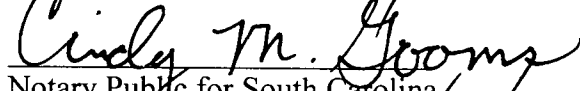
9. At the request of Jacob Ferderigos, who owns half of the restaurant business with my father and I owning the other half, I consented to his filing an amended return for S&S Old Town, Inc., which he recently filed.

10. On advice of Mr. Roe, who maintains that the return for Old Towne Suites, LLC was properly prepared, I have declined to file an amended return for that entity. As I understand it, the return filed by Mr. Roe does not reflect that my father owned any portion of the LLC's capital or had any management rights in the LLC. All it reflects is the fact that I transferred him half of my distributional rights in the LLC.

FURTHER AFFIANT SAYETH NOT.


ATHAN FOKAS

SWORN TO before me
this 17 day of February 2017.


Cindy M. Grooms
Notary Public for South Carolina
My Commission Expires on: 11/26/23

216 Spring Street
Charleston, SC 29403



Phone: 843-722-3222
Fax: 843-722-4086

February 25th, 2017

Stan.barnett@yahoo.com

To Whom It May Concern:

Please accept this correspondence as documentation that we have prepared the prepared the IRS partnership return (Form 1065) for Old Towne Suites, LLC for the tax year 2015.

Based upon the income and expense information, the Operating Agreement for Old Towne Suites, LLC, and other related documents, it is our professional opinion that the partnership return and associated reporting, including distribution interests, to the principals involved is correct under Federal and State regulations.

In the event you have any questions, or require further information, please contact us.

Regards,

John A. (Tony) Roe
Tax Consultant
National Director

STATE OF SOUTH CAROLINA)

)

ASSIGNMENT OF MEMBERSHIP INTEREST

COUNTY OF CHARLESTON)

(No Right to Participate in Management or Be a Member)

WHEREAS the Assignor is the owner of a 50% interest in Old Towne Suites, LLC a South Carolina Corporation, (the Company"); and

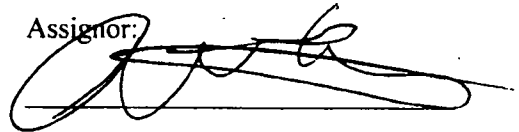
WHEREAS Assignor wishes to transfer, convey and assign to Assignee a 25% interest in the Company by execution and delivery of this Assignment of Membership Interest;

NOW THEREFORE, KNOW ALL MEN BY THESE PRESENTS THAT FOR GOOD AND VALUABLE CONSIDERATION, the receipt and sufficiency of which is acknowledged, the undersigned transfers, conveys and assigns, one half of his 50% interest in the Company, consisting of 50% of the Assignor's right to receive the distributions to which Assignor would be entitled.

This Assignment of Membership Interest does not entitle the Assignee to participate in the management and affairs of the Company or to become or exercise any rights of a member. Moreover, the Assignee shall have no liability as a member of the Company solely as a result of this Assignment.

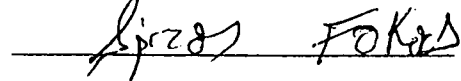
Dated this 1st day of January, 2015

Assignor:



Athan Fokas

Assignee:



Spiro Fokas

EXHIBIT B

512 B.R. 539
United States Bankruptcy Court, D. South Carolina.

In re, Richardson Miles Hanckel, III, Debtor.
Kevin Campbell, Trustee, Plaintiff,

v.

R.M. Hanckel, III; Hanckel Marine, LLC; Pamela
Hanckel; and R.M. Hanckel, Jr., Defendants.

Case No. 12-04936-dd

Adv. Pro. No. 12-80247-dd

Signed 05/28/2014

Synopsis

Background: Chapter 7 trustee brought adversary proceeding to avoid debtor's prepetition conveyance of his 50-percent membership in a limited liability company (LLC) to his father under the Bankruptcy Code's fraudulent transfer statute or, in the exercise of strong-arm powers, pursuant to South Carolina's Statute of Elizabeth. The parties filed cross-motions for summary judgment.

Holdings: The Bankruptcy Court, David R. Duncan, Chief Judge, held that:

^[1] debtor's conveyance of his interest in the LLC constituted a transfer of property under South Carolina law;

^[2] debtor did not receive consideration for his transfer of his interest in the LLC, and so his voluntary conveyance could be avoided, even absent proof of actual intent to defraud creditors; and

^[3] the appropriate remedy was the recovery of the property transferred.

Ordered accordingly.

West Headnotes (17)

- ^[1] **Bankruptcy**
↔ Trustee as representative of debtor or

creditors

Bankruptcy Code's strong-arm provision allowed Chapter 7 trustee to "step into the shoes" of creditors entitled, under South Carolina's Statute of Elizabeth, to avoid fraudulent transfer of property by debtor, provided there was a creditor with a valid unsecured claim in the bankruptcy case who could assert such a claim. 11 U.S.C.A. § 544(b)(1); S.C. Code Ann. § 27-23-10(A).

3 Cases that cite this headnote

- ^[2] **Bankruptcy**
↔ Trustee as representative of debtor or
creditors

Bankruptcy trustee's strong-arm power to set aside transfers is for the benefit of all creditors. 11 U.S.C.A. § 544(b)(1).

Cases that cite this headnote

- ^[3] **Fraudulent Conveyances**
↔ Pre-Existing Creditors
Fraudulent Conveyances
↔ Subsequent Creditors

Under South Carolina's Statute of Elizabeth, conveyances may be set aside by creditors existing at the time of the transfer and by subsequent creditors. S.C. Code Ann. § 27-23-10(A).

2 Cases that cite this headnote

- ^[4] **Fraudulent Conveyances**
↔ Intent to Defraud Pre-Existing Creditors
Fraudulent Conveyances
↔ As to Creditors

For existing creditors, conveyances may be set aside pursuant to South Carolina's Statute of Elizabeth under two scenarios: first, where the transfer is made by the grantor with the actual intent of defrauding his creditors where that intent is imputable to the grantee, even though there is a valuable consideration, and, second, where a transfer is made without actual intent to defraud the grantor's creditors, but without consideration. S.C. Code Ann. § 27-23-10(A).

Cases that cite this headnote

[5] **Bankruptcy**
⇌ Executory nature in general

Under the "Countryman definition," an "executory contract" is one under which the obligations of both the debtor and the other party to the contract are so far unperformed that the failure of either to complete the performance would constitute a material breach excusing the performance of the other. 11 U.S.C.A. § 365.

Cases that cite this headnote

[6] **Corporations and Business Organizations**
⇌ Transfer, pledge, or assignment of interest

Chapter 7 debtor's prepetition conveyance of his 50-percent membership interest in a limited liability company (LLC) to his father constituted a transfer of property under South Carolina law; absent evidence of any ongoing obligation among LLC's members to make capital contributions, debtor's interest in the LLC pursuant to its operating agreement was not an executory contract, debtor's interest, instead, consisted of both his management rights and distributional interest in the LLC, and, while debtor lost his management rights by dissociating himself, he maintained his distributional interest, which constituted personal property, until he transferred that interest to his father in the subject conveyance. S.C. Code Ann. §§ 27-23-10(A), 33-44-103(a),

33-44-501(b), 33-44-603(3).

Cases that cite this headnote

[7] **Bankruptcy**
⇌ Effect of state law in general

While federal law creates the bankruptcy estate, property interests are created and defined by state law, and unless some federal interest requires a different result, there is no reason why such interests should be analyzed differently simply because an interested party is involved in a bankruptcy proceeding. 11 U.S.C.A. § 541.

Cases that cite this headnote

[8] **Corporations and Business Organizations**
⇌ In general; rights and liabilities

Under South Carolina law, a distributional interest in a limited liability company (LLC) is personal property. S.C. Code Ann. § 33-44-501(b).

Cases that cite this headnote

[9] **Fraudulent Conveyances**
⇌ Intent to Defraud Pre-Existing Creditors
Fraudulent Conveyances
⇌ As to Creditors

Under South Carolina law, a voluntary conveyance may be avoided without proving actual intent to defraud creditors. S.C. Code Ann. § 27-23-10(A).

1 Cases that cite this headnote

[10] **Fraudulent Conveyances**

⚡ Want or Insufficiency Element of Fraud

Under South Carolina law, a “voluntary conveyance” means a gratuitous transfer made without valuable consideration. S.C. Code Ann. § 27-23-10(A).

1 Cases that cite this headnote

voluntary, and (3) the grantor failed to retain sufficient property to pay the indebtedness to the plaintiff in full, not merely at the time of the transfer, but in the final analysis when the creditor seeks to collect his debt. S.C. Code Ann. § 27-23-10(A).

Cases that cite this headnote

[11] **Fraudulent Conveyances**

⚡ Sufficiency in general

Under South Carolina law, “valuable consideration,” the absence of which renders a conveyance voluntary, may consist either in some right, interest, profit, or benefit, accruing to the one party, or some forbearance, detriment, loss, or responsibility given, suffered, or undertaken by the other. S.C. Code Ann. § 27-23-10(A).

1 Cases that cite this headnote

[14] **Fraudulent Conveyances**

⚡ Transactions between relatives

Fraudulent Conveyances

⚡ Consideration

Under South Carolina law, where transfers to members of the family are attacked on account of their voluntary character, the law imposes the burden on the transferee to establish both a valuable consideration and the bona fides of the transaction by clear and convincing testimony. S.C. Code Ann. § 27-23-10(A).

Cases that cite this headnote

[12] **Fraudulent Conveyances**

⚡ Badges of Fraud

Fraudulent Conveyances

⚡ Intent of grantor in general

Under South Carolina law, grossly inadequate consideration does not render a conveyance “voluntary”; rather, the inadequacy of the consideration is treated as a “badge of fraud,” and actual intent to defraud must be proven. S.C. Code Ann. § 27-23-10(A).

1 Cases that cite this headnote

[15] **Bankruptcy**

⚡ Trustee as representative of debtor or creditors

Fraudulent Conveyances

⚡ Nature, source, and sufficiency of consideration in general

Chapter 7 debtor did not receive consideration for his prepetition transfer of his 50-percent membership interest in a limited liability company (LLC) to his father, and so the voluntary conveyance could be avoided pursuant to the Bankruptcy Code’s strong-arm provision and South Carolina’s Statute of Elizabeth without proving actual intent to defraud creditors; although dissociation agreement signed by debtor and his father stated that \$10 was the full and complete consideration that debtor received for the conveyance of his ownership and other interests in the company, the bankruptcy court found that debtor in fact received nothing for his interest in the LLC, there was no evidence that the conveyance

relieved debtor of any personal obligation to repay his parents for his portion of any agreed capital call, and debtor's continuing employment with the company was not consideration for the transfer. 11 U.S.C.A. § 544(b)(1); S.C. Code Ann. § 27-23-10(A).

Cases that cite this headnote

[16]

Bankruptcy

⚡ Avoidance rights and limits thereon, in general

Bankruptcy

⚡ Judgment or order; relief

Where, under South Carolina law, Chapter 7 debtor was found to have fraudulently conveyed his 50-percent membership interest in a limited liability company (LLC) to his father prepetition, the appropriate remedy was the recovery of the property transferred, given the recoverability of debtor's interest, the difficulty in valuing his interest, and the lack of evidence of any depreciation in the value of the interest since the transfer. 11 U.S.C.A. §§ 544(b)(1), 550(a); S.C. Code Ann. § 27-23-10(A).

Cases that cite this headnote

[17]

Bankruptcy

⚡ Avoidance rights and limits thereon, in general

Bankruptcy

⚡ Judgment or order; relief

Bankruptcy Code provides the same remedy for a conveyance set aside under the Code's fraudulent transfer section as it does for a transfer set aside pursuant to the Code's strong-arm provision. 11 U.S.C.A. §§ 544, 548, 550(a).

Cases that cite this headnote

Attorneys and Law Firms

*541 R. Michael Drose, David B. Marvel, Prenner Marvel, PA, North Charleston, SC, for Debtor.

Andrew Kenneth Epting, Jr., Andrew K. Epting, Jr., LLC, for Kevin Campbell, Trustee.

Chapter 7

ORDER

David R. Duncan, Chief US Bankruptcy Judge

This matter is before the Court on cross-motions for summary judgment filed *542 by the plaintiff, Kevin Campbell, Trustee ("Plaintiff") and the defendants, R.M. Hanckel, III; Hanckel Marine, LLC; Pamela Hanckel; and R.M. Hanckel, Jr. ("Defendants"). Also before the Court are a second motion in limine, third motion in limine, and a motion to allow filing out of time filed by Defendants. Plaintiff responded in opposition to Defendants' motion for summary judgment and motions in limine. Plaintiff responded to the motion to allow filing out of time and indicated he did not oppose Defendants being permitted to file their motion for summary judgment and third motion in limine one day after the scheduling order deadline for such motions. Defendants responded in opposition to Plaintiff's motion for summary judgment. The Court held a hearing on the motions on March 25, 2014. After careful consideration of the applicable law, arguments of counsel, and evidence submitted, the Court rules as follows with respect to the motions before it.

JURISDICTION AND AUTHORITY TO ENTER A FINAL ORDER

The issue in this adversary proceeding is whether R.M. Hanckel, III fraudulently conveyed his interest in Hanckel Marine, LLC to R.M. Hanckel, Jr. Jurisdiction for this proceeding is premised upon 28 U.S.C. §§ 1334 and 157(a). Venue is proper under 28 U.S.C. § 1409. This adversary proceeding is a core proceeding. 28 U.S.C. § 157(b)(2)(H). This Court has previously concluded that its entering a final order or judgment in an action to set aside

a fraudulent conveyance would be inconsistent with Article III of the United States Constitution without the express consent of the parties. *Vieira v. Clutts (In re Clutts)*, C/A No. 13-00184-DD, Adv. Pro. No. 13-80068-DD, p. 2 (Bankr.D.S.C. Dec. 6, 2013). At the March 25, 2014 hearing, Defendants' counsel expressly consented on the record to this Court entering a final order or judgment. Plaintiff's counsel expressly consented at a previous hearing.

FACTS

Hanckel Marine, LLC was established in 2000. Richardson Miles Hanckel, III, also known as R.M. Hanckel, III ("Milo"), held a fifty percent membership interest in Hanckel Marine, LLC. Milo's father, R.M. Hanckel, Jr. ("Miles"), held the remaining fifty percent interest. In 2004, Steve Potts approved Hanckel Marine as an authorized Scout Boats dealer and eventually entered into a business arrangement with Milo to create the Sportsman's Island facility on Daniel Island, South Carolina, which was to be the new location for Hanckel Marine. Potts founded Scout Boats and is currently the president and chief executive officer of Scout.

In 2009, with the recreational and marine industry in decline, Milo defaulted on his obligations to Potts in connection with Sportsman's Island. The Hanckels also struggled with other obligations during this time. In May 2010, a judgment in the amount of \$418,239.37 was entered against Milo and Hanckel Marine in a case filed by Caroline and Malcolm Rhodes arising out of a breach of a lease and guaranty. Pl.'s ex. C. Subsequently, Milo and Hanckel Marine entered into a "SETTLEMENT AGREEMENT AND MUTUAL RELEASE" dated August 31, 2010, with the Rhodes under which Pamela Hanckel ("Pam"), Milo's mother and Miles' spouse, would pay \$30,000 to the Rhodes and the Rhodes would assign the judgment to Pam. *Id.*

On October 12, 2010, Defendants' attorney at that time emailed Milo, Pam, and Jeff Hutto, who was the Defendants' accountant, regarding dealing with the obligations to Potts:

*543 Here is my overture to Potts' attorney. Note my insistence that Miles, Pam, [Hanckel Marine], and [Hanckel Properties, LLC] be protected.

Jeff, it seems to me to be advantageous to take Milo out of Hanckel Marine by a transfer of his interest to Miles and Pam. If and when Milo has to file, I would rather

not list an interest in [Hanckel Marine] among his assets. A big creditor like Potts might find it tempting to make mischief out of that situation, even though Milo's interest will have a negative value for some time to come.

Pl.'s ex. J. On November 30, 2010, the same attorney emailed Milo, Pam, and Jeff Hutto regarding his negotiations with respect to a debt owed to Wells Fargo and again discussed dealing with Milo's interest in Hanckel Marine:

Note that I have suggested that Milo be left out of any new agreement. I anticipate that sooner or later we will have to deal with the Potts' liability, which may involve Milo's bankruptcy, and in the meantime, we are going to transfer Milo's interest in [Hanckel Marine] to Miles, and distance him from [Hanckel Marine] so that the company is not affected at all should Milo have to file Chapter 7.

Pl.'s ex. K.

In December 2010, Miles, Milo, Hanckel Marine, and Hanckel Properties, LLC entered into a "SETTLEMENT AGREEMENT" to resolve their debt to Hanckel Marine's floor plan lender, Fifth Third Bank. Pl.'s ex. D. Also in December 2010 Pam entered into a forbearance agreement with Wells Fargo combining three notes of Hanckel Properties and Hanckel Marine.

On January 25, 2011, Milo and two entities for which he was the managing member entered into an agreement regarding obligations owed to Potts; Potts Family Properties, LP; and Sportsman's Island, LLC (the "Potts creditors"). Pl.'s ex. G. Milo agreed to pay the Potts creditors \$228,006 pursuant to a payment schedule and to pay \$1,598,400 on an indebtedness to Wachovia pursuant to a payment schedule. *Id.* In exchange, Milo's responsibility for expenses under certain leases would be terminated, the Potts creditors would release any claim they had against Milo related to the indebtedness, and the Potts creditors would pay the remainder of the \$3,996,000 indebtedness owed to Wachovia. *Id.* While Defendants do not dispute Milo's signature is on this agreement, they assert Milo never represented any intention or ability to pay the debt owed to the Potts creditors. Defs.' Obj. Pl.'s Mot. Summ. J., p. 3 (Docket # 95).

Later in 2011, Hanckel Marine, Milo, and Miles signed an

"AGREEMENT TO TRANSFER SHARES OF DISSOCIATING MEMBER" ("Dissociation Agreement") effective July 18, 2011. Under "Section 1.1 Declaration of Dissociation," the agreement states:

The Dissociating Member [Milo] hereby declares that he is voluntarily dissociating from the Company; that he is aware of the terms of the Operating Agreement which result in the transfer of his ownership interest to the Remaining Member [Miles]; and that he affirms and agrees that the sole consideration to which he is entitled and expects to receive under the terms of this dissociation and transfer of ownership interest is the sum of Ten and 00/100 Dollars (\$10.00).

Pl.'s ex. H. The Dissociation Agreement also provides that Miles "acknowledges and agrees that he shall, on behalf of the Company and in full satisfaction of the Company's duties and authority under the Operating Agreement, pay to the Dissociating Member the sum of Ten and 00/100 Dollars (\$10.00)." *Id.* The Dissociation *544 Agreement further sets forth that Milo "by his signature below, acknowledges the receipt and sufficiency of the above-described payment as full and complete consideration supporting this Agreement and that it represents the full measure of compensation, disbursement, distribution, and value associated with his ownership and other interests in the Company which is being conveyed hereby." *Id.*

During his deposition, Milo testified as follows regarding what he received in exchange for transferring his interest in Hanckel Marine:

Q. What did you receive in exchange for transferring your interests in Hanckel Marine to your father?

A. Absolutely nothing. The business at this point has no value and had no value at these dates and now.

Q. Section 1.1 of that document says you received \$10. Did you actually receive \$10?

A. Technically, yes, as far as—

Q. Pass ten bucks over the table?

A. Exactly. Yes.

R. Miles Hanckel, III Dep., p. 32–33. At his earlier Federal Rule of Bankruptcy Procedure 2004 examination, Milo testified he did not receive the \$10 recited in the Dissociation Agreement.¹ Additionally, in their motion for summary judgment and response in opposition to Plaintiff's motion for summary judgment, Defendants conceded that Milo did not receive any money when he entered into the Dissociation Agreement. Defs.' Mot. Summ. J., pp. 3, 16 (Docket # 91); Defs.' Obj. Pl.'s Mot. Summ. J., p. 4 (Docket # 95). Defendants' counsel did not retract this concession at the hearing on the parties' motions for summary judgment.

In October of 2011, the Potts creditors filed suit in state court in South Carolina against Milo and two other entities with which Milo was associated. This lawsuit was concluded by a consent order of judgment entered on May 17, 2012, in the amount of \$1,953,927.71. Pl.'s ex. I.

Milo filed for relief under chapter 7 of the Bankruptcy Code on August 9, 2012. His bankruptcy case was assigned case number 12–04936–dd. In his schedules, Milo listed no secured debt and \$2,031,066 in unsecured debt of which \$1,826,406 was indicated as owed to Potts and Sportsman's Island. Case No. 12–04936–dd, docket entry 1. In his statement of financial affairs, Milo listed the transfer of his interest in Hanckel Marine in response to question 10, which required him to list "all other property, other than property transferred in the ordinary course of the business or financial affairs of the debtor, transferred either absolutely or as security within two years immediately preceding the commencement of [his bankruptcy] case." *Id.* at docket entry 8. Under the column "DESCRIBE PROPERTY TRANSFERRED AND VALUE RECEIVED," Milo stated "Shares of stock of dissociating member in the LLC \$0. Debtor gave up his 50% interest in the LLC because he could not contribute to the LLC as he should have. Debtor believes the stock was valueless." *Id.* Debtor signed his schedules and statement of financial affairs under penalty of perjury.

Only two creditors filed proofs of claim in Milo's bankruptcy. Capital One Bank filed a claim for \$13,356.89. The Potts creditors filed a proof of claim for *545 \$1,953,927.71 on January 24, 2013. The Potts creditors initiated this adversary proceeding on November 13, 2012, requesting a jury trial and alleging causes of action for constructive fraud and fraudulent transfer with Milo named as the only defendant. The chapter 7 trustee filed an application to employ the attorney representing the Potts creditors on April 5, 2013, and the Court entered an Order authorizing the employment on April 17, 2013. In his affidavit accompanying the application to employ, the attorney stated the chapter 7 trustee would be

substituted as plaintiff in this adversary proceeding. In August of 2013, the Court granted a motion to amend the complaint. The amended complaint substituted the chapter 7 trustee as plaintiff, did not request a jury trial, alleged three different fraudulent conveyance causes of action, and added Hanckel Marine, Miles, and Pam as defendants. Plaintiff moved to amend the complaint again in November 2013, and the Court granted the motion. This second amended complaint again did not request a jury trial and alleged causes of action for fraudulent transfer under 11 U.S.C. § 548 and South Carolina Code Annotated § 27-23-10 along with a cause of action for actual and constructive fraud.

SUMMARY JUDGMENT STANDARD

Pursuant to Federal Rule of Civil Procedure 56(a), made applicable by Bankruptcy Rule 7056, the moving party is entitled to summary judgment if the pleadings, responses to discovery, and the record reveal that “there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law.” A genuine dispute of material fact exists “if the evidence is such that a reasonable [trier of fact] could return a verdict for the nonmoving party.” *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248, 106 S.Ct. 2505, 91 L.Ed.2d 202 (1986).

As the party seeking summary judgment, the moving party bears the initial responsibility of informing this Court of the basis for its motion. *See Celotex Corp. v. Catrett*, 477 U.S. 317, 323, 106 S.Ct. 2548, 91 L.Ed.2d 265 (1986). This requires that the moving party identify those portions of the “pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any,” which it believes demonstrate the absence of a genuine dispute of material fact. *Celotex*, 477 U.S. at 323, 106 S.Ct. 2548; *see also Anderson*, 477 U.S. at 249, 106 S.Ct. 2505.

Though the moving party bears this initial responsibility, the nonmoving party must then produce “specific facts showing that there is a genuine issue for trial.” *Celotex*, 477 U.S. at 324, 106 S.Ct. 2548; *see Fed. R. Civ. P. 56(e)*. In satisfying this burden, the nonmoving party must offer more than a mere “scintilla of evidence” that a genuine dispute of material fact exists, *Anderson*, 477 U.S. at 252, 106 S.Ct. 2505, or that there is “some metaphysical doubt” as to material facts, *Matsushita Elec. Indus. Co. v. Zenith Radio Corp.*, 475 U.S. 574, 586, 106 S.Ct. 1348, 89 L.Ed.2d 538 (1986). One of the purposes of summary judgment is to determine whether the parties can provide evidentiary support for their version of the facts. If a party

has credible evidence for its position, it must make the existence of such evidence known because summary judgment cannot be defeated by the vague hope that something may turn up at trial. *Id.* at 586, 106 S.Ct. 1348. The Court is not obligated to search the record for the non-moving party’s evidence. *Harris v. Pyramid Gom, Inc. (In re Capco Energy, Inc.)*, Bankr. No. 08-32282, Adversary No. 10-3349, 2012 WL 253140, *4 (Bankr.S.D.Tex. Jan. 25, 2012).

*546 On a motion for summary judgment, “ ‘the facts must be viewed in the light most favorable to the nonmoving party only if there is a genuine dispute as to those facts.’ ” *Ricci v. DeStefano*, 557 U.S. 557, 586, 129 S.Ct. 2658, 174 L.Ed.2d 490 (2009) (quoting *Scott v. Harris*, 550 U.S. 372, 380, 127 S.Ct. 1769, 167 L.Ed.2d 686 (2007)). Summary judgment is proper “[w]here the record taken as a whole could not lead a rational trier of fact to find for the non-moving party, there [being] no genuine issue for trial.” *Matsushita*, 475 U.S. at 587, 106 S.Ct. 1348 (internal quotation marks omitted).

ANALYSIS

A. Statute of Elizabeth

1. Law

[1] [2] [3] [4] Under 11 U.S.C. § 544(b)(1), a “trustee may avoid any transfer of an interest of the debtor in property or any obligation incurred by the debtor that is voidable under applicable law by a creditor holding an unsecured claim that is allowable under section 502 of this title or that is not allowable only under section 502(e) of this title.” Pursuant to South Carolina’s Statute of Elizabeth:

Every gift, grant, alienation, bargain, transfer, and conveyance of lands, tenements, or hereditaments, goods and chattels or any of them ..., by writing or otherwise, ... which may be had or made to or for any intent or purpose to delay, hinder, or defraud creditors and others of their just and lawful actions, suits, debts, accounts, damages, penalties, and forfeitures must be deemed and taken (only as against that person or persons, his or their heirs, successors, executors, administrators and assigns, and

every one of them whose actions, suits, debts, accounts, damages, penalties, and forfeitures by guileful, covinous, or fraudulent devices and practices are, must, or might be in any ways disturbed, hindered, delayed, or defrauded) to be clearly and utterly void, frustrate and of no effect, any pretense, color, feigned consideration, expressing of use, or any other matter or thing to the contrary notwithstanding.

S.C.Code Ann. § 27–23–10(A). Section 544(b)(1) allows Plaintiff to “step into the shoes” of creditors and assert their rights under the Statute of Elizabeth, provided there is a “creditor with a valid unsecured claim in the bankruptcy case who could assert a claim to avoid the transfer.” *Hovis v. Ducate* (In re Ducate), 369 B.R. 251, 258 (Bankr.D.S.C.2007); see also *Campbell v. Deans* (In re J.R. Deans Co.), 249 B.R. 121, 129 (Bankr.D.S.C.2000). The trustee’s power to set aside transfers is for the benefit of all creditors. *Moore v. Bay*, 284 U.S. 4, 52 S.Ct. 3, 76 L.Ed. 133 (1931). Defendants have not disputed that Capital One Bank and the Potts creditors have allowed unsecured claims. Under the Statute of Elizabeth, conveyances may be set aside by creditors existing at the time of the transfer and by subsequent creditors. *Mathis v. Burton*, 319 S.C. 261, 460 S.E.2d 406, 408 (S.C.Ct.App.1995). For existing creditors, the South Carolina Supreme Court has held that conveyances may be set aside pursuant to the Statute of Elizabeth under two scenarios: “First, where the transfer is made by the grantor with the actual intent of defrauding his creditors where that intent is imputable to the grantee, even though there is a valuable consideration; and, second, where a transfer is made without actual intent to defraud the grantor’s creditors, but without consideration.” *Windsor Prop., Inc. v. Dolphin Head Constr. Co.*, 331 S.C. 466, 498 S.E.2d 858, 860 (1998).

2. Transfer of property

¹⁵¹ ¹⁶¹ Defendants assert in their motion for summary judgment and objection *547 to Plaintiff’s motion for summary judgment that no transfer of a property interest occurred when Milo conveyed his interest in Hanckel Marine because Milo’s interest in Hanckel Marine pursuant to its operating agreement was an executory contract and not property of the estate. Defendants argue a claim under section 544 may only lie against property of estate. Defendants rely on *Fursman v. Ulrich* (In re First Prot., Inc.), 440 B.R. 821, 830–31 (9th Cir. BAP 2010);

Sheehan v. Warner (In re Warner), 480 B.R. 641, 648 (Bankr.N.D.W.Va.2012); *Meiburger v. Endeka Enter., L.L.C.* (In re Tsiaoushis), 383 B.R. 616, 620 (Bankr.E.D.Va.2007); *In re Garrison–Ashburn, L.C.*, 253 B.R. 700, 708 (Bankr.E.D.Va.2000); *Broyhill v. DeLuca* (In re DeLuca), 194 B.R. 65 (Bankr.E.D.Va.1996); and *In re Daugherty Constr., Inc.*, 188 B.R. 607, 612 (Bankr.D.Neb.1995). Defendants also rely on the definition of an executory contract set forth by Professor Vern Countryman, which is used by the Fourth Circuit and many other courts. *Gloria Mfg. Corp. v. Int’l Ladies’ Garment Workers’ Union*, 734 F.2d 1020, 1021–22 (4th Cir.1984). Under the “Countryman definition,” an executory contract is one “under which the obligations of both the bankrupt and the other party to the contract are so far unperformed that the failure of either to complete the performance would constitute a material breach excusing the performance of the other.” *Id.* at 1022. Defendants assert there was an ongoing obligation among members of Hanckel Marine to make capital contributions if the company was unable to meet its ongoing responsibilities. Defendants argue Milo breached the operating agreement because he was unable to make ongoing capital contributions and dissociated as a result.

The evidence before the Court does not support Defendants’ assertion regarding an ongoing obligation among members of Hanckel Marine to make capital contributions. The Hanckel Marine operating agreement provides for initial contributions and subsequent contributions (“capital calls”). Pl.’s ex. A, pp. 15–16. The operating agreement also provides for advances to Hanckel Marine if the company is unable to pay its obligations. *Id.* at p. 17. These advances constitute loans from the advancing member to the company. *Id.* at p. 17. With respect to capital calls, the operating agreement provides “each Member shall contribute to the Company, in cash, on or before the date specified as hereinafter described that Member’s pro rata share of all monies that in the judgment of a *Required Interest*, is necessary to enable the Company to cause the assets of the Company to be properly operated and maintained and to discharge its costs, expenses, obligations, and liabilities.” *Id.* at pp. 15–16 (emphasis added). A “Required Interest” is defined as “One Hundred (100%) percent of all Members.” *Id.* at p. 4. Consequently, because Milo held a fifty percent membership interest in Hanckel Marine and because one hundred percent of all members had to agree to a capital call, Milo was not required to make a subsequent capital contribution unless both he and Miles agreed to a capital call. Defendants have not cited evidence in the record upon which a rational trier of fact could find Milo agreed to a capital call even though he could not contribute his portion, thus resulting in his parents essentially loaning

him money to cover his portion.² Furthermore, Miles testified he *548 did not ask Milo to infuse money into Hanckel Marine and made no distinction between capital infused into the company and loans to the company. R.M. Hanckel, Jr. Dep., p. 17–18. In light of this deposition testimony and the language in the operating agreement, Defendants have not provided evidence to support their assertion of an ongoing obligation to make capital contributions. Rather, Milo only had to contribute further capital if he agreed to do so. This absence of evidence of ongoing obligations leads the Court to conclude that the operating agreement is not an executory contract.

¹⁷ ¹⁸ Furthermore, while federal law creates the bankruptcy estate, “[p]roperty interests are created and defined by state law[, and] [u]nless some federal interest requires a different result, there is no reason why such interests should be analyzed differently simply because an interested party is involved in a bankruptcy proceeding.” *Butner v. United States*, 440 U.S. 48, 55, 99 S.Ct. 914, 59 L.Ed.2d 136 (1979); see also *Am. Bankers Ins. Co. of Fla. v. Maness*, 101 F.3d 358, 363 (4th Cir.1996); *In re Brittain*, 435 B.R. 318, 321–22 (Bankr.D.S.C.2010). Milo’s interest in Hanckel Marine consisted of both his management rights and distributional interest. Through the July 18, 2011 Dissociation Agreement, Milo lost his management rights by dissociating himself. See S.C.Code Ann. § 33–44–603(3) (“Upon a member’s dissociation ... the member’s right to participate in the management and conduct of the company’s business terminates, except as otherwise provided in Section 33–44–803, and the member ceases to be a member and is treated the same as a transferee of a member.”).³ Milo not only dissociated himself via the Dissociation Agreement but also transferred his distributional interest to Miles. Under South Carolina law, “[a] distributional interest in a limited liability company is personal property....” S.C.Code Ann. § 33–44–501(b); *Brittain*, 435 B.R. at 322. Nothing in the operating agreement alters this state law, as the operating agreement specifically allows for the assignment of a member’s distributional interest. See S.C.Code Ann. § 33–44–103(a) (“To the extent the operating agreement does not otherwise provide, this chapter governs relations among the members, managers, and company.”); Pl.’s ex. A, p. 14.

The Court has reviewed the cases Defendants cite in support of their argument that no transfer of property occurred and does not find them persuasive. Notably, it was only in two of the cases cited by Defendants that the courts actually concluded the operating agreements at issue were executory contracts—*DeLuca* and *Daugherty Construction*. Neither of these cases involved an alleged

fraudulent transfer of a debtor’s membership interest in a limited liability company prior to filing bankruptcy. Moreover, *Daugherty Construction* involved a chapter 11 debtor in possession that may have been attempting to assume the executory contract and the bankruptcy court stated its ruling was limited to that chapter 11 reorganization case and expressed no opinion as to what its *549 ruling might be in the chapter 7 context. *Daugherty Constr.*, 188 B.R. at 613–14.

3. Voluntary Conveyance

¹⁹ ¹⁰ ¹¹ ¹² ¹³ ¹⁴ Under South Carolina law, a voluntary conveyance may be avoided without proving actual intent to defraud creditors. *Royal Z Lanes, Inc. v. Collins Holding Corp.*, 337 S.C. 592, 524 S.E.2d 621, 622 (1999). A voluntary conveyance means a gratuitous transfer made without valuable consideration. *Id.* “[V]aluable consideration, in the sense of the law, may consist either in some right, interest, profit, or benefit, accruing to the one party, or some forbearance, detriment, loss, or responsibility given, suffered, or undertaken by the other.” *Furman Univ. v. Waller*, 124 S.C. 68, 117 S.E. 356, 358 (1923); see also *Cadence Bank, N.A. v. Horry Prop., LLC*, No. 4:10-cv-2717-RBH, 2012 WL 1110089, at *14 (D.S.C. Apr. 2, 2012). Grossly inadequate consideration does not render a conveyance voluntary; rather, the inadequacy of the consideration is treated as a “badge of fraud,” and actual intent to defraud must be proven. *Royal Z Lanes*, 524 S.E.2d at 622–23. To set aside a voluntary conveyance, the plaintiff must show that “(1) the grantor was indebted to him at the time of the transfer; (2) the conveyance was voluntary; and (3) the grantor failed to retain sufficient property to pay the indebtedness to the plaintiff in full—not merely at the time of the transfer, but in the final analysis when the creditor seeks to collect his debt.” *Mathis*, 460 S.E.2d at 408. In situations such as in this case “[w]here transfers to members of the family are attacked ... on account of their voluntary character, the law imposes the burden on the transferee to establish both a valuable consideration and the bona fides of the transaction by clear and convincing testimony.” *Windsor Prop.*, 498 S.E.2d at 860 (quoting *Gardner v. Kirven*, 184 S.C. 37, 191 S.E. 814, 816 (1937)); see also *Hovis v. Ducate (In re Ducate)*, 355 B.R. 536, 544 (Bankr.D.S.C.2006); *Campbell v. Haddock (In re Haddock)*, 246 B.R. 810, 816 (Bankr.D.S.C.2000).

¹⁵ The Dissociation Agreement Milo and Miles signed states that \$10 is the “full and complete consideration supporting [the] Agreement and that it represents the full measure of compensation, disbursement, distribution, and value associated with [Milo’s] ownership and other interests in the Company which is being conveyed

was not required because Milo's membership interest had no value but cite to no authority supporting the proposition that a transfer should not be considered voluntary under South Carolina law if what is transferred has no value. Further, if Milo's interest was truly worthless, then why transfer it instead of leaving the interest under Milo's ownership and allowing the chapter 7 trustee to assess whether it was worthless. The fact is Miles has a one hundred percent interest in Hanckel Marine as a result of the transfer of Milo's fifty percent interest, and Defendants have not presented evidence upon which a rational trier of fact could find Milo received valuable consideration in exchange.

As for the remaining elements for setting aside a voluntary conveyance, it is undisputed that Milo was indebted to Capital One Bank and the Potts creditors at the time of transfer and that he did not retain sufficient assets to pay the indebtedness. Consequently, Plaintiff is entitled to summary judgment on his cause of action to set aside Milo's transfer of his interest in Hanckel Marine under 11 U.S.C. § 544(b)(1).

4. Remedy

¹¹⁶Under 11 U.S.C. § 550(a), to the extent a transfer is avoided under section 544, "the trustee may recover, for the benefit of the estate, the property transferred, or, if the court so orders, the value of such property, from ... the initial transferee of such transfer or the entity for whose benefit such transfer was made...." Miles is the initial transferee of Milo's interest in Hanckel Marine. Given the recoverability of Milo's interest, the difficulty in valuing his interest, and the lack of evidence of any depreciation in the interest's value since the transfer, the Court concludes the appropriate remedy is the recovery of the property transferred, which in this case is the interest in Hanckel Marine Milo transferred to Miles. *See Morris v. Kan. Drywall Supply Co. (In re Classic Drywall, Inc.)*, 127 B.R. 874, 877 (D.Kan.1991) (discussing factors courts commonly apply in deciding between a return of the property or an award of its value). The issue of whether the operating agreement limits what Plaintiff can do with Milo's management rights, including whether Plaintiff can convey those rights to someone else, is not before the Court. *See Warner*, 480 B.R. at 656-58; *Caymus Ventures, LLC v. Jundanian (In re Jundanian)*, Bankr.No. 10-21513-TJC, Adv. Pro. No. 11-00185, 2012 WL 1098544, at *6-*7 (Bankr.D.Md. Mar. 30, 2012)

B. Remaining causes of action

¹¹⁷Plaintiff's other two causes of action are fraudulent conveyance pursuant to 11 U.S.C. § 548 and actual and constructive fraud under South Carolina common law. Section 550(a) provides the same remedy for a conveyance set aside under section 548 as it does for a transfer set aside under section 544. As a result, having set aside the conveyance under section 544 and determining recovery of the property *552 appropriate, Plaintiff is entitled to no further remedy on his section 548 cause of action.

As for the common law actual and constructive fraud cause of action, the basis for this cause of action is the same as the other causes of action—Milo's transfer of his interest in Hanckel Marine. Plaintiff has not cited to and the Court is unaware of any legal principle that gives a chapter 7 trustee standing to pursue a common law fraud cause of action on behalf of creditors against a debtor whose bankruptcy estate the trustee is administering or third parties such as the other defendants in this adversary proceeding. Plaintiff's actual and constructive fraud cause of action is, therefore, dismissed.

C. Recovery against the defendants other than Miles Hanckel

Under 11 U.S.C. § 550(a), the recovery of the transferred property is from the initial transferee, which in this case is Miles Hanckel. *See Coggin v. Coggin (In re Coggin)*, 30 F.3d 1443, 1453 (11th Cir.1994) ("[W]e hold that section 550(a)(1) does not allow recovery of an avoided transfer from the transferring debtor."), *abrogated on other issues by Kontrick v. Ryan*, 540 U.S. 443, 124 S.Ct. 906, 157 L.Ed.2d 867 (2004). No basis has been provided for the Court to enter judgment against the other defendants in this adversary proceeding. Therefore, they are dismissed.

CONCLUSION

For the reasons set forth herein, Defendants' motion to allow filing out of time is granted as unopposed; Plaintiff's motion for summary judgment is granted as to Plaintiff's cause of action under 11 U.S.C. § 544(b)(1) against defendant R.M. Hanckel, Jr.; Plaintiff's cause of action under 11 U.S.C. § 548 is moot; Plaintiff's cause of action for common law actual and constructive fraud is dismissed; Defendants' motion for summary judgment is denied; and Defendants' second and third motions in limine are moot. In addition, defendants R.M. Hanckel, III; Hanckel Marine, LLC; and Pamela Hanckel are dismissed from this adversary proceeding. Pursuant to 11

EXHIBIT C

Member-Managed vs. Manager-Managed LLCs

Top Lawyers On-Demand at Exceptional Rates / Resources / Legal Topics /

Business Formation & Incorporation Lawyers & Attorneys / Limited Liability Company (LLC) Lawyers & Attorneys /

Member-Managed vs. Manager-Managed LLCs

If you decide to form your company as an LLC, you must decide on the management structure of the LLC in order to draft the LLC operating agreement. Under some LLC operating agreements, all members fully participate in the daily operations of the business. Other LLC operating agreements designate managers to handle operations.

You will need to draft an LLC operating agreement that clearly establishes management responsibilities. Any mistake could significantly impact who actually has management control and what rights members retain. Hiring a startup or corporate attorney from the Priori network can help you select the appropriate management structure and draft a well-written LLC operating agreement.

Member-Managed vs. Manager-Managed LLCs:

The members or owners of a member-managed LLC are responsible for the day-to-day operations of the business, while only certain designated members (or even outside appointees -- for example, a board of directors) run the operations of manager-managed LLCs. The core difference between the two is that manager-managed LLCs can have passive investors written into the business structure. In member-managed LLCs, all owners have a voice proportional to their share. Member-managed LLCs tend to require each investor to serve a much more hands-on role than manager-managed LLCs, since each member can be involved in any decision, not just large issues subject to a vote.

Benefits of Member-Managed LLCs:

In most states, a member-managed LLC is the default type of LLC. This format is considered typical, particularly for small businesses with very few members. Functioning as a member-managed LLC is advantageous for your startup if you want to ensure that each member has significant input regarding the operations of the business.

Benefits of Manager-Managed LLCs:

A manager-managed LLC is less common, but it is very useful if you want your startup to run more like a corporation. When an LLC is manager-managed, owners of the LLC exercise their control by voting on key company issues, rather than being actively involved in the company's day-to-day operations. This can be advantageous for your startup in the following situations:

- **Large Size.** If your startup is large in size or has a relatively large number of owners, it is not practical for all members to be involved in each decision regarding the management of the company. Instead, a manager-managed LLC has the ability to respond quickly to changing economic conditions and act without heavy administrative burdens. This also allows members to recruit the help of outside counsel and non-members with specific areas of expertise when making decisions.
- **Desired Anonymity.** Generally, all members must be listed publicly within the LLC operating agreements of member-managed LLCs. More anonymity is available in manager-managed LLCs.
- **Passive Ownership.** In certain cases, you may have members who are not interested in taking an active role in the business. A manager-managed LLC makes it possible to appoint one or several managers to handle the affairs of the company, leaving other members free to maintain a passive role.

The Role of LLC Operating Agreements

LLC operating agreements are vital to the operations and management of LLCs. Because these agreements help establish the roles of the managers and members, LLC operating agreements serve to define not just which type of management structure is used, but also what level of control and decision-making abilities the managers and members have. If you fail to specifically delineate these types of roles and decisions in the LLC operating agreement, state law will apply as a default, which can result in giving unintended control to certain members or leaving members open to liabilities. A startup attorney can help you to avoid this situation by drafting a clear LLC operating agreement that addresses all appropriate issues.

Priori Pricing

Depending on the complexity of your governance structure, plans for investment and growth, and the number of owners, the cost of having an LLC operating agreement drafted for your LLC can vary. When you hire a lawyer in the Priori network, forming your LLC and drafting an LLC operating agreement typically costs anywhere from \$350-\$5,000. In order to get a better sense of cost for your particular situation, put in a request to schedule a complimentary consultation and receive a free price quote from one of our lawyers.

FAQ

Can I switch the management structure of my LLC at a later date?

**JOHN CUNNINGHAM'S LLC NEWSLETTER
FOR TAX AND LEGAL PROFESSIONALS**

ISSUE NO. 42 (APRIL 2, 2007)

**WHAT ACCOUNTANTS AND LAWYERS SHOULD KNOW
ABOUT THE MANAGEMENT STRUCTURES OF
MULTI-MEMBER LLCs**

EXECUTIVE SUMMARY

Multi-member LLCs (i.e., those with two or more members) can have any of three basic management structures—a general partnership structure, a limited partnership structure or a corporate structure. Choosing the right management structure for a multi-member LLC can be important not only for legal and business reasons but also for purposes of avoiding Social Security Taxes.

DISCUSSION

Accountants don't normally assist their clients in planning and drafting voting provisions, contract authority provisions and other management provisions for multi-member LLCs of which the clients plan to become members. However, all accountants should have at least a general understanding of these structures. This is because, among other considerations, LLC management structures can have important tax consequences (as discussed below). And obviously, lawyers who assist clients in forming LLCs must have a deep understanding of these structures.

Set forth below are the basics of what accountants and lawyers should know about the management structures of multi-member LLCs. My LLC formbook and practice manual, *DRAFTING LIMITED LIABILITY COMPANY OPERATING AGREEMENTS*, published by Aspen Law & Business, contains tailored forms for multi-member LLCs with all of the various types of management structures described below.

- 1) Member-managed vs. manager-managed multi-member LLCs. On the basis of their management structures, LLC lawyers generally divide multi-member LLCs into two basic kinds —namely, *member-managed* LLCs and *manager-managed* LLCs. In multi-member LLCs that are *member-managed*, every member has statutory authority to bind his LLC in oral and written contracts. In a multi-member LLC that is *manager-managed*, only those persons (whether they are members or non-members) who are expressly named as managers in the LLC's operating agreement may bind the LLC in contracts. Under the New Hampshire Limited Liability Company Act, the issue whether an LLC is member-managed or manager-managed is decided by its certificate of formation, which must state whether the management of the LLC is or is not vested in a manager or managers.

- 2) Member-managed multi-member LLCs and Social Security Taxes. Most multi-member LLCs are subject to federal income tax treatment as partnerships (although, in my view, most of them should in fact be taxable as S corporations). A fact of which even some of the most sophisticated accountants are unaware is that if a multi-member LLC that is taxable as a partnership is member-managed under its certificate of formation, then, under an IRS regulation called Prop. Reg. § 1.1402(a)-2 (the “Prop. Reg.”), all of its members who are individuals will automatically be subject to the Self-Employment Tax on their shares of LLC income. And this will be so even if these individuals are completely inactive in the LLC and would never think of signing a contract for it. The reason is that under the Prop. Reg., individuals who have *statutory authority* to sign LLC contracts are subject to the Self-Employment Tax, whether or not they ever *actually* sign them; and all members of member-managed multi-member LLCs automatically have statutory contract-signing authority.
- 3) Use of Subchapter S by multi-member LLCs to avoid Social Security Taxes while still member-managed. What does this mean for an LLC in which all the members want the right to sign contracts and to fully participate in LLC management, but also want to minimize their Social Security Tax burdens? The answer is simple: This LLC must make an S election. If the LLC is taxable as an S corporation, then the Prop. Reg. won’t apply to it and all of the net income of the LLC will automatically be exempt from Social Security Taxes.
- 4) The need to go beyond the “member-managed/manager-managed” distinction. Knowledge of the above distinction between member-managed and manager-managed LLCs is indispensable in order to protect LLC members from Social Security Taxes. However, the distinction is a dangerous oversimplification for LLC organizers, members and others in determining the precise management structure that their LLC should have for legal and other non-tax purposes, including management efficiency and effectiveness. This is because, as indicated above, there are, as a practical matter, three quite different basic management structures available to multi-member LLCs, and there are significant management subsets within each of these three categories.

To explain briefly:

- a) The simple general partnership management structure. In LLCs which have relatively few members but in which all of the members want roughly equal management rights and authority, the management structure should be that of a classic simple general partnership—i.e., a structure in which all members, like partners in a general partnership, can vote on all LLC matters, can sign LLC contracts and can participate directly in the conduct of the LLC’s business.
- b) The complex general partnership management structure. However, if all of the members of an LLC want equal management rights but the LLC has relatively numerous members—say, more than eight—then the LLC should have a “complex” general partnership management structure—i.e., one in which, for the sake of management efficiency, the members agree that many specified management matters, potentially including very significant ones like the

EXHIBIT D

Stan Barnett

From: athan fokas <zeusseafod@bellsouth.net>
Sent: Friday, February 24, 2017 3:18 PM
To: Stan Barnett
Subject: Fwd: New Old Towne Suites, LLC Bank Account with United Community Bank

Letter from Spiro to Kevin High below and his response.

Sent from my iPhone

Begin forwarded message:

From: "Kevin J. High" <khigh@walkawaystays.com>
Date: February 24, 2017 at 3:05:32 PM EST
To: "spiros ferderigos" <spirosferderigos@gmail.com>, "Allie Johnson" <allie@walkawaystays.com>
Cc: <zeusseafod@bellsouth.net>, <jacobspita@yahoo.com>
Subject: RE: New Old Towne Suites, LLC Bank Account with United Community Bank
Reply-To: <khigh@walkawaystays.com>

Gentleman,

It truly pains me to see everyone not get along. Given the current situation I've been advised by my attorney to continue everything as we always have since we started with Old Towne Suites. Unless I receive consent from all parties or a court order it has to be that way. We, Walk Away Stays, appreciate your business but we can't be put in the middle of your disagreement.

Regards,

Walk Away Stays, LLC
Kevin J. High
Managing Member
227 Rutledge Avenue
Charleston, SC 29403
843-808-4444
www.walkawaystays.com

From: spiros ferderigos [<mailto:spirosferderigos@gmail.com>]
Sent: Friday, February 24, 2017 11:11 AM
To: Kevin High <khigh@walkawaystays.com>; Allie Johnson (allie@walkawaystays.com) <allie@walkawaystays.com>
Subject: Re: New Old Towne Suites, LLC Bank Account with United Community Bank

Kevin and Allie,

Please find attached a copy of a blank check for the new Old Towne Suites, LLC account with United Community Bank. This account is the sole account that is to be used for Old Towne Suites, LLC. The prior account at First Citizens Bank that you have previously directly depositing funds into is no longer to be used. Please begin to immediately make all deposits to

the account attached (United Community Bank). Please confirm that you have received this email and that you will begin immediately direct depositing all funds into this new United Community LLC Bank Account. The Account is under the name Old Towne Suites, LLC and the details of the account needed for direct depositing are attached.

Also, I have not yet received the detailed year end accounting for the LLC that has in prior years been emailed out. Can you please email me the following (1) 2016 year end detailed summary, and (2) monthly accounting (as has been previously done) beginning with January 2017.

Thank you and I hope you guys are enjoying this nice spring like weather.

Spiro

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT

**SUPPLEMENTAL AFFIDAVIT OF ATHAN FOKAS IN OPPOSITION TO MOTION BY
SPIROS FERDERIGOS**

After being sworn, Affiant testified as follows:

1. I am Athan Fokas, a resident of Mount Pleasant, South Carolina and the Plaintiff in this case.
2. In his affidavit, my cousin Spiros, says that I am taking actions unilaterally that somehow injure he and his brothers and that I act like I am the managing member of the LLC which operates the suites at 229 King Street. I have never said that I was formally appointed the managing member of the LLC. But it is true that Spiros and his brothers unofficially designated me the manager of the LLC. That is why I filed the tax returns until 2016 unopposed by my cousins as the “TMP” or tax managing member of the LLC. They all profited from my and Jacob’s management. Spiros has earned some \$114,000 since 2011 from the suites rental business operated by the LLC and managed by myself and his brother, Jacob. Until the disagreement over the contract to expand the building at 229 King Street, he has never complained or tried to interfere in the management of the LLC by Jacob and I.

3. At no time has Spiros or Phillip or Jacob been denied access to any information about operation of the LLC. All reports by Kevin High and all other information about the management of the business have been provided to them. Jacob has had full access to the bank account at First Citizens since it was opened in 2011. All of us have been paid our profit from the LLC from that account without complaint.

4. At no time did I try to deny Spiros or his brothers access to the bank account at First Citizens. He and his brother Phillip (Jacob already had access) tried to alter the forms provided to them when I tried to get them signatory authority on the account. The documents Spiros provided to the Court in his Motion show that. I have also agreed to a new account, but Spiros has insisted on a minimum balance of \$5,000, which I believe is excessive.

5. Spiros complains that I have moved to quash the subpoena to Kevin High and the request for production of all the emails between Kevin and I. I only objected to this demand because it is too broad and would gain access to communications that are personal and involve members of my family and Kevin's family and do not related to the case. My lawyer offered to allow access to emails related to the subject of the case but he receive no response. (See attached email). I do not believe my cousins' lawyers ever responded to this offer. The complaints by Spiros about Kevin High are strange and don't relate to this case. Spiros has made a substantial profit from the efforts by both Kevin and I in operating the business.

6. Spiros' complaint that I am competing with the LLC because I have another short term rental location at 493 King Street are unfounded. This location is far removed from 229 King Street and is quite different. The units at 493 King have full kitchens and the units at 229 King do not have kitchens. They are also in very different locations. They do not compete except in the broadest sense. If my units at 493 King compete with 229 King, then the short term rental

property our other partner and LLC member, Phillip Ferderigos, Spiros' brother, owns and operates in West Ashely also competes. This property is also managed by Kevin High for Phillip. This new allegation is unrelated to the issues in this case which are all based on the agreement to add units to the rental suites business at 229 King Street.

7. At no time have I ever claimed I was the managing member permanently. All I have said is the truth. I have managed the business with Jacob with the consent of both Spiros and Phillip and have performed work at the property myself including repairing toilets, replacing light bulbs and batteries in smoke detectors. These are the unilateral actions that Spiros complains of now. Nor have I ever claimed that I can make decisions to the exclusion of the other members. Of course, if they exercise their 50% management control to prevent anything being done to keep the business running, that will be a problem and may, as your Honor has noted, justify the appointment of a receiver. I do not think that a receiver is necessary to run this business, but if the Court think otherwise, I believe the Court can appoint a fair receiver.

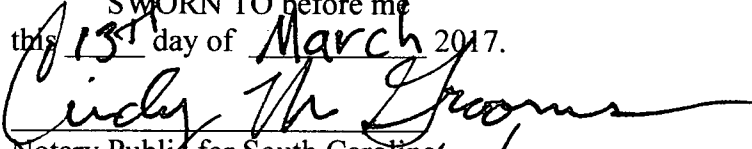
8. The letter from Barry Gumb does not contradict the letter from Tony Roe, who prepared the tax returns for the LLC for 2015. Gumb says he does not know the correct facts. All he is operating on is, I assume, what Spiros told him. Roe says that based on the information he was provided, including the assignment to my father of part of my distribution, the tax return he prepared is correct. As we have already said, the K-1 to my father only reports that he was paid half my distribution interest, or 25% of the distribution from the LLC. That makes him a nominee pursuant to the K-1 instructions. (See attached portion of the K-1 instructions for nominees). The K-1 does not show my father had any ownership of capital at the beginning of 2015 or at the end. The return shows correctly that I owned 50% of the capital of the company. Spiros' objections to the tax returns have nothing whatever to do with any interest of his. This is

harassment of myself and my father and nothing more. My father was a nominee and was described as such properly by Tony Roe. There is no need, I believe, to correct the return.

FURTHER AFFIANT SAYETH NOT.


ATHAN FOKAS

SWORN TO before me
this 13th day of March 2017.


Notary Public for South Carolina
My Commission Expires on: 11/26/23

Stan Barnett

From: Stan Barnett <Stan.Barnett@yahoo.com>
Sent: Wednesday, February 01, 2017 10:42 AM
To: 'mdc@barnwell-whaley.com'; 'John A. Massalon'; 'Farrier, Jr., Richard A.'; 'Lenhardt Law Firm'
Subject: Motion to Quash High Subpoena and Response to 2nd Requests to Produce
Attachments: moition to quash 1.pdf; resopnse to Spiros 2nd RTP.pdf

Please see the attached Motion to Quash the subpoena to Kevin High and Plaintiff's Response to Spiros Ferderigos' 2nd Requests to Produce.

With respect to the communications requested, we are prepared to produce all communications related to 229 King Street and/or to the Defendants. Let me know if that is acceptable or if we can figure out some way to produce what is discoverable without intruding in to personal and unrelated business relationships.

2016



Department of the Treasury
Internal Revenue Service

Partner's Instructions for Schedule K-1 (Form 1065)

Partner's Share of Income, Deductions, Credits, etc. (For Partner's Use Only)

Section references are to the Internal Revenue Code unless otherwise noted.

Future Developments

For the latest information about developments related to Schedule K-1 (Form 1065) and the Partner's Instructions for Schedule K-1 (Form 1065), such as legislation enacted after they were published, go to www.irs.gov/form1065.

General Instructions

Purpose of Schedule K-1

The partnership uses Schedule K-1 to report your share of the partnership's income, deductions, credits, etc. Keep it for your records. Do not file it with your tax return unless you are specifically required to do so. (See the instructions for *Code O, Backup withholding*, later.) The partnership files a copy of Schedule K-1 (Form 1065) with the IRS.

For your protection, Schedule K-1 may show only the last four digits of your identifying number (social security number (SSN), etc.). However, the partnership has reported your complete identifying number to the IRS.

Although the partnership generally isn't subject to income tax, you may be liable for tax on your share of the partnership income, whether or not distributed. Include your share on your tax return if a return is required. Use these instructions to help you report the items shown on Schedule K-1 on your tax return.

The amount of loss and deduction you may claim on your tax return may be less than the amount reported on Schedule K-1. It is the partner's responsibility to consider and apply any applicable limitations. See *Limitations on Losses, Deductions, and Credits*, later, for more information.

Inconsistent Treatment of Items

Generally, you must report partnership items shown on your Schedule K-1 (and any attached statements) the same way that the partnership treated the items on its return. This rule doesn't apply if your partnership is within the "small partnership exception" and doesn't elect to have the tax treatment of partnership items determined at the partnership level.

If the treatment on your original or amended return is inconsistent with the partnership's treatment, or if the partnership was required to but has not filed a return, you must file Form 8082, Notice of Inconsistent Treatment or Administrative Adjustment Request (AAR), with your original or amended return to identify and explain any inconsistency (or to note that a partnership return has not been filed).

If you are required to file Form 8082 but do not do so, you may be subject to the accuracy-related penalty. This penalty is in addition to any tax that results from making your amount or treatment of the item consistent with that shown on the partnership's return. Any deficiency that results from making the amounts consistent may be assessed immediately.

Errors

If you believe the partnership has made an error on your Schedule K-1, notify the partnership and ask for a corrected Schedule K-1. Do not change any items on your copy of Schedule K-1. Be sure that the partnership sends a copy of the corrected Schedule K-1 to the IRS. If you are a partner in a partnership that doesn't meet the small partnership exception and you report any partnership item on your return in a manner different from the way the partnership reported it, you must file Form 8082.

Sale or Exchange of Partnership Interest

Generally, a partner who sells or exchanges a partnership interest in a section 751(a) exchange must notify the partnership, in writing, within 30 days of the exchange (or, if earlier, by January 15 of the calendar year following the calendar year in which the exchange occurred). A "section 751(a) exchange" is any sale or exchange of a partnership interest in which any money or other property received by the partner in exchange for that partner's interest is attributable to unrealized receivables (as defined in section 751(c)) or inventory items (as defined in section 751(d)).

The written notice to the partnership must include the names and addresses of both parties to the exchange, the identifying numbers of the transferor and (if known) of the transferee, and the exchange date.

An exception to this rule is made for sales or exchanges of publicly traded partnership interests for which a broker is required to file

Form 1099-B, Proceeds From Broker and Barter Exchange Transactions.

If a partner is required to notify the partnership of a section 751(a) exchange but fails to do so, the partner will be subject to a penalty for each such failure. However, no penalty will be imposed if the partner can show that the failure was due to reasonable cause and not willful neglect.

TIP Gain or loss from the disposition of your partnership interest is generally net investment income under section 1411 and may be subject to the net investment income tax. See Form 8960, Net Investment Income Tax—Individuals, Estates, and Trusts, and its instructions for information about how to report and figure the tax due.

Nominee Reporting

Any person who holds, directly or indirectly, an interest in a partnership as a nominee for another person must furnish a written statement to the partnership by the last day of the month following the end of the partnership's tax year. This statement must include the name, address, and identifying number of the nominee and such other person, description of the partnership interest held as nominee for that person, and other information required by Temporary Regulations section 1.6031(c)-1T. A nominee that fails to furnish this statement must furnish to the person for whom the nominee holds the partnership interest a copy of Schedule K-1 and related information within 30 days of receiving it from the partnership.

A nominee who fails to furnish all the information required by Temporary Regulations section 1.6031(c)-1T when due, or who furnishes incorrect information, is subject to a \$260 penalty for each failure. The maximum penalty is \$3,193,000 for all such failures during a calendar year. If the nominee intentionally disregards the requirement to report correct information, each \$260 penalty increases to \$530 or, if greater, 10% of the aggregate amount of items required to be reported, and there is no limit to the amount of the penalty.

International Boycotts

Every partnership that had operations in, or related to, a boycotting country, company, or a national of a boycotting country must file Form 5713, International Boycott Report.

EXHIBIT E

CLERK'S VERIFICATION

Collected by: _____ Date Filed: _____

☐ MOTION FEE COLLECTED: \$ _____

☐ CONTESTED – AMOUNT DUE: \$ _____

SCCA 233 (11/2003)

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)

Athan Fokas,)

Plaintiff,)

v.)

Phillip Ferderigos, Spiros)
Ferderigos, and Jacob Ferderigos,)

Defendant(s).)

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT

Case No.: 2015-CP-10-3919

2017 MAY 15 PM 1:53
JULIE J. ARMSTRONG
CLERK OF COURT
RY ✓

FILED

PLAINTIFF'S PETITION FOR SUPERSEDEAS STAYING ORDER

INTRODUCTION

On April 11, 2017, this Court issued an order on the motion by Spiros Ferderigos granting relief in four categories. One of those was in the nature of an injunction, the order that Athan Fokas close the existing bank account for Old Towne Suites, LLC and deposit the funds belonging to the LLC into a new account. One of the mandates was in the nature of a restraining order, requiring Athan Fokas from taking any action with respect to the LLC without the consent of all of the other members of the LLC, the defendants named above. The other mandates were an authorization for Spiros Ferderigos to file an amended tax return and authorizing the appointment of a receiver to be chosen by counsel for Spiros Ferderigos.

On May 4, 2017, this Court denied Plaintiff's Motion to Alter or Amend the earlier order. Plaintiff timely filed a Notice of Appeal of these orders on May 8, 2017. Counsel for Spiros Ferderigos sent Plaintiff's counsel a letter on May 11, 2017 indicating the intent to move for a Rule to Show Cause on the theory that Plaintiff was in violation of this Court's Order having not moved the LLC funds to the new bank account. Plaintiff's counsel signing below represents to

the Court and has explained to counsel for Spiros Ferderigos that it was his opinion that as the Order appealed from includes mandates not listed as exceptions to the automatic stay provided for in SCACR 225(b). Subsection 8 of that rule lists orders for injunctions and for restraining orders as not subject to the stay. In order to clarify that Plaintiff is not acting in contempt of this Court's Orders and to preserve the status quo so as to allow Plaintiff's appeal of the Orders to not be rendered moot, Plaintiff is pursuing this Petition.

PRESERVING THE SUBJECT OF AN APPEAL SO AS TO PREVENT IT BECOMING MOOT

To the extent that appeal of this Court's Orders did not automatically stay them, the basis upon which the Court should grant supersedeas is set forth in straightforward language in the rule, "the appellate court should consider whether such an order is necessary to preserve jurisdiction of the appeal or to prevent a contested issue from becoming moot." SCACR Rule 241(c)(2). The Supreme Court has held that, "the general rule is that the effect of a supersedeas or stay is to suspend proceedings and preserve the status quo pending the determination of the appeal or proceedings in error" and to prevent a case from becoming moot. Melton v. Walker, 209 S.C. 330, 336, 40 S.E.2d 161, 164 (1946). Preserving the status quo is equated with preserving jurisdiction.

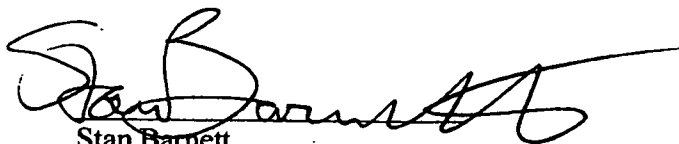
If the Orders are not stayed and Plaintiff is required to comply with the orders, the issues on appeal will be rendered moot. Closing of the bank account and moving funds to another one will foreclose any practical substance of appeal of that mandate. Filing an amended tax return will foreclose issues related to that matter. The mandate restraining Plaintiff from acting without consent of all other members of the LLC, in effect, renders a decision on the legal issue of the effect of the LLC's operating agreement. Appointment of receiver will have profound effects on management of the LLC.

On the other hand, preserving the status quo does not threaten an injury to the defendants. They will still own their respective proportion of the LLC funds. The bank account now in existence has been used for the LLC since it was established without incident or complaint. One of the defendants, Jacob Ferderigos, has accessed the account electronically routinely. (See Exhibit A). Decisions for management of the LLC, even under Plaintiff's interpretation of the operating agreement, do not allow Plaintiff to make "unilateral decisions" as he only holds a 50% interest in the LLC. Filing of the amended tax return will not affect any of the defendants, as the Court noted at the hearing on this matter. Therefore, delay in filing the return will have no effect on them, there being no question that the error sought to be corrected, what they claim is an inaccurate representation of ownership of part of the LLC in Spiros Fokas, is not in dispute. The current return accurately reflects that he owns no part of the LLC. Preserving the status quo with not, therefore, create any hardship on any party. Denying a stay of the Orders will, however, deprive Plaintiff of any meaningful right to an appeal by rendering the issues raised in the appeal moot.

CONCLUSION

For the reasons set forth above, Plaintiff respectfully requests that this Court issue a Writ of Supersedeas staying the Orders appealed from by Plaintiff in order that the issues on appeal not be rendered moot.

Respectfully submitted,



Stan Barnett
305 North Civitas Street
Mount Pleasant, South Carolina 29464
(843) 884-1031/(843) 708-4887
stan.barnett@yahoo.com
Attorney for Plaintiff

May 15, 2017

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)

Athan Fokas,)

Plaintiff,)

v.)

Phillip Ferderigos, Spiros)
Ferderigos, and Jacob Ferderigos,)

Defendant(s).)
_____)

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT

Case No.: 2015-CP-10-3919

RY
JULIE J. ARMSTRONG
CLERK OF COURT

2017 MAY 15 PM 1:53

FILED

CERTIFICATE OF SERVICE

I hereby certify that copies of the Plaintiff's Petition for Supersedeas Staying Order were mailed by deposit into the U.S. Mail or for delivery by UPS to the below listed counsel of record on May 15, 2017.



Stan Barnett
305 North Civitas Street
Mount Pleasant, South Carolina 29464
(843) 884-1031/(843) 708-4887
stan.barnett@yahoo.com
Attorney for Plaintiff

May 15, 2017

Counsel of Record:

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I. Ryan Neville, Esquire
Wills & Massalon, LLC
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Attorney for Jacob Ferderigos

Jennifer H. Thiem, Esquire
K&L Gates, LLP
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Charleston, SC 29401
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(843) 579-5600
jennifer.thiem@klgates.com
Attorney for Phillip Ferderigos

EXHIBIT F

STAN BARNETT

Attorney at Law
305 North Civitas Street
Mount Pleasant, South Carolina 29464
(843) 884-1031/cell (843) 708-4887
stan.barnett@yahoo.com

May 22, 2017

The Honorable Roger M. Young
Circuit Judge
100 Broad Street, Suite 368
Charleston, S.C. 29401

RE: Athan Fokas vs. Spiros Ferderigos and Jacob Ferderigos and Philip Ferderigos
C/A No.: 2015-CP-10-3919

Dear Judge Young:

On Thursday of last week, I received the letter dated May 18, 2017 from Dawes Cooke to you related to my Petition for Supersedeas asking for a stay of your Order of April 11, 2017. In this letter, Dawes repeats the defendants' position that appeal of your Order did not stay the effect of the Order and claiming that Plaintiff is in violation of that Order for not having closed the LLC bank account at First Citizens Bank. Dawes also states that I have violated that Order for not directing the property manager to deposit profit from the LLC into the new account established by Spiros Ferderigos.

As to the accusation leveled at me, I absolutely reject any suggestion that I have in any way disregarded any directive from the Court. Dawes and I have discussed this matter twice, once on Thursday, May 4 and again last Monday, May 15. I have explained to him clearly that the property manager, Kevin High, is represented by counsel and as of the last time High and I spoke on May 4, he was taking the position that he was not doing anything until his counsel gave him approval. Dawes has never suggested to me what he said to you in his letter.

More serious and more disturbing are the complete fabrications set out in Dawes' letter concerning my client's actions. First, he says that my client and myself in communications to the Court have made untrue statements concerning Jacob Ferderigos' access to the LLC account.

The point of explaining to the Court that Jacob had access to that account was to refute the allegation by Dawes and his client that only my client had access to the account. I am attaching an affidavit from my client in which he explains again that Jacob has accessed the LLC account ever since it was established. Exhibit A to his affidavit are copies of checks Jacob wrote out the LLC account during the four month periods in 2016 when he managed the checkbook for the LLC which prove that what my client has said is true. (During the same four month period, he also managed the checkbook for the restaurant, S&S Old Town, Inc.). Only the checks for 2016 are provided, but I can assure the Court there are also checks executed by Jacob for all the years since the LLC account was established. The statement made in Dawes' letter that we have "misinformed the Court" is false. I like to believe that Dawes himself was unaware of the full truth of this particular fact, but what is beyond question is that his client, Spiros Ferderigos, and the other defendants were completely aware that what we have told the court concerning access to the LLC bank account was entirely true and what Dawes said in his letter is false.

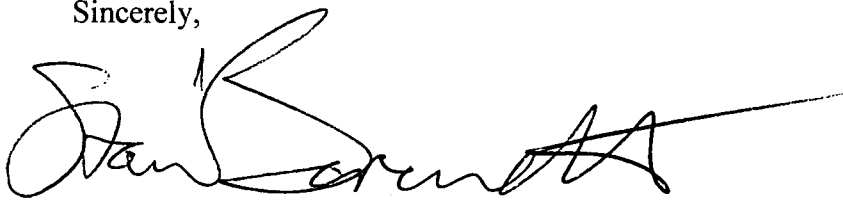
Second, and just as disturbing, is the claim in Dawes' letter that my client recently distributed the profit from the LLC "only to himself and not the rest of the members." The clear purpose of this outrageous falsehood is to emphasize defendants' claim that my client is acting in derogation of the interests of the other LLC members and benefitting himself. There is no truth to this and it is shocking that lawyers (two of the defendants are lawyers, Spiros and Phillip Ferderigos) would knowingly be deceitful to the Court. Attached to my client's affidavit are a text message he sent on Saturday, May 13, 2017 to Jacob telling him he had the checkbooks for both corporations to give him the next day on Sunday. In the LLC checkbook, as evidenced by the photograph in Exhibit C, was a check written for the one half profit from the LLC to the defendants, "Ferderigos." Jacob did not pick up the LLC checkbook on Sunday, May 14. On Monday, May 15, he did pick up the S&S Old Town, Inc. checkbook, but left the LLC checkbook at the restaurant. He finally picked it up Friday afternoon, May 19.

While this sequence of events, confirmed by the documents in Exhibit C to my client's affidavit, suggests a scheme by defendants to create a false narrative which they could present to the Court, I will not claim to know this is what happened. What is clear beyond question is that when Dawes sent you the May 18, letter the defendants absolutely knew that my client had presented the LLC checkbook to Jacob, as he has every four months they trade the books. All they needed to do was look inside the checkbook and see that what my client told Jacob on May 13 – that their profit check was executed and being left for them – was true. In short, defendants knew without any doubt that what Dawes told you in his letter of May 18 was not true.

The clear deception by defendants reflected in Dawes' letter is not only disturbing in its own right. It serves to illustrate the utter hollowness of defendants' claim that my client is somehow acting "unilaterally" and in contravention of their interests. Defendants' pursuit of this matter has had one purpose only – to falsely paint my client in a bad light. It has nothing to do with their interests in the LLC.

With kindest regards, I remain

Sincerely,

A handwritten signature in black ink, appearing to read "Stan Barnett", with a long horizontal flourish extending to the right.

Stan Barnett

Cc: Mr. Athan Fokas
Counsel of Record

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)
Athan Fokas,)
Plaintiff,)
v.)
Philip Ferderigos, Spiros)
Ferderigos, and Jacob Ferderigos,)
Defendant(s).)
_____)

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT

Case No.: 2015-CP-10-3919

**SECOND SUPPLEMENTAL
AFFIDAVIT OF ATHAN FOKAS IN OPPOSITION TO MOTION BY SPIROS
FERDERIGOS**

After being sworn, Affiant testified as follows:

1. I am Athan Fokas, a resident of Mount Pleasant, South Carolina and the Plaintiff in this case.
2. I have read the letter of Dawes Cooke sent to Judge Roger Young and dated May 18, 2017. Most of the letter is completely false and there is no question that all of the defendants in this case know it. I am attaching documents that show that: a) Jacob Ferderigos (given name "Iakovos") has had access to the LLC bank account which is the subject of Judge Young's order since it was opened; and b) I wrote and delivered a check to Jacob Ferderigos on Saturday, May 14, 2017 for the full amount of the profit due the defendants from the rental suites business operated by Old Towne Suites, LLC.
3. Attached as Exhibit A to my affidavit are copies of checks on the Old Towne Suites, LLC bank account at First Citizens Bank (ending in 7701) prepared and signed by Jacob Ferderigos. Our practice, just as with the books for the restaurant business, "S &S Old Towne, Inc.", has

been to trade the books back and forth between Jacob and I every four months. He maintains the books for both business for four months and then I maintain them for four months. The checks in Exhibit A are checks Jacob wrote during the months in 2016 when he held the books.

Attached as Exhibit B is a copy of a consent order in another case recently signed by Jacob Ferderigos. This shows the signatures on the consent order and on the checks to be his.

4. The checks in Exhibit A made out to me in 2016, are for my one half interest in the profit from Old Towne Suites, LLC. The checks made out to "Ferdertigos" are for the other one half of the profit owned by the defendants jointly. Jacob always has told me he deposits their checks into an account they maintain for that purpose.

5. Exhibit C is a photograph of the page from the Old Towne Suites, LLC check book from which I prepared and signed checks on May 12, 2017 to myself for my portion of the LLC profit and to "Ferderigos" for the defendants' one half of the profit. I left the Ferderigos check in the checkbook and left the checkbook at Old Towne Restaurant for Jacob on Sunday, May 14, 2017. I had texted Jacob on Saturday, May 13, 2017 that I would have the checkbooks for both Old Towne Suites, LLC and S&S Old Town, Inc. with me the next day so that he could pick them both up for his four month time managing both accounts. (See Exh. C). He did not show up on Sunday, May 14, however, while I was there, so I left both in Old Towne Restaurant. Jacob picked up the S & S Old Towne, Inc. checkbook on Monday, May 15 and has been writing checks from that account since then, but left the Old Towne Suites, LLC checkbook. Jacob finally picked up the Old Towne Suites, LLC checkbook from the restaurant between 2:00 p.m. and 3:00 p.m. Friday, May 19, 2017 after the manager texted him to remind him it was still there. As of the close of business on Friday, May 19, 2017 the account did not show deposit of the

check I wrote on May 14, 2017 to the Ferderigos for their one half of the profit for Old Towne Suites, LLC.

6. The allegations made in Mr. Cooke's letter of May 18 are simply false. Jacob has always accessed the LLC bank account whether he signed the signature card or not. He certainly could have signed the card at any time. In any event, my and my lawyer's statements about Jacob's access to the account are true and all of the defendants know it. It is also a complete falsehood to say that I dispersed the profit from the LLC only to myself last Saturday. Jacob was given the check as he always has been given the check for their half. It is clear to me the defendants simply schemed to leave the check book in the restaurant so they could misrepresent to the Court the untruth that I did not disperse to them.

FURTHER AFFIANT SAYETH NOT.


ATHAN FOKAS

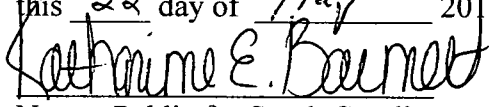
SWORN TO before me
this 22 day of May 2017.

Notary Public for South Carolina
My Commission Expires on: July 27, 2020

EXHIBIT A



First Citizens Bank

Central Bank Operations - DAC02
P.O. Box 27131
Raleigh, NC 27611-7131

17952

S & S OLDE TOWNE INC
DBA OLD TOWNE SUITES
229 KING ST
CHARLESTON SC 29401-3101



Statement Period: January 1, 2016 Thru January 31, 2016

Account Number: 079505107701

OLD TOWNE SUITES
229 KING STREET
CHARLESTON, SC 29401

1/4 11/5 1315

PAY TO THE ORDER OF Arthur Folger \$3,000.00

Michael Howard [Signature]

FIRST CITIZENS BANK & TRUST COMPANY

⑆053201487⑆07950 5407701⑆ 1315

Chk# 1315 \$3,000.00

OLD TOWNE SUITES
229 KING STREET
CHARLESTON, SC 29401

1/4 11/5 1316

PAY TO THE ORDER OF Fordery \$3,000.00

Michael Howard [Signature]

FIRST CITIZENS BANK & TRUST COMPANY

⑆053201487⑆07950 5407701⑆ 1316

Chk# 1316 \$3,000.00

OLD TOWNE SUITES
229 KING STREET
CHARLESTON, SC 29401

2/7 11/5 1317

PAY TO THE ORDER OF Arthur Folger \$600.00

Michael Howard [Signature]

FIRST CITIZENS BANK & TRUST COMPANY

⑆053201487⑆07950 5407701⑆ 1317

Chk# 1317 \$600.00

OLD TOWNE SUITES
229 KING STREET
CHARLESTON, SC 29401

2/7 11/5 1318

PAY TO THE ORDER OF Fordery \$600.00

Michael Howard [Signature]

FIRST CITIZENS BANK & TRUST COMPANY

⑆053201487⑆07950 5407701⑆ 1318

Chk# 1318 \$600.00

OLD TOWNE SUITES
229 KING STREET
CHARLESTON, SC 29401

2/26 11/6 1320

PAY TO THE ORDER OF Folger \$883.00

Michael Howard [Signature]

FIRST CITIZENS BANK & TRUST COMPANY

⑆053201487⑆07950 5407701⑆ 1320

Chk# 1320 \$883.00

Arthur
← Folger

Jacob
← Fordery



First Citizens Bank

Central Bank Operations - DAC02
P.O. Box 27131
Raleigh, NC 27611-7131

18127

S & S OLDE TOWNE INC
DBA OLD TOWNE SUITES
229 KING ST
CHARLESTON SC 29401-3101



Statement Period: February 1, 2016 Thru February 29, 2016

Account Number : 079505107701

OLD TOWNE SUITES
229 KING STREET
CHARLESTON, SC 29401

132000-42107701 1319

PAY TO THE ORDER OF City of Charleston \$ 284.65

two hundred eighty four and 15/100

FBI 51196

⑆053201487⑆07950 5107701⑆ 1319

Chk# 1319 \$284.65

OLD TOWNE SUITES
229 KING STREET
CHARLESTON, SC 29401

Feb 2 11/16 1322

PAY TO THE ORDER OF Allen Fickett \$ 662.00

six hundred sixty two and 00/100

FBI

⑆053201487⑆07950 5107701⑆ 1322

Chk# 1322 \$662.00

OLD TOWNE SUITES
229 KING STREET
CHARLESTON, SC 29401

Feb 10 11/16 1324

PAY TO THE ORDER OF Fickett, Arthur \$ 620.00

six hundred twenty and 00/100

FBI

⑆053201487⑆07950 5107701⑆ 1324

Chk# 1324 \$620.00

OLD TOWNE SUITES
229 KING STREET
CHARLESTON, SC 29401

Feb 18 11/16 1326

PAY TO THE ORDER OF Fickett, Arthur \$ 1768.00

one thousand seven hundred sixty eight and 00/100

FBI

⑆053201487⑆07950 5107701⑆ 1326

Chk# 1326 \$1,768.00

OLD TOWNE SUITES
229 KING STREET
CHARLESTON, SC 29401

Jan 26 11/16 1321

PAY TO THE ORDER OF Feederly, Eugene \$ 883.00

eight hundred eighty three and 00/100

FBI

⑆053201487⑆07950 5107701⑆ 1321

Chk# 1321 \$883.00

OLD TOWNE SUITES
229 KING STREET
CHARLESTON, SC 29401

Feb 2 11/16 1323

PAY TO THE ORDER OF Feederly, Eugene \$ 662.00

six hundred sixty two and 00/100

FBI

⑆053201487⑆07950 5107701⑆ 1323

Chk# 1323 \$662.00

OLD TOWNE SUITES
229 KING STREET
CHARLESTON, SC 29401

Feb 10 11/16 1325

PAY TO THE ORDER OF Feederly, Eugene \$ 620.00

six hundred twenty and 00/100

FBI

⑆053201487⑆07950 5107701⑆ 1325

Chk# 1325 \$620.00

OLD TOWNE SUITES
229 KING STREET
CHARLESTON, SC 29401

Feb 18 11/16 1327

PAY TO THE ORDER OF Feederly, Eugene \$ 1768.00

one thousand seven hundred sixty eight and 00/100

FBI

⑆053201487⑆07950 5107701⑆ 1327

Chk# 1327 \$1,768.00



First Citizens Bank

Central Bank Operations - DAC02
P.O. Box 27131
Raleigh, NC 27611-7131

18693

S & S OLDE TOWNE INC
DBA OLD TOWNE SUITES
229 KING ST
CHARLESTON SC 29401-3101



Statement Period: March 1, 2016 Thru March 31, 2016

Account Number: 079505107701

OLD TOWNE SUITES 229 KING STREET CHARLESTON, SC 29401		1328
PAY TO THE ORDER OF <u>FELIX, ATHON</u>		\$ 1128.00
one thousand one hundred twenty eight and no/100		
FIRST CITIZENS BANK & TRUST COMPANY		
MICR: ⑆053201487⑆07950 5407701⑆ 1328		

Chk# 1328 \$1,128.00

OLD TOWNE SUITES 229 KING STREET CHARLESTON, SC 29401		1329
PAY TO THE ORDER OF <u>FELIX, ATHON</u>		\$ 1128.00
one thousand one hundred twenty eight and no/100		
FIRST CITIZENS BANK & TRUST COMPANY		
MICR: ⑆053201487⑆07950 5407701⑆ 1329		

Chk# 1329 \$1,128.00

OLD TOWNE SUITES 229 KING STREET CHARLESTON, SC 29401		1330
PAY TO THE ORDER OF <u>Ed Davis</u>		\$ 100.00
one hundred and no/100		
FIRST CITIZENS BANK & TRUST COMPANY		
MICR: ⑆053201487⑆07950 5407701⑆ 1330		

Chk# 1330 \$100.00

OLD TOWNE SUITES 229 KING STREET CHARLESTON, SC 29401		1331
PAY TO THE ORDER OF <u>FELIX, ATHON</u>		\$ 3540.00
three thousand five hundred forty and no/100		
FIRST CITIZENS BANK & TRUST COMPANY		
MICR: ⑆053201487⑆07950 5407701⑆ 1331		

Chk# 1331 \$3,540.00

OLD TOWNE SUITES 229 KING STREET CHARLESTON, SC 29401		1332
PAY TO THE ORDER OF <u>FELIX, ATHON</u>		\$ 3540.00
three thousand five hundred forty and no/100		
FIRST CITIZENS BANK & TRUST COMPANY		
MICR: ⑆053201487⑆07950 5407701⑆ 1332		

Chk# 1332 \$3,540.00

OLD TOWNE SUITES 229 KING STREET CHARLESTON, SC 29401		1333
PAY TO THE ORDER OF <u>FELIX, ATHON</u>		\$ 2010.00
two thousand ten and no/100		
FIRST CITIZENS BANK & TRUST COMPANY		
MICR: ⑆053201487⑆07950 5407701⑆ 1333		

Chk# 1333 \$2,010.00

OLD TOWNE SUITES 229 KING STREET CHARLESTON, SC 29401		1334
PAY TO THE ORDER OF <u>FELIX, ATHON</u>		\$ 2010.00
two thousand ten and no/100		
FIRST CITIZENS BANK & TRUST COMPANY		
MICR: ⑆053201487⑆07950 5407701⑆ 1334		

Chk# 1334 \$2,010.00



First Citizens Bank

Central Bank Operations - DAC02
P.O. Box 27131
Raleigh, NC 27611-7131

18716

S & S OLDE TOWNE INC
DBA OLD TOWNE SUITES
229 KING ST
CHARLESTON SC 29401-3101



Statement Period: April 1, 2016 Thru April 30, 2016

Account Number : 079505107701

OLD TOWNE SUITES
229 KING STREET
CHARLESTON, SC 29401

4-01 11/16 1335

PAY TO THE ORDER OF Folkers, Athan \$ 2940.00

Five thousand nine hundred forty dollars and 00/100

FIRST CITIZENS BANK & TRUST COMPANY

1053201487007950 5107701# 1335

Chk# 1335 \$2,940.00

OLD TOWNE SUITES
229 KING STREET
CHARLESTON, SC 29401

4-01 11/16 1336

PAY TO THE ORDER OF Federling \$ 2940.00

Five thousand nine hundred forty dollars and 00/100

FIRST CITIZENS BANK & TRUST COMPANY

1053201487007950 5107701# 1336

Chk# 1336 \$2,940.00

OLD TOWNE SUITES
229 KING STREET
CHARLESTON, SC 29401

4-08 11/16 1337

PAY TO THE ORDER OF Folkers, Athan \$ 4320.00

Four thousand three hundred twenty dollars and 00/100

FIRST CITIZENS BANK & TRUST COMPANY

1053201487007950 5107701# 1337

Chk# 1337 \$4,320.00

OLD TOWNE SUITES
229 KING STREET
CHARLESTON, SC 29401

4-08 11/16 1338

PAY TO THE ORDER OF Federling \$ 4320.00

Four thousand three hundred twenty dollars and 00/100

FIRST CITIZENS BANK & TRUST COMPANY

1053201487007950 5107701# 1338

Chk# 1338 \$4,320.00

OLD TOWNE SUITES
229 KING STREET
CHARLESTON, SC 29401

Apr 18 11/16 1339

PAY TO THE ORDER OF Folkers, Athan \$ 1360.00

one thousand three hundred sixty dollars and 00/100

FIRST CITIZENS BANK & TRUST COMPANY

1053201487007950 5107701# 1339

Chk# 1339 \$1,360.00

OLD TOWNE SUITES
229 KING STREET
CHARLESTON, SC 29401

Apr 18 11/16 1340

PAY TO THE ORDER OF Federling \$ 1360.00

one thousand three hundred sixty dollars and 00/100

FIRST CITIZENS BANK & TRUST COMPANY

1053201487007950 5107701# 1340

Chk# 1340 \$1,360.00

OLD TOWNE SUITES
229 KING STREET
CHARLESTON, SC 29401

Apr 27 11/16 1341

PAY TO THE ORDER OF Folkers, Athan \$ 3120.00

three thousand one hundred twenty dollars and 00/100

FIRST CITIZENS BANK & TRUST COMPANY

1053201487007950 5107701# 1341

Chk# 1341 \$3,120.00

OLD TOWNE SUITES
229 KING STREET
CHARLESTON, SC 29401

Apr 27 11/16 1342

PAY TO THE ORDER OF Federling \$ 3120.00

three thousand one hundred twenty dollars and 00/100

FIRST CITIZENS BANK & TRUST COMPANY

1053201487007950 5107701# 1342

Chk# 1342 \$3,120.00



First Citizens Bank

Central Bank Operations - DAC02
P.O. Box 27131
Raleigh, NC 27611-7131

19195

S & S OLDE TOWNE INC
DBA OLD TOWNE SUITES
229 KING ST
CHARLESTON SC 29401-3101



Statement Period: September 1, 2016 Thru September 30, 2016

Account Number: 079505107701

OLD TOWNE SUITES
229 KING STREET
CHARLESTON, SC 29401

9/1 1375

PAY TO THE ORDER OF Arthur Fabian \$ 1200.00

One thousand two hundred and 00/100

FIRST CITIZENS BANK & TRUST COMPANY

10053201487007950 5407701 1375

Chk# 1375 \$1,200.00

OLD TOWNE SUITES
229 KING STREET
CHARLESTON, SC 29401

9/1 1376

PAY TO THE ORDER OF Fan Service \$ 1200.00

One thousand two hundred and 00/100

FIRST CITIZENS BANK & TRUST COMPANY

10053201487007950 5407701 1376

Chk# 1376 \$1,200.00

OLD TOWNE SUITES
229 KING STREET
CHARLESTON, SC 29401

9/1 1377

PAY TO THE ORDER OF Lease \$ 70.00

Seventy dollars and 00/100

FIRST CITIZENS BANK & TRUST COMPANY

10053201487007950 5407701 1377

Chk# 1377 \$70.00

OLD TOWNE SUITES
229 KING STREET
CHARLESTON, SC 29401

9/12 1378

PAY TO THE ORDER OF Bill Montgomery \$ 453.00

Four hundred fifty three and 00/100

FIRST CITIZENS BANK & TRUST COMPANY

10053201487007950 5407701 1378

Chk# 1378 \$453.00



First Citizens Bank

Central Bank Operations - DAC02
P.O. Box 27131
Raleigh, NC 27611-7131

19619

S & S OLDE TOWNE INC
DBA OLD TOWNE SUITES
229 KING ST
CHARLESTON SC 29401-3101



Statement Period: October 1, 2016 Thru October 31, 2016

Account Number: 079505107701

OLD TOWNE SUITES
229 KING STREET
CHARLESTON, SC 29401

DL006948786
EX 12-19-26 Oct 3 11/16

PAY TO THE ORDER OF Lower \$ 19.51

for that dollar and no/100

FOR DEPOSIT ONLY
FIRST CITIZENS BANK & TRUST COMPANY

1379

053201487007950 5107701 1379

Chk# 1379 \$19.51

OLD TOWNE SUITES
229 KING STREET
CHARLESTON, SC 29401

Oct 11 11/16

PAY TO THE ORDER OF Alpha Forks \$ 4,000.00

for that dollar and no/100

FOR DEPOSIT ONLY
FIRST CITIZENS BANK & TRUST COMPANY

1380

053201487007950 5107701 1380

Chk# 1380 \$4,000.00

OLD TOWNE SUITES
229 KING STREET
CHARLESTON, SC 29401

Oct 11 11/16

PAY TO THE ORDER OF Feederlys \$ 4,000.00

for that dollar and no/100

FOR DEPOSIT ONLY
FIRST CITIZENS BANK & TRUST COMPANY

1381

053201487007950 5107701 1381

Chk# 1381 \$4,000.00

OLD TOWNE SUITES
229 KING STREET
CHARLESTON, SC 29401

Oct 11 11/16

PAY TO THE ORDER OF Kevin Carroll Inc \$ 900.00

for that dollar and no/100

FOR DEPOSIT ONLY
FIRST CITIZENS BANK & TRUST COMPANY

1382

053201487007950 5107701 1382

Chk# 1382 \$900.00

OLD TOWNE SUITES
229 KING STREET
CHARLESTON, SC 29401

Oct 27 11/16

PAY TO THE ORDER OF Alpha Forks \$ 4200.00

for that two hundred dollar and no/100

FOR DEPOSIT ONLY
FIRST CITIZENS BANK & TRUST COMPANY

1383

053201487007950 5107701 1383

Chk# 1383 \$4,200.00

OLD TOWNE SUITES
229 KING STREET
CHARLESTON, SC 29401

Oct 27 11/16

PAY TO THE ORDER OF Feederlys \$ 4200.00

for that two hundred dollar and no/100

FOR DEPOSIT ONLY
FIRST CITIZENS BANK & TRUST COMPANY

1384

053201487007950 5107701 1384

Chk# 1384 \$4,200.00



First Citizens Bank

Central Bank Operations - DAC02
P.O. Box 27131
Raleigh, NC 27611-7131

19850

S & S OLDE TOWNE INC
DBA OLD TOWNE SUITES
229 KING ST
CHARLESTON SC 29401-3101



Statement Period: November 1, 2016 Thru November 30, 2016.

Account Number : 079505107701

OLD TOWNE SUITES
229 KING STREET
CHARLESTON, SC 29401

1385

Nov 14 2016

PAY TO THE ORDER OF Folcar, Arthur \$ 2750.00

Two thousand seven hundred and fifty dollars

FIRST CITIZENS BANK & TRUST COMPANY

⑆053201487⑆07950 5107701⑆ 1385

Chk# 1385

\$2,750.00

OLD TOWNE SUITES
229 KING STREET
CHARLESTON, SC 29401

1386

Nov 14 2016

PAY TO THE ORDER OF Fender, J. S. \$ 2750.00

Two thousand seven hundred and fifty dollars

FIRST CITIZENS BANK & TRUST COMPANY

⑆053201487⑆07950 5107701⑆ 1386

Chk# 1386

\$2,750.00



First Citizens Bank

Central Bank Operations - DAC02
P.O. Box 27131
Raleigh, NC 27611-7131

20569

S & S OLDE TOWNE INC
DBA OLD TOWNE SUITES
229 KING ST
CHARLESTON SC 29401-3101



Statement Period: December 1, 2016 Thru December 31, 2016

Account Number : 079505107701

OLD TOWNE SUITES
229 KING STREET
CHARLESTON, SC 29401

Dec 12 11/16 1388

PAY TO THE ORDER OF Fokas, Ann \$ 3350.00

three thousand three hundred fifty dollars and no/100

FIRST CITIZENS BANK & TRUST COMPANY

FEEL

⑆053201487⑆07950 5407701⑆ 1388

Chk# 1388

\$3,350.00

OLD TOWNE SUITES
229 KING STREET
CHARLESTON, SC 29401

Dec 12 11/16 1389

PAY TO THE ORDER OF Federig's \$ 3350.00

three thousand three hundred fifty dollars and no/100

FIRST CITIZENS BANK & TRUST COMPANY

FEEL

⑆053201487⑆07950 5407701⑆ 1389

Chk# 1389

\$3,350.00

EXHIBIT B

WMA

WILLS MASSALON & ALLEN LLC

97 Broad Street • Charleston, SC 29401 • Post Office Box 859 • Charleston, SC 29402
Phone: 843-727-1144 • Fax: 843-727-7696 • www.wmalawfirm.net

May 17, 2017

Direct Dial: (843) 793-6039

VIA HAND DELIVERY

The Honorable Julie J. Armstrong
Charleston County Clerk of Court
100 Broad Street, Suite 106
Charleston, South Carolina 29401

RE: S&S Old Town Incorporated, by and through its Shareholder, Iakovos Ferderigos and Iakovos Ferderigos, Individually v. Athan Fokas, Spiros Fokas (Intervenor) and S&S Old Town Incorporated
Case No.: 2015-CP-10-5610
Our File No.: 1056-2

Dear Julie:

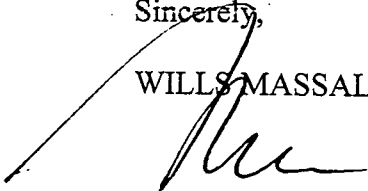
In regard to the above-referenced matter, enclosed please find the original and one (1) copy of a proposed Final Consent Order and Order Coversheet. In addition, please find my firm's check in the amount of \$25.00 representing the filing fee.

Please present the proposed order to Judge Nicholson for review. If the order meets his approval, please file the original, file-stamp the copy, and return the file-stamped copy to me in the self-addressed, stamped envelope provided. If you have any questions, please do not hesitate to contact me.

With kind regards, I am

Sincerely,

WILLS MASSALON & ALLEN LLC


John A. Massalon
jmassalon@wmalawfirm.net

JAM/cb
Enclosures

cc: Stanley E. Barnett, Esquire (via U.S. Mail)
Mr. Jacob Ferderigos (via e-mail)

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)
)
S&S OLD TOWN INCORPORATED,)
BY AND THROUGH ITS SHAREHOLDER)
IAKOVOS FERDERIGOS and IAKOVOS)
FERDERIGOS, INDIVIDUALLY)
)
Plaintiffs,)
)
v.)
)
ATHAN FOKAS, SPIROS FOKAS)
(Intervenor) and S&S OLD TOWN)
INCORPORATED,)
)
Defendants.)
)

IN THE COURT OF COMMON PLEAS

CASE NO.: 2015-CP-10-5610

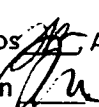
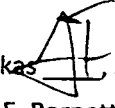
FINAL CONSENT ORDER
(Final Settlement Agreement)

This matter comes before the Court by pleading filed October 16, 2015. The parties have informed the Court that they pray the following agreement, specifically memorialized in this Order below, be adopted and made an Order of the Court. The Court, having reviewed the agreement of the parties, adopts the agreement set forth in detail below as an Order of the Court in its entirety.

IT IS ORDERED THAT that Defendant, Athan Fokas, is hereby strictly restrained from and enjoined from commingling his Zeus business (also commonly referred to as Zeus Grill and Seafood, Inc.) (hereinafter "Zeus") and/or any of Defendant's other side projects with S & S Old Town Incorporated (hereinafter Old Towne Restaurant or corporation) in any way whatsoever. This includes, but is not limited to, the following:

- a. Selling Zeus (and/or any of Defendant's other side projects) left-over cooked and/or uncooked food and/or inventory to Old Towne Restaurant;
- b. Writing checks to himself and/or Zeus (and/or checks for Defendant's Zeus and/or other side projects) from Old Towne Restaurant's checking account and/or withdrawing funds from Old Towne Restaurant for anything related to Zeus (and/or any of Defendant's other side projects);
- c. Storing and/or sending Zeus (and/or any of Defendant's other side projects) inventory to Old Towne Restaurant to be stored (accordingly, only Old Towne Restaurant inventory is to be stored at Old Towne Restaurant);
- d. Cooking Zeus (and/or any of Defendant's other side projects) orders at Old Towne Restaurant;

1 of 4

Iakovos Ferderigos  Athan Fokas  Spiros Fokas 
John A. Massalon  Stanley E. Barnett 

- e. Obtaining orders from Zeus (and/or any of Defendant's other side projects) phone numbers or other means of contact for Zeus (and/or any of Defendant's other side projects) and having Old Towne Restaurant cook the food for those orders (accordingly, any orders cooked at Old Towne Restaurant or using Old Towne Restaurant resources shall be ordered directly by the customer from Old Towne Restaurant and shall solely be Old Towne Restaurant's business);
- f. Having Old Towne Restaurant employees, on Old Towne Restaurant's payroll, cook Zeus (and/or any of Defendant's other side projects) orders at Old Towne Restaurant;
- g. Paying Old Towne Restaurant employees, both "on the clock" and/or "off the clock," to cook food at Old Towne Restaurant during business hours and/or before/after business hours for Zeus (and/or any of Defendant's other side projects);
- h. Absconding with Old Towne Restaurant business opportunities and profits for Defendant's own personal gain and benefit;
- i. Creating customer confusion to the detriment of Plaintiffs' Iakovos Ferderigos and Old Towne Restaurant.
- j. Commingling, borrowing, trading, swapping, and/or selling any inventory and/or resources between Old Towne Restaurant and Zeus (and/or any of Defendant's other side projects). This includes, but is not limited to, any commingling of inventory as previously described by Defendant in his alleged "owe sheets";
- k. Using Old Towne Restaurant to subsidize Zeus (and/or any of Defendant's other side projects) in any way whatsoever;

IT IS FURTHER ORDERED that Plaintiff Iakovos Ferderigos and Defendant Spiros Fokas are hereby also mutually restrained, as Athan Fokas is restrained herein, from commingling any and all of their side businesses with Old Towne Restaurant. The purpose of this restraint is to make clear to all parties that Old Towne Restaurant is not to be commingled with any other business of the parties in any way whatsoever.

IT IS FURTHER ORDERED any and all decisions of any kind regarding the corporation and all matters regarding the operation and governance of the corporation require the consent and approval of the majority interest of its shareholders (unless specifically stated otherwise herein); that being the consent and approval of Iakovos Ferderigos (50 percent shareholder interest in the corporation) and the consent and approval of Athan Fokas (25 percent shareholder interest in the corporation) or Spiros Fokas (25 percent shareholder interest in the corporation). Accordingly, Iakovos Ferderigos cannot make any decisions of any kind regarding the corporation (including, but not limited to, the operation and governance of the corporation) without the consent and approval of either Athan Fokas and/or Spiros Fokas; and Athan Fokas and/or Spiros Fokas cannot make any decisions of any kind regarding the corporation (including, but not limited to, the operation and

governance of the corporation) without the consent and approval of Iakovos Ferderigos. Such consent shall be in writing, unless otherwise agreed to in advance by all the parties in writing.

IT IS FURTHER ORDERED that any shareholder may terminate the employment of any employee without the consent of the other shareholder(s). If the majority interest of the shareholders cannot agree on an immediate replacement for the terminated employee, the corporation shall place an advertisement to hire a replacement for the terminated employee to expedite replacement. Until such time as a replacement that is agreeable to the majority interest of the shareholders is hired, the corporation shall allow a current employee to cover the terminated employees shifts until the vacancy is filled. If a shareholder decides to cover the shifts of the terminated employee until a replacement is hired as set forth herein, that shareholder shall not receive additional income for covering said shifts.

IT IS FURTHER ORDERED that any and all expenses of and/or for the corporation shall be paid directly by the checking account in the corporation's name or by credit card in the corporation's name. This includes, but is not limited to, restraining any shareholder(s) from making a purchase for the corporation and reimbursing himself for such purchase from the corporation's accounts/funds without the prior written consent of the majority interest of the shareholders.

IT IS FURTHER ORDERED that the parties stipulate that there are no governing documents, corporate bylaws, or other documents that bind the corporation or its shareholders. The parties further stipulate that the corporation is run as a 50/50 partnership with Iakovos Ferderigos consisting of 50 percent shareholder/ownership and Athan/Spiros Fokas consisting of the combined remaining 50 percent shareholder/ownership. Any decisions for the corporation are made through its shareholders based upon the shares owned by the shareholders, as set forth herein. This provision in no way limits the shareholders from entering into such corporate formalities in the future, however, any such discussions and/or agreements must be in writing or recorded to ensure accuracy of what is agreed upon.

IT IS FURTHER ORDERED that the parties shall open a new checking account for the corporation in which all shareholders have equal, full, and direct access to the account. If any shareholder objects to any language required to open an account with a specific bank, that shareholder shall search for a bank that does not require the objected to language required for opening a checking account. The parties shall open this new checking account (and close the current checking account) for the corporation once a general checking account is obtained in which no shareholder objects to the mandatory language required to open the account. If the parties cannot agree on a specific bank to use for the corporation's checking account, any party may petition the Court for the Court to make the determination of which bank and type of account is in the best interests of the corporation to use.

IT IS FURTHER ORDERED that failure to comply with this Order shall subject the violator to the Contempt Powers of this Court.

IT IS FURTHER ORDERED that the aforementioned settlement agreement set forth herein is adopted by the Court and made the Final Order of the Court resolving the matters raised in Case

Iakovos Ferderigos  Athan Fokas  Spiros Fokas 
John A. Massaloni  Stanley E. Barnett 

No. 2015-CP-10-5610. The Court shall continue to have jurisdiction over this matter for any violations of and/or failure to comply with this Order.

IT IS SO ORDERED!

Charleston, South Carolina

This ____ day of _____, 2017

The Honorable J.C. Nicholson, Jr.
Circuit Court Judge

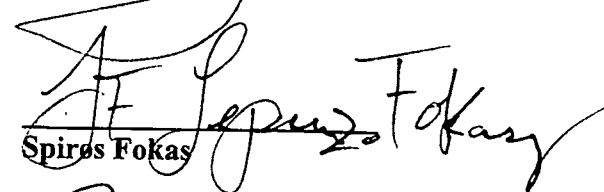
I CONSENT:



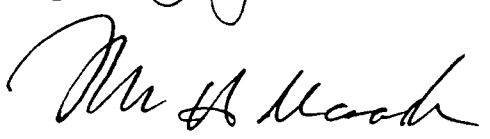
Iakovos Ferderigos



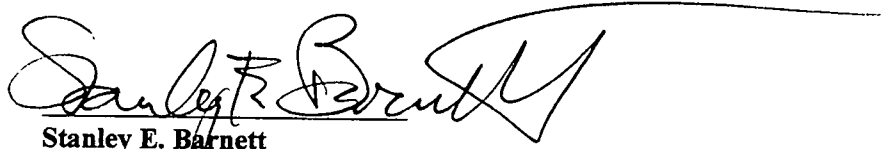
Athan Fokas



Spiros Fokas



John A. Massalon
Attorney for Iakovos Ferderigos



Stanley E. Barnett
Attorney for Athan Fokas and Spiros Fokas

EXHIBIT C

To: Jacob Ferderigos

Saturday 6:24 PM

I'll have April paperwork, profit check, and suites check with me tomorrow at Old Towne. We are a little short staffed and it would be great if you can come out and help.

Monday 5:57 PM

Just to let you know

1405

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STAN BARNETT

Attorney at Law
305 North Civitas Street
Mount Pleasant, South Carolina 29464
(843) 884-1031/cell (843) 708-4887
stan.barnett@yahoo.com

May 15, 2017

The Honorable Roger M. Young
Circuit Judge
100 Broad Street, Suite 368
Charleston, S.C. 29401

RE: Athan Fokas vs. Spiros Ferderigos and Jacob Ferderigos and Philip Ferderigos
C/A No.: 2015-CP-10-3919

Dear Judge Young:

Enclosed is a copy of a print out from the records of the Old Towne Suites, LLC bank account, no. 7701, showing that the check Athan Fokas wrote to the other members for their half of the profit distribution on May 12 (check no. 1406) was deposited by them on May 22.

With kindest regards, I remain

Sincerely,

A handwritten signature in black ink, appearing to read 'Stan Barnett', with a long horizontal flourish extending to the right.

Stan Barnett

Cc: Mr. Athan Fokas
Counsel of Record

To expand or collapse account details, click on the 'i' icon. X

< Basic Business Checking 7701

Available Balance

\$96.09

 Search transactions



MAY 22
2017

 Check - 1406

-\$7,023.44
\$96.09

MAY 12
2017

 Check - 1407

-\$7,023.44
\$7,119.53

MAY 12
2017

 Customer Dep...

\$14,046.88
\$14,142.97

APR 11
2017

 Check - 1405

-\$4,400.00
\$96.09

APR 7
2017

 Check - 1404

-\$4,400.00
\$4,496.09