THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM CHARLESTON COUNTY
In the Court of Common Pleas

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SC Court of Appeals

The Honorable Roger M. Young
Case No. 2015-CP-10-3919

Appellate Case No. 2017-001107

Athan Fokas,

Appellant,

v.

Philip Ferderigos, Jacob Ferderigos, and Spiros Ferderigos,

Respondents.

RETURN TO APPELLANT'S PETITION FOR SUPERSEDEAS BY RESPONDENT SPIROS FERDERIGOS

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COMES NOW, the Respondent, Spiros Ferderigos, pursuant to Rule 241 and Rule 240 of the South Carolina Appellate Court Rules, and respectfully files this Return to Appellant's Petition for Supersedeas. The Respondent, Spiros Ferderigos (hereinafter referred to as "Respondent"), respectfully asks the Court of Appeals to deny Appellant's Petition for Supersedeas because the lower court did not abuse its discretion in finding the Order filed April 11, 2017, is not automatically stayed pending appeal and a stay is not necessary to preserve jurisdiction over the appeal or to prevent a contested issue from becoming moot. For these reasons and those more fully argued below, Appellant's Petition for Supersedeas should be denied.

BACKGROUND AND PROCEDURAL HISTORY

Appellant filed the underlying action alleging the Respondents breached a verbal agreement to mortgage their interests in a downtown Charleston building as part of an alleged agreement to build new freestanding rental units above the building. Appellant and Respondents own the building in their individual capacities as tenants in common with Appellant owning fifty percent (50%) and the three Ferderigos brothers, inclucing Respondent, owning the remaining fifty percent (50%) which is divided among them equally. The building's second and third floors consist of rental units managed by Old Towne Suites, LLC (hereinafter referred to as "the LLC"). Appellant and the Ferderigos brothers are the only members of the LLC, with Appellant owning fifty percent (50%) of the membership interest and the Ferderigos brothers owning fifty percent (50%), which is also divided among them equally.

In the lawsuit, Appellant alleged the parties verbally agreed to mortgage all their interests to secure financing for Appellant's and Respondent Jacob Ferderigos' shares of the cost to build new freestanding rental units above the building which would be managed by the LLC.

Appellant alleged Respondents breached the verbal agreement when they did not mortgage their interests in the building and asserted causes of action against Respondents for breach of contract with specific performance, breach of contract with damages, and violation of their duties to Appellant as members of the LLC. Respondents denied Appellant's allegations and raised affirmative defenses including the Statute of Frauds and a lack of a meeting of the minds. Respondents also counterclaimed against Appellant alleging numerous causes of action including negligent misrepresentation and violation of his duties to Respondents as members of the LLC.

On February 16, 2017, Respondent filed an Amended Motion to Amend Tax Returns and Change Checking Account and for Restraining Order (hereinafter referred to as the "Amended Motion"). Exhibit #1. In the Amended Motion, Respondent alleged Appellant filed incorrect tax returns for the LLC over the objection of the other members, used a checking account for LLC operations to which only he had legal access, and made other decisions on behalf of the LLC without the approval or consent of the majority of the LLC's members. Respondent moved for an Order (1) allowing and authorizing Respondent to amend the incorrect tax returns for the LLC to accurately reflect the true ownership and distributional interests of its members, (2) requiring Appellant to close the checking account with First Citizens Bank which restricted access from other members and to deposit the funds from the closed First Citizen Bank account to the LLC's new checking account with United Community Bank in which all members have equal access, and (3) prohibiting Appellant from taking any further unilateral actions without the consent of the majority of members of the LLC.

The parties submitted various memoranda and affidavits related to the Amended Motion, and the lower court heard arguments from counsel on March 1, 2017.[1] On April 11, 2017, the lower court granted Respondent's Amended Motion. Exhibit #4. The lower court's Order included provisions (1) restraining Appellant from taking any unilateral actions and/or making unilateral decisions without the consent of the majority of the LLC's members, (2) ordering Appellant to immediately close the First Citizens bank account, withdraw all funds from said account, and deposit them into the United Community Bank account for the LLC in which all members have equal access, (3) ordering the property manager for the LLC to deposit all LLC funds into the United Community Bank account, and (4) authorizing Respondent to amend the LLC's 2015 Tax Return.

On April 20, 2017, Appellant filed a Motion to Alter and Amend. Again, the parties submitted various memoranda and affidavits in response to the Motion.[2] On May 4, 2017, the lower court issued an Order Denying Plaintiff's Motion to Alter or Amend on the grounds the court thoroughly considered the supporting and opposing arguments of counsel and the relevant case law in initially denying Appellant's Motion. Exhibit #6. Appellant filed a Notice of Appeal on May 8, 2017.

On May 15, 2017, Appellant filed a Petition for Supersedeas Staying Order and requested the lower court stay its Order pending Appellant's appeal. Respondent filed a Memorandum in Opposition to Plaintiff's Petition for Supersedeas Staying Order. Exhibit #7. Respondent's counsel also sent a letter to the lower court along with exhibits and a proposed order on

[1] In addition to those already submitted by Appellant, Phillip Ferderigos submitted a Memorandum of Authorities Regarding LLC Voting Rights on March 6, 2017. Exhibit #2. Respondent also submitted an affidavit in response to Appellant's arguments on March 10, 2017. Exhibit #3.

[2] In addition to those already submitted by Appellant, Respondent filed a Memorandum in Opposition to Plaintiff's Motion to Alter or Amend Order of April 11, 2017. Exhibit #5.

Appellant's Petition for Supersedeas. Exhibit #8. On July 7, 2017, the lower court issued an Order finding a stay of its Order was not necessary to preserve jurisdiction over that appeal or to prevent a contested issue from becoming moot (the only provision of the April 11th Order not addressed in Supersedeas Order was that of appointing a receiver, as the parties informed the lower court they agreed a receiver was not needed at that time). Exhibit #9. On July 13, 2017, Appellant filed a Petition for Supersedeas with the Court of Appeals.

STANDARD OF REVIEW

Under Rule 241(a), SCACR, "[a]s a general rule, the service of a notice of appeal in a civil matter acts to automatically stay matters decided in the order, judgment, decree or decision on appeal, and to automatically stay the relief ordered in the appealed order, judgment, or decree or decision." Rule 241(a), SCACR. Several exceptions to the general rule exist, including "[j]udgments directing the assignment or delivery of documents or personal property"[3] and "[a]n appeal from an order granting an injunction or temporary restraining order." Rule 241(b), SCACR. "In a case subject to an exception, any party may move for an order imposing a supersedeas of matters decided in the order, judgment, decree or decision on appeal after service of the notice of appeal." Rule 241(c)(1), SCACR. "The effect of the granting of a supersedeas is to suspend or stay the matters decided in the order, judgment, decree or decision on appeal and, where a prior order or decision was in effect at the time the appealed order, judgment, decree or decision was filed, to revive the terms of the prior order or decision." Rule 241(c)(1), SCACR. Unless extraordinary circumstances make it impracticable, "an application for an order lifting the automatic stay or for supersedeas must first be made to the lower court or administrative tribunal which entered the order or decision on appeal." Rule 241(d)(1), SCACR. "In determining

[3] S.C. Code Ann. § 18-1-20 defines personal property to "include money, goods, chattels things in action and evidences of debt."

whether an order should issue pursuant to this Rule, the lower court ... should consider whether such an order is necessary to preserve jurisdiction of the appeal or to prevent a contested issue from becoming moot." Rule 241(c)(2), SCACR. A party seeking a stay pending appeal must also demonstrate "irreparable injury in the absence of a stay." See Mary L. Dinkins Higher Learning Academy vs. South Carolina Public Charter School District, 2013 WL 18004101 (S.C.Admin.Law.Judge.Div); 4 C.J.S. Appeal and Error § 528.

After a lower court rules on a petition for supersedeas, "any party may petition the appellate court where the appeal is pending or an individual judge or justice for review of this order." Rule 241(d)(2), SCACR. If the lower court denied the petition for supersedeas, appellant must show the lower court "unjustifiably denied" the petition. Rule 241(d)(4)(C). In other words, the appellate court's standard of review of the lower court's denial of a petition for supersedeas is abuse of discretion. "An abuse of discretion occurs when the judge issuing the order was controlled by some error of law or when the order, based upon factual, as distinguished from legal conclusions, is without evidentiary support." Sundown, 383 S.C. at 606-07, 681 S.E.2d at 888; In re Estate of Weeks, 329 S.C. 251, 259, 495 S.E.2d 454, 459 (Ct. App. 1997). The scope of review is limited to a determination of whether there is any evidence which may reasonably support the factual conclusions of the lower court. See Townes Assoc., Ltd v. City of Greenville, 266 S.C. 81, 221 S.E.2d 773, (1976).

The grant or denial of a stay pending resolution of an appeal is within the discretion of the Court. See 5 Am.Jur.2d § 405. The Court may generally consider a wide variety of circumstances in determining whether to grant a stay, including the following: (1) whether the movant has made a showing of likelihood of success on the merits and therefore whether appellant is likely to prevail on the merits on the appeal; (2) whether the movant has made a

showing of irreparable injury if a stay is not granted; (3) whether respondent will suffer irreparable injury or serious injury if the stay is granted. See generally, Id. at § 405. A stay should be granted only when a balancing of the equities are in the applicant's favor and the equities are balanced depending on which side a risk of an irreparable injury weighs more heavily. See generally, Id. at § 415. Accordingly, here, South Carolina places a very high burden on Appellant to prevail in his supersedeas request.

ARGUMENT

A. The lower court's Order is not automatically stayed by Appellant's appeal.

Appellant's Notice of Appeal does not automatically stay the Court's Order to the extent it: (1) restrains Appellant from taking any unilateral actions and/or making unilateral decisions without the consent of the majority of members of the LLC; (2) orders Appellant immediately to close his unauthorized First Citizens LLC bank account (to which only he has legal access to the exclusion of the other members) and to withdraw all funds from said account and deposit them into the United Community Bank account for the LLC (in which all members have equal access); (3) orders the property manager for the LLC to deposit all LLC funds into the United Community Bank account, to which all members have equal access; and (4) directs Respondent to deliver a correct Amended 2015 LLC tax return to the proper taxing authority.

These provisions of the Court's Order are clearly not automatically stayed pursuant to Rule 241, SCACR.[4] The lower court's Order restraining Appellant from taking unilateral actions is not stayed pursuant to Rule 241(b)(8), SCACR, because it is an order granting injunctive relief and restraining Appellant from certain actions. The remaining provisions of the Order set forth above are also not automatically stayed pursuant to Rule 241(b)(2), SCACR. Those provisions direct Appellant and the LLC's property manager to deliver personal property to the United

[4] Likewise, the lower court's Order was not stayed during the pendency of Plaintiff's Motion to Reconsider.

Community Bank account, direct Appellant to deliver the necessary documents to close his unauthorized and non-consented-to First Citizens Account that contains personal property (i.e., money), and direct Respondent to deliver documents (i.e., correct tax returns to the IRS). Because these provisions are not automatically stayed and the lower court denied Appellant's request to amend and to stay his order, the lower court's Order is still in full force and effect, despite Appellant's refusal to comply with the Order. Subsequently, Appellant continues to violate the Order and has now requested that the Court of Appeals issue a Supersedeas staying the lower court' Order.

B. Appellant fails to meet his burden to impose a Stay of the lower court's Order because a supersedeas is not warranted and would cause irreparable injury to Respondents.

First, Appellant asks the Court to stay the lower court's Order pending appeal to preserve what Appellant calls the "status quo." The problem is the status quo, as perceived by the Appellant, is to do unilaterally whatever he wants over the objections of all other LLC members, to act only in his own best interest, to ignore the lower court's Order to close the unauthorized account, to ignore the lower court's Order by continuing to deposit new funds into the unauthorized account (which should not exist), to ignore the lower court's Order to withdraw all LLC funds from his unauthorized First Citizen's bank account and transfer all the LLC funds into the United Community Bank Account (in which all members have equal access), to make disbursements from and/or funnel all LLC funds unilaterally through the unauthorized account, and to hold the other members' LLC profits in an unauthorized account that only he has legal access to until he decides to transfer those funds into the LLC's United Community Bank account.[5] The series of texts cited within and attached to Respondent's Amended Motion proves

[5] In essence, Appellant seeks to have the Court acquiesce in Appellant's prior and current violations of Respondents' rights as the "status quo" during the pendency of the meritless appeal. Also, Appellant's argument that preserving

Appellant has repeatedly ignored the other members' rights over their objections and Appellant will do whatever he pleases regardless of those rights. Unfortunately, Appellant's improper behavior has not been deterred by the lower court's Order, and as a result, Respondent filed a Petition for Rule to Show Cause Against Appellant and a Petition for Rule to Show Cause Against Kevin High, the property manager for the LLC. Exhibits #10 - #11.

It is within such context Appellant asks the Court to stay the lower court's Order. There is no "status quo" for a supersedeas to preserve here. Without a stay of the lower court's Order, the business will continue to operate as it always has. The only exceptions would be the LLC will have filed correct tax returns with the IRS and Appellant will follow the law by only using a bank account his fellow members also have access to and by not taking actions without the consent of a majority of the members.

Here, the balance of equities clearly favors a denial of Appellant's Petition for Supersedeas. Based on the LLC statute itself, Appellant's prior behavior preceding the lower court's Order (as well as Appellant's subsequent egregious behavior) makes it unlikely he will succeed on the merits of his appeal. This is especially true given the clear and unambiguous LLC statute. Further, Appellant has set forth no harm, much less irreparable harm, to him by his unauthorized First Citizen's Account (to which only he has legal access) being closed and the LLC funds being directly deposited into an LLC account all LLC members have equal access to. In contrast, given Appellant's actions both before and after the lower court's Order, it is Respondents who would be irreparably harmed by Appellant's ongoing actions, namely continuing to deposit LLC funds into an account only he has full access to and taking unilateral actions on behalf of the LLC which harm Respondents.

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his version of the status quo would not create "any hardship on any party" is meritless. Such a status quo would prohibit Respondents from having access to the LLC's funds and would enable Appellant to take actions for the LLC without obtaining consent from other LLC members.

Accordingly, it is beyond question a supersedeas would cause irreparable harm to Respondents, whereas enforcing the lower court's Order, which merely requires Appellant to comply with the LLC statute, would cause no harm to Appellant.[6] Indeed, one must wonder why Appellant ever forced Respondent to seek judicial intervention to obtain this modest relief, let alone appealed and flouted the lower court's order and now moves to stay it.

Second, Appellant cannot satisfy the high burden required by Rule 241(c)(2), SCACR, because staying the lower court's Order is not necessary to preserve jurisdiction of the appeal or to prevent a contested issue from becoming moot. The lower court's order denying a supersedeas does not render any contested matter moot nor divest the appellate court of jurisdiction pending appeal but instead simply upholds the unambiguous statute that governs the LLC. The LLC can continue its business unabated, with or without a stay. Should Appellant prevail on appeal, he can resume his unilateral actions, amend the LLC tax return, and resume banking at his favored bank if he wishes.[7]

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[6] Indeed, Appellant concedes in his petition "decisions for management of the LLC do not allow Plaintiff to make 'unilateral decisions' as he only holds a 50% interest of the LLC." His concession rings hollow, though, as he has continually acted unilaterally and justified his conduct by falsely claiming Respondents ceded their management authority to him: "Moreover, the Defendants all consented to let Plaintiff manage the LLC as if he were designated its manager" (See Plaintiff's Response in Opposition to Motion for Restraining Order By Defendant Spiros Ferderigos, p.2.) or where Plaintiff misrepresented, "Defendants allowed, indeed wanted, Plaintiff to manage the LLC's business" (Id. at 5), or where Plaintiff submitted an affidavit asserting "it is true that Spiros and his brothers unofficially designated me the manager of the LLC" (See Supplemental Affidavit of Athan Fokas in Opposition to Motion by Spiros Ferderigos, ¶ 2).

[7] See Mary L. Dinkins Higher Learning Academy vs. South Carolina Public Charter School District, supra, stating "In this case, Appellant argues that if the Court does not stay the enforcement of this Order, it would be forced to close thereby rendering its appeal moot. However, from all indications, the Appellant continues to operate the charter school ... the Appellant has options available to it that allow Appellant to continue operating while their appeal is pending. Even if Appellant finds itself in the position where it must cease operating, if the appeal is successful, there is nothing that would prevent Appellant from reopening the school."

C. Appellant's contemptuous behavior since the issuance of the lower court's Order further illustrates the necessity the lower court's Order remain in effect pending appeal.

As is set forth in detail, with attached exhibits in the attached Petition for Rule to Show Cause (See Exhibits #10 - #11), Appellant has taken great lengths to flout the lower court's Order. Instead of following the lower court's Order, on May 12th, Appellant made the unilateral decision/took the unilateral action to personally obtain a *handwritten* check from the LLC's property manager in the amount of $14,046.88 in LLC funds (which should have been *direct-deposited* into the United Community Bank account), made the unilateral decision/took the unilateral action to deposit the handwritten LLC check into Appellant's unauthorized First Citizen's Bank account (which account Appellant was ordered to close immediately a month prior and he was ordered to withdraw and deposit all funds into the United Community Bank account), and made the unilateral decision/took the unilateral action to make a profit distribution from his unauthorized account to himself from his unauthorized account. [8]

On June 9th, after Respondent's second email to the property manager demanding that he cooperate with the Court's Order and direct deposit LLC funds into the United Community Bank account, the property manager properly deposited $11,438.30 in LLC funds into the United Community Bank account. When Respondent sent a text to all members that the deposit had been made and that Respondent issued distribution checks from the account, Appellant defiantly responded that he did not agree with the funds being deposited into the United Community Bank account, and Appellant caused the $11,438.30 in LLC funds to be *removed* from the LLC's

[8] Appellant contests that he made a unilateral distribution to himself. As set forth in section D of this Return, by refusing to close his unauthorized account, by willfully receiving the LLC funds individually from the property manager and placing them into his unauthorized account and issuing himself a distribution (all of which are undisputed violations of the lower court's Order), Appellant seeks to excuse his actions by alleging he also violated the judge's Order by issuing the other Respondents a distribution check from his unauthorized account. Simply put, Appellant's actions are inexcusable and his excuses are refuted by the evidence in the record.

United Community Bank account, and the LLC funds to be *deposited* into Appellant's unauthorized First Citizen's Bank account in which only he has legal access. It was not until Respondent's counsel threatened a Contempt Action against Appellant that Appellant transferred part of the LLC funds in his First Citizen's account to the United Community Bank account.

On July 7th, $12,933.67 in LLC funds were yet again deposited into Appellant's unauthorized First Citizen's account, instead of being directly deposited into the United Community Bank account. Since the issuance of the lower court's Order, Appellant has continued to cause all LLC funds to be deposited into his unauthorized First Citizen's Bank account which the lower court ordered to be immediately closed on April 11, 2017. Appellant has continued to funnel all LLC funds through his unauthorized First Citizen's Bank account prior to making the unilateral decision of how much in LLC funds he decides to transfer to the United Community Bank account.

Unfortunately, this is not the first time Appellant has flouted an Order of the circuit court or attempted to conceal his repeated contemptuous behaviors. The lower court held Appellant in Contempt of Court and sanctioned Appellant for three willful violations of an order in another case. See Exhibit #1, Iakovos Ferderigos and S&S Old Town, Incorporated v. Athan Fokas, C/A No. 2015-CP-10-5610, Contempt Order dated 09/28/2016 (Exhibit #2 to Amended Motion). In case – 5610, Appellant, in clear violation of the court's Preliminary Injunction Order, inappropriately took inventory from Old Towne Restaurant to use in one of his side businesses. Appellant further tried to actively conceal his inappropriate behavior by literally turning off the lights in the storage room to conceal his taking of inventory from the surveillance camera. Appellant swore in an affidavit, and represented in open Court, he did not remove any inventory from Old Towne Restaurant. After viewing the video surveillance, the lower court specifically

found the following: "I find that the most blatant violation of the Court's Preliminary Injunction Order occurred on April 8, 2016 ... I find that [Athan Fokas/Appellant] 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." See Exhibit #1 (Exhibit #2 to Amended Motion, Iakovos Ferderigos and S&S Old Town, Incorporated v. Athan Fokas, C/A No. 2015-CP-10-5610, Contempt Order dated 09/28/2016).

D. Appellant's accusations against Respondent in Appellant's Petition for Supersedeas are unsupported by the evidence.

In Appellant's Petition for Supersedeas, Appellant makes numerous allegations that Respondent feels he must respond to. Aside from being wrong, as will be shown, Appellant's accusations do not address, let alone justify, Appellant's defiance of the lower court's Order. Appellant's abject refusal to follow the law demonstrate the importance of this Court enforcing the Order during appeal. However, Appellant's accusations against Respondent are serious, and Respondent believes they must be addressed in this Return, as Appellant seeks to shift focus of the issues before the Court away from Appellant's clear, willful, and undisputable violations of the lower court's Order that have harmed Respondent and the other members.

First, Appellant alleges in his Petition that "[r]egarding the request to force use of a new bank account, Appellant has taken steps to confirm with the property manager that pending this appeal, income from the LLC will be deposited in the new bank account established by Respondent. Respondent continues to be willing to continue this arrangement pending conclusion of the appeal." Unfortunately, as set forth in detail in the attached Petition for Rule to Show Cause against Appellant, it is clear that this is not the case. Appellant has caused all LLC funds to be deposited into his unauthorized First Citizen's Bank account (which should not even

exist). Only one time has the property manager directly deposited LLC funds into the correct account (United Community Bank account), and for that instance, Appellant caused those LLC funds to be *removed* from the proper account and *deposited* into his unauthorized First Citizen's account. Since the issuance of the lower court's Order (and prior), Appellant has inappropriately caused all LLC funds to be funneled through his unauthorized First Citizen's account prior to Appellant unilaterally deciding how much of the LLC funds he will deposit into the United Community Bank account. The exhibits attached to the Petition for Rule to Show Cause indisputably proves the same.

Second, Appellant alleges in his Petition that "[i]t is undisputed that the current bank account [referring Appellant's unauthorized First Citizen's Bank account] was established ... with the knowledge of Respondent and the other members of the LLC, and was used without any complaint until the dispute between the parties arose over the [alleged] agreement to expand the building at 229 King Street." As evidence of this allegation, Appellant attached copies of checks from the unauthorized account signed by member Iakovos (Jacob) Ferderigos. At best, Appellant's comments are very misleading to the Court. Member Iakovos (Jacob) Ferderigos has previously submitted an affidavit regarding these matters:

> "Shortly after forming the LLC Plaintiff claimed he took the LLC Operating Agreement to the bank to open an account for the LLC with equal access to all members, and, therefore, the bank did not require the other members to be physically present when the account was opened. I did not accompany Plaintiff to the bank, and I trusted what he had told me. For many years, Plaintiff and I took turns exchanging the physical LLC "books" ... [t]hroughout this period, I signed checks on said account as I was informed by Plaintiff that all members were signatories and all members had equal rights on the account ... [i]t was not until approximately June 2016 that I had to go directly to the bank to receive information about the account. Plaintiff wrote a check to himself from the LLC account without the consent of the other members, and I went to the bank to receive information regarding this check. To my surprise, the bank refused to provide me any information, informing me that I was not authorized on the account and the only individual on the account authorized to have access to the

> account was Plaintiff ... Phillip, Spiros, and I never agreed to Plaintiff opening an account to which only he has legal access. The LLC funds belong to all members, not just Plaintiff."

See Exhibit #7 (Exhibit K to Memorandum in Opposition to Plaintiff's Petition for Supersedeas Staying Order, Affidavit of Iakovos (Jacob) Ferderigos).

Member Iakovos (Jacob) Ferderigos Affidavit has been corroborated by First Citizen's Bank, as the bank has provided a letter to member Iakovos (Jacob) Ferderigos confirming that he is not listed as an owner or signer on the account and that he is not authorized to obtain information on the unauthorized account. See Exhibit #7 (Exhibit I to Memorandum in Opposition to Plaintiff's Petition for Supersedeas Staying Order, May 5, 2017 letter from First Citizen's Bank). Furthermore, Appellant's allegations are refuted by Appellant's own words, in which Appellant sent texts to the members of the LLC that Iakovos (Jacob) Ferderigos has the same full access to the unauthorized First Citizens Bank account as Appellant. See Exhibit #7 (Exhibit J to Memorandum in Opposition to Plaintiff's Petition for Supersedeas Staying Order, Texts from Appellant November 2016 (Appellant: "Jacob, the account was opened with you on it;" Appellant: "And Jacob and I opened that account with your consent when we first started the suites ..." Jacob: "I do not agree with what Athan just said.") (Emphasis added)). Appellant has also made these misrepresentations in his Affidavit and Supplemental Affidavit to the Court by falsely attesting, "Shortly after formation of the LLC, Jacob and I opened an LLC account at First Citizens Bank to handle the deposits and distributions from the LLC. Jacob's brothers, Phillip and Spiros, were not interested in being signatories on the account ... Jacob has had full access to the bank account at First Citizens since it was opened in 2011." (Emphasis added). Clearly, as confirmed by the bank, Appellant's allegations are not accurate.

Third, Appellant in his Petition for Supersedeas to the lower court incorrectly attests as follows:

> "Respondent and his brothers, the two other defendants, have "discovered" improper actions by the Appellant ... [l]ong standing practices associated with both have suddenly been deemed "illegal" and "unauthorized" by the other parties ... Outrageous mischaracterizations of facts have been made by the Respondent and his brothers. In the course of arguments concerning this motion, Respondent claimed falsely that Appellant had made a distribution of income of the LLC only to himself. The records filed by Appellant in response to this outrageous claim show this to be untrue. He [Appellant] followed the same practice for writing a check for the other LLC members' distribution as has been followed since the LLC was established. Jacob Ferderigos simply and inexplicable did not pick it up as had been the practice and deposit into an account he shared with Respondent and Phillip Ferderigos."

Unfortunately, as with the other allegations above, this is simply not accurate and is proven incorrect by the written record. As set forth in Respondent's Amended Motion, with the actual communications of the parties quoted in the body of the memorandum and actual texts attached as exhibits, it is clear Respondent and the other members immediately addressed Appellant's inappropriate unilateral actions as they became aware of them. There was no "discovery" for litigation purposes as Appellant puts in quotes and implies in his Petition. Section F of Respondent's Amended Motion (Exhibit #1), along with Exhibit 15 attached thereto of the actual text chains, shows in real time that the LLC members repeatedly tried to stop Appellant from taking unilateral actions and repeatedly informed Appellant that he needs to stop his unilateral actions without the consent of the majority of the members, as they violate the members' rights. The members further repeatedly informed Appellant if he did not stop taking unilateral actions without the consent of the majority of members as required by the LLC statute, that the LLC members will have no choice but to seek court intervention to protect their rights and the LLC. The text communications are replete with Appellant's defiance to the other

members' statutory rights and his refusal to stop his unilateral actions, with Appellant telling the other members he can take unilateral actions opposed by the other members so long as he claims they are "business as usual" or Appellant deems such actions to be "necessary" or Appellant deems such action an "emergency."

Furthermore, Appellant accuses Respondent in his Petition of having previously made "outrageous mischaracterizations of fact" regarding Appellant making a distribution of LLC profits on May 12, 2017, only to himself. Appellant's accusation is simply not accurate and misleading to the Court. It is important to note Appellant fails to acknowledge that, if he had simply followed the clear Order of the lower court instead of flouting the Order, the possibility of Appellant making a distribution only to himself would not even be an issue, as the LLC funds would have been directly deposited into the United Community Bank Account to which all members have equal access. The story of the distribution is nevertheless important because the evidence provides a window into the degree of wilfullness of Appellant's defiance of the law and of the lower court's Order. Importantly, in his Petition and prior correspondence with the Court where this matter has been raised, Appellant does not contest the fact Appellant violated the Court's Order by (1) obtaining a *handwritten* LLC check in the amount of $14,046.88 from the LLC property management company (which should have been direct deposited into the United Community Bank account); (2) depositing the *handwritten* check in the First Citizens account; and (3) making a distribution to himself in the amount of $7,023.44 directly from the account that should not have even existed per the Court's Order. These are clear violations, which are inexcusable. Appellant tries to mitigate the willfulness of his violations of the Order by claiming that he also issued the other members their distribution. He did disburse their distribution but not until after the May 18 letter Respondent's counsel sent to The Honorable Roger M. Young, Sr.,

asserting Appellant's failure to do so. See Exhibit #7 (Exhibit H to Memorandum in Opposition to Plaintiff's Petition for Supersedeas Staying Order, May 18, 2017 letter to The Honorable Roger M. Young, Sr.).

Despite Appellant submitting an Affidavit denying that he made a distribution only to himself and accusing Respondents of a "scheme" to "misrepresent" to the Court an "untruth", the written evidence once again confirms Appellant's misinformation and continued inappropriate and contemptuous behavior. As set forth in the Affidavit of Iakovos (Jacob) Ferderigos, which includes written correspondence from Appellant and managers at Old Towne Restaurant, Appellant did not deliver the LLC distribution check to Iakovos until after the May 18, 2017 letter. See Exhibit #7 (Exhibit K to Memorandum in Opposition to Plaintiff's Petition for Supersedeas Staying Order, Affidavit of Iakovos (Jacob) Ferderigos). Iakovos' Affidavit further details how Appellant attempted to conceal his contemptuous behavior. This includes Appellant submitting an Affidavit to the Court attesting that he left the unauthorized LLC checkbook at Old Towne Restaurant for Iakovos with the check still inside the checkbook. As set forth in detail in Iakovos' Affidavit (with text correspondence from Appellant and managers from Old Towne Restaurant), Appellant directed the manager at Old Towne Restaurant to tell Iakovos the checkbook was left for Iakovos at Old Towne Restaurant, implying that it was there all along. When Iakovos pursued the communications with the managers further, the managers confirmed they did not have any personal knowledge of any LLC check or LLC checkbook being left at Old Towne Restaurant as implied in their initial communications with Iakovos; rather, the managers confirmed they were only communicating to Iakovos what Appellant told them to say. See Exhibit #7 (Exhibit K to Memorandum in Opposition to Plaintiff's Petition for Supersedeas Staying Order, Affidavit of Iakovos (Jacob) Ferderigos) (establishes Appellant did not provide

the Respondents' distribution check to Iakovos until after he was called out for not doing so in the May 18 letter to the lower court).

The Court need not weigh the evidence on this point in order to conclude it should not stay the lower court's Order requiring use of a bank account to which all members have equal access and prohibiting him from acting against the will of a majority of the members. The mere fact the Court is being required to referee this banking dispute is itself ample reason to leave its Order in place pending appeal.

E. Appellant's Petition for Supersedeas fails procedurally because he did not include a verification or a certified copy of the lower court's order denying the petition for supersedeas.

Pursuant to Rule 241(d)(3), SCACR, "[a] person seeking an order lifting an automatic stay or granting a writ of supersedeas must file a written petition verified by the client." Rule 241(d)(3), SCACR. Additionally, the party must "contemporaneously file a certified copy of the order, judgment, decree or decision of the lower court or administrative tribunal and a copy of the notice of appeal with its proof of service." Rule 241(d)(3), SCACR. Appellant's Petition for Supersedeas did not include a verification signed by the client or a certified copy of the order denying the petition for supersedeas issued by the lower court. For these reasons, Appellant's Petition for Supersedeas fails as a matter of law.

CONCLUSION

Appellant asks this Court to stay the lower court's Order pending appeal to preserve what he calls the "status quo." Because Appellant believes the status quo allows him to make unilateral decisions and act on behalf of the LLC without the consent of other members, Appellant incorrectly argues such a status quo is necessary to preserve the issues presented in this appeal. Appellant essentially asks this Court to allow him to continue to violate

Respondents' rights while pursuing a meritless appeal. Appellant's ongoing willful violations of the lower court's Order since the issuance of the Order further confirm the necessity to deny Appellant's request to stay the Order because Appellant's pattern of behavior shows he will continue to harm Respondent and the other members unless their statutory rights are protected as set forth in the lower court's Order. Appellant's ill will is further evidenced by his decision to appeal and disobey a very innocuous and hardly controversial Order requiring him to do no more than the plain law requires. As the lower court correctly held, a stay of the lower court's Order is not necessary to preserve jurisdiction of the appeal or to prevent a contested issue from becoming moot, and as a result, this Honorable Court must deny Appellant's Petition for Supersedeas.

BARNWELL WHALEY PATTERSON & HELMS, LLC

BY: _____

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July 24, 2017
Charleston, South Carolina

FILED
2017 FEB 16 AM 10: 23
JULIE J. ARMSTRONG
CLERK OF COURT

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 (10^{th}) 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

EXHIBIT #1

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

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 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.

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]

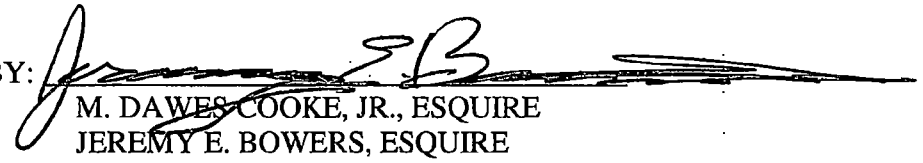
Plaintiff is only one member in a four member (member-managed) LLC. Pursuant to the LLC statute [Section 33-44-404 (a)], each members has equal rights and any matter relating to the business of the company requires a majority of the members, except those matters specifically listed in the statute that 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

15-3919

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

FILED
2017 FEB 16 AM 10:25
JULIE J. ARMSTRONG
CLERK OF COURT

Cheryl D. Leonard
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

EXHIBIT
#1

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	IN THE NINTH JUDICIAL CIRCUIT
COUNTY OF CHARLESTON	)	CASE NO.: 2015-CP-10-5610
	)	
S&S OLD TOWN INCORPORATED, BY AND THROUGH ITS SHAREHOLDER, IAKOVOS FERDERIGOS AND IAKOVOS FERDERIGOS, INDIVIDUALLY,	)	
Plaintiffs,	)	
v.	)	ORDER GRANTING PLAINTIFFS' REQUEST FOR PRELIMINARY INJUNCTION
ATHAN FOKAS,	)	
Defendant.	)	

FILED
2016 FEB 22 AM 9:55
JULIE J. ARMSTRONG
CLERK OF COURT

This matter came before the Court on December 9, 2015 upon Plaintiffs filing of a Notice of Motion and Motion for Preliminary Injunction on November 6, 2015.

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:

EXHIBIT
#2

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 bod 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

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

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

Received From: FERDERIGOS, Iakovos

Paying For: Iakovos FERDERIGOS

Payment Type: CK
Payment Amount: $ 5,000.00
Reference Number: 6512

Case #	Caption	Amount Paid
2015CP1005610	Iakovos Ferderigos , plaintiff, et al VS Athan Fokas	$ 5,000.00

STATE OF SOUTH CAROLINA COUNTY OF CHARLESTON S&S OLD TOWN INCORPORATED, BY AND THROUGH ITS SHAREHOLDER, IAKOVOS FERDERIGOS AND IAKOVOS FERDERIGOS, INDIVIDUCALLY, Plaintiffs, vs. ATHAN FOKAS, Defendant.	)	IN THE COURT OF COMMON PLEAS IN THE NINTH JUDICIAL CIRCUIT C/A NO. 2015-CP-10-5610 **CONTEMPT ORDER**

FILED
2016 SEP 29 PM 4:43
JULIE J. ARMSTRONG
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 $ 396.00. 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 $ 391.00 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 26, 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 4:48
JULIE J. 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.

EXHIBIT
tabbies
#3

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. THE DEFENDANT SHALL HAVE RIGHT TO REVIEW BEFORE RETURN IS FILED

AND IT IS SO ORDERED.

Honorable J.C. Nicholson, Jr.

Charleston, SC
September 12, 2016

Form **1065**

Department of the Treasury
Internal Revenue Service

U.S. Return of Partnership Income

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.*

OMB No. 1545-0123

2015

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

Sign Here

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.

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

For Paperwork Reduction Act Notice, see separate instructions. Form **1065** (2015)

BCA

EXHIBIT #4

Schedule B Other Information

		Yes	No
1	What type of entity is filing this return? Check the applicable box:		
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

		Yes	No
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.		
d	The partnership is not filing and is not required to file Schedule M-3	X	
	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.		
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 canceled, 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-		

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	150,561.
	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	
	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	
Deductions	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	14a	
	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 ▶		
	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	
	n Other foreign tax information (attach statement)		
Alternative Minimum Tax (AMT) Items	17a Post-1986 depreciation adjustment	17a	(1,584.)
	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	
	f Other AMT items (attach statement)	17f	
Other Information	18a Tax-exempt interest income	18a	
	b Other tax-exempt income	18b	
	c Nondeductible expenses	18c	
	19a Distributions of cash and marketable securities	19a	127,129.
	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

	Assets	Beginning of tax year (a)	Beginning of tax year (b)	End of tax year (c)	End of tax year (d)
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)				
9a	Buildings and other depreciable assets	200,409.		200,409.	
b	Less accumulated depreciation	75,065.	125,344.	89,431.	110,978.
10a	Depletable assets				
b	Less accumulated depletion				
11	Land (net of any amortization)				
12a	Intangible assets (amortizable only)	53,814.		56,814.	
b	Less accumulated amortization	3,427.	50,387.	7,182.	49,632.
13	Other assets (attach statement)				
14	Total assets		178,004.		167,144.
	Liabilities and Capital				
15	Accounts payable				
16	Mortgages, notes, bonds payable in less than 1 year		35,492.		1,200.
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)				
21	Partners' capital accounts		142,512.		165,944.
22	Total liabilities and capital		178,004.		167,144.

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): a Tax-exempt interest $	
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):		7	Deductions included on Schedule K, lines 1 through 13d, and 16l, not charged against book income this year (itemize): a Depreciation $	
3	Guaranteed payments (other than health ins.)		8	Add lines 6 and 7	
4	Expenses recorded on books this year not included on Schedule K, lines 1 through 13d, and 16l (itemize): a Depreciation $ 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.			
4	Other increases (itemize):		8	Add lines 6 and 7	127,129.
5	Add lines 1 through 4	293,073.	9	Balance at end of year. Subtract line 8 from line 5	165,944.

651113

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

2015

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

229 KING STREET
CHARLESTON SC 29401-

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	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)		
		19	Distributions A 31,783.
12	Section 179 deduction		
13	Other deductions	20	Other information
14	Self-employment earnings (loss)		

*See attached statement for additional information.

For IRS Use Only

US 1065 K-1 Attachment 2015

Partner: ATHAN 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		n Educational assistance benefits	
a	Cash contributions - 50%		o Dependent care benefits	
b	Cash contributions - 30%		p Preproductive period expenses	
c	Noncash contributions - 50%		q Commercial revitalization deduction	
d	Noncash contributions - 30%		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	
l	Deductions - portfolio - other		withdrawal of savings	
m	Amounts paid for medical insurance		(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 8586 - 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 8820	
	RESERVED	
	Form 8835, Part I	
	Form 8835, Part II	
	Form 8845	
	Form 8874	
	Form 8881	
	Form 8882	
	Reserved	
	Form 8908	
	Form 8910	
	Form 8936	
	Form 8941	
	Other credits	

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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	
19	a	Distributions of cash and marketable securities	31,783.
	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	

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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)		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		Form 3468, line 12c, qualified expenditures	
Qualifying advanced coal project credit		Form 3468, line 12d, kilowatt capacity	
Form 3468, line 5a, qualified expenditures		Form 3468, line 12f, qualified expenditures	
Form 3468, line 5b, qualified expenditures		Form 3468, line 12g, kilowatt capacity	
Form 3468, line 5c, qualified expenditures		Form 3468, line 12i, qualified expenditures	
Qualifying gasification project credit		Form 3468, line 12j, kilowatt capacity	
Form 3468, line 6a, qualified expenditures		Form 3468, line 12l, qualified expenditures	
Form 3468, line 6b, 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? [X] Yes [ ] No

		Amount
A	Beginning balance	
B	Partner's contributions	
C	Increase in share of partnership liabilities	
D	Ordinary income	
E	Separately stated income	37,743.
F	Subtotal	37,743.
G	Distributions	31,783.
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	5,960.

			Enter on
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)	
2	Net rental real estate income (loss)	Sch. E, line 28, column (j)	
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		Form 1040, line 8a
6a	Ordinary dividends		Form 1040, line 9a
6b	Qualified dividends		Form 1040, line 9b
7	Royalties		Schedule E, line 4
8	Net short-term capital gain (loss)		Sch. D, line 5, column (f)
9a	Net long-term capital gain (loss)		Sch. D, line 12, column (f)
9b	Collectibles (28%) gain (loss)		28% Rate Gain Worksheet, line 4 (Sch. D Instructions)
9c	Unrecaptured section 1250 gain		See the Partner's instr.
10	Net section 1231 gain (loss)		See the Partner's instr.

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651113

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

2015

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

229 KING STREET
CHARLESTON SC 29401-

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	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)		
		19	Distributions A 21,188.
12	Section 179 deduction		
13	Other deductions	20	Other information
14	Self-employment earnings (loss)		

*See attached statement for additional information.

For IRS Use Only

US 1065 K-1 Attachment 2015

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		n Educational assistance benefits	
a	Cash contributions - 50%		o Dependent care benefits	
b	Cash contributions - 30%		p Preproductive period expenses	
c	Noncash contributions - 50%		q Commercial revitalization deduction from rental real estate	
d	Noncash contributions - 30%		r Pensions and IRAs	
e	Cap. gain property to a 50% org. - 30%		s Reforestation expense deduction	
f	Capital gain property - 20%		t Domestic production activities information	
g	Contributions - 100%		u Qualified production activities income	
h	Investment interest expense		Qualified production activities income (oil related)	
i	Deductions - royalty income		v Employer's Form W-2 wages	
j	Section 59(e)(2) expenditures		w Penalty on early withdrawal of savings	
k	Deductions - portfolio - 2% floor		(1) Form 4684, line 32	
l	Deductions - portfolio - other		(2) Other. Type and amount	
m	Amounts paid for medical insurance			

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 8586 - 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 8906	
Form 8835, Part II		Form 8910	
Form 8845		Form 8936	
Form 8874		Form 8941	
		Other credits	

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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	
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		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(j)(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(i) information
				y	Net investment income
				z	Other information

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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 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		Form 3468, line 12c, qualified expenditures	
Qualifying advanced coal project credit		Form 3468, line 12d, kilowatt capacity	
Form 3468, line 6a, qualified expenditures		Form 3468, line 12f, qualified expenditures	
Form 3468, line 6b, qualified expenditures		Form 3468, line 12g, kilowatt capacity	
Form 3468, line 6c, qualified expenditures		Form 3468, line 12i, qualified expenditures	
Qualifying gasification project credit		Form 3468, line 12j, kilowatt capacity	
Form 3468, line 6a, qualified expenditures		Form 3468, line 12l, qualified expenditures	
Form 3468, line 6b, 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? [X] Yes [ ] No

		Amount
A	Beginning balance	
B	Partner's contributions	
C	Increase in share of partnership liabilities	
D	Ordinary income	
E	Separately stated income	25,108.
F	Subtotal	25,108.
G	Distributions	21,188.
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	3,920.

1	Ordinary business income (loss). You must determine whether the income (loss) is passive or nonpassive. Then enter on your return as follows:	Enter on	5	Interest income	Enter on Form 1040, line 8a
	Passive loss	See the Partner's Instr.	6a	Ordinary dividends	Form 1040, line 9a
	Passive income	Sch. E, line 28, column (g)	6b	Qualified dividends	Form 1040, line 9b
	Nonpassive loss	Sch. E, line 28, column (h)	7	Royalties	Schedule E, line 4
	Nonpassive income	Sch. E, line 28, column (j)	8	Net short-term capital gain (loss)	Sch. D, line 5, column (f)
2	Net rental real estate income (loss)		9a	Net long-term capital gain (loss)	Sch. D, line 12, column (f)
3	Other net rental income (loss)		9b	Collectibles (28%) gain (loss)	28% Rate Gain Worksheet, line 4 (Sch. D Instructions)
	Net income	Sch. E, line 28, column (g)	9c	Unrecaptured section 1250 gain	See the Partner's Instr.
	Net loss	See the Partner's Instr.	10	Net section 1231 gain (loss)	See the Partner's Instr.
4	Guaranteed payments	Sch. E, line 28, column (j)			

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451113

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
SPIRO FERDERIGOS

1971 SANDCROFT DRIVE
CHARLESTON SC 29407-

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	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)		
		19	Distributions A 21,188.
12	Section 179 deduction		
13	Other deductions	20	Other information
14	Self-employment earnings (loss)		

*See attached statement for additional information.

For IRS Use Only

US 1065 K-1 Attachment 2015

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 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 (all 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 8586 - 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	

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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		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(j)(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(i) information
				y	Net investment income
				z	Other information

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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)	
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	

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	

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	

Compute partner's interest? [X] 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	

			Enter on
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	See the Partner's Instr.
	Passive income		Sch. E, line 28, column (g)
	Nonpassive loss		Sch. E, line 28, column (h)
	Nonpassive income		Sch. E, line 28, column (j)
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		Form 1040, line 8a
6a	Ordinary dividends		Form 1040, line 9a
6b	Qualified dividends		Form 1040, line 9b
7	Royalties		Schedule E, line 4
8	Net short-term capital gain (loss)		Sch. D, line 5, column (f)
9a	Net long-term capital gain (loss)		Sch. D, line 12, column (f)
9b	Collectibles (28%) gain (loss)		28% Rate Gain Worksheet, line 4 (Sch. D Instructions)
9c	Unrecaptured section 1250 gain		See the Partner's Instr.
10	Net section 1231 gain (loss)		See the Partner's Instr.

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651113

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

2015

For calendar year 2015, or tax year beginning JAN 01, 2015 ending DEC 31, 20 15

☐ 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
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)		
		19	Distributions
12	Section 179 deduction		A 31,782.
13	Other deductions		
		20	Other information
14	Self-employment earnings (loss)		

*See attached statement for additional information.

For IRS Use Only

US 1065 K-1 Attachment 2015

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 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	

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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		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(j)(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(i) information	
				y	Net investment income	
				z	Other information	

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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)	
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	

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	
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	

Compute partner's interest? [X] Yes [ ] No

		Amount
A	Beginning balance	
B	Partner's contributions	
C	Increase in share of partnership liabilities	
D	Ordinary income	
E	Separately stated income	37,537.
F	Subtotal	37,537.
G	Distributions	31,782.
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.

			Enter on
1	Ordinary business income (loss). You must determine whether the income (loss) is passive or nonpassive. Then enter on your return as follows:		Enter on
	Passive loss		See the Partner's Instr.
	Passive income		Sch. E, line 28, column (g)
	Nonpassive loss		Sch. E, line 28, column (h)
	Nonpassive income		Sch. E, line 28, column (j)
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		Form 1040, line 8a
6a	Ordinary dividends		Form 1040, line 9a
6b	Qualified dividends		Form 1040, line 9b
7	Royalties		Schedule E, line 4
8	Net short-term capital gain (loss)		Sch. D, line 5, column (f)
9a	Net long-term capital gain (loss)		Sch. D, line 12, column (f)
9b	Collectibles (28%) gain (loss)		28% Rate Gain Worksheet, line 4 (Sch. D instructions)
9c	Unrecaptured section 1250 gain		See the Partner's Instr.
10	Net section 1231 gain (loss)		See the Partner's Instr.

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651113

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

2015

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

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	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) 25,086.		
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)		
		19	Distributions A 21,188.
12	Section 179 deduction		
13	Other deductions	20	Other information
14	Self-employment earnings (loss)		

*See attached statement for additional information.

For IRS Use Only

US 1065 K-1 Attachment 2015

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%	
b	Cash contributions - 30%	
c	Noncash contributions - 50%	
d	Noncash contributions - 30%	
e	Cap. gain property to a 50% org. - 30%	
f	Capital gain property - 20%	
g	Contributions - 100%	
h	Investment interest expense	
i	Deductions - royalty income	
j	Section 59(e)(2) expenditures	
k	Deductions - portfolio - 2% floor	
l	Deductions - portfolio - other	
m	Amounts paid for medical insurance	
n	Educational assistance benefits	
o	Dependent care benefits	
p	Preproductive period expenses	
q	Commercial revitalization deduction from rental real estate	
r	Pensions and IRAs	
s	Reforestation expense deduction	
t	Domestic production activities information	
u	Qualified production activities income	
	Qualified production activities income (oil related)	
v	Employer's Form W-2 wages	
w	Penalty on early 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 8586 - 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 8820	
	RESERVED	
	Form 8835, Part I	
	Form 8835, Part II	
	Form 8845	
	Form 8874	
	Form 8881	
	Form 8882	
	Reserved	
	Form 8908	
	Form 8910	
	Form 8936	
	Form 8941	
	Other credits	

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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	
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		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(j)(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(i) information
				y	Net investment income
				z	Other information

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

Compute partner's interest? [X] Yes [ ] No

		Amount
A	Beginning balance	26,281.
B	Partner's contributions	
C	Increase in share of partnership liabilities	
D	Ordinary income	
E	Separately stated income	25,086.
F	Subtotal	51,367.
G	Distributions	21,188.
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:	Enter on	6	Interest income	Form 1040, line 8a
	Passive loss	See the Partner's Instr.	6a	Ordinary dividends	Form 1040, line 9a
	Passive income	Sch. E, line 28, column (g)	6b	Qualified dividends	Form 1040, line 9b
	Nonpassive loss	Sch. E, line 28, column (h)	7	Royalties	Schedule E, line 4
	Nonpassive income	Sch. E, line 28, column (j)	8	Net short-term capital gain (loss)	Sch. D, line 5, column (f)
2	Net rental real estate income (loss)		9a	Net long-term capital gain (loss)	Sch. D, line 12, column (f)
3	Other net rental income (loss)		9b	Collectibles (28%) gain (loss)	28% Rate Gain Worksheet, line 4 (Sch. D Instructions)
	Net income	Sch. E, line 28, column (g)	9c	Unrecaptured section 1250 gain	See the Partner's Instr.
	Net loss	See the Partner's Instr.	10	Net section 1231 gain (loss)	See the Partner's Instr.
4	Guaranteed payments	Sch. E, line 28, column (j)			

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Form **8825**
(Rev. December 2010)

Department of the Treasury
Internal Revenue Service

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

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

OMB No. 1545-1186

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
	Rental Real Estate Income					
2	Gross rents	2	172,561.			
	Rental Real Estate Expenses					
3	Advertising	3				
4	Auto and travel	4				
5	Cleaning and maintenance	5	1,231.			
6	Commissions	6				
7	Insurance	7	1,200.			
8	Legal and other professional fees	8	1,155.			
9	Interest	9	3.			
10	Repairs	10				
11	Taxes	11				
12	Utilities	12				
13	Wages and salaries	13				
14	Depreciation (see instructions)	14	14,366.			
15	Other (list) ▶AMORTIZATION		3,755.			
	STMT 8A	15	290.			
16	Total expenses for each property. Add lines 3 through 15	16	22,000.			
17	Income or (Loss) from each property. Subtract line 16 from line 2	17	150,561.			

18a	Total gross rents. Add gross rents from line 2, columns A through H	18a	172,561.
b	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: • Form 1065 or 1120S: Schedule K, line 2, or • Form 1065-B: Part I, line 4	21	150,561.

Form **4562**

Department of the Treasury
Internal Revenue Service (99)

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

2015

Attachment Sequence No. 179

Name(s) shown on return	Business or activity to which this form relates	Identifying number
OLD TOWNE SUITES LLC	229 KING STREET	[redacted]

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 5-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	
			27.5 yrs.	MM	S/L	
i Nonresidential real property			39 yrs.	MM	S/L	
				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	

[redacted]

2015 ASSET DETAIL REPORT

Description	Date Acqd	Cost	Bus. Use	179+ 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	☐						

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SCHEDULE B-1
(Form 1065)
(Rev. December 2011)
Department of the Treasury
Internal Revenue Service

Information on Partners Owning 50% or More of the Partnership

▶Attach to Form 1065. See separate instructions.

OMB No. 1545-0099

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 inthe 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

Form **8879-PE**

Department of the Treasury
Internal Revenue Service

IRS *e-file* Signature Authorization for Form 1065

▶ 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

OMB No. 1545-0123

2015

Name of partnership
OLD TOWNE SUITES LLC

Employer identification number
[redacted]

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 ▶

Title ▶ MEMBER Date ▶ 03/15/2016

Part III Certification and Authentication

ERO's EFIN/PIN. Enter your six-digit EFIN followed by your five-digit self-selected PIN. [redacted]
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 ROE Date ▶ 03/23/2016

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

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): [redacted]	▶SC File # (Required):	County:

Check applicable boxes: ▶ ☐ Initial return ▶ ☐ Final return ▶ ☐ Address change ▶ ☐ Amended return

Total Number of Partners: 5	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 CHARLESTON State SC Phone Number _____

COMPLETE SCHEDULE SC-K FIRST

STAPLE PAYMENT HERE

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 ..... BALANCE DUE	9.	0 00

I declare that this return and all attachments are true, correct and complete to the best of my knowledge end 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 JOHN A ROE	Check if self-employed ☐	Preparer telephone number 843-722-3222
	Preparer signature JOHN A ROE		PTIN [redacted] Date 03/23/2016
	Firm's name (or yours if self-employed) and address PINNACLE 1 DOWNTOWN 216 SPRING ST CHARLESTON SC 29403-		FEIN [redacted]

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 000000000 454468382 1215 00000000000 0000

OLD TOWNE SUITES LLC 45-4468382

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)	15	150,561
16.	Amounts Allocated to South Carolina (from line 14, Schedule SC-K, Col. D)	16	149,995
17.	Net income (loss) subject to apportionment (from line 14, Schedule SC-K, Col. F)	17	0

APPORTIONMENT

	TOTAL	SC		
18.	Total Sales or Gross Receipts	0	0		
19.	Apportionment factor (SC ÷ TOTAL). 100% if operating entirely within SC			19	100.0000 %
20.	Net business income (loss) apportioned to SC (line 17 multiplied by line 19)			20	0
21.	Net business income (loss) taxable to SC (line 16 plus line 20)			21	149,995

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

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		
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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		
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23		

Credits (list type and amount)		Amount
24		
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Other Information

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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 ▶ [redacted]

Partnership's FEIN ▶ [redacted]

Partner's name, address and Zip code
ATHAN FOKAS

229 KING STREET
CHARLESTON SC 29401-

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				
2 Net rental real estate income (loss)	2	37,743.	-142.		37,601.
3 Other Net rental income (loss)	3				
4 Guaranteed payments	4				
5 Interest income	5				
6 Dividends	6				
7 Royalties	7				
8 Net short-term capital gain (loss)	8				
9 Net long-term capital gain (loss)	9				
10 Net Section 1231 gain (loss)	10				
11 Other income (loss)	11				
Deductions 12 Section 179 deduction	12				
13 Other deductions	13				
14 Net taxable income					14 37,601.
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
17					17
18					18
19					19
20 Total South Carolina tax credits					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		
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11	SOUTH CAROLINA MODIFIED INCOME	37,743.

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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Credits (list type and amount)		Amount
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Other Information

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USK11065

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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 ▶ [redacted]

Partnership's FEIN ▶ [redacted]

Partner's name, address and Zip code
IAKOVOS FERDERIGOS

229 KING STREET
CHARLESTON SC 29401-

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				
2 Net rental real estate income (loss)	2	25,108.	-94.		25,014.
3 Other Net rental income (loss)	3				
4 Guaranteed payments	4				
5 Interest income	5				
6 Dividends	6				
7 Royalties	7				
8 Net short-term capital gain (loss)	8				
9 Net long-term capital gain (loss)	9				
10 Net Section 1231 gain (loss)	10				
11 Other income (loss)	11				
Deductions 12 Section 179 deduction	12				
13 Other deductions	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.)					
Credits 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: 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	
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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	
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Credits (list type and amount)		Amount
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Other Information

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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 ▶ [redacted]

Partnership's FEIN ▶ [redacted]

Partner's name, address and Zip code
SPIRO FERDERIGOS

1971 SANDCROFT DRIVE
CHARLESTON SC 29407-

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				
	2 Net rental real estate income (loss)	2	25,087.	-94.		24,993.
	3 Other Net rental income (loss)	3				
	4 Guaranteed payments	4				
	5 Interest income	5				
	6 Dividends	6				
	7 Royalties	7				
	8 Net short-term capital gain (loss)	8				
	9 Net long-term capital gain (loss)	9				
	10 Net Section 1231 gain (loss)	10				
	11 Other income (loss)	11				
Deductions	12 Section 179 deduction	12				
	13 Other deductions	13				
	14 Net taxable income	14				24,993.
	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				
	17	17				
	18	18				
	19	19				
	20 Total South Carolina tax credits	20				

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	
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Credits (list type and amount)		Amount
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Other Information

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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 ▶ [redacted]

Partnership's FEIN ▶ [redacted]

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				
2 Net rental real estate income (loss)	2	37,537.	-142.		27,396.
3 Other Net rental income (loss)	3				
4 Guaranteed payments	4				
5 Interest income	5				
6 Dividends	6				
7 Royalties	7				
8 Net short-term capital gain (loss)	8				
9 Net long-term capital gain (loss)	9				
10 Net Section 1231 gain (loss)	10				
11 Other income (loss)	11				
Deductions					
12 Section 179 deduction	12				
13 Other deductions	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				
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: 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		
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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	
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23		

Credits (list type and amount)		Amount
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Other Information

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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 ▶ [redacted]

Partnership's FEIN ▶ [redacted]

Partner's name, address and Zip code
PHILLIP FERDERIGOS

1668 SOUTHPORT DRIVE
CHARLESTON SC 29407-

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 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
	17				17
	18				18
	19				19
	20 Total South Carolina tax credits				20

35151018

SC

State K-1 Attachment

2015

Partner's name: PHILLIP FERDERIGOS ID: [redacted]

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

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		
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20		
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22		
23		

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

Other Information

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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 <lakovosstavros@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 efiling this corporate income tax extension for Old Town Restaurant that is due by midnight tomorrow.

–

Richard B. Homes, CPA, LLC

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Charleston, SC 29412

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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

BARNWELL WHALEY
PATTERSON & HELMS LLC
75 YEARS 1938-2013
Attorneys for businesses & professionals since 1938

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.

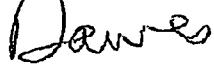
As for Mr. Fokas writing an authorized check to himself from the LLC checking account, please remind him that he is only a fifty percent member in the member-managed LLC and cannot write checks to himself or do anything whatsoever without the required statutory consent of the other members. This includes, 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.

EXHIBIT
Debbie 7

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 membets 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. Farrier, Jr., Esquire (Richard.farrier@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

EXHIBIT
tabbies
8

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

EXHIBIT 9

(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 Tidelands 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. 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? 3:45 PM

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

BARNWELL WHALEY
PATTERSON & HELMS LLC
75 YEARS 1938-2013
Attorneys for businesses & professionals since 1938

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

EXHIBIT
tabbies #10

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 Tidelands Bank to see if they have a general business checking account for depositing and withdrawing funds. Tidelands 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. Tidelands 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 Tidelands Bank documentation that the members would need to sign in order to open the general business checking account there. Tidelands Bank has already agreed to the indicated

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. Dawes Cooke, Jr.

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

TIN 45-4468382

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)
- ☐ General Partnership (GP)
- ☐ Limited Partnership (LP)
- ☐ Registered Limited Liability Partnership (LLP)
- ☐ Sole Proprietorship (owned by one individual)
- ☐ Sole Proprietorship (owned by two spouses)
- ☐ Unincorporated church or charitable/civic organization
- ☐ 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 indentified 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 therefore 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

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TIN 45-4468382

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.

DELETED

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.

DELETED

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)	Authority: Borrowing (Authorized Representatives)
~~Manager or Member/Manager~~ Member	Ioannis Ferderigos		☒	☒
~~Manager or Member/Manager~~ Member	Phillip Ferderigos		☒	☒
~~Manager or Member/Manager~~ Member	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

tidelands bank

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 tendered 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
[redacted] Date	Account Opening and Maintenance; Cash Management; Make Deposits; Endorsements; Make Withdrawals
[redacted] 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.

[redacted] Date
Authorized Signer

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

tidelands bank

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:

Business Filing State: SC
Date Established: August 31, 2015
Resolution 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

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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, contributions 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 Date
Its: Bank Representative

BARNWELL WHALEY
PATTERSON & HELMS LLC
75 YEARS 1938-2013
Attorneys for businesses & professionals since 1938

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,

M. Dawes Cooke, Jr.

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

EXHIBIT
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BARNWELL WHALEY | 75 YEARS 1938-2013
PATTERSON & HELMS LLC
Attorneys for businesses & professionals since 1938

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.

EXHIBIT #12

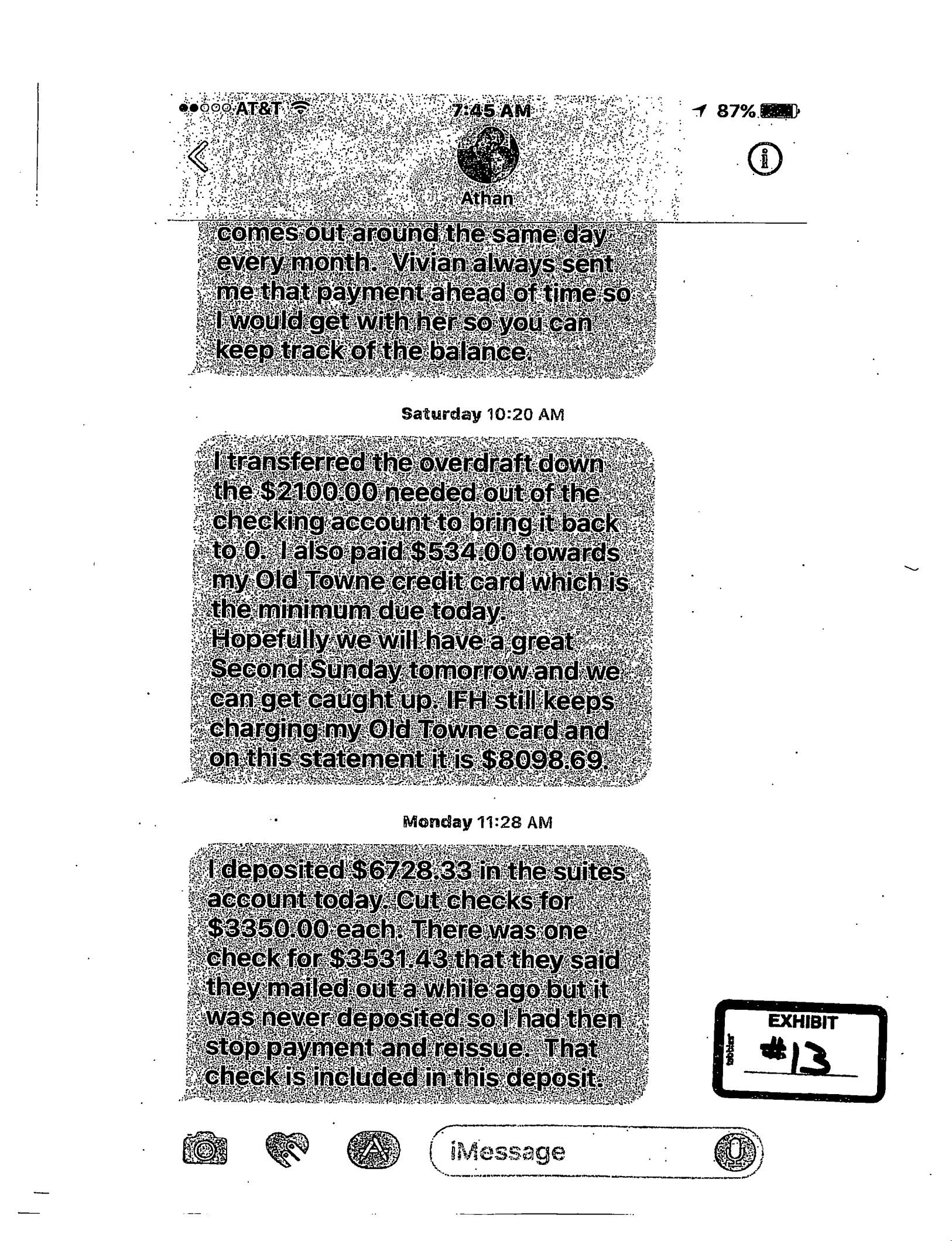
[00558360.DOC.1

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,

M. Dawes Cooke, Jr.

MDCJr/bbm


AT&T
7:45 AM
87%
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.
EXHIBIT
#13
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 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

EXHIBIT
#14

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.

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.

2:54 PM

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

EXHIBIT #15

(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. 5:26 PM
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!

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 ware 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 untill 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.

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. 5:28 PM

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 plummer. 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 plummer 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 it 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 it 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 ware and tare 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 tyle 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 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

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.

EXHIBIT
#16

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
Fax: 843-579-8819
richard.farrier@klgates.com
www.klgates.com

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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 then 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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STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	NINTH JUDICIAL CIRCUIT
COUNTY OF CHARLESTON	)	CASE NO. 2015-CP-10-3919
	)	
Athan Fokas,	)	
	)	
Plaintiff,	)	
v.	)	
	)	
Philip Ferderigos, Jacob Ferderigos, and Spiro Ferderigos,	)	
	)	
Defendants.	)	
	)	

FILED
2017 MAR -6 PM 3:20
JULIE J. ARMSTRONG
CLERK OF COURT

Memorandum of Authorities Regarding LLC Voting Rights

Pursuant to the South Carolina Uniform Limited Liability Company Act ("LLC Act"), a limited liability company ("LLC") is either member-manager or manager-managed. *See* S.C. Code Ann. § 33-44-101(11)–(12) (2016). An LLC is manager-managed if the appropriate election is made in its articles of organization filed with the Secretary of State. *See* S.C. Code Ann. § 33-44-204(a)(6). If the election to be manager-managed is not made in the articles of organization, then the LLC is member-managed. *See* S.C. Code Ann. § 33-44-101(11)–(12). The articles of organization of Old Towne Suites, LLC are attached to this memorandum as *Exhibit A*. As is shown by Section 6 of the articles, the company did not elect to be a manager-managed LLC, and therefore it is a member-managed LLC.

In a member-managed LLC, each member gets one vote, no matter the differing amount of their respective capital contributions. S.C. Code Ann. § 33-44-404(a). That section provides as follows: "In a member-managed company: each member has equal rights in the management and conduct of the company's business." *Id.* Although this one-member, one-vote rule can be modified in the LLC's operating agreement pursuant to S.C. Code Ann. § 33-44-103(a), no such modification was made in this case. A copy of the LLC's operating agreement is attached to this memorandum as *Exhibit B*, and the issue of voting is not addressed at all. Therefore, each member is entitled to one vote.

EXHIBIT
tabbies
#2

Although a company's operating agreement could provide for voting based on each members' capital contribution, thereby granting the member with the largest capital contribution the most votes, that was not done here. *See* S.C. Code Ann. § 33-44-404 Comment. When the operating agreement does not provide for an alternative vote allocation, votes are distributed on a per capita basis among the members, and most management decisions can be decided by a simple majority. S.C. Code Ann. § 33-44-404(a).

These per capita voting and simple majority rules have been approved by the South Carolina Supreme Court. In *Jordan v. Holt*, 362 S.C. 201, 203, 608 S.E.2d 129, 130 (2005), the Court recognized that the addition of a fifth member to an LLC "created a voting majority among" in three of the members, despite the fact that they collectively only controlled 35% of the ownership interest of the LLC. The Court found the per capita rule applicable even though *the operating agreement set forth ownership percentages. Id.* In summary, unless the operating agreement expressly provides otherwise, most business matters of an LLC are to be decided by a simple majority with votes allocated on a per capita basis.

Although there a few exceptions this majority vote rule in which the consent of every member is required, none of those exceptions are relevant to this case. Those exceptions as to which unanimous consent is required are as follows:

(1) amendment of the operating agreement;

(2) ratification of acts which would otherwise violate the duty of loyalty;

(3) amendment to the articles of organization;

(4) compromise of an obligation to make a contribution;

(5) compromise of an obligation of a member to return money or other property paid or distributed in violation of this chapter;

(6) making of interim distributions, including the redemption of an interest;

(7) admission of a new member;

(8) use of company property to redeem an interest subject to a charging order;

(9) consent to dissolve the company;

(10) waiver of the right to have the company's business wound up and the company terminated;

(11) consent of members to merge with another entity; and

(12) sale, lease, exchange, or other disposal of all, or substantially all, of the company's property with or without goodwill.

S.C. Code Ann. § 33-44-404(c).

In summary, the operating agreement of Old Towne Suites, LLC does not specify the allocation of votes among the members, nor does it describe the voting requirements for matters of company business. Therefore, the voting rules default to the portions of the LLC Act applicable to member-managed LLCs. Thus, voting is allocated on a per capita basis, and operating decisions can be approved by a simple majority. This means that each member of the company has one vote. Since Defendants are each members of the company—and each member has one vote in deciding all company business—the votes of the three defendants constitute a majority.

Richard A. Farrier (S.C. ID No. 1962)
Email: richard.farrier@klgates.com
Jennifer H. Thiem (S.C. ID No. 73739)
Email: jennifer.thiem@klgates.com
K&L Gates LLP
134 Meeting Street, Suite 200
Charleston, SC 29401
Phone: (843) 579-5600
Fax: (843) 579-5601
ATTORNEYS FOR DEFENDANTS

2015-CP-10-3919

Certificate of Service

I hereby certify that on the 1st day of March, 2017, I served the foregoing Memorandum of Authorities Regarding LLC Voting Rights upon the parties to this action by U.S. mail, sufficient postage attached thereto, correctly addressed as follows:

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

Attorneys for Plaintiff

M. Dawes Cooke, Esq.
Jeremy E. Bowers, Esquire
Barnwell Whaley Patterson & Helms, LLC
288 Meeting Street, Suite 200
Charleston, SC 29401

Attorneys for Defendant Spiros Ferderigos

I. Ryan Neville, Esq.
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Charleston, SC 29401

Attorneys for Defendant Jacob Ferderigos

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2017 MAR -6 PM 3:20
JULIE J. ARMSTRONG
CLERK OF COURT

Kimberly B. Taylor, CP

CERTIFIED TO BE A TRUE AND CORRECT COPY
AS TAKEN FROM AND COMPARED WITH THE
ORIGINAL ON FILE IN THIS OFFICE

Jun 10 2016
REFERENCE ID: 1606101613305

Mark Hammond
SECRETARY OF STATE OF SOUTH CAROLINA

[redacted]

STATE OF SOUTH CAROLINA
SECRETARY OF STATE
ARTICLES OF ORGANIZATION
Limited Liability Company – Domestic
Filing Fee - $110.00

TYPE OR PRINT CLEARLY IN BLACK INK

The undersigned delivers the following articles of organization to form a South Carolina limited liability company pursuant to S.C. Code of Laws §33-44-202 and §33-44-203.

1. The name of the limited liability company **(Company ending must be included in name*)**

   Old Towne Suites, LLC

   ***NOTE: The name of the limited liability company must contain one of the following endings: "limited liability company" or "limited company" or the abbreviation "L.L.C.", "LLC", L.C." or "LC". "Limited" may be abbreviated as "Ltd.", and "company" may be abbreviated as "Co."**

2. The address of the initial designated office of the limited liability company in South Carolina is

   229 King Street
   Street Address

   Charleston 29401
   City Zip Code

3. The initial agent for service of process is

   Iakovos Ferderigos
   Name

   Signature of Agent

   and the street address in South Carolina for this initial agent for service of process is

   229 King Street
   Street Address

   Charleston 29401
   City Zip Code

4. List the name and address of each organizer. Only one organizer is required, but you may have more than one.

   (a) Iakovos Ferderigos
   Name

   229 King Street
   Street Address

   Charleston SC 29401
   City State Zip Code

   (b)
   Name

   Street Address

   State Zip Code

111216-0218 FILED: 12/13/2011
OLD TOWNE SUITES, LLC
Filing Fee: $110.00 ORIG

Mark Hammond South Carolina Secretary of State

Form Revised by South Carolina Secretary of State, May 2011

ALL-STATE LEGAL®
EXHIBIT
A

CERTIFIED TO BE A TRUE AND CORRECT COPY
AS TAKEN FROM AND COMPARED WITH THE
ORIGINAL ON FILE IN THIS OFFICE
Jun 10 2016
REFERENCE ID: 1606101613305
Mark Hammond
SECRETARY OF STATE OF SOUTH CAROLINA

Name of Limited Liability Company Old Towne Suites, LLC

5. [ ] Check this box only if the company is to be a term company. If the company is a term company, provide the term specified. _____

6. [ ] Check this box only if management of the limited liability company is vested in a manager or managers. If this company is to be managed by managers, include the name and address of each initial manager.

(a) _____
Name

_____
Street Address

_____
City State Zip Code

(b) _____
Name

_____
Street Address

_____
City State Zip Code

7. [ ] Check this box only if one or more of the members of the company are to be liable for its debts and obligations under §33-44-303(c). If one or more members are so liable, specify which members, and for which debts, obligations or liabilities such members are liable in their capacity as members. This provision is optional and does not have to be completed.

8. Unless a delayed effective date is specified, these articles will be effective when endorsed for filing by the Secretary of State. Specify any delayed effective date and time.

_____

9. Any other provisions not inconsistent with law which the organizers determine to include, including any provisions that are required or are permitted to be set forth in the limited liability company operating agreement may be included on a separate attachment. Please make reference to this section if you include a separate attachment.

10. Each organizer listed under number 4 must sign.

_____ _____
Signature of Organizer Date

_____ _____
Signature of Organizer Date

Form Revised by South Carolina
Secretary of State, May 2011

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

ALL-STATE LEGAL®
EXHIBIT
B

K&L GATES

March 1, 2017

Richard A. Farrier, Jr.
T +1 843 579 5619

richard.farrier@klgates.com

The Honorable Julie J. Armstrong
Charleston County Clerk of Court
100 Broad Street, Suite 106
Charleston, SC 29401

Re: **Athan Fokas v. Philip Ferderigos, Spiros Ferderigos and Jacob Ferderigos**
Case No. 2015-CP-10-3919

Dear Ms. Armstrong:

Enclosed herewith please find the original and one copy of Defendant Phillip Ferderigos' Memorandum of Authorities Regarding LLC Voting Rights in connection with the above-referenced matter.

Please file the original and return the filed-stamped copy to me in the enclosed envelope.

Thank you for your assistance with this matter. Please do not hesitate to contact me if you have any questions. By copy of this letter, we are serving same on all counsel of record.

With kind regards, I remain.

Sincerely,

Richard A. Farrier, Jr.

RAF/glm
Enclosures
cc: Stan Barnett, Esq. *(via email w/encl.)*
M. Dawes Cooke, Jr., Esq. *(via email w/encl.)*
Jeremy E. Bowers, Esq. *(via email w/encl.)*
John A. Massalon *(via email w/encl.)*

STATE OF SOUTH CAROLINA	)	IN THE COUR T OF COMMON PLEAS
	)	FOR THE NINTH JUDICIAL CIRCUIT
COUNTY OF CHARLESTON	)	
	)	CASE NO. 2015-CP-10-3919
ATHAN FOKAS,	)	
	)	
Plaintiff,	)	
	)	
v.	)	**AFFIDAVIT OF SPIROS FERDERIGOS**
	)	
PHILLIP FERDERIGOS, SPIROS FERDERIGOS, AND JACOB FERDERIGOS	)	
	)	
Defendants.	)	

FILED
2017 MAR 10 AM 10:09
JULIE J. ARMSTRONG
CLERK OF COURT

Personally appeared before me, the undersigned, who, being duly sworn deposes and says as follows:

1. My name is Spiros S. Ferderigos, and I am over the age of 18 and competent to execute this Affidavit.

2. I am a Defendant in the above-captioned action.

3. This motion is about one member, Mr. Fokas, taking advantage of the other three members of the LLC, myself included.

4. The one member is taking advantage of the other three members by simply doing whatever he wants and ignoring the other members. See texts in Amended Motion pp. 10-15.

5. At the hearing concerning the above mentioned amended motion last week, I believe that the Court was concerned that the other three members were trying to take advantage of the one member; however, the opposite is true. The problem is that Mr. Fokas holds himself out as the managing member of the LLC, when he is not.

6. As a member, I have a right to have full and equal access to the bank account for the LLC – Mr. Fokas is currently preventing me from exercising such right.

EXHIBIT
#3

7. As a member, I have a right to review the LLC tax returns before they are filed, and I have a right to object to incorrect tax returns being filed. Mr. Fokas must honor such right, but he refuses to do so.

8. Mr. Fokas has no right to file LLC tax returns unilaterally; to file incorrect tax returns on behalf of the LLC; or to file LLC tax returns without the consent of the other members.

9. As a member, I have a right for Mr. Fokas not to compete with the LLC and for him not to use our property manager to do so.

10. As a member, I have a right to receive information from the property manager, including reports about income, expenses, profits, etc.

11. Respectfully, the amended motion I filed is about asking the Court to protect my rights as an LLC member, rights which Mr. Fokas has violated and is continuing to violate.

12. Mr. Fokas filed incorrect tax returns unilaterally on behalf of the LLC over the objections of the other members. See Exhibit A, attached hereto, letter from CPA Barry Gumb, dated March 7, 2017, attesting that the tax return Mr. Fokas filed on behalf of the LLC is incorrect.

13. Mr. Fokas opened an LLC bank account giving full access to only himself and excluding the other LLC members.

14. Mr. Fokas tells other members that he can unilaterally make decisions which he deems to be "business as usual" or "necessary" or "an emergency." See Texts between members set forth in my amended motion, pp. 10-15.

15. Mr. Fokas uses our own LLC's property manager to compete with our LLC located at 229 King Street by opening up another set of rental units down the street at 493 King Street.

16. It is my understanding, per his own sworn testimony in his recent deposition, that Mr. Fokas testified that he used our LLC property manager to locate and design new rental units a few

blocks away from 229 King Street. The initial Contract of Sale for Mr. Fokas' 493 King Street rental units lists both Mr. Fokas *and the property manager (Kevin High)* as the individuals purchasing the property together. That was later amended to be purchased in the name of another LLC owned by Mr. Fokas.

17. Mr. Fokas subsequently purchased a floor of a building at 493 King Street, and the property manager for our LLC also advertises on his own website, walkawaystays.com, for Mr. Fokas' competing LLC (where it also receives special prominence over our LLC located at 229 King Street). It is my understanding that our property manager also advertises on websites like Airbnb.com and Vrbo.com for Mr. Fokas' new competing LLC at 493 King Street, the very same websites he advertises for our LLC.

18. If Your Honor goes to the website now, Your Honor will see that 493 King Street gets special treatment on the property manager's website for potential patrons, whereas it will take quite some digging for Your Honor to locate 229 King Street.

19. I believe Mr. Fokas communicates and directs the property manager to take action that is contrary to what the other members wish to take. I do not exactly know how Mr. Fokas directs the property manager because, other than Mr. Fokas' deposition testimony, I have no idea what communications Mr. Fokas and the property manager have been having. As a member, I have a right to know what Mr. Fokas has been directing our property manager to do or not do concerning our LLC.

20. Furthermore, to my surprise, when my attorney served Kevin High with a subpoena in order to get a copy of the communications between the property manager and Mr. Fokas (something I am clearly entitled to as a member), Mr. Fokas filed a Motion to Quash citing the close ongoing business relationship separate and apart from our LLC that he has with the property

manager, and the close personal relationship he has with the property manager. Specifically, Mr. Fokas' Motion to Quash states "Mr. High and the Plaintiff, Athan Fokas, are friends and their families are close. In addition, they are engaged in other business relationships outside the building which is the subject of this lawsuit." See Plaintiff's Motion to Quash Subpoena of Kevin High, filed February 1, 2017.

21. I believe the Court is concerned that I and the other members, being my brothers, will overreach as 3 out of 4 members always constitutes a majority, but I request the Court to look at the Resolution the 3 members have actually passed - the Resolution requires the LLC checking account be in an account that ALL members have full and equal access to.

22. Any concern in theory that I or my brothers might overreach is refuted by the fact that we never have; rather, it is the one member Mr. Fokas who has repeatedly overreached and taken advantage of the other members as set forth in my amended motion with Exhibits and this Affidavit.

23. For example, whereas Mr. Fokas Affidavit says that all the members manage the LLC (*Mr. Fokas Affidavit: "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"*), in his Memorandum, however, Mr. Fokas argues the opposite, stating that he is in effect the "manager" of the LLC and we all wanted him to be the "manager" (*Mr. Fokas' memorandum filed with the Court: "Moreover, the Defendants all consented to let Plaintiff manage the LLC as if he were designated its manager ...[D]efendants allowed, indeed, wanted, Plaintiff to manage the LLC business."*).

24. This contradicting argument in his Court filings before Your Honor is illustrative of how Mr. Fokas views himself. Unfortunately, with his friend being the property manager, Mr. Fokas has continued to get away with such actions, and we need the Court's help to stop Mr. Fokas from continuing to violate our rights as members of the LLC.

25. Also, at oral arguments at the hearing, I heard Mr. Fokas' counsel make the same argument in open court (this despite the fact that Mr. Fokas' counsel emailed Defendants on December 14, 2016 in which he admits "Athan is not a manger or managing member of the LLC," attached as Exhibit 16 to Amended Motion). Such argument is simply false as our LLC was specifically and purposefully set up as a member managed LLC, and neither I nor any other member ever made or ever agreed or ever acquiesced in Mr. Fokas being a manager or being in charge in any way. The whole point of the amended motion is to keep Mr. Fokas from doing things he is not authorized to do. His argument is false, meritless, and not supported by anything in writing.

26. When I discovered that Mr. Fokas was making unilateral decisions, cutting myself and other members out of decisions for our LLC, Mr. Fokas immediately responded in text that all he had ever done was change lightbulbs and trivial things of such a nature (See Exhibit B, attached hereto). Now, in contrast, he argues to the Court that the other members made him a "manager" of our LLC and we put him in charge of the LLC. Such statement, however, is utter nonsense.

27. No one ever made Mr. Fokas a "manager." He just claims to be one so he can excuse his unilateral actions which clearly violate my and the other members' rights and so he can do whatever he wants, which is exactly why he is violating my and the other members' rights.

28. Mr. Fokas is only 1 member out of 4 members, who has 50% ownership of the LLC. Importantly, under any analysis, he cannot take unilateral actions which the other LLC members

object to; however, that is exactly what he is doing as he takes unilateral actions and says he can do what he wants because he deems it to be "necessary," or "business as usual," or "an emergency."

29. At the hearing, the Court asked about what "harm" have I suffered by Mr. Fokas taking unilateral actions, like filing LLC tax returns that I have objected to.

30. Respectfully, first, the harm is that he is violating my rights by ignoring my rights in the LLC (he took the tax returns that were objected to to another accountant unilaterally and had those same returns filed without my or the other members consent and then he sent a letter saying that he checked with some "tax attorney" that he can make such filings and that he will handle any problems with the IRS). I, and the other members, never agreed to any of that.

31. Mr. Fokas, furthermore, informed Your Honor in his affidavit that the LLC accountant became frightened of me and the Ferderigos members, that the LLC accountant refused to handle the LLC tax returns, and that the LLC accountant told Mr. Fokas to file the returns elsewhere. That is simply not true. I have attached correspondence with the LLC accountant (Richard Holmes) where he specifically states that Mr. Fokas told him that they are not to handle the returns or file an extension, and that "we [the LLC accountant] are not handling it per Athan's instructions." See Exhibit C, attached hereto. (Emphasis added).

32. Again, Mr. Fokas was not honest with the Court regarding the LLC. In the attachment, (Exhibit C) the LLC accountant refers to the Old Towne Restaurant tax return. The LLC accountant's reference to the restaurant is synonymous with the LLC, as the accountant was preparing, as he always does, both the LLC return and the restaurant's return and Mr. Fokas took both these entities draft returns from the LLC accountant to a third party not associated with the LLC. Mr. Fokas refused to allow the accountant to file an extension as was requested by the other

members so that the matter can be resolved in a mutually agreeable manner, and instead unilaterally took both returns to a third party to be filed over the objection of the other members.

33. Second, the additional harm is that the tax returns are also incorrect. Filing incorrect tax returns on behalf of the LLC is harmful to me as a member. See Exhibit A, Letter from CPA Barry Gumb dated March 7, 2017.

34. Similarly, third, an additional harm is Mr. Fokas is keeping me from having full and equal access to the LLC's checking account, which again violates my rights.

35. Similarly, fourth, an additional harm is that I believe Mr. Fokas is actively inducing our property manager to actively compete with our LLC.

36. It is my understanding that Mr. Fokas is dealing directly with the property manager and telling him to take actions that neither I, nor the other members, approve of. This is despite my having been unanimously approved by all members to be point of contact with the property manager (See Exhibit D, attached hereto)

37. Also, the property manager continues to make deposits in an unauthorized LLC bank account and he says he is going to continue doing so until he gets a Court Order directing him otherwise, or unless he has Mr. Fokas' permission.

38. In his Memorandum and Affidavit, Mr. Fokas says that he now agrees to amend the LLC tax returns he filed over our objections; however, Mr. Fokas refused to do so up until a few days prior to the hearing. In contrast, Mr. Fokas has refused to do that for approximately nine (9) months leading up to the hearing before Your Honor, and, unless the Court issues an Order ordering him to do so, I suspect that he will continue to refuse to do so.

39. In his Memorandum and Affidavit, Mr. Fokas says that he now agrees to open up an account that all members of the LLC have full and equal access to. Similarly, Mr. Fokas refused

to do so for approximately nine (9) months (ignoring letters from Dawes Cooke dated 06/15/16, 07/01/16, 11/15/16, and 11/30/16, attached as Exhibits 7, 10, 11, and 12 to my amended motion), and then I had to file this present amended motion – only then did Mr. Fokas tell the Court in his Memorandum, filed a few days before the hearing, that he would consent to open up an LLC checking account that all members have full and equal access to; in contrast, Mr. Fokas refused to do that for over approximately nine (9) months and, unless the Court issues an Order ordering him to do so, I suspect that he will continue to refuse to do so.

40. Putting all of this together, one member, Mr. Fokas has in effect "taken over" the LLC with his property manager, who Mr. Fokas admits in his Motion to Quash "are friends and their families are close. In addition, they are engaged in other business relationships outside the building which is the subject of this lawsuit" – Mr. Fokas is the one overreaching and abusing the other members, not the other way around.

41. Even under his own argument that he has 50% of the voting share, Mr. Fokas still cannot and should not be allowed to do whatever he wants, contrary to the other members and in violation of the other members' rights, who also own an equal 50% share in the LLC and are a majority of the members.

42. I am at my wits' end concerning Mr. Fokas' actions that I have set forth above. As set forth within my Amended Motion, with Exhibits attached of the communications between the members, I have tried for a period of approximately nine (9) months to do everything I can to come to a mutually agreeable resolution. All I have asked for is an LLC account to which ALL members have full and equal access, for the LLC to file correct tax returns, and for Mr. Fokas to stop taking unilateral actions over the objections of the other members. Mr. Fokas has simply refused to do so and has repeatedly taken the position that he can do whatever he wants.

43. Initially, I request the Court issue an Order for Mr. Fokas to stop his unilateral actions without the ongoing consent of the other members. I request the Court issue an Order allowing the LLC to amend the incorrect LLC tax returns in accordance with CPA Barry Gumb's directives, and I request the Court issue an Order allowing the LLC members to close the unauthorized LLC account that only Mr. Fokas has access to, and for the members to open up an authorized LLC account which ALL members have full and equal access to as set forth in the Resolution passed on February 15, 2017.

44. However, if Your Honor is not inclined to issue such an Order, and if Your Honor orders a Receiver for the LLC as you indicated from the bench that you are inclined to do, I ask that the Receiver appointed by the Court be an individual that does not have any current or past relationship with the LLC or members of the LLC, and that the Receiver ensure that I (and all members) have full access to information and that I am not "cut out" of the LLC. Although I am not asking the Court to appoint a Receiver and request that Your Honor instead issue an Order as I have requested herein, a Receiver which protects my rights as a member is much more preferable than the current situation with Mr. Fokas' continued abuses.

FURTHER AFFIANT SAYETH NOT.

Spiros S. Ferderigos

SWORN to before me this 9 day of March, 2017

(SEAL)

Notary Public for State of South Carolina

My Commission Expires: 2/6/2018

DHG
DIXON HUGHES GOODMAN LLP

525 East Bay Street, Suite 100
Charleston, SC 29403
P 843.722.6443
F 843.723.2647
www.dhgllp.com

March 7, 2017

Spiros Ferderigos
Via email: spirosferderigos@gmail.com

Mr. Ferderigos:

At your request I have analyzed the Form 1065 K-1 for the year ended 2015 issued to Spiro Fokas by Old Towne Suites, LLC. According to the K-1 Mr. Fokas is a new member of Old Towne Suites, LLC. The filing of the Form 1065 K-1 with the U. S. Partnership Return of Income for the year ended December 31, 2015 states Mr. Fokas owns a 25% profits interest and is a member/manager. The 25% profits interest is found in Section J of the K-I and the classification as a member/manager is in Section G. The K-1 reports to Mr. Fokas in Part III Line 2 $37,537 of Net Rental Income and on Line 19 it states he received a distribution of $31,782.

I noted in the letter to the members by Athan Fokas, he states his father Spiro was given the 25% profits interest with "no voting rights or membership in Old Towne Suites, LLC". It is possible the wrong box is checked in Section G of the K-1 and he is not a member/manager. The alternative block is simply "LLC Member". He must be one of the two. If he is not a "member" he should not be treated as one for tax purposes. The K-1 he received states he is a member. Furthermore, he has an ending capital account of $5,755 at December 31, 2015 and the K-1 is not marked "Final". So his beginning capital account in 2016 will be $5,755.

Mr. Spiro Fokas may be a non-voting member. I cannot answer that as it would require a lawyer to interpret the operating agreement. However, according to the 2015 U. S. Partnership Return of Income filed by Old Towne Suites, LLC, he is a member for tax purposes.

If you should have further questions, please contact me.

Very truly yours,

Barry D. Gumb / BCG

Barry D. Gumb, CPA

EXHIBIT
A

Praxity MEMBER GLOBAL ALLIANCE OF INDEPENDENT FIRMS

Friday, June 03, 2016

Spiros Ferderigos

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.

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.

2:37 PM

Athan Fokas

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

Phillip Ferderigos

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.

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.

2:54 PM

Spiros Ferderigos

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

EXHIBIT

tabbies

B

On Mar 15, 2016, at 9:32 AM, Richard Homes <rhomes@rhomescpa.com> wrote:

Jacob, I did not get a response from you, but anyway, I wanted to remind you that Athan said that he was going to get the Old Town Restaurant taxes filed and that my firm is NOT handling any extensions or tax filings for the restaurant currently. Form 7004 extensions are due today. Please coordinate with Athan to make sure this has been done since we are not handling it per Athan's instructions.

Thanks,

Richard.

--

Richard B. Homes, CPA, LLC

102 Wappoo Creek Dr., Ste. 11

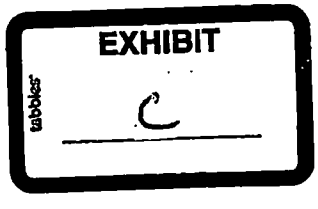
Charleston, SC 29412

(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

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

Spiros Ferderigos

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

Athan Fokas

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

Spiros Ferderigos

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

Athan Fokas

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

Spiros Ferderigos

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

Athan Fokas

Great! Did you get a chance to see the broken tyle in the restroom? There is also a towel holder that keeps falling off. 8:25 PM

EXHIBIT

tabbies

D

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

FILED
2017 APR 14 P 2:52
JULIE J. ARMSTRONG
CLERK OF COURT
BY

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

EXHIBIT
tabbies
#4

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

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.

DEFENDANT SPIROS FERDERIGOS' MEMORANDUM IN OPPOSITION TO PLAINTIFF'S MOTION TO ALTER OR AMEND ORDER OF APRIL 11, 2017

FILED
2017 MAY -1 PM 4:04
JEAN H. TOAL ARMSTRONG
CLERK OF COURT

TO: STAN BARNETT, ATTORNEY FOR THE PLAINTIFF

Defendant Spiros Ferderigos (hereinafter Defendant) hereby respectfully submits his Memorandum in Opposition to Plaintiff's Motion to Alter or Amend Order of April 11, 2017.

As an initial matter, Plaintiff has still not complied with the Court's Order that was filed on April 11, 2017, and Plaintiff is currently in violation of that Order. In lieu of complying with the Court's Order, Plaintiff has instead filed a Motion to Alter or Amend pursuant to Rule 59(e), SCRCP, which presents no new evidence or issues to be considered by the Court. Rather, Plaintiff is merely rehashing the same arguments previously raised in his initial memorandum and at the hearing, which are the same arguments that the Court has already rejected. For the same reasons the Court granted Defendant's Amended Motion to Amend Tax Returns and Change Checking Account and for Restraining Order, Defendant respectfully requests the Court deny the Plaintiff's Motion for Reconsideration.

The Court's Order correctly unwinds the unauthorized actions of the Plaintiff and further restrains the Plaintiff so he can no longer take unauthorized actions. Despite Plaintiff's arguments, the record is clear: Plaintiff took unauthorized actions (1) in regard to opening an

unauthorized LLC checking account and keeping the Defendant and other members from having access to the account, all the while ignoring Defendant's repeated requests for over nine (9) months for access; (2) by unilaterally filing unauthorized and objected-to LLC tax returns that Defendant and the other members had objected to; and (3) by continuing to take actions and make unilateral decisions on behalf of the LLC based on his belief that he can do whatever he wants as long as he deems it "business as usual" or "necessary" or an "emergency." In taking such unilateral actions, Plaintiff violated his statutory duties to the Defendant and the other LLC members. As to each unilateral action that Plaintiff took without the consent of the other members, the Court's Order correctly unwinds the Plaintiff's unauthorized and unilateral actions and further restrains the Plaintiff from taking any unilateral actions in the future.

We respectfully address the specific grounds of Plaintiff's motion as follows:

1. Contrary to Plaintiff's assertions, the record is replete with evidence that Plaintiff improperly opened an unauthorized checking account with full access solely to himself and he ignored the Defendants' repeated requests over a period of several months that they be provided access to the LLC account. It is unfathomable that Defendant needed to seek intervention by the Court in order for the other members and him to obtain access to the LLC's account. There is no question that the Defendant and the other members have a right to full access of the LLC account and there is no question that Plaintiff refused to provide such access to them, which is reflected in counsel's letters dated June 15, 2016, July 1, 2016, and November 30, 2016, the Affidavit of Spiro Ferderigos, and the texts between the Plaintiff and the Defendant and other members. Plaintiff's own texts reflect that he initially asserted that Defendants had full access to the LLC account, but once that was proven incorrect, he refused to comply with Defendants' repeated requests to open an account that had full access by all members. Instead, Plaintiff repeatedly

ignored multiple requests by the Defendant and demanded Defendant and other members execute bank documents (from his bank) which required Defendant and the other members to waive any claims that they might have against him. In so doing, Plaintiff asserted the Defendant and the other members could not change anything concerning the LLC account he had opened, even after they discovered Plaintiff had restricted full access for the LLC account to himself. All such details are set forth in the letters of counsel dated June 15, 2016, July 1, 2016, and November 30, 2016, and the texts of the parties. In contrast to Plaintiff's assertions, the record is clear that Plaintiff improperly opened an unauthorized LLC account without the full access of all members and then Plaintiff simply ignored Defendants' requests requesting they have access to their LLC bank account. Accordingly, the Court's ruling allowing Defendants to have full access to the LLC account and requiring Plaintiff to close his unauthorized LLC account is the correct ruling, and Defendant respectfully requests that the Court deny Plaintiff's Motion to Alter or Amend.

2. As for the improper tax returns, the record is clear that Plaintiff unilaterally had the accountant prepare and then file unauthorized tax returns on behalf of the LLC where the Defendant and other members had objected to the improper LLC filings.[1] Also, as Barry Gumb's letter attests, the unauthorized tax returns were also erroneous.[2] Accordingly, the Court's ruling allowing Defendant and the majority of the members to correct the tax returns was the correct ruling and Defendant respectfully requests that the Court deny Plaintiff's Motion to Alter or Amend.

[1] Plaintiff's behavior is even more egregious because, after the objections of Defendant and other members, he took the unauthorized and incorrect tax returns away from the LLC's accountant, took those returns to another tax service, Pinnacle 1 Downtown Tax Services, and had those objected to returns filed with the IRS. However, Plaintiff cannot take such unauthorized actions.

[2] The Defendant has not asked this Court to interpret the tax laws, and the Court did not do so in its Order. Rather, the Court determined that the members did not authorize the filing of the tax returns.

3. In his Motion, Plaintiff wrongly asserts that "Plaintiff has done nothing to harm the interests of the other LLC members." In fact, the continued and repeated violations of the statutory rights of the Defendant and the other members are unquestionably a harm suffered by the Defendant and the other members. For months, Plaintiff took unauthorized actions on behalf of the LLC and trampled on the rights of the Defendant and the other members. For Plaintiff to argue that his fellow members suffered no harm when he repeatedly violated their rights and ignored their requests (and then taunted them that he could do whatever he wanted) reflects Plaintiff's egocentric view of the world and his lack of regard for his fellow members. Plaintiff's argument that "resolving a dispute as to management of the LLC should be sufficient to resolve the issues about which Defendant complains" asks the Court simply to sweep his months of abusive conduct under the rug. The Court's Order correctly protects the rights of the Defendant and other members from the past and any continued abuses by Plaintiff.

4. Plaintiff asserts that it is simply unnecessary for Plaintiff to be forced to close his unauthorized LLC account, or for the Defendant to amend the incorrect tax returns that the Plaintiff filed over the objections of the Defendants[3] and, moreover, that Plaintiff should be able to have an equal say in choosing any receiver that may be necessary. However, all of Plaintiff's current demands are premised on his false argument that he did not take any improper, unilateral actions (which is clearly refuted by the evidence in the record), or that he did not cause any real "harm" to the Defendant or other members, despite the fact that he opened an unauthorized

[3] Similarly, Plaintiff's request that Defendant not be allowed to amend the unauthorized and incorrect LLC tax returns because Defendant is "locked in bitter legal disputes with Plaintiff" or to allow Defendant to amend the tax returns "is fraught with risk that Defendant will make a choice in the amended return designed to harm either Plaintiff or his father or both" is an equally ironic argument. It was Plaintiff who harmed the Defendant and the other members by unilaterally filing incorrect tax returns over the Defendant's express objections. It was Plaintiff who made an intentional choice to file unauthorized and incorrect tax returns that harmed the Defendants, not the other way around. Just because Plaintiff abused the Defendant and the other members repeatedly does not prohibit the Defendant's current right to file correct tax returns on behalf of the LLC.

account with access only to himself (and delayed and obstructed Defendant's rights to the LLC account for over nine months) and filed unauthorized and incorrect tax returns without the consent of and over the objections of the Defendant and other members. Again, Plaintiff's arguments lack any merit and are contrary to the clear evidence in the record.

As for the appointment of a receiver, Plaintiff demands that his consent be required for the choice of the receiver, while he ignores that it is his unilateral and unauthorized actions that have necessitated the possibility of having a receiver appointed.[4] Indeed, Plaintiff's Motion to Alter or Amend reflects Plaintiff's attempt to get away with his improper actions without consequences. Plaintiff seeks for his unauthorized and improper conduct not to be corrected; rather, Plaintiff is now attempting to manage his losses for his prior misconduct by demanding that the Court undo the Order and then simply allow Plaintiff a choice in selecting a receiver, when it was Plaintiff's own improper actions that necessitated the possibility of an appointment of a receiver.

In essence, Plaintiff is asking the Court to undo its prior Order and find Plaintiff is entitled to his request to have a receiver appointed, despite the fact that it was Plaintiff's actions that have caused the need for Defendant to file the motion and for the Court's Order restraining Plaintiff from harming the Defendant or other members. Negating the Court's Order, however, would be an injustice and would reward Plaintiff for his inappropriate actions and behavior.

Defendant respectfully requests the Court deny Plaintiff's Motion to Alter or Amend Order of April 11, 2017 and reaffirm its Order which protects the Defendants from the past and likely future abuses of Plaintiff.

[4] Similarly, Plaintiff states Defendant is locked in "bitter legal disputes" with the Plaintiff, but it is Plaintiff's own actions that have necessitated such legal disputes, something Plaintiff conveniently ignores.

Respectfully submitted,

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 DEFENDANT SPIROS FERDERIGOS

April 28, 2017
Charleston, South Carolina

2015-CP-10-3919

Certificate of Service

I hereby certify that on the 28th day of April, 2017 the foregoing MEMORANDUM IN OPPOSITION TO PLAINTIFF'S MOTION TO ALTER OR AMEND ORDER OF APRIL 11, 2017 was served upon the parties to this action by U.S. mail, sufficient postage attached thereto, to the following counsel of record:

Leslie S. Lenhardt, Esquire
Lenhardt Law Firm, LLC
1876 Wallenberg Blvd.
Charleston, SC 29407

Jennifer H. Thiem, Esquire
K&L Gates LLP
134 Meeting Street, Suite #200
Charleston, SC 29401

Stanley E. Barnett, Esquire
Smith Bundy Bybee & Barnett, P.C.
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Mt. Pleasant, SC 29464

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

FILED
2017 MAY -1 PM 4:04
JULIE J. ARMSTRONG
CLERK OF COURT
BY

Cheryl D. Russell
Legal Assistant

BARNWELL WHALEY
PATTERSON & HELMS LLC
75 YEARS 1938-2013
Attorneys for businesses & professionals since 1938

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

April 28, 2017
VIA U.S. MAIL

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 Memorandum in Opposition to Plaintiff's Motion to Alter or Amend Order of April 11, 2017, filed on behalf of the Defendant, Spiros Ferderigos, in the above-referenced matter. Please file the original Motion and return the filed stamped copy to me via the enclosed self-addressed stamped envelope.

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 Memorandum. 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,

Jeremy E. Bowers

Encl.
cc w/encl.: Stanley E. Barnett, Esquire (via U.S. Mail)
Leslie S. Lenhardt, Esquire (via U.S. Mail)
Jennifer H. Thiem, Esquire (via U.S. Mail)
John A. Massalon, Esquire (via U.S. Mail)

STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON PLEAS
)	NINTH JUDICIAL CIRCUIT
COUNTY OF CHARLESTON)	2015-CP-10-3919
)	
Athan Fokas,)	
)	
Plaintiff,)	
)	
v.)	
)	**ORDER DENYING PLAINTIFF'S MOTION TO ALTER OR AMEND THIS COURT'S APRIL 11, 2017 ORDER**
Philip Ferderigos, Jacob Ferderigos, and Sprios Ferderigos,)	
)	
Defendants.)	

FILED
2017 MAY -4 AM 10:34
JULIE J. ARMSTRONG
CLERK OF COURT

BACKGROUND

On March 1, 2017, this Court heard oral arguments on Defendant Spiros Ferderigos' Motion to Amend Tax Returns and Change Checking Account and for Restraining Order. This Court's Order granting plaintiff's motion was filed on April 11, 2017. On April 20, 2017, Plaintiff filed a Motion to Alter or Amend this Court's April 11, 2017 order pursuant to Rule 59, SCRCP.

DISCUSSION

"The power to open, modify or vacate a judgment is possessed solely by the court that rendered judgment." Coleman v. Dunlap, 306 S.C. 491, 494; 413 S.E.2d 15, 17 (1992). A Rule 59(e) motion is the proper "vehicle to request the trial court 'alter or amend the judgment,'" and "to seek 'reconsideration' of issues and arguments." Elam v. South Carolina Dept. of Transp., 361 S.C. 9, 21; 361 S.E.2d 772, 778 (2004). The Fourth Circuit has held "that Rule 59(e) motions can be successful in only three situations: (1) to accommodate an intervening change in controlling law; (2) to account for new evidence not available at trial; or (3) to correct a clear error of law or prevent manifest injustice." Zinkand v. Brown, 478 F.3d 634, 637 (4th Cir. 2007) (internal

EXHIBIT
tabbies

citations omitted). Plaintiff's Motion to Alter or Amend this Court's Order of April 11, 2017 has failed to satisfy the above requirements, and is therefore denied.

CONCLUSION

Having thoroughly considered the supporting and opposing arguments of counsel, Plaintiff's Motion to Alter or Amend this Court's Order of April 11, 2017 is DENIED.

IT IS SO ORDERED!

May 3, 2017
Charleston, South Carolina

Roger M. Young Sr.
Presiding Judge

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.

MEMORANDUM IN OPPOSITION TO PLAINTIFF'S PETITION FOR SUPERSEDEAS STAYING ORDER

FILED
2017 MAY 2 AM 11:02
JULIE J. ARM
CLERK OF COURT
CHARLESTON
BY

TO: STAN BARNETT, ESQUIRE, and LESLIE LENHARDT, ESQUIRE, ATTORNEYS FOR THE PLAINTIFF

Defendant SPIROS FERDERIGOS (hereinafter referred to as "Spiros"), by and through his undersigned counsel, hereby submits this memorandum opposing Plaintiff's Petition for Supersedeas Staying Order.

INTRODUCTION

Because the LLC statute is clear regarding the responsibilities and rights of all LLC members[1], this matter should not have had to come before the Court in the first place. Once it did, it should have been resolved by this Court's Order that required Plaintiff to do no more than the law already requires him to do anyway. Plaintiff has now appealed, and continues to defy, that most innocuous and uncontroversial Order. Plaintiff's defiant actions are simply

[1] S.C. Code Ann. Section 33-44-04: "(a) In a member-managed company: (1) each member has equal rights in the management and conduct of the company's business ... (c) any matter relating to the business of the company may be decided by a majority of the members."

S.C. Code Ann. Section 33-44-04 Comment: "In a member-managed company, each member has equal rights in the management and conduct of the company's business unless otherwise provided in an operating agreement"... Also, member disputes as to any matter relating to the company's business may be resolved by a majority of the members unless the matter relates to a matter specified either in subsection (c) (unanimous consent required) or in Section 33-44-801(b)(3)(i) (special consent required)."

EXHIBIT
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7

inexcusable. Not only does the unauthorized bank account the Court ordered to be closed a month ago remain open, but Plaintiff has further defied the Court's Order by unilaterally depositing LLC funds into the account.[2]

PROCEDURAL HISTORY

Spiros filed an Amended Motion To Amend Tax Returns And Change Checking Account And For Restraining Order on February 16, 2017. In that Amended Motion, Spiros prayed that the Court issue an Order (1) allowing and authorizing Spiros 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, (2) 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 Citizen Bank account to the LLC's new checking account with United Community Bank in which all members have equal access, and (3) prohibiting Plaintiff from taking any further unilateral actions without the consent of the majority of members of the LLC.

On April 11, 2017, the Court granted Spiros' Amended Motion. The Court's Order included provisions (1) restraining Plaintiff from taking any unilateral actions and/or making unilateral decisions without the consent of the majority of members of the LLC, (2) ordering Plaintiff to immediately close his unauthorized First Citizens LLC bank account (to which only he has legal access to the exclusion of the other members), withdraw all funds from said account, and deposit them into the United Community Bank account for the LLC in which all members

[2] In his May 22, 2017, letter to the Court, attorney Barnett nobly attempts to deflect attention from his client's conduct by indignantly objecting to undersigned counsel's May 18 letter to the Court. Lest there be any misunderstanding, the May 18 letter was directed to the Plaintiff's conduct, not Mr. Barnett's. The substance of these letters is addressed in detail later in this Memorandum.

have equal access, and (3) ordering the property manager for the LLC to deposit all LLC funds into the United Community Bank account to which all members have equal access.

On April 20, 2017, Plaintiff filed a Motion to Alter and Amend. On May 4, 2017, the Court issued an Order Denying Plaintiff's Motion to Alter or Amend, finding that the Court thoroughly considered the supporting and opposing arguments of counsel and the relevant case law in denying Plaintiff's Motion. Plaintiff filed a Notice of Appeal on May 8, 2017. On May 15, 2017, he filed a Petition for Supersedeas Staying Order, requesting that the Court stay its Order pending Plaintiff's appeal.

STANDARD OF REVIEW

South Carolina Appellate Court Rules 241(a) & (b) set forth the general rule and exceptions that a service of notice of appeal acts to automatically stay matters decided in an order unless the matter involves "(2) [j]udgments directing the assignment or delivery of documents or personal property [including money][3] ... or (8) [a]n appeal from an order granting an injunction or temporary restraining order." Rule 241, SCACR. After service of a notice of appeal, any party may move for an order lifting the automatic stay in cases which involve the general rule. In a case subject to an exception, any party may move for an order imposing a supersedeas of matters decided in the order, judgment, decree or decision on appeal after service of the notice of appeal. See Rule 241(c)(1), SCACR. In determining whether an order should issue pursuant to this rule, the lower court should consider whether such an order staying the appeal is necessary to preserve jurisdiction of the appeal or to prevent a contested issue from becoming moot. See Rule 241(c)(2), SCACR. A party seeking a stay pending appeal must also demonstrate "irreparable injury in the absence of a stay." See Mary L. Dinkins Higher Learning

[3] S.C. Code Ann. § 18-1-20 defines personal property to "include money, goods, chattels things in action and evidences of debt."

Academy vs. South Carolina Public Charter School District, 2013 WL 18004101 (S.C.Admin.Law.Judge.Div); 4 C.J.S. Appeal and Error § 528.

The grant or denial of a stay pending resolution of an appeal is within the discretion of the Court. See 5 Am.Jur.2d § 405. The Court may generally consider a wide variety of circumstances in determining whether to grant a stay, including the following: (1) whether the movant has made a showing of likelihood of success on the merits and therefore whether appellant is likely to prevail on the merits on the appeal; (2) whether the movant has made a showing of irreparable injury if a stay is not granted; (3) whether respondent will suffer irreparable injury or serious injury if the stay is granted. See generally, Id. at § 405. A stay should be granted only when a balancing of the equities are in the applicant's favor and the equities are balanced depending on which side a risk of an irreparable injury weighs more heavily. See generally, Id. at § 415. Accordingly, here, South Carolina places a very high burden on Plaintiff to prevail in his supersedeas request.

ARGUMENT

A. The Court's Order is not automatically stayed by Plaintiff's appeal.

Initially, in his letter to the Court dated May 15, 2017, Plaintiff concedes that at least two of the mandates in the Court's Order are not automatically stayed by Plaintiff's filing Notice of Appeal of this Court's Order filed April 11, 2017. It is undisputable that Plaintiff's Notice of Appeal does not automatically stay the Court's Order to the extent it: (1) restrains Plaintiff from taking any unilateral actions and/or making unilateral decisions without the consent of the majority of members of the LLC, (2) orders Plaintiff immediately to close his unauthorized First Citizens LLC bank account (to which only he has legal access to the exclusion of the other members) and to withdraw all funds from said account and deposit them into the United

Community Bank account for the LLC (in which all members have equal access), and (3) orders the property manager for the LLC to deposit all LLC funds into the United Community Bank account, to which all members have equal access.

These provisions of the Court's Order are clearly not automatically stayed pursuant to Rule 241, SCACR.[4] The Court's Order restraining Plaintiff from taking unilateral actions is not stayed pursuant to Rule 241(b)(8), SCACR, because it is an order granting injunctive relief and restraining Plaintiff from certain actions. The remaining provisions of the Order set forth above are also clearly not automatically stayed pursuant to Rule 241(b)(2), SCACR, because those provisions direct the Plaintiff and property manager to deliver personal property (i.e. money) to the United Community Bank account and further direct Plaintiff to deliver the necessary documents to close his unauthorized and non-consented-to First Citizens Account that contains personal property (i.e. money). As these provisions are not automatically stayed, Plaintiff has requested that the Court issue a Supersedeas staying its Order "to preserve the status quo so as to allow Plaintiff's appeal of the Orders to not be rendered moot." See Plaintiff's Petition for Supersedeas Staying Order, pg. 2.

B. Plaintiff fails to meet his burden to impose a Stay of the Court's Order - A supersedeas is not warranted and would cause irreparable injury to Defendants.

First, Plaintiff asks the Court to stay its Order pending appeal to preserve what Plaintiff calls the "status quo." The problem is the status quo, as perceived by the Plaintiff, is apparently to do unilaterally whatever he wants over the objections of all other LLC members, to act only in his own best interest, to ignore the Court's Order to close the unauthorized account, to ignore the Court's Order by continuing to deposit new funds into the unauthorized account (which should not exist), to make disbursements unilaterally from the unauthorized account, and to hold the

[4] Likewise, the Court's Order was not stayed during the pendency of Plaintiff's Motion to Reconsider.

other members' LLC profits in an unauthorized account that only he has full legal access to.[5] The series of texts cited within and attached to Defendant's Amended Motion proves Plaintiff has repeatedly ignored the other members' rights over their objections and Plaintiff will do whatever he pleases regardless of those rights. Unfortunately, Plaintiff's improper behavior has not been deterred by the Court's Order. It is within such context that Plaintiff asks the Court to stay the Order. There is no "status quo" for a supersedeas to preserve here. Without a stay of the Court's Order, the business will continue to operate as it always has, with the sole exceptions being that the Plaintiff will follow the law by using a bank account that his fellow members also have access to and by not taking actions without the consent of a majority of the members.

Here, the balance of equities clearly favors a denial of Plaintiff's Petition for Supersedeas. Based on the LLC statute itself, Plaintiff's prior illegal behavior preceding the Court's Order (as well as Plaintiff's subsequent egregious behavior after the Court's Order) makes it unlikely he will succeed on the merits of his appeal. This is especially true given the clear and unambiguous LLC statute. Further, Plaintiff has set forth no harm, much less irreparable harm, to him by the LLC funds being deposited into an LLC account that all members of the LLC have equal access to. In contrast, given Plaintiff's actions both before and after the Court's Order, it is Defendants who would be irreparably harmed by Plaintiff's ongoing actions, namely continuing to deposit LLC funds into an account only he has full access to and taking unilateral actions on behalf of the LLC which harm Defendants. Accordingly, it is beyond question that a supersedeas would cause irreparable harm to Defendants, whereas enforcing the Court's Order, which merely requires Plaintiff to comply with the LLC statute, would cause no

[5] In essence, Plaintiff seeks to have the Court acquiesce in Plaintiff's prior and current violations of Defendants' rights as the "status quo" during the pendency of the meritless appeal. Also, Plaintiff's argument that preserving his version of the status quo would not create "any hardship on any party" is meritless. As more fully set forth in prior briefs, that status quo would prohibit Defendants from having access to the LLC's checking account and would enable Plaintiff to take actions for the LLC without obtaining consent from other LLC members.

harm to Plaintiff.[6] Indeed, one must wonder why Plaintiff ever forced Spiros to seek judicial intervention to obtain this modest relief, let alone appealed and flouted the Court's order and now moves to stay it.

Second, Plaintiff cannot satisfy the high burden required by Rule 241(c)(2), SCACR, because staying the Court's Order is not necessary to preserve jurisdiction of the appeal or to prevent a contested issue from becoming moot. It does not render a contested matter moot nor divest the appellate court of jurisdiction pending appeal, but instead simply upholds the unambiguous statute that governs the LLC. Old Towne Suites LLC can continue its business unabated, with or without a stay. Should Plaintiff prevail on appeal, he can resume his unilateral actions and resume banking at his favored bank if he wishes.[7]

C. Plaintiff's contemptuous behavior since the issuance of this Court's Order further illustrates the necessity that the Court's Order remain in effect pending appeal.

It would be the height of irony for this Court to reward Plaintiff's contemptuous behavior by staying its order while he pursues a frivolous appeal. There was no reason for Plaintiff to disobey the Court's Order, which clearly was not stayed. Had Plaintiff followed the Court's Order, the LLC funds would have been direct-deposited into the United Community Bank

[6] Indeed, Plaintiff concedes in his petition that "decisions for management of the LLC do not allow Plaintiff to make 'unilateral decisions' as he only holds a 50% interest of the LLC." His concession rings hollow, though, as he has continually acted unilaterally and justified his conduct by falsely claiming that the Defendants ceded their management authority to him: "Moreover, the Defendants all consented to let Plaintiff manage the LLC as if he were designated its manager" (See Plaintiff's Response in Opposition to Motion for Restraining Order By Defendant Spiros Ferderigos, p.2.) or where Plaintiff misrepresented, "Defendants allowed, indeed wanted, Plaintiff to manage the LLC's business" (Id. at 5), or where Plaintiff submitted an affidavit asserting "it is true that Spiros and his brothers unofficially designated me the manager of the LLC" (See Supplemental Affidavit of Athan Fokas in Opposition to Motion by Spiros Ferderigos, ¶ 2).

[7] See Mary L. Dinkins Higher Learning Academy vs. South Carolina Public Charter School District, supra, stating "In this case, Appellant argues that if the Court does not stay the enforcement of this Order, it would be forced to close thereby rendering its appeal moot. However, from all indications, the Appellant continues to operate the charter school ... the Appellant has options available to it that allow Appellant to continue operating while their appeal is pending. Even if Appellant finds itself in the position where it must cease operating, if the appeal is successful, there is nothing that would prevent Appellant from reopening the school."

account (to which all members have equal access), and all the members would have received their respective distributions with no issues whatsoever. Plaintiff, however, had different plans, as will be shown below. On August 15, 2016, Spiros was unanimously voted by all members of the LLC as the single "Point of Contact" between the LLC and the property management group for the LLC. See Exhibit A. On February 24, 2017, Spiros notified the property manager that the unauthorized First Citizens account was no longer to be used and the United Community Bank account is the sole account to be used for the LLC and where funds should be direct deposited. See Exhibit B. The property manager responded to Spiros that he would not stop using the First Citizens account, nor would he deposit LLC funds into the United Community Bank account as directed, unless (1) all the members agree, or (2) a Court Order directs him to make such deposit. See Exhibit C. On April 11, 2017, the same day the Court issued its Order, Spiros notified and provided a copy of the Court's Order to the LLC's property manager directing the property manager to make such deposit. See Exhibit D. The Order directed the property manager "to deposit all rental proceeds/profits and/or other funds for the LLC directly into the aforementioned United Community Bank account" to which all members have equal access. Despite being provided with a copy of the Court's Order by Spiros and Spiros requesting that the property manager respond to his email confirming that he would abide by the Court's Order, the property manager did not respond to him. Importantly, the property manager uses *direct deposit* to transfer LLC funds to the LLC. See Exhibit E. After failing to receive a response from the property manager that he would comply with the Court's Order, counsel for Spiros sent a letter (via email) to Plaintiff's counsel on May 11, 2017, reminding Plaintiff of his obligations to cooperate with the Court's Order, which Plaintiff had still failed to do, and his obligation to direct the property manager to cooperate with the Court's Order to deposit the LLC

funds into the United Community Bank account (as the property manager previously confirmed he would deposit funds into the United Community Bank account if all members agreed). See Exhibit F.

Plaintiff, instead, and in violation of the Court's Order, made the unilateral decision (over the objection of all other members and in violation of the Court's Order) to obtain a *handwritten* check from the property management group in the amount of $14,046.88 in LLC funds and, *the very next day* after receiving Defendant's letter demanding Plaintiff cooperate with the Court's Order, again violated the Court's Order by depositing the LLC funds into his unauthorized First Citizens Bank account (which he was specifically ordered not to do and which account the Court specifically ordered that he immediately close over a month prior). Plaintiff then made the unilateral decision to make a profit distribution from his unauthorized First Citizens account in the amount of $7,023.44 to himself.[8] Plaintiff took these contemptuous actions and then attempted to conceal them by providing no prior notice to the other LLC members. Plaintiff took the following actions, which violate the Order: (1) obtaining the *handwritten* LLC check from the property management group (which should have been direct-deposited into the United Community Bank account per the Court's Order), (2) depositing the check into his unauthorized First Citizens account (which account Plaintiff was ordered to close immediately a month prior and he was ordered to deposit all funds into the United Community Bank account), and (3) making a profit distribution to himself from that account (instead of transferring the funds to the United Community Bank account prior to making distributions as required by the Court's Order), all on the same day (May 12, 2017). See Exhibit G.

[8] Indeed, Plaintiff also made a unilateral decision as to the amount of the distribution, with no input from the other members.

Plaintiff then made a distribution of the $7,023.44 in LLC profits only to himself and not the rest of the members (with the remaining members' $7,023.44 share of LLC profits being inappropriately held by Plaintiff in Plaintiff's unauthorized First Citizens bank account to which only he has full legal access). The other members could not access their funds because they do not have legal access to the account, and Plaintiff retained possession of his unauthorized First Citizens account checkbook. See Exhibit K, Affidavit of Iakovos ("Jacob") Ferderigos. It was not until the very next day after counsel for Spiros sent a letter to the Court on May 18, 2017, informing the Court of Plaintiff's contemptuous behaviors, that Defendants' distribution check and the Old Towne Suites, LLC checkbook appeared at 229 King Street. See Exhibit H, letter to the Honorable Roger M. Young, Sr. and Exhibit K, Affidavit of Iakovos Ferderigos. After the distribution check from the unauthorized account appeared, the other members deposited it on May 22, 2017[9].

D. Letter of Stan Barnett to the Honorable Roger M. Young, Sr. dated May 22, 2017

On May 22, 2017, in response to the undersigned counsel's letter to the Court of May 18, Plaintiff's counsel, Mr. Barnett, sent a letter to the Court making numerous allegations accusing Spiros of deceit via the May 18 letter. Aside from being wrong, as will be shown, Plaintiff's accusations do not address, let alone justify, Plaintiff's defiance of this Court's Order. Plaintiff's abject refusal to follow the law point up the importance of this Court enforcing the Order.

However, Plaintiff's accusations against Defendants are serious, and Defendants believe they must be addressed in this Memorandum, as Plaintiff seeks to shift focus of the issues before the Court away from Plaintiff's clear, willful, and undisputable violations of the Court's Order that have harmed Defendant and the other members.

[9] As Mr. Barnett correctly asserted in his most recent letter of May 26, 2017.

1. **Plaintiff's accusations regarding member Iakovos ("Jacob") Ferderigos' access to Plaintiff's unauthorized First Citizens Bank Account.**

First, Plaintiff accuses Spiros of untruthfulness when Spiros asserted in the May 18, 2017, letter that "Plaintiff has repeatedly misinformed the Court in his written submissions and in oral argument that Defendant Iakovos ("Jacob") Ferderigos has the same equal access to Plaintiff's unauthorized First Citizen's account as Plaintiff." The written documentation proves that the May 18 letter was entirely correct in this regard. Plaintiff minces words with his insistence that Iakovos (and thus, evidently by familial association, Spiros) has access to the bank account because he periodically had physical possession of the checkbook and wrote checks from it. It is now undeniable that Iakovos does not have the same access (or even authority to access) to the First Citizens account as Plaintiff. See Exhibit I, Letter from First Citizens Bank that Iakovos obtained in response to Plaintiff's representations at the hearing ("Iakovos Ferderigos is not listed as an owner or signer on the account ... He is not authorized to obtain information on the above account."). Plaintiff has indeed incorrectly represented that Iakovos has full access to the unauthorized First Citizens Bank account as Plaintiff. Plaintiff has made these misrepresentations in text communications. See Exhibit J, texts from Plaintiff November 2016 (Plaintiff: "Jacob, the account was opened with you on it;" Plaintiff: "And Jacob and I opened that account with your consent when we first started the suites ..." Jacob: "I do not agree with what Athan just said.") (Emphasis added). Plaintiff has also made these misrepresentations in his Affidavit and Supplemental Affidavit to the Court by falsely attesting, "Shortly after formation of the LLC, Jacob and I opened an LLC account at First Citizens Bank to handle the deposits and distributions from the LLC. Jacob's brothers, Phillip and Spiros, were not interested in being signatories on the account ... Jacob has had full access to the bank account at First Citizens since it was opened in 2011." (Emphasis added). The letter from First

Citizens Bank finally puts this issue to rest, confirming that Iakovos does not have full access to the account. Of course, Plaintiff does not even claim that Spiros and Phillip have access to the First Citizens Bank account. It is for this reason that the LLC should be required to open a new bank account now.

Plaintiff now says he never claimed Iakovos had full access to the account, but he did. Plaintiff's own written statements quoted above and attached as exhibits prove that Spiros' statements in the May 18 letter to the Court are accurate and that Plaintiff misinformed the Court. In any event, it is unarguable that Spiros does not have full access to the account, and nor do the members other than the Plaintiff. All members are equally entitled to access to the LLC's bank account. No reason exists to stay this Court's order effectuating that right.

2. Plaintiff's accusations regarding Plaintiff issuing an LLC distribution only to himself on May 12, 2017.

Plaintiff further accuses Spiros of deceiving the Court concerning Plaintiff's numerous violations of the Court's Order. Plaintiff focuses on one specific allegation by Spiros, that Plaintiff made a distribution of LLC profits on May 12, 2017 only to himself and not the other members. It is important to note that Plaintiff fails to acknowledge that, if he had simply followed the clear Order of the Court instead of flouting the Order, the possibility of Plaintiff making a distribution only to himself would not even be an issue, as the LLC funds would have been directly deposited into the United Community Bank Account to which all members have equal access. The story of the distribution is nevertheless important because the preponderance of the evidence provides a window into the magnitude and the deliberateness of Plaintiff's defiance of the law and of this Court's Order.

Importantly, in his letter to the Court, Plaintiff does not contest the fact that Plaintiff violated the Court's Order by (1) obtaining a *handwritten* LLC check in the amount of

$14,046.88 from the LLC property management company (which should have been direct deposited into the United Community Bank account); (2) depositing the *handwritten* check in the First Citizens account; (3) making a distribution to himself in the amount of $7,023.44 directly from the account that should not have even existed per the Court's Order. These are clear violations, which are inexcusable. Plaintiff tries to mitigate the willfulness of his violations of the Order by claiming that he also issued the Defendants their distribution. He did disburse their distribution but not until after the May 18 letter asserting his failure to do so.

Despite Plaintiff submitting an Affidavit denying that he made a distribution only to himself and accusing Defendants of a "scheme" to "misrepresent" to the Court an "untruth", the written evidence once again confirms Plaintiff's misinformation and continued inappropriate and contemptuous behavior. As set forth in Exhibit K, the Affidavit of Iakovos Ferderigos, which includes written correspondence from Plaintiff and managers at Old Towne Restaurant, Plaintiff did not deliver the LLC distribution check to Iakovos until after the May 18, 2017 letter. Iakovos' Affidavit further details how Plaintiff attempted to conceal his contemptuous behavior. This includes Plaintiff submitting an Affidavit to the Court attesting that he left the unauthorized LLC checkbook at Old Towne Restaurant for Iakovos with the check still inside the checkbook. As set forth in detail in Iakovos' Affidavit (with text correspondence from Plaintiff and managers from Old Towne Restaurant), Plaintiff directed the manager at Old Towne Restaurant to tell Iakovos that the checkbook was left for Iakovos at Old Towne Restaurant, implying that it was there all along. When Iakovos pursued the communications with the managers further, the managers confirmed that they did not have any personal knowledge of any LLC check or LLC checkbook being left at Old Towne Restaurant as implied in their initial communications with Iakovos; rather, the managers confirmed that they were only communicating to Iakovos what

Plaintiff told them. See Exhibit K, Affidavit of Iakovos Ferderigos. Iakovos' Affidavit, with the attached documents, establishes that Plaintiff did not provide the Defendants' distribution check to Iakovos until after he was called out for not doing so in the May 18 letter to the Court.

The Court need not weigh the evidence on this point in order to conclude that it should not stay its Order requiring use of a bank account to which all members have equal access and prohibiting him from acting against the will of a majority of the members. The mere fact that the Court is being required to referee this banking dispute is itself ample reason to leave its Order in place pending appeal.

CONCLUSION

Plaintiff asks this Court to stay its Order pending appeal to preserve what he calls the "status quo." The problem is the status quo, as perceived by Plaintiff, is apparently to do whatever he wants, over the objections of all other LLC members, to act in his own best interest, to ignore the Court's Order to close the unauthorized account, to ignore the Court's Order by depositing funds into the unauthorized account (which should not exist), to make disbursements unilaterally from the unauthorized account, and to hold the other members' LLC profits in an unauthorized account that only he has legal access to. The series of texts cited in and attached to Spiros' Amended Motion proves that Plaintiff has repeatedly ignored the other members' rights over their objections and that Plaintiff will do whatever he pleases regardless of those rights or even a Court Order.

Plaintiff now asks this Court to allow him to continue to violate Defendants' rights while Plaintiff seeks a meritless appeal. Plaintiff's ongoing willful violations of the Court's Order since the issuance of the Order further confirm the necessity to deny Plaintiff's request to stay the Court's Order because Plaintiff's pattern of behaviors shows that Plaintiff will continue to harm

Spiros and the other members unless their statutory rights are protected as set forth in the Court's Order. Plaintiff's ill will is further evidenced by his decision to appeal and disobey a very innocuous and hardly controversial Order requiring him to do no more than the plain law requires.

For the reasons set forth herein, Spiros respectfully prays that the Court will deny Plaintiff's Petition for Supersedeas Staying Order.

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 DEFENDANT SPIROS FERDERIGOS

May 30, 2017
Charleston, South Carolina

2015-CP-10-3919

Certificate of Service

I hereby certify that the foregoing MEMORANDUM IN OPPOSITION TO PLAINTIFF'S PETITION FOR SUPERSEDEAS STAYING ORDER was served upon the parties to this action by U.S. mail, sufficient postage attached thereto, to the following counsel of record:

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

Leslie Lenhardt, Esquire
Lenhardt Law Firm, LLC
1876 Wallenberg Blvd.
Charleston, SC 29407

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

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

FILED
2017 MAY 31 AM 11:02
JULIE J. ARMSTRONG
CLERK OF COURT
BY _____

This the 30th day of May, 2017.

Cheryl Rayford
Legal Secretary

Athan Fokas

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

Spiros Ferderigos

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

Athan Fokas

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

Spiros Ferderigos

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

Athan Fokas

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

EXHIBIT

A

Gmail spiros ferderigos <spirosferderigos@gmail.com>

Re: New Old Towne Suites, LLC Bank Account with United Community Bank

spiros ferderigos <spirosferderigos@gmail.com> Fri, Feb 24, 2017 at 11:10 AM
To: Kevin High <khigh@walkawaystays.com>, "Allie Johnson (allie@walkawaystays.com)" <allie@walkawaystays.com>

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

201702241109.pdf
40K

EXHIBIT
tabbies
B

Gmail

spiros ferderigos <spirosferderigos@gmail.com>

Re: New Old Towne Suites, LLC Bank Account with United Community Bank

Kevin J. High <khigh@walkawaystays.com> Fri, Feb 24, 2017 at 3:05 PM
Reply-To: khigh@walkawaystays.com
To: spiros ferderigos <spirosferderigos@gmail.com>, Allie Johnson <allie@walkawaystays.com>
Cc: zeusseafood@bellsouth.net, jacobspita@yahoo.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

[Quoted text hidden]

EXHIBIT
C

Gmail spiros ferderigos <spirosferderigos@gmail.com>

Re: New Old Towne Suites, LLC Bank Account with United Community Bank

spiros ferderigos <spirosferderigos@gmail.com> Tue, Apr 11, 2017 at 1:34 PM
To: Kevin High <khigh@walkawaystays.com>
Cc: Allie Johnson <allie@walkawaystays.com>

Hey Kevin,

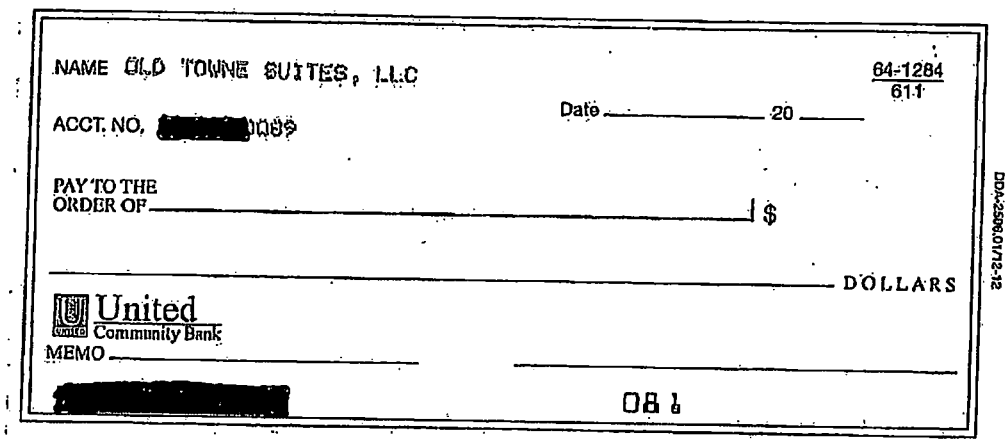
Thank you for your email. Per your request, please see attached a copy of the Court order directing you to deposit all LLC funds directly into the LLC's United Community Bank account. I highlighted the portion of the email that refers to the property manager for your convenience. I have also attached a copy of a blank United Community Bank LLC check that contains the account number and routing number for all future LLC deposits. The account number is [redacted]0089 and the routing number is [redacted]. The account name is Old Towne Suites, LLC. As an aside, please take note in the Order that this United Community account for the LLC is the sole account for the LLC and the Court ordered that the First Citizen's account will be closed immediately. Accordingly, please make sure all future LLC deposits are deposited into the United Community Bank Account as set forth herein.

Thank you and please do not hesitate to contact me if you have any questions. Please confirm with me by responding to this email that you will comply with this Court order moving forward. Thank you.

Spiros Ferderigos
[Quoted text hidden]

Blank Check and Court Order.pdf
766K

EXHIBIT
tabbies
D


NAME OLD TOWNE SUITES, LLC

64-1284
611

ACCT. NO. [redacted]0085

Date _____ 20 ____

PAY TO THE
ORDER OF _____ $

_____ DOLLARS

United
Community Bank

MEMO _____

[redacted] 081

DDA-2506.01/12-12

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

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

From: Kevin J. High [mailto:khigh@walkawaystays.com]
Sent: Monday, March 06, 2017 3:06 PM
To: zeusseafood@bellsouth.net; 'spiros ferderigos'; Phillip Ferderigos
Subject: FW: 229 Report from 2016-8-17 WAS Blank Books

Hello,

I hope you enjoyed your weekend. Can you believe it is March? As I mentioned before the industry is changing the rules daily and competition is heating up. The city has started a vacation rental task force and there are many new hotels under construction. We simultaneously had our bank change as well as many other things. Despite all of that we have been getting better and better from housekeeping, reservations and marketing. VROOMRes, our new reservation system, is well under way in beta testing. There are many features, modules, that will be turned on as the year goes on. For you one of the biggest features will be real time online access to your account. Look for this and all new reporting by the end of May. We are very excited about what this will do for you and Walk Away Stays. One thing that has already started is our 24/7 email responses. Our goal is to have every inquiry answered with in 5 minutes of receiving it. Our, First Responders, team is in training now and will start by the end of next week. This team will hopefully free up our office to focus on providing better customer service and follow-up on initial inquiries. All of this should increase booking and ratings.

Again we have solved our banking issues and are back to doing ACH deposits to you however they will now be once per month for the previous month. So on the first Mondayof each month; today as example, you will receive your report and your balance will be processed through Feb 28th.

As always feel free to call and have a great day.

Kevin

Walk Away Stays, LLC
Kevin J. High
Managing Member
227 Rutledge Avenue
Charleston, SC 29403
843-808-4444
www.walkawaystays.com

EXHIBIT
E

BARNWELL WHALEY PATTERSON & HELMS LLC
75 YEARS 1938-2013
Attorneys for businesses & professionals since 1938

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

May 11, 2017

VIA E-MAIL AND U.S. MAIL
Stanley E. Barnett, Esquire
305 North Civitas Street
Mt. Pleasant, SC 29464

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

Dear Stan:

Thanks for your call late last week.

Your client is currently in violation of Judge Young's Order, and has been since April 12, 2017. When we spoke, you suggested that the pendency of your motion to reconsider made compliance unnecessary. We did not agree with that, but the point is moot in light of Judge Young's denial of the motion.

Stan, it is clear that your client is continuing to play games, this time by violating Judge Young's Order and apparently having the property manager violate Judge Young's Order. I call your attention to the provision of Judge Young's Order that says, "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." There is no confusion or ambiguity about what your client and the property manager are instructed to do.

Your client has had several motions for restraining Orders granted against him and has already been held in contempt of court by Judge Nicholson. Mr. Fokas' dogged refusal to comply with Judge Young's Order is unnecessarily placing him and Mr. High in jeopardy.

We simply do not understand why Mr. Fokas won't simply agree to use the new account that all members have full access to. There is no reason to refuse to use the new bank account, which all members have access to. There is no reason for your client to violate the judge's Order. There is no reason for your client failing to tell the property manager to comply with the judge's Order.

Your client has been in violation of the judge's Order for several weeks now. He needs to comply now and to immediately instruct the property manager to comply.

If your client does not fully comply with Judge Young's Order (including closing the unauthorized account) by 5:00 p.m. Friday, May 12th, we will need to reluctantly file a Rule to Show Cause and ask Judge Young to award sanctions.

Sincerely,

M. Dawes Cooke, Jr.

MDCjr/bbm/klj

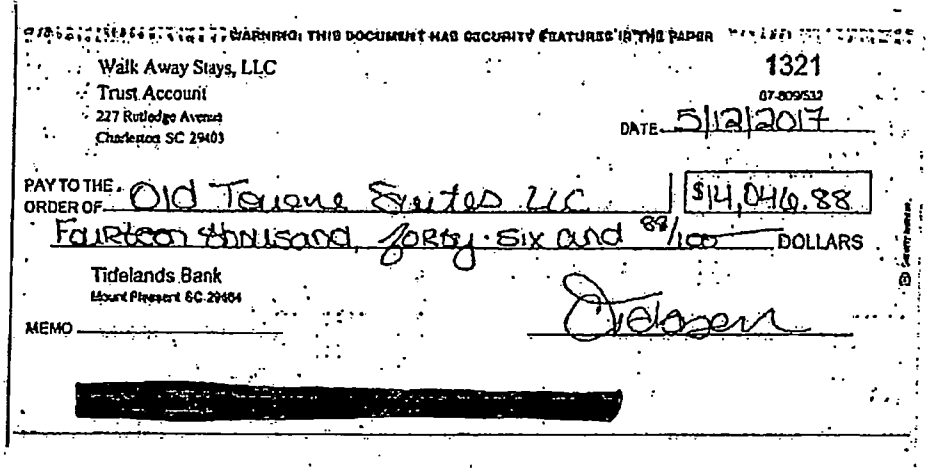
Menu

Account Details

MAY 12 2017	Check - 1407	-$7,023.44 $7,119.53
MAY 12 2017	Customer Deposit...	$14,046.88 $14,142.97

Summary Details

MAY 12 2017 Customer Deposit



WARNING: THIS DOCUMENT HAS SECURITY FEATURES IN THE PAPER

Walk Away Stays, LLC
Trust Account
227 Rutledge Avenue
Charleston SC 29403

1321
07-809/533
DATE 5/12/2017

PAY TO THE ORDER OF Old Towne Suites LLC $14,046.88

Fourteen thousand, forty-six and 88/100 DOLLARS

Tidelands Bank
Mount Pleasant SC 29464

MEMO

D Nelson

[redacted]

< 1 of 2 >

APR 11 2017	Check - 1405	-$4,400.00 $96.09
APR 7 2017	Check - 1404.	-$4,400.00 $4,496.09

EXHIBIT 6

Menu

Account Details

To expand or collapse account details, click on the i icon.

Basic Business Checking 7701

Available Balance $7,119.53

Search transactions

MAY 12 2017	Check - 1407	-$7,023.44	$7,119.53
MAY 12 2017	Customer Deposit...	$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
APR 6 2017	WALK AWAY STAYS PA...	$8,782.30	$8,896.09
MAR 23 2017	Check - 1403	-$850.00	$113.79
MAR 13 2017	Check - 1402	-$1,050.00	$963.79

Menu

Account Details

To expand or collapse account details, click on the 'i' icon.

Basic Business Checking 7701

Available Balance $7,119.53

Search transactions

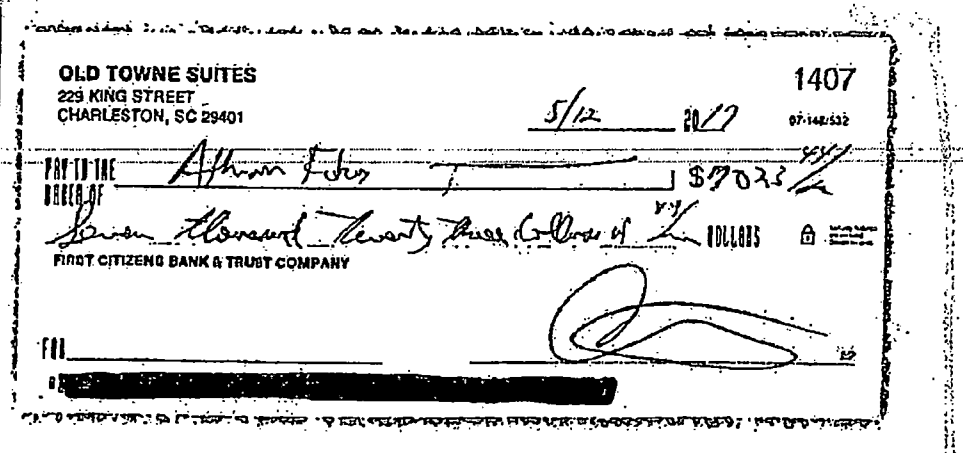
MAY 12 2017 — Check - 1407 — -$7,023.44 $7,119.53

Summary Details

Description:
Check

Date:
5/12/2017

Type:
Debit - Check 1407


OLD TOWNE SUITES
229 KING STREET
CHARLESTON, SC 29401

1407

5/12 2017

PAY TO THE ORDER OF Allison Foley $7023.44

Seven thousand twenty three Dollars

FIRST CITIZENS BANK & TRUST COMPANY

[redacted]

BARNWELL WHALEY | 75 YEARS 1938-2013
PATTERSON & HELMS LLC
Attorneys for businesses & professionals since 1938

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

May 18, 2017

Via US Mail and Email

The Honorable Roger M. Young, Sr.
Circuit Judge, Ninth Judicial Circuit
100 Broad Street, Suite 368
Charleston, SC 29401

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

Dear Judge Young:

In response to Stan Barnett's letter to Your Honor dated May 15, 2017, Defendant Spiros Ferderigos respectfully requests that you allow us until next Friday, May 26, 2017, to formally respond to Plaintiff's Petition for Supersedeas. I regret that the Court has to be further troubled as this matter should not have had to come before the Court in the first place, as the LLC statute is clear regarding the responsibilities and rights of all LLC members. Once it did, it should have been resolved by this Court's Order that required the Plaintiff to do no more than the law clearly requires him to do anyway. Plaintiff has now appealed, and continues to defy, that most innocuous and uncontroversial Order.

In his letter to Your Honor, Mr. Barnett concedes that at least two of the mandates in Your Honor's Order are not automatically stayed by Plaintiff's filing Notice of Appeal of Your Honor's Order filed April 11, 2017 (a copy of Your Honor's Order is attached as Exhibit 1 hereto for Your Honor's convenience). It is undisputable that Plaintiff's Notice of Appeal does not (1) automatically stay Your Honor's Order restraining Plaintiff from taking any unilateral actions and/or making unilateral decisions, (2) does not automatically stay Your Honor's Order that Plaintiff immediately close his unauthorized First Citizens LLC bank account (to which only he has legal access to the exclusion of the other members), to immediately withdraw all funds from said account and to deposit them into the United Community Bank account for the LLC in which all members have equal access, and (3) does not automatically stay Your Honor's Order that the property

EXHIBIT
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manager for the LLC deposit all LLC funds into the United Community Bank account to which all members have equal access.[1]

Despite the fact that Your Honor's Order remains in full force and effect and is not automatically stayed by Plaintiff's Notice of Appeal as set forth above, Plaintiff has continued to violate Your Honor's Order for over a month now. Plaintiff's behaviors after Your Honor issued the Order, in which Plaintiff actively continues to violate and undermine Your Honor's Order to the detriment of the other members, demonstrates why Your Honor's Order is necessary, and why staying Your Honor's Order pending appeal -- even with an appeal bond -- would cause irreparable harm to Defendant and the other members of the LLC.

For example, Defendant notified and provided a copy of Your Honor's Order to the LLC's property manager. The Order directs the property manager "to deposit all rental proceeds/profits and/or other funds for the LLC directly into the aforementioned United Community Bank account" to which all members have equal access. The property manager customarily uses direct deposit to transfer LLC funds to the LLC. Despite being provided with a copy of Your Honor's Order by Defendant and Defendant requesting that the property manager respond to his email confirming that he would abide by Your Honor's Order, the property manager did not respond to Defendant. After failing to receive a response from the property manager that he would comply with Your Honor's Order, Defendant's counsel sent an email to Plaintiff's counsel on May 11, 2017 reminding Plaintiff of his obligations to cooperate with the Court's Order, which he has still failed to do, and his obligation to direct the property manager to cooperate with the Court's Order to deposit the LLC funds into the United Community Bank account.

Plaintiff, instead, and in violation of Your Honor's Order, made the unilateral decision (over the objection of all other members and in violation of Your Honor's Order) to obtain a *handwritten* check from the property management group in the amount of $14,046.88 in LLC funds and, the very next day after receiving Defendant's letter demanding Plaintiff cooperate with the Court's Order, again violated Your Honor's Order by making the unilateral decision to deposit the LLC funds into his unauthorized First Citizens Bank account (which he was specifically ordered not to do and which account Your Honor specifically ordered that he immediately close over a month prior), and Plaintiff then made the unilateral decision to make a profit distribution from his unauthorized First Citizens account in the amount of $7,023.44 only to himself and not the rest of the members. Currently, the remaining members' $7,023.44 share of LLC profits are being held by Plaintiff in Plaintiff's unauthorized First Citizens bank account to which only he has legal access.[2] The other members have no way of accessing their funds because they do not have legal access to the account, and Plaintiff has retained possession of his unauthorized First Citizens account checkbook.

[1] South Carolina Rule 241(b): The exceptions to the general rule [i.e. that service of notice of appeal acts to automatically stay matters decided in an order] include "(2) Judgments directing the assignment or delivery of documents or personal property [i.e. money] ... (8) An appeal from an order granting an injunction or temporary restraining order." Section 18-1-20 defines personal property to "include money, goods, chattels things in action and evidences of debt."

[2] Plaintiff has repeatedly mis-informed the Court in his written submissions and in oral argument that Defendant Iakovos Ferderigos (a/k/a Jacob) has the same equal access to Plaintiff's unauthorized First Citizen's account as Plaintiff. Defendants have repeatedly refuted this. After Plaintiff yet again made this false statement to the Court, Defendant Iakovos Ferderigos went to First Citizen's Bank and received written confirmation directly from First Citizen's Bank that he has no access to the account. *See* attached as Exhibit 2.

Plaintiff asks Your Honor to stay your Order pending appeal to preserve what he calls the "status quo". The problem is, the status quo as perceived by the Plaintiff is apparently to do unilaterally whatever he wants over the objections of all other LLC members, to act unilaterally in his own best interest, and to hold the other members' LLC profits in an unauthorized account that only he has legal access to. The series of texts attached to Defendant's Amended Motion that was granted by Your Honor proves that Plaintiff has repeatedly ignored the other members' rights over their objections, and that Plaintiff will do whatever he pleases regardless of those rights. His ill will is further evidenced by his decision to appeal and disobey a very innocuous and hardly controversial Order requiring him to do no more than the plain law requires. Plaintiff's behaviors since the issuance of Your Honor's Order on April 11, 2017 are equally as egregious, and further prove that Plaintiff will continue to do whatever he wants unilaterally regardless of the other members' rights and regardless of whether his unilateral actions are in violation of a Court's Order.

Sincerely,

M. Dawes Cooke

M. Dawes Cooke, Jr.

MDCjr/klj
Attachments
c: Stan Barnett, Esquire (Stan.Barnett@yahoo.com)
Jennifer Thiem, Esquire (Jennifer.Thiem@klgates.com)
John A. Massalon, Esquire (JMassalon@wmalawfirm.net)

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

FILED
2017 APR 12 P 2:56
JULIE J. ARMSTRONG
CLERK OF COURT
BY

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

EXHIBIT
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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

First Citizens Bank

May 5, 2017

Iakovos Ferderigos
Old Towne Suites

To Whom it May Concern,

Iakovos Federigos is not listed as an owner or signer on the account ending in 7701. He is not authorized to obtain information on the above account. Iaskovos Federigos brought in documents stating that he is part of the entity.

If you have any questions or concerns surrounding this, please feel free to contact me at 843-763-0258.

Sincerely,

Tressa Mancini
First Citizens Bank
Financial Service Representative

First Citizens Bank

May 5, 2017

Iakovos Ferderigos
Old Towne Suites

To Whom It May Concern,

Iakovos Federigos is not listed as an owner or signer on the account ending in 7701. He is not authorized to obtain information on the above account. Iaskovos Federigos brought in documents stating that he is part of the entity.

If you have any questions or concerns surrounding this, please feel free to contact me at 843-763-0258.

Sincerely,

Tressa Mancini
First Citizens Bank
Financial Service Representative

EXHIBIT
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Athan Fokas

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

Athan Fokas

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 Ferderigos

I do not agree with what Athan just said. 2:35 PM

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.

AFFIDAVIT OF IAKOVOS (JACOB) FERDERIGOS

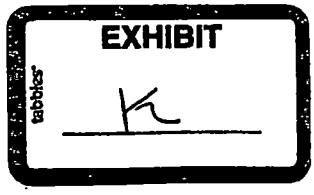
PERSONALLY, appeared before me, Iakovos Ferderigos, who first, being duly sworn, alleges as follows:

1. I am a Defendant in this matter and a member of Old Towne Suites, LLC (hereinafter LLC). I am also a fifty percent owner in S&S Old Towne, Inc. (hereinafter Old Towne Restaurant or restaurant) in which Plaintiff also has an ownership interest. Plaintiff and I have ownership interests in Old Towne Restaurant, but the other LLC members do not.

2. Shortly after forming the LLC, Plaintiff claimed he took the LLC Operating Agreement to the bank to open an account for the LLC with equal access to all members, and, therefore, the bank did not require the other members to be physically present when the account was opened. I did not accompany Plaintiff to the bank, and I trusted what he had told me.

3. For many years, Plaintiff and I took turns exchanging the physical LLC "books." Plaintiff would physically hold the LLC "books" for a four-month period, and then he would deliver the books to me so the other members (i.e. myself, Phillip, and Spiros Ferderigos) would physically hold the LLC "books" for a four-month period. Plaintiff and I also exchanged the Old Towne Restaurant "books" every four months as well for convenience.

4. Throughout this period, I signed checks on said account as I was informed by Plaintiff that all members were signatories and all members had equal rights on the account. We would make distributions to all members when profits were deposited in the account. The process was always the same. The member in physical possession of the LLC "books" would write two checks after the LLC account received funds: a fifty percent distribution to the Fokas membership and a fifty percent distribution to the Ferderigos membership. The member in physical possession of the LLC "books" would inform the other member(s) he was making a distribution, and the member in possession of the LLC



"books" would leave the other members' distribution check in a sealed envelope in the safe at Old Towne Restaurant. This was the same procedure when the LLC "books" were exchanged: the person delivering said "books" would leave them in a sealed envelope in the safe at Old Towne Restaurant for the other member(s) to retrieve. We left these items in a sealed envelope in the Old Towne safe because we did not want the Old Towne restaurant managers seeing what was going on with the LLC business.

5. It was not until approximately June 2016 that I had to go directly to the bank to receive information about the account. Plaintiff wrote a check to himself from the LLC account without the consent of the other members, and I went to the bank to receive information regarding this check. To my surprise, the bank refused to provide me any information, informing me that I was not authorized on the account and the only individual on the account authorized to have access to the account was Plaintiff. I immediately informed the other members of this development, and Defendant Spiros Ferderigos' counsel immediately sent a letter to Plaintiff's attorney detailing what had transpired and that an account to which all members have equal access must be opened immediately. See Exhibit 7 attached to Amended Notice of Motion and Motion to Amend Tax Returns and Change Checking Account and For Restraining Order, filed February 16, 2017.

6. Phillip, Spiros, and I never agreed to Plaintiff opening an account to which only he has legal access. The LLC funds belong to all the members, not just Plaintiff.

7. After the Court issued its Order on April 11, 2017, I was cautiously optimistic that Plaintiff would comply with the Court's Order. I did have reservations, however, as Plaintiff has been previously held in willful contempt of Court in the lawsuit involving Old Towne Restaurant between Plaintiff and myself. In that case (2015-CP-10-5610), Plaintiff was taking actions without my consent, namely commingling his personal side businesses with Old Towne Restaurant. Because Plaintiff refused to stop these unilateral actions, I sought, and the Court granted, an injunction against Plaintiff restraining such behaviors.

   Despite the Court's Order, however, Plaintiff continued to outright and repeatedly violate the Court's Order. I had no choice but to file a Petition for Rule to Show Cause, and the Court held Plaintiff in contempt for three willful violations of the Court's Order. Plaintiff's violations of the Order were very egregious, including Plaintiff actively trying to conceal his inappropriate behaviors. Plaintiff inappropriately took inventory from Old Towne Restaurant to use in one of his side businesses. Plaintiff further tried to actively conceal his inappropriate behavior by literally turning off the lights in the storage room to conceal his taking of inventory. Plaintiff swore in an affidavit, and represented in open Court, that he did not remove any inventory from Old Towne Restaurant. After viewing the video surveillance, the Court specifically found the following: "I find that the most blatant violation of the Court's Preliminary Injunction Order occurred on April 8, 2016 ... I find that [Athan Fokas] 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." See Exhibit 1, attached hereto (Contempt Order).

I had to file yet another Petition for Rule to Show Cause against Plaintiff for yet again violating the Court's order and yet again actively attempting to conceal his inappropriate behaviors. See Exhibit 2, attached hereto (Petition for Rule to Show Cause). This Petition was not heard by the Court, however, because Plaintiff signed a Final Settlement Agreement resolving the lawsuit a few weeks prior to the scheduled Rule to Show Cause Hearing.

8. In this case, if only Plaintiff followed the Court's Order, none of these matters would be an issue, as the LLC funds would have been deposited into an LLC account at United Community Bank in which all members have equal access. Instead, Plaintiff refused to comply with the Court's Order for a month. On May 12, 2017, *the very next day* after receiving Defendant Spiros Ferderigos' letter reminding Plaintiff that he has not complied with the Court's Order for a month and demanding Plaintiff cooperate with and come into compliance with the Court's Order or a Rule to Show Cause will be filed, Plaintiff took the following actions:

    a. Plaintiff, without the knowledge or consent of the other members, made the unilateral decision/took the unilateral action to personally obtain a *handwritten* check from the property management group in the amount of $14,046.88 in LLC funds (LLC checks are supposed to be *direct deposited*).

    b. Plaintiff, without the knowledge or consent of the other members, made the unilateral decision/took the unilateral action to *deposit* the *handwritten* LLC check in the amount of $14,046.88 into his First Citizens bank account, the very same account the Court previously ordered to be closed.

    c. Plaintiff, without the knowledge or consent of the other members, made the unilateral decision/took the unilateral action to make an LLC profit distribution from the First Citizens account in the amount of $7,023.44 to himself. Plaintiff did not deliver a distribution check to the other members for their share at this time.

    See Exhibit 3, attached hereto, (Copy of the deposited handwritten check to the LLC from the property management group); see Exhibit 4, attached hereto, (First Citizens Account Details, specifying date of deposits/withdrawals); and see Exhibit 5, attached hereto, (Copy of profit distribution check to Plaintiff that Plaintiff made to himself).

9. Plaintiff did these unilateral and inappropriate actions without providing any prior notice to the other members, and he completed the tasks of obtaining the *handwritten* LLC check from the property management group, depositing the LLC check into his unauthorized First Citizens account, and making a profit distribution to himself all in one day. See Exhibits 3 - 5 (all dated May 12, 2017).

10. On May 13, 2017, Plaintiff sent me a text saying he will have paperwork and an LLC check for me at Old Towne Restaurant the following day on May 14, 2017. See Exhibit 6, text from Plaintiff.

11. On May 15, 2017, I went to Old Towne Restaurant to see what Plaintiff had left for me. I located the sealed envelopes in the safe and was handed a box from the manager (Mike). I took the items home and went through them that day. There was no LLC check or First Citizens LLC checkbook in either. Therefore, I went back to the restaurant and once again checked inside the safe and further thoroughly checked outside the safe and surrounding area to see if Plaintiff left a check or other LLC "books" for me, but I did not find anything. I checked the area where we leave Old Towne Restaurant's checkbook, including under the Old Towne Restaurant checkbook, but I did not find anything.

    As stated above, Plaintiff and I have always left any LLC check in a sealed envelope in the safe at Old Towne Restaurant. Furthermore, when the checkbook and paperwork were to be exchanged, that too would be left in a sealed envelope in the Old Towne safe. I checked those areas, and, to be overly cautious, I checked all around the surrounding areas as well, including under the restaurant's checkbook.

12. On May 16, 2017, I sent a text to manager Justin asking him to see if there is an envelope in the safe for me. Manager Justin responded that there was not. See Exhibit 7, text with manger (Justin).

13. On May 18, 2017 at 2:52 pm, I sent a text to manager Mike asking him to check the safe again for me to make sure there was not an envelope or anything for me in the safe. Manager Mike responded that there was nothing in the safe for me and even stated that he took everything out of the safe and went through it to make sure there was nothing in the safe for me. See Exhibit 8, text with manager (Mike).

14. Defendant Spiros Ferderigos' attorney Dawes Cooke sent a letter to the Court the afternoon of May 18, 2017, informing the Court of Plaintiff's actions. It was not until the very next day, May 19, 2017, that the LLC check allegedly suddenly appeared at Old Towne Restaurant. It is Plaintiff's actions after the check mysteriously appeared that concerns me.

15. On May 19, 2017, I received a text from manager Justin informing me that Plaintiff wanted me to know that Plaintiff has the LLC checkbook at Old Towne Restaurant and that "the checkbook was under the ot [Old Towne Restaurant] one." As I had checked under the Old Towne Restaurant checkbook numerous times since May 15, 2017, I knew that not to be true. I was able to view on the security camera that Plaintiff was with manager Justin at the time Justin was sending his text, so I waited for Plaintiff to leave the restaurant and then responded to manager Justin. I informed manager Justin that I could see Plaintiff was with him while manger Justin was sending the text and that I checked under the Old Towne Restaurant checkbook many times earlier in the week and the LLC checkbook was not there. Manger Justin confirmed that he was texting what Plaintiff asked him to text and that manager Justin had in fact not seen the LLC

checkbook at Old Towne Restaurant prior to May 19, 2017. See Exhibit 9, text with manager (Justin).

16. After being informed by manager Justin's text on May 19, 2017, that the LLC check was now at the restaurant, I went to the restaurant, obtained the LLC check that had not been there prior to May 19, 2017, and made the distribution to the remaining members of the LLC.

17. When I arrived at Old Towne on May 21, 2017, I was approached by manager Mike who came up to me and apologized for not giving me the LLC checkbook that Plaintiff allegedly left for me earlier the prior week. Confused with what manager Mike was telling me, manager Mike informed me that Plaintiff contacted him on May 19, 2017 and said that he (Plaintiff) had previously given manager Mike the LLC checkbook to give to me but that manager Mike failed to do what Plaintiff directed. Manager Mike further told me that he did not know what Plaintiff was talking about because he does not remember Plaintiff giving him the LLC checkbook at any time. However, manager Mike did remember Plaintiff giving him envelopes and a box to give to me. Manager Mike remembers me coming to the restaurant the very next day to pick up the box and envelopes that Plaintiff left for me. I had manager Mike confirm all of this in a text to me. See Exhibit 10, text with manager (Mike). There was no LLC checkbook or LLC check in the items Plaintiff left for me.

18. I cannot reconcile my visual inspection of the Old Towne Restaurant premises and the above communications with the Old Towne Restaurant managers with the statements contained in Plaintiff's Affidavit that he provided to the Court as an attachment to his attorney's letter dated May 23, 2017. I did not see the LLC check or checkbook at Old Towne Restaurant prior to May 19, 2017, and both manager Justin and manager Mike told me they did not see them at the restaurant prior to May 19, 2017.

19. Plaintiff continues to make representations unsupported by the record in his latest affidavit (Second Supplemental Affidavit of Athan Fokas In Opposition To Motion By Spiros Ferderigos) that was attached to his attorney's letter to the Court dated May 23, 2017. In his Affidavit, Plaintiff informed the Court "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 [the LLC distribution check] to them." This allegation is categorically 100% false. To support this position, Plaintiff informs the Court in his affidavit that "I had texted Jacob ... that I would have the checkbooks for both Old Towne Suites, LLC and S&S Old Town, Inc. with me the next day ... [h]e did not show up ... while I was there, so I left both in Old Towne." (Emphasis added). There are numerous misrepresentations in this statement and in Plaintiff's aforementioned Affidavit. They are as follows:

    a. Plaintiff states that he left both the restaurant checkbook and the LLC checkbook at the restaurant for me at the same time so I could take over the "books" for both separate businesses. Plaintiff, however, did not leave the restaurant checkbook for me as he alleges because the restaurant checkbook has been at the restaurant

all along. We keep the restaurant checkbook at the restaurant specifically so the managers can write checks as they come due.[1] As evidence of this fact, I have attached copies of checks from the restaurant checkbook dated May 5th, May 7th, May 10th, May 11th, and May 16th all written and signed *by the restaurant manager* proving that the checkbook was in the restaurant all along. See Exhibit 11.

Furthermore, as managers were actively writing checks from the checkbook located at the restaurant as set forth herein, it is likely that they would have noticed the LLC checkbook if it was "under" the restaurant checkbook (as Plaintiff had the manager text to me) when they were cutting checks for restaurant expenses.

I did not purposefully only take the restaurant checkbook with me, while purposefully leaving behind the LLC checkbook, to "set him up." In reality, the restaurant checkbook was already at the restaurant prior to Plaintiff's alleged "drop off" date of May 14th, and the restaurant checkbook has stayed there thereafter and continues to be there to this day. I never took (and have not taken) the restaurant checkbook away from the restaurant. Again, the attached checks written from the checkbook *by the managers* proves this fact to be true and Plaintiff's Affidavit to be false.

b. As set forth herein, with copies of the actual texts attached hereto, Plaintiff had manager Justin text me to allegedly "remind me" that the LLC checkbook was "under" the restaurant checkbook; but Plaintiff also communicated to another manager, manager Mike, that *Plaintiff had given him* the LLC checkbook to give to me. As detailed above, both managers confirmed that they were only telling me what Plaintiff told them to say or accused them of doing, and both managers confirmed that they had not seen the LLC checkbook at the restaurant prior to May 19th. To the contrary, manager Mike specifically states that Plaintiff gave him a box and envelopes and that I came the very next day and took everything that Plaintiff left for me.

c. Plaintiff further fails to state in his Affidavit that the LLC checkbook and any LLC profit check or "books" of any other kind have always been left in a sealed envelope in the restaurant's safe as set forth above in more detail. Furthermore, Plaintiff fails to state in his affidavit that he has never written a distribution check to the other members and left it in the LLC checkbook. We have always put the LLC distribution checks in a sealed envelope, in the restaurant's safe, for the other member(s) to pick-up.

[1] I can only recall one time that the restaurant checkbook was removed from the restaurant. Plaintiff removed the restaurant checkbook for a very short period of time approximately eight months ago when he was concerned that I would write a larger rent check to the owners of 229 King Street, which Plaintiff objected to. The checkbook has remained at the restaurant for many, many months now.

d. Plaintiff's Affidavit informs the Court that "Jacob finally picked up the Old Towne Suites, LLC checkbook from the restaurant ... *after the manager texted him to remind him it was still there.*" (Emphasis added). As shown in my messages with manager Justin, however, attached as Exhibit 9, it is undeniable that the manager had no personal knowledge that the LLC checkbook was at the restaurant prior to May 19th, and the manager specifically confirms that he personally never saw the checkbook prior to May 19th. Rather, the manager confirmed that he was simply texting me what Plaintiff told him to text to me.

20. It is very unfortunate that Plaintiff refused to follow the Court's Order. If he had done so, none of this would be an issue, as the LLC funds would have been deposited into the United Community Bank Account in which all members have equal access. Plaintiff's actions illustrate the need for the Court's Order to remain in place pending appeal to protect me and the other LLC members.

21. With this Affidavit, I swear that I did not find the Old Towne Suites LLC check or checkbook in Old Towne restaurant's safe or under the Old Towne restaurant's checkbook, or anywhere else that I checked before May 19th. I checked very thoroughly to find it. I also had the managers check the safe, and they could not locate it prior to May 19th. Thereafter, having received not one but two messages from the managers that purported to imply that the Old Towne Suites check was there all along, I knew this not to be true.

AFFIANT SAYETH FURTHER NOT!

Iakovos Ferderigos

SWORN and SUBSCRIBED to before me
this 30th day of May, 2017

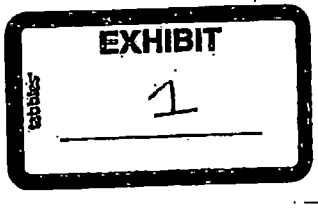
Notary Public for State of South Carolina
My Commission Expires: 1/27/2019

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	IN THE NINTH JUDICIAL CIRCUIT
COUNTY OF CHARLESTON	)	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.	)	**CONTEMPT ORDER**
ATHAN FOKAS,	)	
Defendant.	)	

FILED
2016 SEP 29 PM 4:43
JULIE J. ARMSTRONG
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 $ 391.00 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 22, 2016

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	IN THE NINTH JUDICIAL CIRCUIT
COUNTY OF CHARLESTON	)	CASE NO.: 2015-CP-10-5610
S&S OLD TOWN INCORPORATED, BY AND THROUGH ITS SHAREHOLDER IAKOVOS FERDERIGOS and IAKOVOS FERDERIGOS, INDVIDUALLY	)	
Plaintiffs,	)	
v.	)	MOTION AND PETITION FOR RULE TO SHOW CAUSE, CONTEMPT OF COURT AGAINST DEFENDANT
ATHAN FOKAS, SPIROS FOKAS (Intervenor) and S&S OLD TOWN INCORPORATED,	)	
Defendants.	)	

FILED
2017 APR 17 PM 4:32
JULIE J. ARMSTRONG
CLERK OF COURT
BY

YOU WILL PLEASE TAKE NOTICE that Plaintiffs, Iakovos Ferderigos and S&S Old Town Incorporated, by and through their undersigned attorneys, will move before the presiding Judge in the Court of Common Pleas on the tenth (10th) day after service of this motion or as soon as counsel may be heard for an Order finding that Defendant, Athan Fokas, is in Contempt of Court and the Plaintiffs' hereby petition the Court for a Rule to Show Cause against Defendant, Athan Fokas, as to why Defendant should not be held in Contempt of Court of this Court's Preliminary Injunction Order. As grounds in support thereof, Plaintiffs respectfully state as follows:

1. On February 22, 2016, the Court 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"). 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 Defendant is "strictly restrained and enjoined from ... withdrawing funds from Old Towne Restaurant for anything related to Zeus (and/or any of Defendant's other side projects)." See Exhibit A, Order Granting Plaintiffs' Request for Preliminary Injunction.

2. By Order filed September 29, 2016, the Court previously held Defendant in willful Contempt of Court for multiple violations of the preliminary injunction. The Court held that one of the multiple willful violations of the Court's Order was "Defendant also intentionally and willfully, in violation of the Court's Preliminary Injunction Order,

EXHIBIT
2

commingled the corporation's assets with another of his side projects (Old Towne Suites, LLC)..." The Court further held that "[t]he 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, and held 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 [Old Towne Suites, LLC] and using the corporation's checking account for a company other than the corporation. The Court ordered Defendant to pay Plaintiff's attorneys fees in the amount of $3,911.00. In addition, the Court further fined Defendant $1,000.00, which Defendant purged by paying $304.25 directly to Old Towne Restaurant. The Court's Order was filed September 29, 2016. See Exhibit B, Contempt Order.

3. On November 12, 2016, less than two months after the Court filed its Order holding Defendant in willful Contempt of Court, Defendant once again intentionally and willfully violated the Court's preliminary injunction by once again directly commingling Old Towne Restaurant with his side project Old Towne Suites, LLC (hereinafter LLC). The details of this violation are set forth in Paragraphs 9 through 11 herein.

4. Despite Defendant being once again in willful contempt of this Court's restraining Order, Plaintiff attempted to address this issue with Defendant instead of filing a Motion for Contempt. See Exhibit C, Letter dated December 20, 2016 to Defense Counsel Stanley Barnett. Specifically, Mr. Ferderigos said he would withhold filing a Contempt Motion so long as there are no more violations of the Court's Order by Defendant:

> "I have attached a *Motion and Petition for Rule to Show Cause, Contempt of Court Against Defendant*. My client is at his wits end trying to keep Mr. Fokas from commingling Old Towne Restaurant with Mr. Fokas' other businesses. It is very simple; Old Towne Restaurant resources can only be used for Old Towne Restaurant business. Despite this once again flagrant violation of the Court's order, my client is withholding filing the attached Contempt Motion to give Mr. Fokas one last opportunity to cease his contemptuous behaviors of commingling Old Towne Restaurant with his other businesses. My client is doing everything he can to try to make the corporation run as smoothly as possible, but if Athan Fokas continues to disrespect the court order, my client has no choice but to seek that your client be held in contempt once again given your client's repeated violations. If there are any more violations, I will file another motion for contempt against your client, with this present and any additional violations, and my client will seek that your client be held in Contempt of Court with severe sanctions."

5. To Plaintiff's dismay, his attempts to resolve Defendant's repeated violations of the Court's restraining Order without the need to file another Contempt Motion have been to no avail.

6. Without the knowledge or consent of Plaintiff, Defendant withdrew funds from Old Towne Restaurant and deposited the funds into his side project LLC account to cover an insufficient check that Defendant wrote for his side project LLC. And to make matters worse, after Defendant was asked about the transaction at his deposition, Defendant sent a text to Plaintiff willfully and purposefully misrepresenting to Plaintiff that the transfer he made from Old Towne Restaurant to his side business LLC checking account was simply an "accident" in which he deposited the funds into the wrong account. See Exhibit D, text communications.

7. When Plaintiff investigated the matter, he learned that Defendant clearly misrepresented the facts to him and purposefully took funds from their corporation and deposited the funds into Defendant's side business LLC checking account to cover the very amount needed for an insufficient check Defendant wrote from his side LLC business. See Exhibit E, attached hereto, evidences the following:

   a. 01/24/17: Defendant's side business LLC checking account had a balance of $137.31.

   b. 01/31/17: Defendant wrote from his side business LLC account a check in the amount of $244.35 (even though he only had $137.31 in his side business LLC account at the time).

   c. 02/01/17: Defendant transferred $120 from Old Towne Restaurant's checking account to his side business LLC account to cover his lack of funds in his side business LLC account and keep his side business LLC check from bouncing.

   d. 02/13/17: Defendant transferred back to Old Towne Restaurant the $120 he "borrowed" after his side business LLC account received a profit deposit to keep his side business LLC from bouncing checks.

8. Defendant refused to respond to repeated text requests to provide an explanation after confronted with the above information from the bank account that proves he *once again* unlawfully and willfully commingled funds between Old Towne Restaurant and his side project LLC in violation of the Court's Order.

9. As an additional violation of this Court's restraining Order, and the violation Plaintiff tried to previously remedy without having to file a Motion for Contempt, on November 12, 2016, Defendant directed Old Towne Restaurant's manager, while the manager was "on the clock" being paid to manage and supervise the restaurant, to leave the restaurant to repair a plumbing issue for Defendant's side project LLC.

10. At Defendant's directive, Old Towne Restaurant's manager left Old Towne Restaurant, while being paid and "managing on the clock," to go repair the plumbing issue for

Defendant's side project as directed by Defendant. See Exhibit F attached hereto, Text Messages with Old Towne Restaurant's manager to Plaintiff.

11. Defendant attempted to conceal from Plaintiff that he directed Old Towne Restaurant's manager to leave Old Towne Restaurant while on the clock for Old Towne Restaurant to do work for Defendant's side project LLC. See Exhibit G, Text Messages.

12. Plaintiff happened to learn about this violation by circumstance, despite keeping a close watch on Old Towne Restaurant. As Defendant continues to repeatedly violate this Court's Preliminary Injunction Order, Plaintiff is at a loss of how to stop Defendant from his contemptuous behavior and seeks the Court to issue an Order that will ensure Defendant stop commingling Old Towne Restaurant with his side projects.

In accordance with Rule 11 of the South Carolina Rules of Civil Procedure, I certify that I have communicated with opposing counsel and have attempted in good faith to resolve the matter contained in the motion or that consultation would serve no useful purpose.

Wherefore, Plaintiffs pray for the following relief:

1. A Rule to Show Cause against Defendant as set forth herein;
2. An Order holding Defendant in willful contempt, with appropriate penalties;
3. An Order requiring Defendant to pay Plaintiffs' attorney's fees and costs for the necessity of bringing this action; and
4. For any other relief deemed just and proper by the Court.

John A. Massalon
I. Ryan Neville
WILLS MASSALON & ALLEN LLC
Post Office Box 859
Charleston, South Carolina 29402
jmassalon@wmalawfirm.net
rneville@wmalawfirm.net
843-727-1144
ATTORNEYS FOR PLAINTIFFS

April 17, 2017

Charleston, South Carolina

Menu

Account Details

MAY 12 2017	Check - 1407	-$7,023.44 $7,119.53
MAY 12 2017	Customer Deposit...	$14,046.88 $14,142.97

Summary **Details**

MAY 12 2017 Customer Deposit

WARNING: THIS DOCUMENT HAS SECURITY FEATURES IN THE PAPER

Walk Away Stays, LLC
Trust Account
227 Rutledge Avenue
Charleston SC 29403

1321
07-809/532

DATE 5/12/2017

PAY TO THE ORDER OF Old Towne Suites LLC $14,046.88

Fourteen thousand, forty-six and 88/100 DOLLARS

Tidelands Bank
Mount Pleasant SC 29464

MEMO

[redacted]

1 of 2

APR 11 2017	Check - 1405	-$4,400.00 $96.09
APR 7 2017	Check - 1404	-$4,400.00 $4,496.09

EXHIBIT 3

Menu

Account Details

To expand or collapse account details, click on the i icon.

Basic Business Checking 7701

Available Balance $7,119.53

Search transactions

MAY 12 2017	Check - 1407	-$7,023.44	$7,119.53
MAY 12 2017	Customer Deposit...	$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
APR 6 2017	WALK AWAY STAYS PA...	$8,782.30	$8,896.09
MAR 23 2017	Check - 1403	-$850.00	$113.79
MAR 13 2017	Check - 1402	-$1,050.00	$963.

EXHIBIT 4

Menu

Account Details

To expand or collapse account details, click on the 'i' icon.

Basic Business Checking 7701

Available Balance $7,119.53

Search transactions

MAY 12 2017 — Check - 1407 — -$7,023.44

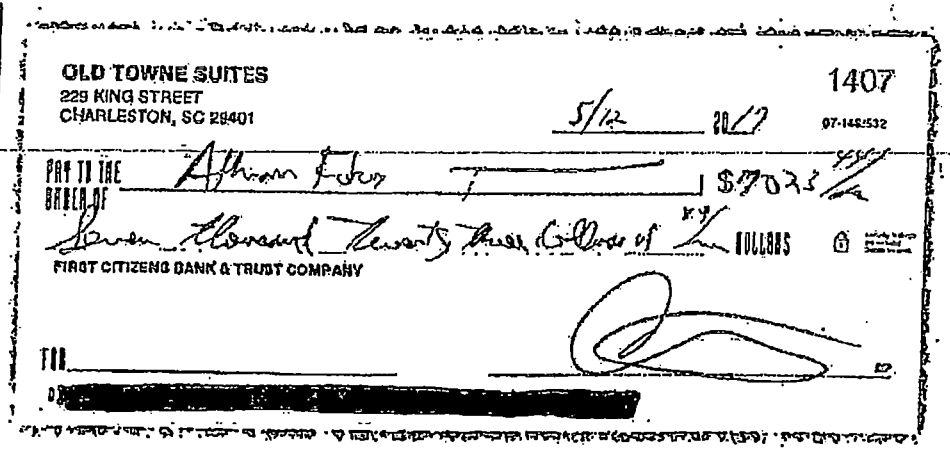
$7,119.53

Summary | Details

Description:
Check

Date:
5/12/2017

Type:
Debit - Check 1407



OLD TOWNE SUITES
229 KING STREET
CHARLESTON, SC 29401

1407

5/12 2017

97-145/532

PAY TO THE ORDER OF Allison Fahey $7023.44

Seven Thousand Twenty Three and 44/100 DOLLARS

FIRST CITIZENS BANK & TRUST COMPANY

[redacted]

EXHIBIT 5

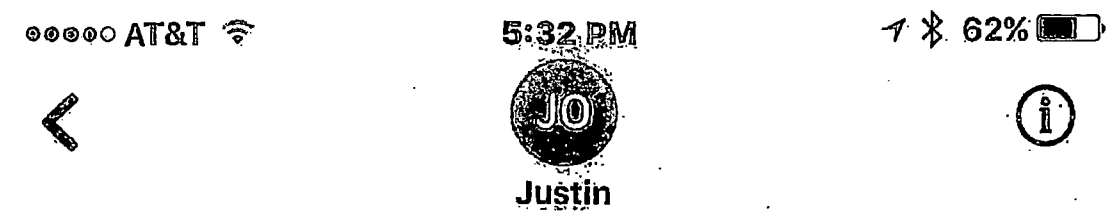
Athan

Sat, May 13, 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.

EXHIBIT

6



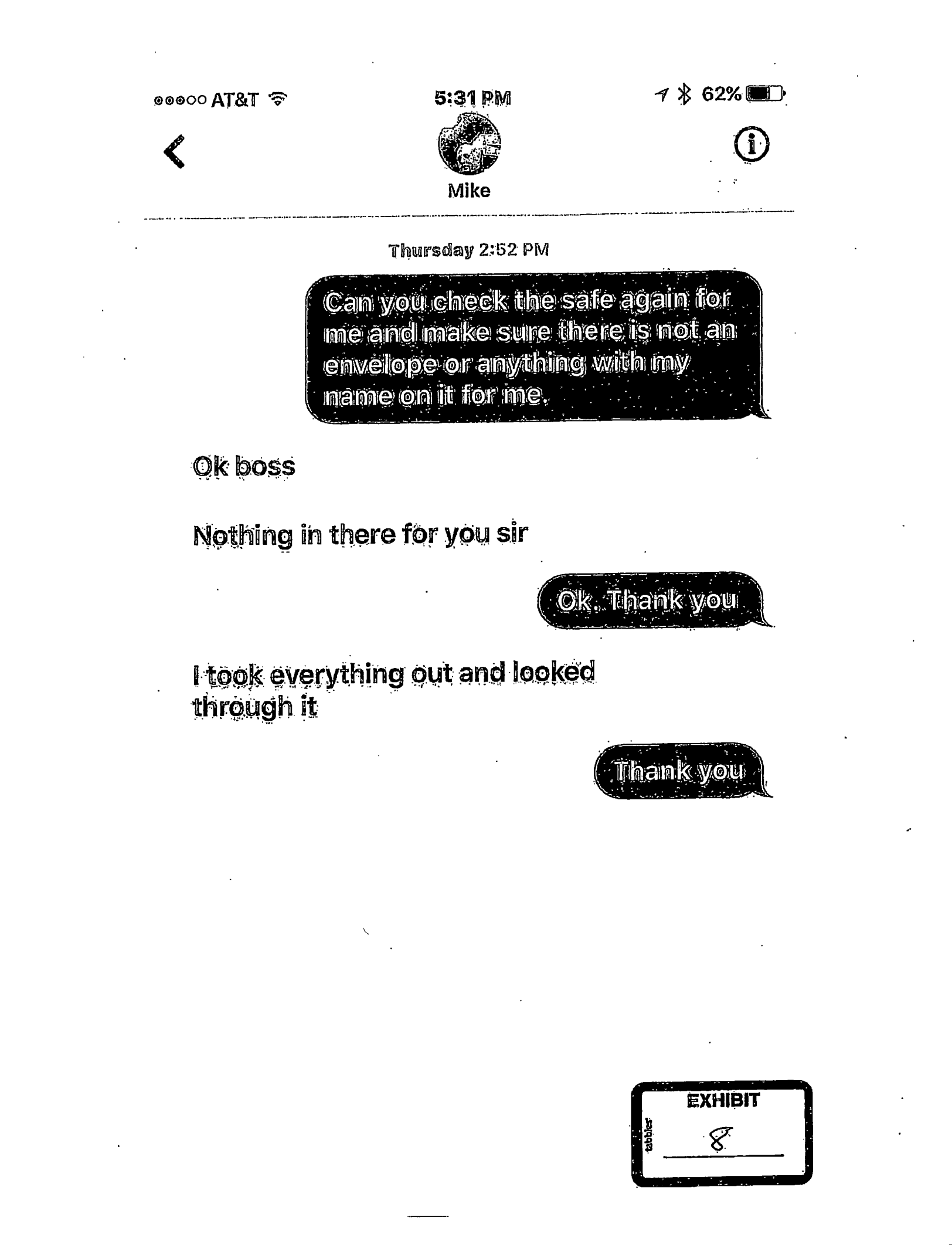
Can you see if there's an envelope in the safe for me?

No there s not

Ok. Thanks

EXHIBIT

7


AT&T
5:31 PM
62%
Mike
Thursday 2:52 PM
Can you check the safe again for me and make sure there is not an envelope or anything with my name on it for me.
Ok boss
Nothing in there for you sir
Ok. Thank you
I took everything out and looked through it
Thank you
EXHIBIT
tabbies
8

AT&T 5:31 PM 62%

JO

Justin

Friday 10:49 AM

Hey Athan has the suits checkbook here. He wanted me to text u that

The Checkbook was under the ot one.

Justin, the Suites checkbook was not there because I've checked many times this week and it was not there. I saw Athan at the bar on video at Old Towne while you sent me the text about the Suites checkbook. Setting aside what Athan told you this morning, did you see the Suites checkbook there before today? Because I looked and it was not there.

No I didn't see it before today but didn't see him bring it I. Today. That's all I know. Not my concern if I didn't see it since has nothing to do with it.

It

Ot

iMessage

EXHIBIT tabbies 9

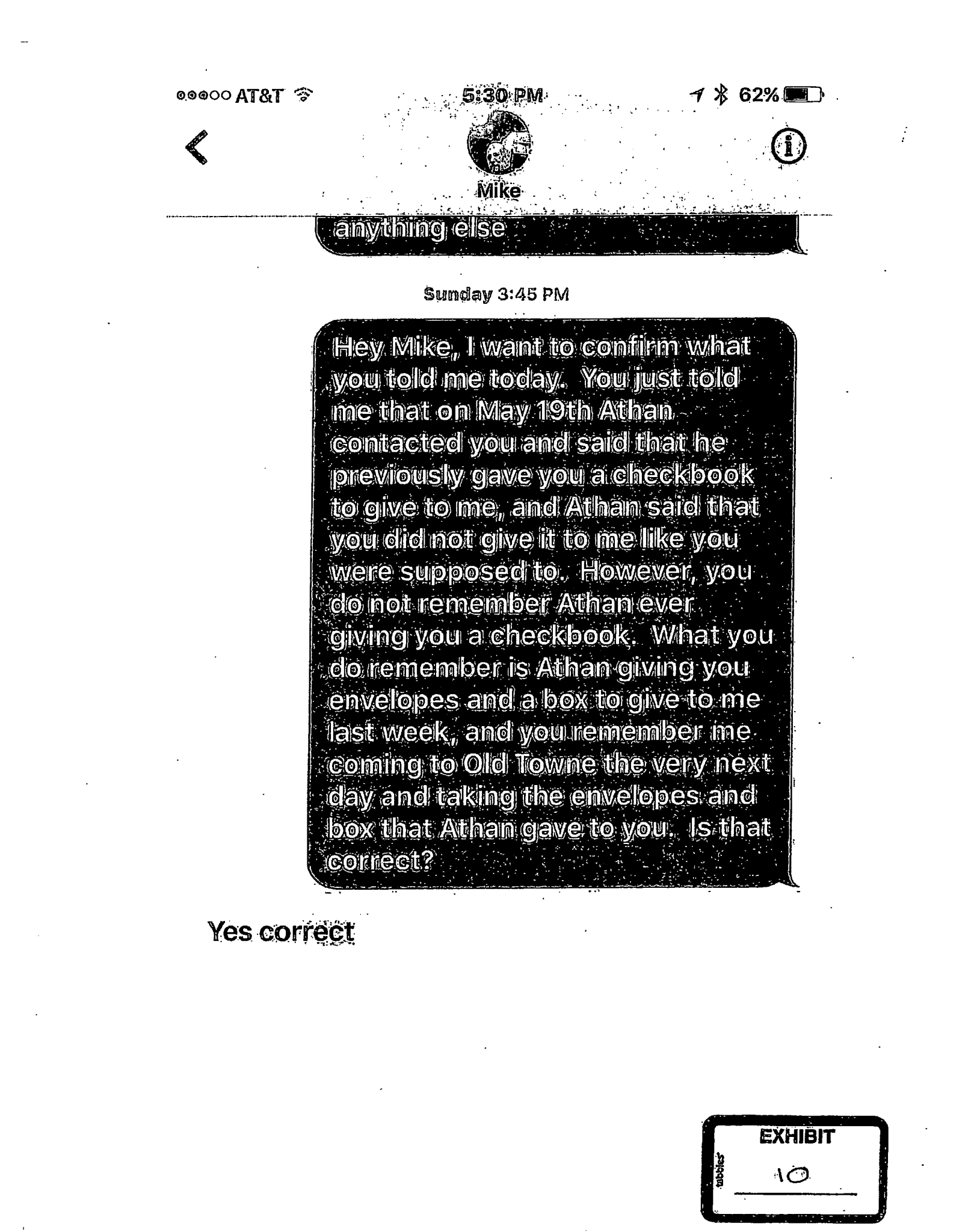

AT&T
5:30 PM
62%
Mike
anything else
Sunday 3:45 PM
Hey Mike, I want to confirm what you told me today. You just told me that on May 19th Athan contacted you and said that he previously gave you a checkbook to give to me, and Athan said that you did not give it to me like you were supposed to. However, you do not remember Athan ever giving you a checkbook. What you do remember is Athan giving you envelopes and a box to give to me last week, and you remember me coming to Old Towne the very next day and taking the envelopes and box that Athan gave to you. Is that correct?
Yes correct

EXHIBIT
10

Menu

Account Details

EXHIBIT

OLD TOWNE GRILL & SEAFOOD
229 KING ST.
CHARLESTON, SC 29401

27867

5-5 20 17

66-30/531

PAY TO THE ORDER OF CNL Insurance $ 949-

Nine hundred forty nine dollars DOLLARS

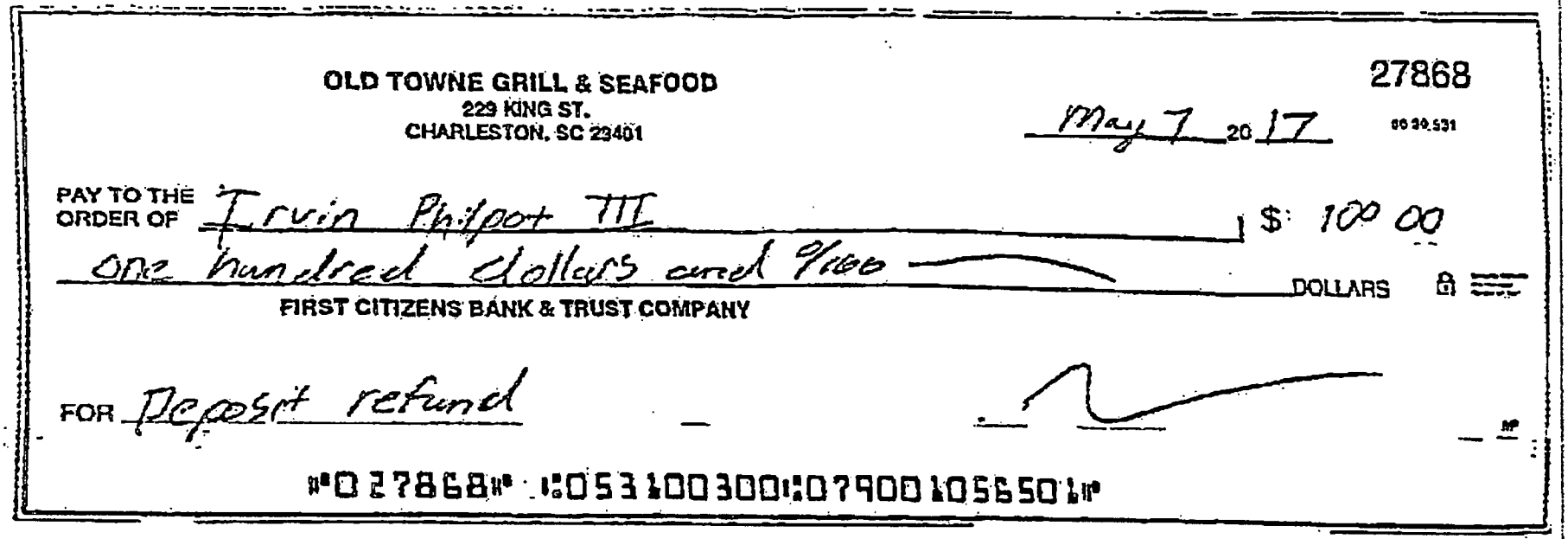
FIRST CITIZENS BANK & TRUST COMPANY

FOR

⑈027867⑈ ⑆053100300⑆07900105650 1⑈

Menu

Account Details



OLD TOWNE GRILL & SEAFOOD
229 KING ST.
CHARLESTON, SC 29401

27868

May 7 20 17

PAY TO THE ORDER OF Irvin Philpot III $ 100 00

one hundred dollars and 00/100 DOLLARS

FIRST CITIZENS BANK & TRUST COMPANY

FOR Deposit refund

⑈027868⑈ ⑆053100300⑆07900105650⑈

OLD TOWNE GRILL & SEAFOOD
229 KING ST.
CHARLESTON, SC 29401

27870

5-10 20 17

66-30/531

PAY TO THE ORDER OF Susan E. Ellis $ 231.72

two hundred thirty one dollars 72 cents DOLLARS

FIRST CITIZENS BANK & TRUST COMPANY

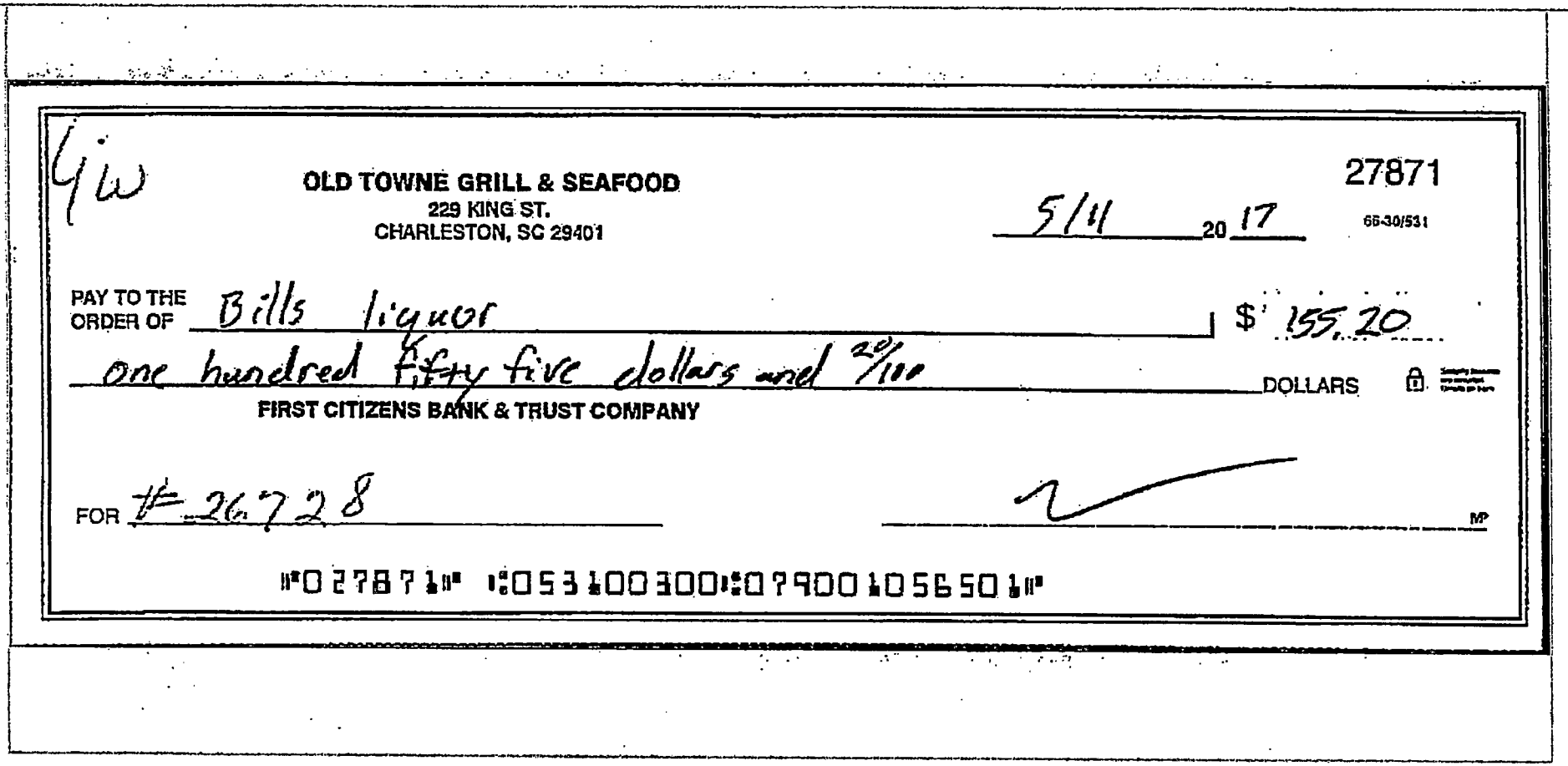
FOR _____

JP

⑈027870⑈ ⑆053100300⑆07900105650⑆

Menu

Account Details



GW

OLD TOWNE GRILL & SEAFOOD
229 KING ST.
CHARLESTON, SC 29401

27871

5/11 20 17

65-30/531

PAY TO THE ORDER OF Bills liquor $ 155.20

one hundred fifty five dollars and 20/100 DOLLARS

FIRST CITIZENS BANK & TRUST COMPANY

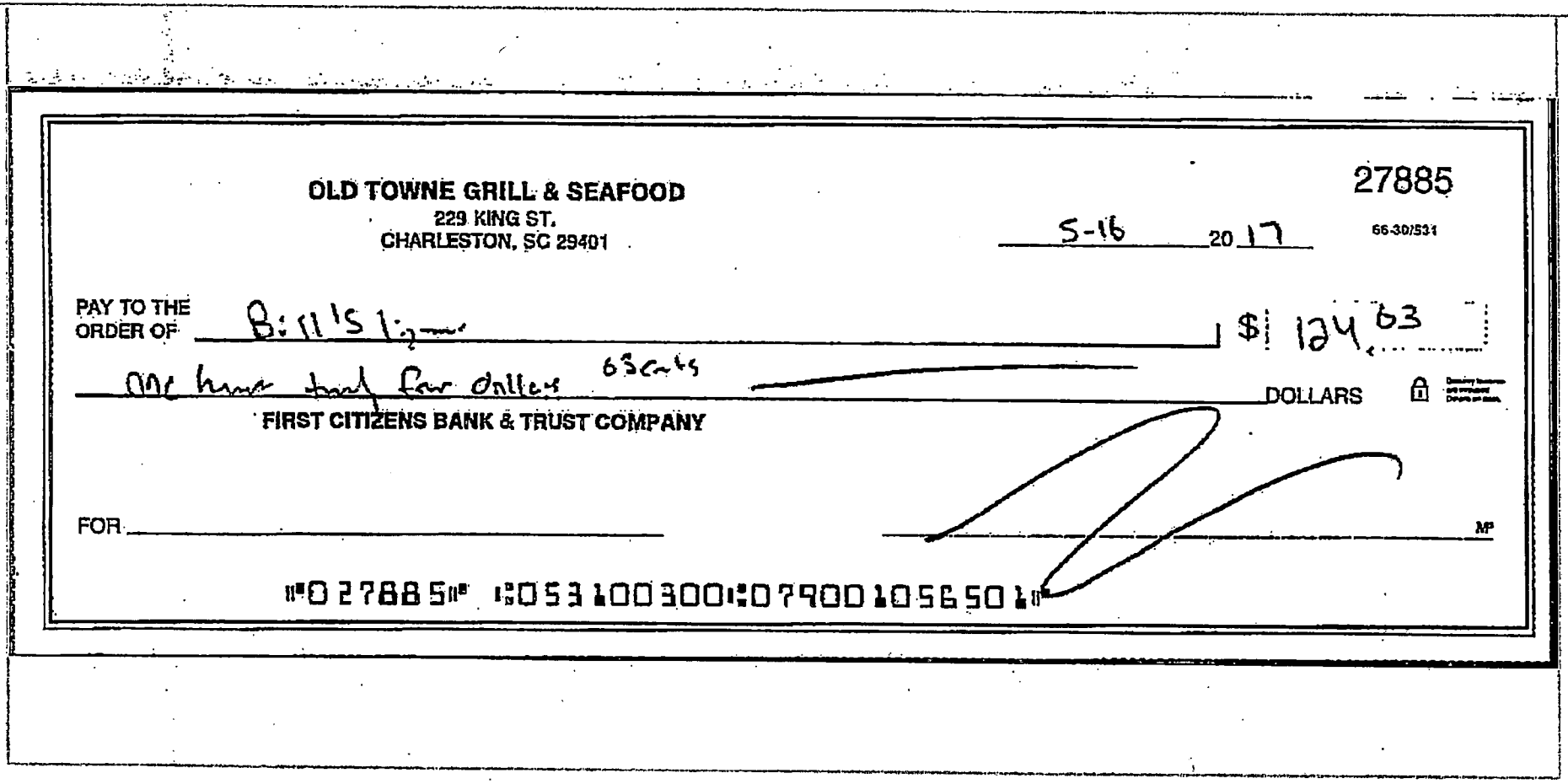
FOR #26728

MP

⑈027871⑈ ⑆053100300⑆079001056501⑈

Menu

Account Details



OLD TOWNE GRILL & SEAFOOD
229 KING ST.
CHARLESTON, SC 29401

27885

5-16 20 17

66-30/531

PAY TO THE ORDER OF Bills Liquor $ 124.63

One hundred four dollars 63 cents DOLLARS

FIRST CITIZENS BANK & TRUST COMPANY

FOR

⑈027885⑈ ⑆053100300⑆07900105650⑈

BARNWELL WHALEY
PATTERSON & HELMS LLC
75 YEARS 1938-2013
Attorneys for businesses & professionals since 1938

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

May 30, 2017
VIA COURIER 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 Memorandum in Opposition to Plaintiff's Petition for Supersedeas Staying Order filed on behalf of the Defendant, Spiros Ferderigos, in the above-referenced matter. Please file the original Memorandum and return the filed stamped copy to me via 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 Memorandum. 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,

Jeremy E. Bowers

Encl.
cc w/encl.: Stanley E. Barnett, Esquire (via U.S. Mail)
Leslie S. Lenhardt, Esquire (via U.S. Mail)
Jennifer H. Thiem, Esquire (via U.S. Mail)
John A. Massalon, Esquire (via U.S. Mail)

BARNWELL WHALEY
PATTERSON & HELMS LLC
75 YEARS 1938-2013
Attorneys for businesses & professionals since 1938

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

June 30, 2017

Via US Mail and Email

The Honorable Roger M. Young, Sr.
Circuit Judge, Ninth Judicial Circuit
100 Broad Street, Suite 368
Charleston, SC 29401

EXHIBIT 8

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

Dear Judge Young:

Thank you for taking the time to meet with Stan Barnett and me about Plaintiff's motion for Supersedeas to Stay your April 11 Order. Regrettably, as Stan pointed out in his letter this morning, the parties have not been able to agree upon the terms of an order to resolve the motion. We believe that Plaintiff's proposed order would in effect reverse Your Honor's April 11 Order, despite your having denied his Motion to Alter or Amend. We must therefore respectfully object to the proposed order and ask Your Honor to deny Plaintiff's motion.

We ask that the Court deny the motion for the reasons stated in the brief that we previously submitted. I am attaching a copy for ease of reference. We oppose Plaintiff's proposed order for the following additional reasons. First, the April 11 Order provides that Mr. Ferderigos is authorized to amend the LLC's 2015 tax return (to reflect, correctly, that Mr. Fokas' father does not own an interest in the LLC). Plaintiff's proposed Order provides that the amended tax return must first be submitted to him so that he can determine whether the return will "unnecessarily create any financial harm to either Plaintiff or his father." This would not only stay, but effectively nullify, this provision of the Order. The Court has already ruled – twice -- that this simple and unarguable amendment to the tax return can be made. Mr. Fokas has never claimed, let alone demonstrated, that this correction would cause anyone any financial harm. It is disconcerting that he now asks for the right to veto the correction of the tax return on the basis that it might somehow financially harm his father or him.

Next, the Order requires Mr. Fokas to close the old LLC bank account and transfer all current and future LLC funds into the United Community Bank account, to which all Members of the LLC have full access. The Order also requires that all future LLC expenses be paid from this account. Mr. Fokas does not

object to this requirement (though he continues to flout it, which is a matter for another day. Mr. Fokas has not closed the old account, as the Order requires, and, while he has recently begun making deposits into the proper account, for some reason he or the manager first makes the deposits into the old account and then transfers the money to the new one). But his proposed order would require that this account carry only a one-thousand-dollar minimum balance. Your Order says nothing about a minimum balance. While the bank requires only a one-thousand-dollar minimum balance, the LLC's needs might well change over time. Nothing in the April 11 Order purports to restrain the LLC from maintaining a higher balance if circumstances warrant, and Mr. Fokas offers no reason for such a restriction.

Next, the Order enjoins Mr. Fokas from taking unilateral action on behalf of the LLC without the ongoing consent of the majority of the members. This is exactly what the LLC statute requires. Mr. Fokas has conceded that he cannot act unilaterally on behalf of the LLC. Yet, his proposed order would shift the balance of authority to himself by providing that *no* member can take action without the consent of the "owners of the majority interest" in the LLC. This appears intended to give Mr. Fokas veto authority over any action voted on by the other three members, because he owns half the *distributional* interest in the LLC. The LLC statute (S.C. Code Ann. Sec. 33-44-404(a)(2)) provides for a majority vote on most issues, irrespective of distributional interests. Plaintiff's proposed order would significantly alter, not stay, the Court's Order.

Finally, the Order provides for appointment of a receiver. The parties agree that a receiver is not needed at this time. However, the Plaintiff's proposed order would provide that no receiver be appointed during the pendency of his appeal. We respectfully oppose an order that would preclude the appointment of a receiver should one become necessary, and we would reserve the right to come back to the Court if one should be needed.

I would also point out that the Plaintiff's proposed order makes no provision for his posting a bond, which would be appropriate in the event that Your Honor saw fit to stay any part of your Order pending appeal.

For Your Honor's consideration, I have enclosed a proposed order in this matter in Word document format. The attached proposed order asks Your Honor to deny Plaintiff's Petition for Supersedeas to Stay Order. We believe such an order is appropriate, as Your Honor's April 11 Order is not automatically stayed pursuant to statute, and a stay is not necessary to preserve jurisdiction on appeal, as detailed in Defendant's Memorandum in Opposition to Petition for Supersedeas filed May 31, 2017. Thank you for Your Honor's consideration, and please let me know if you need anything additional from me.

Sincerely,

M. Dawes Cooke, Jr.

Attachments

c: Stan Barnett, Esquire (Stan.Barnett@yahoo.com)
Jennifer Thiem, Esquire (Jennifer.Thiem@klgates.com)
John A. Massalon, Esquire (JMassalon@wmalawfirm.net)

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE NINTH JUDICIAL CIRCUIT
COUNTY OF CHARLESTON	)	Case No.: 2015-CP-10-3919
Athan Fokas,	)	
	)	
Plaintiff,	)	
	)	
v.	)	
	)	ORDER ON PLAINTIFF'S PETITION
Philip Ferderigos, Spiros Ferderigos, and Jacob Ferderigos,	)	FOR SUPERSEDEAS TO STAY ORDER
	)	
Defendant(s).	)	
	)	

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.

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

_____, 2017
Charleston, South Carolina

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.

MEMORANDUM IN OPPOSITION TO PLAINTIFF'S PETITION FOR SUPERSEDEAS STAYING ORDER

2015 MAY 3 PM 2:11

TO: STAN BARNETT, ESQUIRE, and LESLIE LENHARDT, ESQUIRE, ATTORNEYS FOR THE PLAINTIFF

Defendant SPIROS FERDERIGOS (hereinafter referred to as "Spiros"), by and through his undersigned counsel, hereby submits this memorandum opposing Plaintiff's Petition for Supersedeas Staying Order.

INTRODUCTION

Because the LLC statute is clear regarding the responsibilities and rights of all LLC members[1], this matter should not have had to come before the Court in the first place. Once it did, it should have been resolved by this Court's Order that required Plaintiff to do no more than the law already requires him to do anyway. Plaintiff has now appealed, and continues to defy, that most innocuous and uncontroversial Order. Plaintiff's defiant actions are simply

[1] S.C. Code Ann. Section 33-44-04: "(a) In a member-managed company: (1) each member has equal rights in the management and conduct of the company's business ... (c) any matter relating to the business of the company may be decided by a majority of the members."

S.C. Code Ann. Section 33-44-04 Comment: "In a member-managed company, each member has equal rights in the management and conduct of the company's business unless otherwise provided in an operating agreement"... Also, member disputes as to any matter relating to the company's business may be resolved by a majority of the members unless the matter relates to a matter specified either in subsection (c) (unanimous consent required) or in Section 33-44-801(b)(3)(i) (special consent required)."

inexcusable. Not only does the unauthorized bank account the Court ordered to be closed a month ago remain open, but Plaintiff has further defied the Court's Order by unilaterally depositing LLC funds into the account.[2]

PROCEDURAL HISTORY

Spiros filed an Amended Motion To Amend Tax Returns And Change Checking Account And For Restraining Order on February 16, 2017. In that Amended Motion, Spiros prayed that the Court issue an Order (1) allowing and authorizing Spiros 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, (2) 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 Citizen Bank account to the LLC's new checking account with United Community Bank in which all members have equal access, and (3) prohibiting Plaintiff from taking any further unilateral actions without the consent of the majority of members of the LLC.

On April 11, 2017, the Court granted Spiros' Amended Motion. The Court's Order included provisions (1) restraining Plaintiff from taking any unilateral actions and/or making unilateral decisions without the consent of the majority of members of the LLC, (2) ordering Plaintiff to immediately close his unauthorized First Citizens LLC bank account (to which only he has legal access to the exclusion of the other members), withdraw all funds from said account, and deposit them into the United Community Bank account for the LLC in which all members

[2] In his May 22, 2017, letter to the Court, attorney Barnett nobly attempts to deflect attention from his client's conduct by indignantly objecting to undersigned counsel's May 18 letter to the Court. Lest there be any misunderstanding, the May 18 letter was directed to the Plaintiff's conduct, not Mr. Barnett's. The substance of these letters is addressed in detail later in this Memorandum.

have equal access, and (3) ordering the property manager for the LLC to deposit all LLC funds into the United Community Bank account to which all members have equal access.

On April 20, 2017, Plaintiff filed a Motion to Alter and Amend. On May 4, 2017, the Court issued an Order Denying Plaintiff's Motion to Alter or Amend, finding that the Court thoroughly considered the supporting and opposing arguments of counsel and the relevant case law in denying Plaintiff's Motion. Plaintiff filed a Notice of Appeal on May 8, 2017. On May 15, 2017, he filed a Petition for Supersedeas Staying Order, requesting that the Court stay its Order pending Plaintiff's appeal.

STANDARD OF REVIEW

South Carolina Appellate Court Rules 241(a) & (b) set forth the general rule and exceptions that a service of notice of appeal acts to automatically stay matters decided in an order unless the matter involves "(2) [j]udgments directing the assignment or delivery of documents or personal property [including money][3] ... or (8) [a]n appeal from an order granting an injunction or temporary restraining order." Rule 241, SCACR. After service of a notice of appeal, any party may move for an order lifting the automatic stay in cases which involve the general rule. In a case subject to an exception, any party may move for an order imposing a supersedeas of matters decided in the order, judgment, decree or decision on appeal after service of the notice of appeal. See Rule 241(c)(1), SCACR. In determining whether an order should issue pursuant to this rule, the lower court should consider whether such an order staying the appeal is necessary to preserve jurisdiction of the appeal or to prevent a contested issue from becoming moot. See Rule 241(c)(2), SCACR. A party seeking a stay pending appeal must also demonstrate "irreparable injury in the absence of a stay." See Mary L. Dinkins Higher Learning

[3] S.C. Code Ann. § 18-1-20 defines personal property to "include money, goods, chattels things in action and evidences of debt."

Academy vs. South Carolina Public Charter School District, 2013 WL 18004101 (S.C.Admin.Law.Judge.Div); 4 C.J.S. Appeal and Error § 528.

The grant or denial of a stay pending resolution of an appeal is within the discretion of the Court. See 5 Am.Jur.2d § 405. The Court may generally consider a wide variety of circumstances in determining whether to grant a stay, including the following: (1) whether the movant has made a showing of likelihood of success on the merits and therefore whether appellant is likely to prevail on the merits on the appeal; (2) whether the movant has made a showing of irreparable injury if a stay is not granted; (3) whether respondent will suffer irreparable injury or serious injury if the stay is granted. See generally, Id. at § 405. A stay should be granted only when a balancing of the equities are in the applicant's favor and the equities are balanced depending on which side a risk of an irreparable injury weighs more heavily. See generally, Id. at § 415. Accordingly, here, South Carolina places a very high burden on Plaintiff to prevail in his supersedeas request.

ARGUMENT

A. The Court's Order is not automatically stayed by Plaintiff's appeal.

Initially, in his letter to the Court dated May 15, 2017, Plaintiff concedes that at least two of the mandates in the Court's Order are not automatically stayed by Plaintiff's filing Notice of Appeal of this Court's Order filed April 11, 2017. It is undisputable that Plaintiff's Notice of Appeal does not automatically stay the Court's Order to the extent it: (1) restrains Plaintiff from taking any unilateral actions and/or making unilateral decisions without the consent of the majority of members of the LLC, (2) orders Plaintiff immediately to close his unauthorized First Citizens LLC bank account (to which only he has legal access to the exclusion of the other members) and to withdraw all funds from said account and deposit them into the United

Community Bank account for the LLC (in which all members have equal access), and (3) orders the property manager for the LLC to deposit all LLC funds into the United Community Bank account, to which all members have equal access.

These provisions of the Court's Order are clearly not automatically stayed pursuant to Rule 241, SCACR.[4] The Court's Order restraining Plaintiff from taking unilateral actions is not stayed pursuant to Rule 241(b)(8), SCACR, because it is an order granting injunctive relief and restraining Plaintiff from certain actions. The remaining provisions of the Order set forth above are also clearly not automatically stayed pursuant to Rule 241(b)(2), SCACR, because those provisions direct the Plaintiff and property manager to deliver personal property (i.e. money) to the United Community Bank account and further direct Plaintiff to deliver the necessary documents to close his unauthorized and non-consented-to First Citizens Account that contains personal property (i.e. money). As these provisions are not automatically stayed, Plaintiff has requested that the Court issue a Supersedeas staying its Order "to preserve the status quo so as to allow Plaintiff's appeal of the Orders to not be rendered moot." See Plaintiff's Petition for Supersedeas Staying Order, pg. 2.

B. Plaintiff fails to meet his burden to impose a Stay of the Court's Order - A supersedeas is not warranted and would cause irreparable injury to Defendants.

First, Plaintiff asks the Court to stay its Order pending appeal to preserve what Plaintiff calls the "status quo." The problem is the status quo, as perceived by the Plaintiff, is apparently to do unilaterally whatever he wants over the objections of all other LLC members, to act only in his own best interest, to ignore the Court's Order to close the unauthorized account, to ignore the Court's Order by continuing to deposit new funds into the unauthorized account (which should not exist), to make disbursements unilaterally from the unauthorized account, and to hold the

[4] Likewise, the Court's Order was not stayed during the pendency of Plaintiff's Motion to Reconsider.

other members' LLC profits in an unauthorized account that only he has full legal access to.[5] The series of texts cited within and attached to Defendant's Amended Motion proves Plaintiff has repeatedly ignored the other members' rights over their objections and Plaintiff will do whatever he pleases regardless of those rights. Unfortunately, Plaintiff's improper behavior has not been deterred by the Court's Order. It is within such context that Plaintiff asks the Court to stay the Order. There is no "status quo" for a supersedeas to preserve here. Without a stay of the Court's Order, the business will continue to operate as it always has, with the sole exceptions being that the Plaintiff will follow the law by using a bank account that his fellow members also have access to and by not taking actions without the consent of a majority of the members.

Here, the balance of equities clearly favors a denial of Plaintiff's Petition for Supersedeas. Based on the LLC statute itself, Plaintiff's prior illegal behavior preceding the Court's Order (as well as Plaintiff's subsequent egregious behavior after the Court's Order) makes it unlikely he will succeed on the merits of his appeal. This is especially true given the clear and unambiguous LLC statute. Further, Plaintiff has set forth no harm, much less irreparable harm, to him by the LLC funds being deposited into an LLC account that all members of the LLC have equal access to. In contrast, given Plaintiff's actions both before and after the Court's Order, it is Defendants who would be irreparably harmed by Plaintiff's ongoing actions, namely continuing to deposit LLC funds into an account only he has full access to and taking unilateral actions on behalf of the LLC which harm Defendants. Accordingly, it is beyond question that a supersedeas would cause irreparable harm to Defendants, whereas enforcing the Court's Order, which merely requires Plaintiff to comply with the LLC statute, would cause no

[5] In essence, Plaintiff seeks to have the Court acquiesce in Plaintiff's prior and current violations of Defendants' rights as the "status quo" during the pendency of the meritless appeal. Also, Plaintiff's argument that preserving his version of the status quo would not create "any hardship on any party" is meritless. As more fully set forth in prior briefs, that status quo would prohibit Defendants from having access to the LLC's checking account and would enable Plaintiff to take actions for the LLC without obtaining consent from other LLC members.

harm to Plaintiff.[6] Indeed, one must wonder why Plaintiff ever forced Spiros to seek judicial intervention to obtain this modest relief, let alone appealed and flouted the Court's order and now moves to stay it.

Second, Plaintiff cannot satisfy the high burden required by Rule 241(c)(2), SCACR, because staying the Court's Order is not necessary to preserve jurisdiction of the appeal or to prevent a contested issue from becoming moot. It does not render a contested matter moot nor divest the appellate court of jurisdiction pending appeal, but instead simply upholds the unambiguous statute that governs the LLC. Old Towne Suites LLC can continue its business unabated, with or without a stay. Should Plaintiff prevail on appeal, he can resume his unilateral actions and resume banking at his favored bank if he wishes.[7]

C. Plaintiff's contemptuous behavior since the issuance of this Court's Order further illustrates the necessity that the Court's Order remain in effect pending appeal.

It would be the height of irony for this Court to reward Plaintiff's contemptuous behavior by staying its order while he pursues a frivolous appeal. There was no reason for Plaintiff to disobey the Court's Order, which clearly was not stayed. Had Plaintiff followed the Court's Order, the LLC funds would have been direct-deposited into the United Community Bank

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[6] Indeed, Plaintiff concedes in his petition that "decisions for management of the LLC do not allow Plaintiff to make 'unilateral decisions' as he only holds a 50% interest of the LLC." His concession rings hollow, though, as he has continually acted unilaterally and justified his conduct by falsely claiming that the Defendants ceded their management authority to him: "Moreover, the Defendants all consented to let Plaintiff manage the LLC as if he were designated its manager" (See Plaintiff's Response in Opposition to Motion for Restraining Order By Defendant Spiros Ferderigos, p.2.) or where Plaintiff misrepresented, "Defendants allowed, indeed wanted, Plaintiff to manage the LLC's business" (Id. at 5), or where Plaintiff submitted an affidavit asserting "it is true that Spiros and his brothers unofficially designated me the manager of the LLC" (See Supplemental Affidavit of Athan Fokas in Opposition to Motion by Spiros Ferderigos, ¶2).

[7] See Mary L. Dinkins Higher Learning Academy vs. South Carolina Public Charter School District, supra, stating "In this case, Appellant argues that if the Court does not stay the enforcement of this Order, it would be forced to close thereby rendering its appeal moot. However, from all indications, the Appellant continues to operate the charter school ... the Appellant has options available to it that allow Appellant to continue operating while their appeal is pending. Even if Appellant finds itself in the position where it must cease operating, if the appeal is successful, there is nothing that would prevent Appellant from reopening the school."

account (to which all members have equal access), and all the members would have received their respective distributions with no issues whatsoever. Plaintiff, however, had different plans, as will be shown below. On August 15, 2016, Spiros was unanimously voted by all members of the LLC as the single "Point of Contact" between the LLC and the property management group for the LLC. See Exhibit A. On February 24, 2017, Spiros notified the property manager that the unauthorized First Citizens account was no longer to be used and the United Community Bank account is the sole account to be used for the LLC and where funds should be direct deposited. See Exhibit B. The property manager responded to Spiros that he would not stop using the First Citizens account, nor would he deposit LLC funds into the United Community Bank account as directed, unless (1) all the members agree, or (2) a Court Order directs him to make such deposit. See Exhibit C. On April 11, 2017, the same day the Court issued its Order, Spiros notified and provided a copy of the Court's Order to the LLC's property manager directing the property manager to make such deposit. See Exhibit D. The Order directed the property manager "to deposit all rental proceeds/profits and/or other funds for the LLC directly into the aforementioned United Community Bank account" to which all members have equal access. Despite being provided with a copy of the Court's Order by Spiros and Spiros requesting that the property manager respond to his email confirming that he would abide by the Court's Order, the property manager did not respond to him. Importantly, the property manager uses *direct deposit* to transfer LLC funds to the LLC. See Exhibit E. After failing to receive a response from the property manager that he would comply with the Court's Order, counsel for Spiros sent a letter (via email) to Plaintiff's counsel on May 11, 2017, reminding Plaintiff of his obligations to cooperate with the Court's Order, which Plaintiff had still failed to do, and his obligation to direct the property manager to cooperate with the Court's Order to deposit the LLC

funds into the United Community Bank account (as the property manager previously confirmed he would deposit funds into the United Community Bank account if all members agreed). See Exhibit F.

Plaintiff, instead, and in violation of the Court's Order, made the unilateral decision (over the objection of all other members and in violation of the Court's Order) to obtain a *handwritten* check from the property management group in the amount of $14,046.88 in LLC funds and, *the very next day* after receiving Defendant's letter demanding Plaintiff cooperate with the Court's Order, again violated the Court's Order by depositing the LLC funds into his unauthorized First Citizens Bank account (which he was specifically ordered not to do and which account the Court specifically ordered that he immediately close over a month prior). Plaintiff then made the unilateral decision to make a profit distribution from his unauthorized First Citizens account in the amount of $7,023.44 to himself.[8] Plaintiff took these contemptuous actions and then attempted to conceal them by providing no prior notice to the other LLC members. Plaintiff took the following actions, which violate the Order: (1) obtaining the *handwritten* LLC check from the property management group (which should have been direct-deposited into the United Community Bank account per the Court's Order), (2) depositing the check into his unauthorized First Citizens account (which account Plaintiff was ordered to close immediately a month prior and he was ordered to deposit all funds into the United Community Bank account), and (3) making a profit distribution to himself from that account (instead of transferring the funds to the United Community Bank account prior to making distributions as required by the Court's Order), all on the same day (May 12, 2017). See Exhibit G.

[8] Indeed, Plaintiff also made a unilateral decision as to the amount of the distribution, with no input from the other members.

Plaintiff then made a distribution of the $7,023.44 in LLC profits only to himself and not the rest of the members (with the remaining members' $7,023.44 share of LLC profits being inappropriately held by Plaintiff in Plaintiff's unauthorized First Citizens bank account to which only he has full legal access). The other members could not access their funds because they do not have legal access to the account, and Plaintiff retained possession of his unauthorized First Citizens account checkbook. See Exhibit K, Affidavit of Iakovos ("Jacob") Ferderigos. It was not until the very next day after counsel for Spiros sent a letter to the Court on May 18, 2017, informing the Court of Plaintiff's contemptuous behaviors, that Defendants' distribution check and the Old Towne Suites, LLC checkbook appeared at 229 King Street. See Exhibit H, letter to the Honorable Roger M. Young, Sr. and Exhibit K, Affidavit of Iakovos Ferderigos. After the distribution check from the unauthorized account appeared, the other members deposited it on May 22, 2017[9].

D. Letter of Stan Barnett to the Honorable Roger M. Young, Sr. dated May 22, 2017

On May 22, 2017, in response to the undersigned counsel's letter to the Court of May 18, Plaintiff's counsel, Mr. Barnett, sent a letter to the Court making numerous allegations accusing Spiros of deceit via the May 18 letter. Aside from being wrong, as will be shown, Plaintiff's accusations do not address, let alone justify, Plaintiff's defiance of this Court's Order. Plaintiff's abject refusal to follow the law point up the importance of this Court enforcing the Order.

However, Plaintiff's accusations against Defendants are serious, and Defendants believe they must be addressed in this Memorandum, as Plaintiff seeks to shift focus of the issues before the Court away from Plaintiff's clear, willful, and undisputable violations of the Court's Order that have harmed Defendant and the other members.

[9] As Mr. Barnett correctly asserted in his most recent letter of May 26, 2017.

1. **Plaintiff's accusations regarding member Iakovos ("Jacob") Ferderigos' access to Plaintiff's unauthorized First Citizens Bank Account.**

First, Plaintiff accuses Spiros of untruthfulness when Spiros asserted in the May 18, 2017, letter that "Plaintiff has repeatedly misinformed the Court in his written submissions and in oral argument that Defendant Iakovos ("Jacob") Ferderigos has the same equal access to Plaintiff's unauthorized First Citizen's account as Plaintiff." The written documentation proves that the May 18 letter was entirely correct in this regard. Plaintiff minces words with his insistence that Iakovos (and thus, evidently by familial association, Spiros) has access to the bank account because he periodically had physical possession of the checkbook and wrote checks from it. It is now undeniable that Iakovos does not have the same access (or even authority to access) to the First Citizens account as Plaintiff. See Exhibit I, Letter from First Citizens Bank that Iakovos obtained in response to Plaintiff's representations at the hearing ("Iakovos Ferderigos is not listed as an owner or signer on the account ... He is not authorized to obtain information on the above account."). Plaintiff has indeed incorrectly represented that Iakovos has full access to the unauthorized First Citizens Bank account as Plaintiff. Plaintiff has made these misrepresentations in text communications. See Exhibit J, texts from Plaintiff November 2016 (Plaintiff: "Jacob, the account was opened with you on it;" Plaintiff: "And Jacob and I opened that account with your consent when we first started the suites ..." Jacob: "I do not agree with what Athan just said.") (Emphasis added). Plaintiff has also made these misrepresentations in his Affidavit and Supplemental Affidavit to the Court by falsely attesting, "Shortly after formation of the LLC, Jacob and I opened an LLC account at First Citizens Bank to handle the deposits and distributions from the LLC. Jacob's brothers, Phillip and Spiros, were not interested in being signatories on the account ... Jacob has had full access to the bank account at First Citizens since it was opened in 2011." (Emphasis added). The letter from First

Citizens Bank finally puts this issue to rest, confirming that Iakovos does not have full access to the account. Of course, Plaintiff does not even claim that Spiros and Phillip have access to the First Citizens Bank account. It is for this reason that the LLC should be required to open a new bank account now.

Plaintiff now says he never claimed Iakovos had full access to the account, but he did. Plaintiff's own written statements quoted above and attached as exhibits prove that Spiros' statements in the May 18 letter to the Court are accurate and that Plaintiff misinformed the Court. In any event, it is unarguable that Spiros does not have full access to the account, and nor do the members other than the Plaintiff. All members are equally entitled to access to the LLC's bank account. No reason exists to stay this Court's order effectuating that right.

2. Plaintiff's accusations regarding Plaintiff issuing an LLC distribution only to himself on May 12, 2017.

Plaintiff further accuses Spiros of deceiving the Court concerning Plaintiff's numerous violations of the Court's Order. Plaintiff focuses on one specific allegation by Spiros, that Plaintiff made a distribution of LLC profits on May 12, 2017 only to himself and not the other members. It is important to note that Plaintiff fails to acknowledge that, if he had simply followed the clear Order of the Court instead of flouting the Order, the possibility of Plaintiff making a distribution only to himself would not even be an issue, as the LLC funds would have been directly deposited into the United Community Bank Account to which all members have equal access. The story of the distribution is nevertheless important because the preponderance of the evidence provides a window into the magnitude and the deliberateness of Plaintiff's defiance of the law and of this Court's Order.

Importantly, in his letter to the Court, Plaintiff does not contest the fact that Plaintiff violated the Court's Order by (1) obtaining a *handwritten* LLC check in the amount of

$14,046.88 from the LLC property management company (which should have been direct deposited into the United Community Bank account); (2) depositing the *handwritten* check in the First Citizens account; (3) making a distribution to himself in the amount of $7,023.44 directly from the account that should not have even existed per the Court's Order. These are clear violations, which are inexcusable. Plaintiff tries to mitigate the willfulness of his violations of the Order by claiming that he also issued the Defendants their distribution. He did disburse their distribution but not until after the May 18 letter asserting his failure to do so.

Despite Plaintiff submitting an Affidavit denying that he made a distribution only to himself and accusing Defendants of a "scheme" to "misrepresent" to the Court an "untruth", the written evidence once again confirms Plaintiff's misinformation and continued inappropriate and contemptuous behavior. As set forth in Exhibit K, the Affidavit of Iakovos Ferderigos, which includes written correspondence from Plaintiff and managers at Old Towne Restaurant, Plaintiff did not deliver the LLC distribution check to Iakovos until after the May 18, 2017 letter. Iakovos' Affidavit further details how Plaintiff attempted to conceal his contemptuous behavior. This includes Plaintiff submitting an Affidavit to the Court attesting that he left the unauthorized LLC checkbook at Old Towne Restaurant for Iakovos with the check still inside the checkbook. As set forth in detail in Iakovos' Affidavit (with text correspondence from Plaintiff and managers from Old Towne Restaurant), Plaintiff directed the manager at Old Towne Restaurant to tell Iakovos that the checkbook was left for Iakovos at Old Towne Restaurant, implying that it was there all along. When Iakovos pursued the communications with the managers further, the managers confirmed that they did not have any personal knowledge of any LLC check or LLC checkbook being left at Old Towne Restaurant as implied in their initial communications with Iakovos; rather, the managers confirmed that they were only communicating to Iakovos what

Plaintiff told them. See Exhibit K, Affidavit of Iakovos Ferderigos. Iakovos' Affidavit, with the attached documents, establishes that Plaintiff did not provide the Defendants' distribution check to Iakovos until after he was called out for not doing so in the May 18 letter to the Court.

The Court need not weigh the evidence on this point in order to conclude that it should not stay its Order requiring use of a bank account to which all members have equal access and prohibiting him from acting against the will of a majority of the members. The mere fact that the Court is being required to referee this banking dispute is itself ample reason to leave its Order in place pending appeal.

CONCLUSION

Plaintiff asks this Court to stay its Order pending appeal to preserve what he calls the "status quo." The problem is the status quo, as perceived by Plaintiff, is apparently to do whatever he wants, over the objections of all other LLC members, to act in his own best interest, to ignore the Court's Order to close the unauthorized account, to ignore the Court's Order by depositing funds into the unauthorized account (which should not exist), to make disbursements unilaterally from the unauthorized account, and to hold the other members' LLC profits in an unauthorized account that only he has legal access to. The series of texts cited in and attached to Spiros' Amended Motion proves that Plaintiff has repeatedly ignored the other members' rights over their objections and that Plaintiff will do whatever he pleases regardless of those rights or even a Court Order.

Plaintiff now asks this Court to allow him to continue to violate Defendants' rights while Plaintiff seeks a meritless appeal. Plaintiff's ongoing willful violations of the Court's Order since the issuance of the Order further confirm the necessity to deny Plaintiff's request to stay the Court's Order because Plaintiff's pattern of behaviors shows that Plaintiff will continue to harm

Spiros and the other members unless their statutory rights are protected as set forth in the Court's Order. Plaintiff's ill will is further evidenced by his decision to appeal and disobey a very innocuous and hardly controversial Order requiring him to do no more than the plain law requires.

For the reasons set forth herein, Spiros respectfully prays that the Court will deny Plaintiff's Petition for Supersedeas Staying Order.

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 DEFENDANT SPIROS FERDERIGOS

May 30, 2017
Charleston, South Carolina

Certificate of Service

I hereby certify that the foregoing MEMORANDUM IN OPPOSITION TO PLAINTIFF'S PETITION FOR SUPERSEDEAS STAYING ORDER was served upon the parties to this action by U.S. mail, sufficient postage attached thereto, to the following counsel of record:

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

Leslie Lenhardt, Esquire
Lenhardt Law Firm, LLC
1876 Wallenberg Blvd.
Charleston, SC 29407

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

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

This the 30th day of May, 2017.

Cheryl Rayford
Legal Secretary

2017 MAY 31 AM 11:02
JULIE J. ARMSTRONG
CLERK OF COURT

EXHIBITS PURPOSELY OMITTED

M. Dawes Cooke, Jr. / 6-30-17

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE NINTH JUDICIAL CIRCUIT
COUNTY OF CHARLESTON	)	Case No.: 2015-CP-10-3919
Athan Fokas,	)	
	)	
Plaintiff,	)	
	)	
v.	)	
	)	ORDER ON PLAINTIFF'S PETITION
Philip Ferderigos, Spiros Ferderigos, and Jacob Ferderigos,	)	FOR SUPERSEDEAS TO STAY ORDER
	)	
Defendant(s).	)	
	)	

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.

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

_____, 2017
Charleston, South Carolina

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE NINTH JUDICIAL CIRCUIT
COUNTY OF CHARLESTON	)	Case No.: 2015-CP-10-3919
Athan Fokas,	)	
	)	
Plaintiff,	)	
	)	
v.	)	
	)	ORDER ON PLAINTIFF'S PETITION
Philip Ferderigos, Spiros Ferderigos, and Jacob Ferderigos,	)	FOR SUPERSEDEAS TO STAY ORDER
	)	
Defendant(s).	)	
	)	

FILED
2017 JUL -7 PM 2:20
JULIE J. ARNSTEIN
CLERK OF COURT
BY

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:

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EXHIBIT
tabbies
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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.

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

7/6, 2017
Charleston, South Carolina

Athan Fokas

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

Spiros Ferderigos

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

Athan Fokas

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

Spiros Ferderigos

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

Athan Fokas

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

EXHIBIT

A

Gmail

spiros ferderigos <spirosferderigos@gmail.com>

Re: New Old Towne Suites, LLC Bank Account with United Community Bank

spiros ferderigos <spirosferderigos@gmail.com> Fri, Feb 24, 2017 at 11:10 AM
To: Kevin High <khigh@walkawaystays.com>, "Allie Johnson (allie@walkawaystays.com)" <allie@walkawaystays.com>

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

201702241109.pdf
40K

EXHIBIT
tabbies
B

Gmail spiros ferderigos <spirosferderigos@gmail.com>

Re: New Old Towne Suites, LLC Bank Account with United Community Bank

Kevin J. High <khigh@walkawaystays.com> Fri, Feb 24, 2017 at 3:05 PM
Reply-To: khigh@walkawaystays.com
To: spiros ferderigos <spirosferderigos@gmail.com>, Allie Johnson <allie@walkawaystays.com>
Cc: zeusseafood@bellsouth.net, jacobspita@yahoo.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

[Quoted text hidden]

EXHIBIT
C

Gmail spiros ferderigos <spirosferderigos@gmail.com>

Re: New Old Towne Suites, LLC Bank Account with United Community Bank

spiros ferderigos <spirosferderigos@gmail.com> Tue, Apr 11, 2017 at 1:34 PM
To: Kevin High <khigh@walkawaystays.com>
Cc: Allie Johnson <allie@walkawaystays.com>

Hey Kevin,

Thank you for your email. Per your request, please see attached a copy of the Court order directing you to deposit all LLC funds directly into the LLC's United Community Bank account. I highlighted the portion of the email that refers to the property manager for your convenience. I have also attached a copy of a blank United Community Bank LLC check that contains the account number and routing number for all future LLC deposits. The account number is [redacted]0089 and the routing number is [redacted]. The account name is Old Towne Suites, LLC. As an aside, please take note in the Order that this United Community account for the LLC is the sole account for the LLC and the Court ordered that the First Citizen's account will be closed immediately. Accordingly, please make sure all future LLC deposits are deposited into the United Community Bank Account as set forth herein.

Thank you and please do not hesitate to contact me if you have any questions. Please confirm with me by responding to this email that you will comply with this Court order moving forward. Thank you.

Spiros Ferderigos
[Quoted text hidden]

Blank Check and Court Order.pdf
766K

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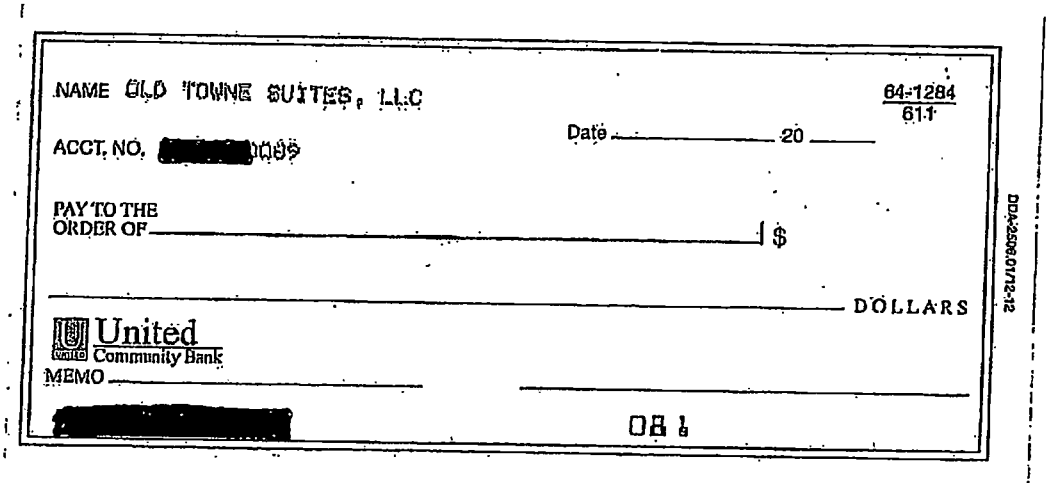
NAME OLD TOWNE SUITES, LLC

64-1284
611

ACCT. NO. [redacted]

Date _____ 20 ____

PAY TO THE ORDER OF _____ $

_____ DOLLARS

United Community Bank

MEMO _____

[redacted] 081

DDA-2506.01/12-12

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

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

From: Kevin J. High [mailto:khigh@walkawaystays.com]
Sent: Monday, March 06, 2017 3:06 PM
To: zeusseafood@bellsouth.net; 'spiros ferderigos'; Phillip Ferderigos
Subject: FW: 229 Report from 2016-8-17 WAS Blank Books

Hello,

I hope you enjoyed your weekend. Can you believe it is March? As I mentioned before the industry is changing the rules daily and competition is heating up. The city has started a vacation rental task force and there are many new hotels under construction. We simultaneously had our bank change as well as many other things. Despite all of that we have been getting better and better from housekeeping, reservations and marketing. VROOMRes, our new reservation system, is well under way in beta testing. There are many features, modules, that will be turned on as the year goes on. For you one of the biggest features will be real time online access to your account. Look for this and all new reporting by the end of May. We are very excited about what this will do for you and Walk Away Stays. One thing that has already started is our 24/7 email responses. Our goal is to have every inquiry answered with in 5 minutes of receiving it. Our, First Responders, team is in training now and will start by the end of next week. This team will hopefully free up our office to focus on providing better customer service and follow-up on initial inquiries. All of this should increase booking and ratings.

Again we have solved our banking issues and are back to doing ACH deposits to you however they will now be once per month for the previous month. So on the first Monday of each month, today as example, you will receive your report and your balance will be processed through Feb 28th.

As always feel free to call and have a great day.

Kevin

Walk Away Stays, LLC
Kevin J. High
Managing Member
227 Rutledge Avenue
Charleston, SC 29403
843-808-4444
www.walkawaystays.com

EXHIBIT
E

BARNWELL WHALEY PATTERSON & HELMS LLC | 75 YEARS 1938-2013

Attorneys for businesses & professionals since 1938

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

May 11, 2017

VIA E-MAIL AND U.S. MAIL
Stanley E. Barnett, Esquire
305 North Civitas Street
Mt. Pleasant, SC 29464

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

Dear Stan:

Thanks for your call late last week.

Your client is currently in violation of Judge Young's Order, and has been since April 12, 2017. When we spoke, you suggested that the pendency of your motion to reconsider made compliance unnecessary. We did not agree with that, but the point is moot in light of Judge Young's denial of the motion.

Stan, it is clear that your client is continuing to play games, this time by violating Judge Young's Order and apparently having the property manager violate Judge Young's Order. I call your attention to the provision of Judge Young's Order that says, "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." There is no confusion or ambiguity about what your client and the property manager are instructed to do.

Your client has had several motions for restraining Orders granted against him and has already been held in contempt of court by Judge Nicholson. Mr. Fokas' dogged refusal to comply with Judge Young's Order is unnecessarily placing him and Mr. High in jeopardy.

We simply do not understand why Mr. Fokas won't simply agree to use the new account that all members have full access to. There is no reason to refuse to use the new bank account, which all members have access to. There is no reason for your client to violate the judge's Order. There is no reason for your client failing to tell the property manager to comply with the judge's Order.

EXHIBIT
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Your client has been in violation of the judge's Order for several weeks now. He needs to comply now and to immediately instruct the property manager to comply.

If your client does not fully comply with Judge Young's Order (including closing the unauthorized account) by 5:00 p.m. Friday, May 12th, we will need to reluctantly file a Rule to Show Cause and ask Judge Young to award sanctions.

Sincerely,

M. Dawes Cooke, Jr.

MDCjr/bbm/klj

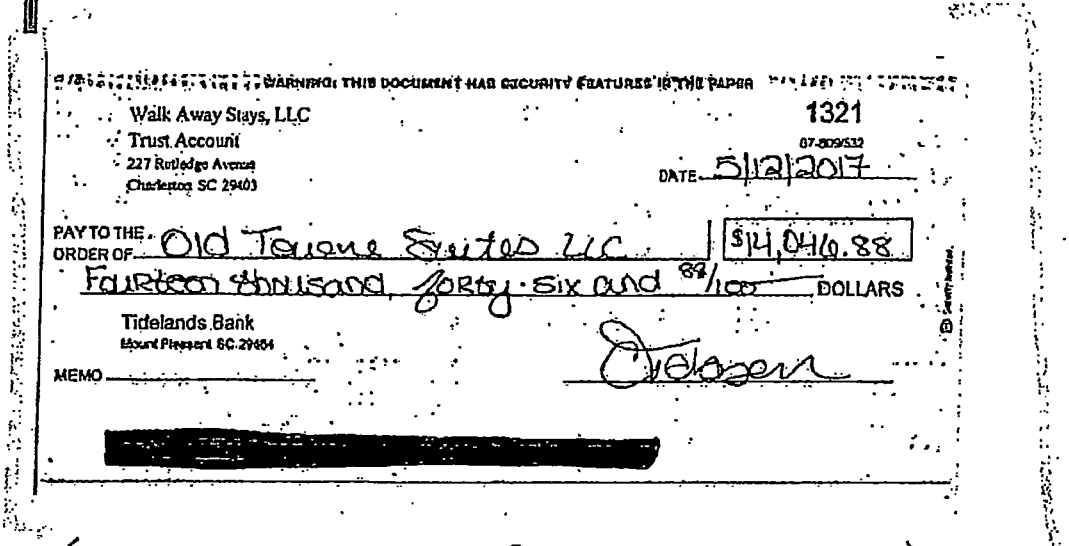
Menu

Account Details

MAY 12 2017	Check - 1407	-$7,023.44 $7,119.53
MAY 12 2017	Customer Deposit...	$14,046.88 $14,142.97

Summary Details

MAY 12 2017 Customer Deposit



WARNING: THIS DOCUMENT HAS SECURITY FEATURES IN THE PAPER

Walk Away Stays, LLC
Trust Account
227 Rutledge Avenue
Charleston SC 29403

1321
07-809/532

DATE 5/12/2017

PAY TO THE ORDER OF Old Tavern Suites LLC $14,046.88

Fourteen thousand, forty-six and 88/100 DOLLARS

Tidelands Bank
Mount Pleasant SC 29464

MEMO

[redacted]

1 of 2

APR 11 2017	Check - 1405	-$4,400.00 $96.09
APR 7 2017	Check - 1404	-$4,400.00 $4,496.09

EXHIBIT 6

Menu

Account Details

To expand or collapse account details, click on the 'i' icon.

Basic Business Checking 7701

Available Balance $7,119.53

Search transactions

MAY 12 2017	Check - 1407	-$7,023.44	$7,119.53
MAY 12 2017	Customer Deposit...	$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
APR 6 2017	WALK AWAY STAYS PA...	$8,782.30	$8,896.09
MAR 23 2017	Check - 1403	-$850.00	$113.79
MAR 13 2017	Check - 1402	-$1,050.00	$963.79

Menu

Account Details

To expand or collapse account details, click on the 'i' icon.

Basic Business Checking 7701

Available Balance $7,119.53

Search transactions

MAY 12
2017

Check - 1407

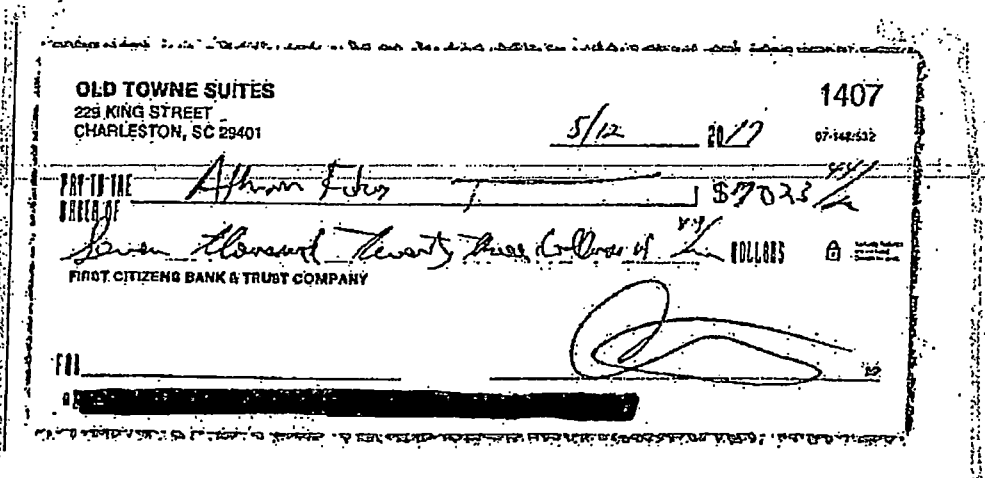
-$7,023.44
$7,119.53

Summary Details

Description:
Check

Date:
5/12/2017

Type:
Debit - Check 1407


OLD TOWNE SUITES
229 KING STREET
CHARLESTON, SC 29401

1407

5/12 2017

PAY TO THE ORDER OF Allison Foley $7023.44

Seven Thousand Twenty Three and 44/100 DOLLARS

FIRST CITIZENS BANK & TRUST COMPANY

FOR [redacted]

BARNWELL WHALEY | 75 1938 2013 YEARS
PATTERSON & HELMS LLC
Attorneys for businesses & professionals since 1938

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

May 18, 2017

Via US Mail and Email

The Honorable Roger M. Young, Sr.
Circuit Judge, Ninth Judicial Circuit
100 Broad Street, Suite 368
Charleston, SC 29401

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

Dear Judge Young:

In response to Stan Barnett's letter to Your Honor dated May 15, 2017, Defendant Spiros Ferderigos respectfully requests that you allow us until next Friday, May 26, 2017, to formally respond to Plaintiff's Petition for Supersedeas. I regret that the Court has to be further troubled as this matter should not have had to come before the Court in the first place, as the LLC statute is clear regarding the responsibilities and rights of all LLC members. Once it did, it should have been resolved by this Court's Order that required the Plaintiff to do no more than the law clearly requires him to do anyway. Plaintiff has now appealed, and continues to defy, that most innocuous and uncontroversial Order.

In his letter to Your Honor, Mr. Barnett concedes that at least two of the mandates in Your Honor's Order are not automatically stayed by Plaintiff's filing Notice of Appeal of Your Honor's Order filed April 11, 2017 (a copy of Your Honor's Order is attached as Exhibit 1 hereto for Your Honor's convenience). It is undisputable that Plaintiff's Notice of Appeal does not (1) automatically stay Your Honor's Order restraining Plaintiff from taking any unilateral actions and/or making unilateral decisions, (2) does not automatically stay Your Honor's Order that Plaintiff immediately close his unauthorized First Citizens LLC bank account (to which only he has legal access to the exclusion of the other members), to immediately withdraw all funds from said account and to deposit them into the United Community Bank account for the LLC in which all members have equal access, and (3) does not automatically stay Your Honor's Order that the property

EXHIBIT
1

manager for the LLC deposit all LLC funds into the United Community Bank account to which all members have equal access.[1]

Despite the fact that Your Honor's Order remains in full force and effect and is not automatically stayed by Plaintiff's Notice of Appeal as set forth above, Plaintiff has continued to violate Your Honor's Order for over a month now. Plaintiff's behaviors after Your Honor issued the Order, in which Plaintiff actively continues to violate and undermine Your Honor's Order to the detriment of the other members, demonstrates why Your Honor's Order is necessary, and why staying Your Honor's Order pending appeal -- even with an appeal bond -- would cause irreparable harm to Defendant and the other members of the LLC.

For example, Defendant notified and provided a copy of Your Honor's Order to the LLC's property manager. The Order directs the property manager "to deposit all rental proceeds/profits and/or other funds for the LLC directly into the aforementioned United Community Bank account" to which all members have equal access. The property manager customarily uses direct deposit to transfer LLC funds to the LLC. Despite being provided with a copy of Your Honor's Order by Defendant and Defendant requesting that the property manager respond to his email confirming that he would abide by Your Honor's Order, the property manager did not respond to Defendant. After failing to receive a response from the property manager that he would comply with Your Honor's Order, Defendant's counsel sent an email to Plaintiff's counsel on May 11, 2017 reminding Plaintiff of his obligations to cooperate with the Court's Order, which he has still failed to do, and his obligation to direct the property manager to cooperate with the Court's Order to deposit the LLC funds into the United Community Bank account.

Plaintiff, instead, and in violation of Your Honor's Order, made the unilateral decision (over the objection of all other members and in violation of Your Honor's Order) to obtain a *handwritten* check from the property management group in the amount of $14,046.88 in LLC funds and, the very next day after receiving Defendant's letter demanding Plaintiff cooperate with the Court's Order, again violated Your Honor's Order by making the unilateral decision to deposit the LLC funds into his unauthorized First Citizens Bank account (which he was specifically ordered not to do and which account Your Honor specifically ordered that he immediately close over a month prior), and Plaintiff then made the unilateral decision to make a profit distribution from his unauthorized First Citizens account in the amount of $7,023.44 only to himself and not the rest of the members. Currently, the remaining members' $7,023.44 share of LLC profits are being held by Plaintiff in Plaintiff's unauthorized First Citizens bank account to which only he has legal access.[2] The other members have no way of accessing their funds because they do not have legal access to the account, and Plaintiff has retained possession of his unauthorized First Citizens account checkbook.

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[1] South Carolina Rule 241(b): The exceptions to the general rule [i.e. that service of notice of appeal acts to automatically stay matters decided in an order] include "(2) Judgments directing the assignment or delivery of documents or personal property [i.e. money] ... (8) An appeal from an order granting an injunction or temporary restraining order." Section 18-1-20 defines personal property to "include money, goods, chattels things in action and evidences of debt."

[2] Plaintiff has repeatedly mis-informed the Court in his written submissions and in oral argument that Defendant Iakovos Ferderigos (a/k/a Jacob) has the same equal access to Plaintiff's unauthorized First Citizen's account as Plaintiff. Defendants have repeatedly refuted this. After Plaintiff yet again made this false statement to the Court, Defendant Iakovos Ferderigos went to First Citizen's Bank and received written confirmation directly from First Citizen's Bank that he has no access to the account. *See* attached as Exhibit 2.

Plaintiff asks Your Honor to stay your Order pending appeal to preserve what he calls the "status quo". The problem is, the status quo as perceived by the Plaintiff is apparently to do unilaterally whatever he wants over the objections of all other LLC members, to act unilaterally in his own best interest, and to hold the other members' LLC profits in an unauthorized account that only he has legal access to. The series of texts attached to Defendant's Amended Motion that was granted by Your Honor proves that Plaintiff has repeatedly ignored the other members' rights over their objections, and that Plaintiff will do whatever he pleases regardless of those rights. His ill will is further evidenced by his decision to appeal and disobey a very innocuous and hardly controversial Order requiring him to do no more than the plain law requires. Plaintiff's behaviors since the issuance of Your Honor's Order on April 11, 2017 are equally as egregious, and further prove that Plaintiff will continue to do whatever he wants unilaterally regardless of the other members' rights and regardless of whether his unilateral actions are in violation of a Court's Order.

Sincerely,

M. Dawes Cooke

M. Dawes Cooke, Jr.

MDCjr/klj
Attachments
c: Stan Barnett, Esquire (Stan.Barnett@yahoo.com)
Jennifer Thiem, Esquire (Jennifer.Thiem@klgates.com)
John A. Massalon, Esquire (JMassalon@wmalawfirm.net)

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.

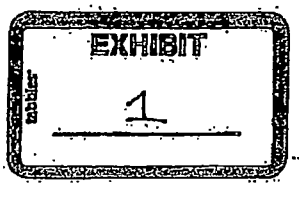
ORDER GRANTING DEFENDANT SPIROS FERDERIGOS' AMENDED MOTION TO AMEND TAX RETURNS AND CHANGE CHECKING ACCOUNT AND FOR RESTRAINING ORDER

FILED
2017 APR 2 P 2:56
JULIE J. ARMSTRONG
CLERK OF COURT
BY

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



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

First Citizens Bank

May 5, 2017

Iakovos Ferderigos
Old Towne Suites

To Whom it May Concern,

Iakovos Federigos is not listed as an owner or signer on the account ending in 7701. He is not authorized to obtain information on the above account. Iaskovos Federigos brought in documents stating that he is part of the entity.

If you have any questions or concerns surrounding this, please feel free to contact me at 843-763-0258.

Sincerely,

Tressa Mancini
First Citizens Bank
Financial Service Representative

EXHIBIT
2

First Citizens Bank

May 5, 2017

Iakovos Ferderigos
Old Towne Suites

To Whom It May Concern,

Iakovos Federigos is not listed as an owner or signer on the account ending in 7701. He is not authorized to obtain information on the above account. Iaskovos Federigos brought in documents stating that he is part of the entity.

If you have any questions or concerns surrounding this, please feel free to contact me at 843-763-0258.

Sincerely,

Tressa Mancini
First Citizens Bank
Financial Service Representative

Athan Fokas

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

EXHIBIT

tabbies

5

Athan Fokas

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 Ferderigos

I do not agree with what Athan just said. 2:35 PM

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.

AFFIDAVIT OF IAKOVOS (JACOB) FERDERIGOS

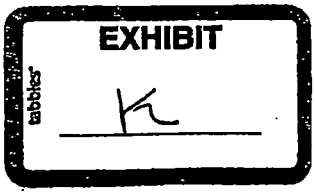
PERSONALLY, appeared before me, Iakovos Ferderigos, who first, being duly sworn, alleges as follows:

1. I am a Defendant in this matter and a member of Old Towne Suites, LLC (hereinafter LLC). I am also a fifty percent owner in S&S Old Towne, Inc. (hereinafter Old Towne Restaurant or restaurant) in which Plaintiff also has an ownership interest. Plaintiff and I have ownership interests in Old Towne Restaurant, but the other LLC members do not.

2. Shortly after forming the LLC, Plaintiff claimed he took the LLC Operating Agreement to the bank to open an account for the LLC with equal access to all members, and, therefore, the bank did not require the other members to be physically present when the account was opened. I did not accompany Plaintiff to the bank, and I trusted what he had told me.

3. For many years, Plaintiff and I took turns exchanging the physical LLC "books." Plaintiff would physically hold the LLC "books" for a four-month period, and then he would deliver the books to me so the other members (i.e. myself, Phillip, and Spiros Ferderigos) would physically hold the LLC "books" for a four-month period. Plaintiff and I also exchanged the Old Towne Restaurant "books" every four months as well for convenience.

4. Throughout this period, I signed checks on said account as I was informed by Plaintiff that all members were signatories and all members had equal rights on the account. We would make distributions to all members when profits were deposited in the account. The process was always the same. The member in physical possession of the LLC "books" would write two checks after the LLC account received funds: a fifty percent distribution to the Fokas membership and a fifty percent distribution to the Ferderigos membership. The member in physical possession of the LLC "books" would inform the other member(s) he was making a distribution, and the member in possession of the LLC



"books" would leave the other members' distribution check in a sealed envelope in the safe at Old Towne Restaurant. This was the same procedure when the LLC "books" were exchanged: the person delivering said "books" would leave them in a sealed envelope in the safe at Old Towne Restaurant for the other member(s) to retrieve. We left these items in a sealed envelope in the Old Towne safe because we did not want the Old Towne restaurant managers seeing what was going on with the LLC business.

5. It was not until approximately June 2016 that I had to go directly to the bank to receive information about the account. Plaintiff wrote a check to himself from the LLC account without the consent of the other members, and I went to the bank to receive information regarding this check. To my surprise, the bank refused to provide me any information, informing me that I was not authorized on the account and the only individual on the account authorized to have access to the account was Plaintiff. I immediately informed the other members of this development, and Defendant Spiros Ferderigos' counsel immediately sent a letter to Plaintiff's attorney detailing what had transpired and that an account to which all members have equal access must be opened immediately. See Exhibit 7 attached to Amended Notice of Motion and Motion to Amend Tax Returns and Change Checking Account and For Restraining Order, filed February 16, 2017.

6. Phillip, Spiros, and I never agreed to Plaintiff opening an account to which only he has legal access. The LLC funds belong to all the members, not just Plaintiff.

7. After the Court issued its Order on April 11, 2017, I was cautiously optimistic that Plaintiff would comply with the Court's Order. I did have reservations, however, as Plaintiff has been previously held in willful contempt of Court in the lawsuit involving Old Towne Restaurant between Plaintiff and myself. In that case (2015-CP-10-5610), Plaintiff was taking actions without my consent, namely commingling his personal side businesses with Old Towne Restaurant. Because Plaintiff refused to stop these unilateral actions, I sought, and the Court granted, an injunction against Plaintiff restraining such behaviors.

   Despite the Court's Order, however, Plaintiff continued to outright and repeatedly violate the Court's Order. I had no choice but to file a Petition for Rule to Show Cause, and the Court held Plaintiff in contempt for three willful violations of the Court's Order. Plaintiff's violations of the Order were very egregious, including Plaintiff actively trying to conceal his inappropriate behaviors. Plaintiff inappropriately took inventory from Old Towne Restaurant to use in one of his side businesses. Plaintiff further tried to actively conceal his inappropriate behavior by literally turning off the lights in the storage room to conceal his taking of inventory. Plaintiff swore in an affidavit, and represented in open Court, that he did not remove any inventory from Old Towne Restaurant. After viewing the video surveillance, the Court specifically found the following: "I find that the most blatant violation of the Court's Preliminary Injunction Order occurred on April 8, 2016 ... I find that [Athan Fokas] 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." See Exhibit 1, attached hereto (Contempt Order).

I had to file yet another Petition for Rule to Show Cause against Plaintiff for yet again violating the Court's order and yet again actively attempting to conceal his inappropriate behaviors. See Exhibit 2, attached hereto (Petition for Rule to Show Cause). This Petition was not heard by the Court, however, because Plaintiff signed a Final Settlement Agreement resolving the lawsuit a few weeks prior to the scheduled Rule to Show Cause Hearing.

8. In this case, if only Plaintiff followed the Court's Order, none of these matters would be an issue, as the LLC funds would have been deposited into an LLC account at United Community Bank in which all members have equal access. Instead, Plaintiff refused to comply with the Court's Order for a month. On May 12, 2017, *the very next day* after receiving Defendant Spiros Ferderigos' letter reminding Plaintiff that he has not complied with the Court's Order for a month and demanding Plaintiff cooperate with and come into compliance with the Court's Order or a Rule to Show Cause will be filed, Plaintiff took the following actions:

    a. Plaintiff, without the knowledge or consent of the other members, made the unilateral decision/took the unilateral action to personally obtain a *handwritten* check from the property management group in the amount of $14,046.88 in LLC funds (LLC checks are supposed to be *direct deposited*).

    b. Plaintiff, without the knowledge or consent of the other members, made the unilateral decision/took the unilateral action to *deposit* the *handwritten* LLC check in the amount of $14,046.88 into his First Citizens bank account, the very same account the Court previously ordered to be closed.

    c. Plaintiff, without the knowledge or consent of the other members, made the unilateral decision/took the unilateral action to make an LLC profit distribution from the First Citizens account in the amount of $7,023.44 to himself. Plaintiff did not deliver a distribution check to the other members for their share at this time.

    See Exhibit 3, attached hereto, (Copy of the deposited handwritten check to the LLC from the property management group); see Exhibit 4, attached hereto, (First Citizens Account Details, specifying date of deposits/withdrawals); and see Exhibit 5, attached hereto, (Copy of profit distribution check to Plaintiff that Plaintiff made to himself).

9. Plaintiff did these unilateral and inappropriate actions without providing any prior notice to the other members, and he completed the tasks of obtaining the *handwritten* LLC check from the property management group, depositing the LLC check into his unauthorized First Citizens account, and making a profit distribution to himself all in one day. See Exhibits 3 - 5 (all dated May 12, 2017).

10. On May 13, 2017, Plaintiff sent me a text saying he will have paperwork and an LLC check for me at Old Towne Restaurant the following day on May 14, 2017. See Exhibit 6, text from Plaintiff.

11. On May 15, 2017, I went to Old Towne Restaurant to see what Plaintiff had left for me. I located the sealed envelopes in the safe and was handed a box from the manager (Mike). I took the items home and went through them that day. There was no LLC check or First Citizens LLC checkbook in either. Therefore, I went back to the restaurant and once again checked inside the safe and further thoroughly checked outside the safe and surrounding area to see if Plaintiff left a check or other LLC "books" for me, but I did not find anything. I checked the area where we leave Old Towne Restaurant's checkbook, including under the Old Towne Restaurant checkbook, but I did not find anything.

    As stated above, Plaintiff and I have always left any LLC check in a sealed envelope in the safe at Old Towne Restaurant. Furthermore, when the checkbook and paperwork were to be exchanged, that too would be left in a sealed envelope in the Old Towne safe. I checked those areas, and, to be overly cautious, I checked all around the surrounding areas as well, including under the restaurant's checkbook.

12. On May 16, 2017, I sent a text to manager Justin asking him to see if there is an envelope in the safe for me. Manager Justin responded that there was not. See Exhibit 7, text with manger (Justin).

13. On May 18, 2017 at 2:52 pm, I sent a text to manager Mike asking him to check the safe again for me to make sure there was not an envelope or anything for me in the safe. Manager Mike responded that there was nothing in the safe for me and even stated that he took everything out of the safe and went through it to make sure there was nothing in the safe for me. See Exhibit 8, text with manager (Mike).

14. Defendant Spiros Ferderigos' attorney Dawes Cooke sent a letter to the Court the afternoon of May 18, 2017, informing the Court of Plaintiff's actions. It was not until the very next day, May 19, 2017, that the LLC check allegedly suddenly appeared at Old Towne Restaurant. It is Plaintiff's actions after the check mysteriously appeared that concerns me.

15. On May 19, 2017, I received a text from manager Justin informing me that Plaintiff wanted me to know that Plaintiff has the LLC checkbook at Old Towne Restaurant and that "the checkbook was under the ot [Old Towne Restaurant] one." As I had checked under the Old Towne Restaurant checkbook numerous times since May 15, 2017, I knew that not to be true. I was able to view on the security camera that Plaintiff was with manager Justin at the time Justin was sending his text, so I waited for Plaintiff to leave the restaurant and then responded to manager Justin. I informed manager Justin that I could see Plaintiff was with him while manger Justin was sending the text and that I checked under the Old Towne Restaurant checkbook many times earlier in the week and the LLC checkbook was not there. Manger Justin confirmed that he was texting what Plaintiff asked him to text and that manager Justin had in fact not seen the LLC

checkbook at Old Towne Restaurant prior to May 19, 2017. See Exhibit 9, text with manager (Justin).

16. After being informed by manager Justin's text on May 19, 2017, that the LLC check was now at the restaurant, I went to the restaurant, obtained the LLC check that had not been there prior to May 19, 2017, and made the distribution to the remaining members of the LLC.

17. When I arrived at Old Towne on May 21, 2017, I was approached by manager Mike who came up to me and apologized for not giving me the LLC checkbook that Plaintiff allegedly left for me earlier the prior week. Confused with what manager Mike was telling me, manager Mike informed me that Plaintiff contacted him on May 19, 2017 and said that he (Plaintiff) had previously given manager Mike the LLC checkbook to give to me but that manager Mike failed to do what Plaintiff directed. Manager Mike further told me that he did not know what Plaintiff was talking about because he does not remember Plaintiff giving him the LLC checkbook at any time. However, manager Mike did remember Plaintiff giving him envelopes and a box to give to me. Manager Mike remembers me coming to the restaurant the very next day to pick up the box and envelopes that Plaintiff left for me. I had manager Mike confirm all of this in a text to me. See Exhibit 10, text with manager (Mike). There was no LLC checkbook or LLC check in the items Plaintiff left for me.

18. I cannot reconcile my visual inspection of the Old Towne Restaurant premises and the above communications with the Old Towne Restaurant managers with the statements contained in Plaintiff's Affidavit that he provided to the Court as an attachment to his attorney's letter dated May 23, 2017. I did not see the LLC check or checkbook at Old Towne Restaurant prior to May 19, 2017, and both manager Justin and manager Mike told me they did not see them at the restaurant prior to May 19, 2017.

19. Plaintiff continues to make representations unsupported by the record in his latest affidavit (Second Supplemental Affidavit of Athan Fokas In Opposition To Motion By Spiros Ferderigos) that was attached to his attorney's letter to the Court dated May 23, 2017. In his Affidavit, Plaintiff informed the Court "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 [the LLC distribution check] to them." This allegation is categorically 100% false. To support this position, Plaintiff informs the Court in his affidavit that "I had texted Jacob ... that I would have the checkbooks for both Old Towne Suites, LLC and S&S Old Town, Inc. with me the next day ... [h]e did not show up ... while I was there, so I left both in Old Towne." (Emphasis added). There are numerous misrepresentations in this statement and in Plaintiff's aforementioned Affidavit. They are as follows:

    a. Plaintiff states that he left both the restaurant checkbook and the LLC checkbook at the restaurant for me at the same time so I could take over the "books" for both separate businesses. Plaintiff, however, did not leave the restaurant checkbook for me as he alleges because the restaurant checkbook has been at the restaurant

all along. We keep the restaurant checkbook at the restaurant specifically so the managers can write checks as they come due.[1] As evidence of this fact, I have attached copies of checks from the restaurant checkbook dated May 5th, May 7th, May 10th, May 11th, and May 16th all written and signed *by the restaurant manager* proving that the checkbook was in the restaurant all along. See Exhibit 11.

Furthermore, as managers were actively writing checks from the checkbook located at the restaurant as set forth herein, it is likely that they would have noticed the LLC checkbook if it was "under" the restaurant checkbook (as Plaintiff had the manager text to me) when they were cutting checks for restaurant expenses.

I did not purposefully only take the restaurant checkbook with me, while purposefully leaving behind the LLC checkbook, to "set him up." In reality, the restaurant checkbook was already at the restaurant prior to Plaintiff's alleged "drop off" date of May 14th, and the restaurant checkbook has stayed there thereafter and continues to be there to this day. I never took (and have not taken) the restaurant checkbook away from the restaurant. Again, the attached checks written from the checkbook *by the managers* proves this fact to be true and Plaintiff's Affidavit to be false.

b. As set forth herein, with copies of the actual texts attached hereto, Plaintiff had manager Justin text me to allegedly "remind me" that the LLC checkbook was "under" the restaurant checkbook; but Plaintiff also communicated to another manager, manager Mike, that *Plaintiff had given him* the LLC checkbook to give to me. As detailed above, both managers confirmed that they were only telling me what Plaintiff told them to say or accused them of doing, and both managers confirmed that they had not seen the LLC checkbook at the restaurant prior to May 19th. To the contrary, manager Mike specifically states that Plaintiff gave him a box and envelopes and that I came the very next day and took everything that Plaintiff left for me.

c. Plaintiff further fails to state in his Affidavit that the LLC checkbook and any LLC profit check or "books" of any other kind have always been left in a sealed envelope in the restaurant's safe as set forth above in more detail. Furthermore, Plaintiff fails to state in his affidavit that he has never written a distribution check to the other members and left it in the LLC checkbook. We have always put the LLC distribution checks in a sealed envelope, in the restaurant's safe, for the other member(s) to pick-up.

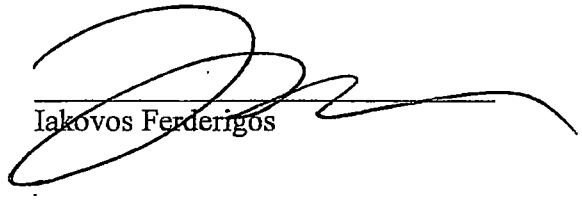
[1] I can only recall one time that the restaurant checkbook was removed from the restaurant. Plaintiff removed the restaurant checkbook for a very short period of time approximately eight months ago when he was concerned that I would write a larger rent check to the owners of 229 King Street, which Plaintiff objected to. The checkbook has remained at the restaurant for many, many months now.

d. Plaintiff's Affidavit informs the Court that "Jacob finally picked up the Old Towne Suites, LLC checkbook from the restaurant ... *after the manager texted him to remind him it was still there.*" (Emphasis added). As shown in my messages with manager Justin, however, attached as Exhibit 9, it is undeniable that the manager had no personal knowledge that the LLC checkbook was at the restaurant prior to May 19th, and the manager specifically confirms that he personally never saw the checkbook prior to May 19th. Rather, the manager confirmed that he was simply texting me what Plaintiff told him to text to me.

20. It is very unfortunate that Plaintiff refused to follow the Court's Order. If he had done so, none of this would be an issue, as the LLC funds would have been deposited into the United Community Bank Account in which all members have equal access. Plaintiff's actions illustrate the need for the Court's Order to remain in place pending appeal to protect me and the other LLC members.

21. With this Affidavit, I swear that I did not find the Old Towne Suites LLC check or checkbook in Old Towne restaurant's safe or under the Old Towne restaurant's checkbook, or anywhere else that I checked before May 19th. I checked very thoroughly to find it. I also had the managers check the safe, and they could not locate it prior to May 19th. Thereafter, having received not one but two messages from the managers that purported to imply that the Old Towne Suites check was there all along, I knew this not to be true.

AFFIANT SAYETH FURTHER NOT!



Iakovos Ferderigos

SWORN and SUBSCRIBED to before me
this 30th day of May, 2017

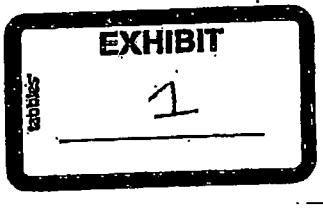
Cheryl D. Rychael
Notary Public for State of South Carolina
My Commission Expires: 1/27/2019

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	IN THE NINTH JUDICIAL CIRCUIT
COUNTY OF CHARLESTON	)	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.	)	**CONTEMPT ORDER**
ATHAN FOKAS,	)	
Defendant.	)	

FILED
2016 SEP 29 PM 4:45
JULIE J. ARMSTRONG
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 $ 391.00 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 $ 391.00 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 22, 2016

STATE OF SOUTH CAROLINA	IN THE COURT OF COMMON PLEAS
	IN THE NINTH JUDICIAL CIRCUIT
COUNTY OF CHARLESTON	CASE NO.: 2015-CP-10-5610
S&S OLD TOWN INCORPORATED, BY AND THROUGH ITS SHAREHOLDER IAKOVOS FERDERIGOS and IAKOVOS FERDERIGOS, INDVIDUALLY Plaintiffs, v. ATHAN FOKAS, SPIROS FOKAS (Intervenor) and S&S OLD TOWN INCORPORATED, Defendants.	MOTION AND PETITION FOR RULE TO SHOW CAUSE, CONTEMPT OF COURT AGAINST DEFENDANT

FILED
2017 APR 17 PM 4:32
JULIE J. ARMSTRONG
CLERK OF COURT
BY

YOU WILL PLEASE TAKE NOTICE that Plaintiffs, Iakovos Ferderigos and S&S Old Town Incorporated, by and through their undersigned attorneys, will move before the presiding Judge in the Court of Common Pleas on the tenth (10th) day after service of this motion or as soon as counsel may be heard for an Order finding that Defendant, Athan Fokas, is in Contempt of Court and the Plaintiffs' hereby petition the Court for a Rule to Show Cause against Defendant, Athan Fokas, as to why Defendant should not be held in Contempt of Court of this Court's Preliminary Injunction Order. As grounds in support thereof, Plaintiffs respectfully state as follows:

1. On February 22, 2016, the Court 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"). 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 Defendant is "strictly restrained and enjoined from ... withdrawing funds from Old Towne Restaurant for anything related to Zeus (and/or any of Defendant's other side projects)." See Exhibit A, Order Granting Plaintiffs' Request for Preliminary Injunction.

2. By Order filed September 29, 2016, the Court previously held Defendant in willful Contempt of Court for multiple violations of the preliminary injunction. The Court held that one of the multiple willful violations of the Court's Order was "Defendant also intentionally and willfully, in violation of the Court's Preliminary Injunction Order,

EXHIBIT
2

commingled the corporation's assets with another of his side projects (Old Towne Suites, LLC)…" The Court further held that "[t]he 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, and held 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 [Old Towne Suites, LLC] and using the corporation's checking account for a company other than the corporation. The Court ordered Defendant to pay Plaintiff's attorneys fees in the amount of $3,911.00. In addition, the Court further fined Defendant $1,000.00, which Defendant purged by paying $304.25 directly to Old Towne Restaurant. The Court's Order was filed September 29, 2016. See Exhibit B, Contempt Order.

3. On November 12, 2016, less than two months after the Court filed its Order holding Defendant in willful Contempt of Court, Defendant once again intentionally and willfully violated the Court's preliminary injunction by once again directly commingling Old Towne Restaurant with his side project Old Towne Suites, LLC (hereinafter LLC). The details of this violation are set forth in Paragraphs 9 through 11 herein.

4. Despite Defendant being once again in willful contempt of this Court's restraining Order, Plaintiff attempted to address this issue with Defendant instead of filing a Motion for Contempt. See Exhibit C, Letter dated December 20, 2016 to Defense Counsel Stanley Barnett. Specifically, Mr. Ferderigos said he would withhold filing a Contempt Motion so long as there are no more violations of the Court's Order by Defendant:

> "I have attached a *Motion and Petition for Rule to Show Cause, Contempt of Court Against Defendant*. My client is at his wits end trying to keep Mr. Fokas from commingling Old Towne Restaurant with Mr. Fokas' other businesses. It is very simple; Old Towne Restaurant resources can only be used for Old Towne Restaurant business. Despite this once again flagrant violation of the Court's order, my client is withholding filing the attached Contempt Motion to give Mr. Fokas one last opportunity to cease his contemptuous behaviors of commingling Old Towne Restaurant with his other businesses. My client is doing everything he can to try to make the corporation run as smoothly as possible, but if Athan Fokas continues to disrespect the court order, my client has no choice but to seek that your client be held in contempt once again given your client's repeated violations. If there are any more violations, I will file another motion for contempt against your client, with this present and any additional violations, and my client will seek that your client be held in Contempt of Court with severe sanctions."

5. To Plaintiff's dismay, his attempts to resolve Defendant's repeated violations of the Court's restraining Order without the need to file another Contempt Motion have been to no avail.

6. Without the knowledge or consent of Plaintiff, Defendant withdrew funds from Old Towne Restaurant and deposited the funds into his side project LLC account to cover an insufficient check that Defendant wrote for his side project LLC. And to make matters worse, after Defendant was asked about the transaction at his deposition, Defendant sent a text to Plaintiff willfully and purposefully misrepresenting to Plaintiff that the transfer he made from Old Towne Restaurant to his side business LLC checking account was simply an "accident" in which he deposited the funds into the wrong account. See Exhibit D, text communications.

7. When Plaintiff investigated the matter, he learned that Defendant clearly misrepresented the facts to him and purposefully took funds from their corporation and deposited the funds into Defendant's side business LLC checking account to cover the very amount needed for an insufficient check Defendant wrote from his side LLC business. See Exhibit E, attached hereto, evidences the following:

   a. 01/24/17: Defendant's side business LLC checking account had a balance of $137.31.

   b. 01/31/17: Defendant wrote from his side business LLC account a check in the amount of $244.35 (even though he only had $137.31 in his side business LLC account at the time).

   c. 02/01/17: Defendant transferred $120 from Old Towne Restaurant's checking account to his side business LLC account to cover his lack of funds in his side business LLC account and keep his side business LLC check from bouncing.

   d. 02/13/17: Defendant transferred back to Old Towne Restaurant the $120 he "borrowed" after his side business LLC account received a profit deposit to keep his side business LLC from bouncing checks.

8. Defendant refused to respond to repeated text requests to provide an explanation after confronted with the above information from the bank account that proves he *once again* unlawfully and willfully commingled funds between Old Towne Restaurant and his side project LLC in violation of the Court's Order.

9. As an additional violation of this Court's restraining Order, and the violation Plaintiff tried to previously remedy without having to file a Motion for Contempt, on November 12, 2016, Defendant directed Old Towne Restaurant's manager, while the manager was "on the clock" being paid to manage and supervise the restaurant, to leave the restaurant to repair a plumbing issue for Defendant's side project LLC.

10. At Defendant's directive, Old Towne Restaurant's manager left Old Towne Restaurant, while being paid and "managing on the clock," to go repair the plumbing issue for

Defendant's side project as directed by Defendant. See Exhibit F attached hereto, Text Messages with Old Towne Restaurant's manager to Plaintiff.

11. Defendant attempted to conceal from Plaintiff that he directed Old Towne Restaurant's manager to leave Old Towne Restaurant while on the clock for Old Towne Restaurant to do work for Defendant's side project LLC. See Exhibit G, Text Messages.

12. Plaintiff happened to learn about this violation by circumstance, despite keeping a close watch on Old Towne Restaurant. As Defendant continues to repeatedly violate this Court's Preliminary Injunction Order, Plaintiff is at a loss of how to stop Defendant from his contemptuous behavior and seeks the Court to issue an Order that will ensure Defendant stop commingling Old Towne Restaurant with his side projects.

In accordance with Rule 11 of the South Carolina Rules of Civil Procedure, I certify that I have communicated with opposing counsel and have attempted in good faith to resolve the matter contained in the motion or that consultation would serve no useful purpose.

Wherefore, Plaintiffs pray for the following relief:

1. A Rule to Show Cause against Defendant as set forth herein;

2. An Order holding Defendant in willful contempt, with appropriate penalties;

3. An Order requiring Defendant to pay Plaintiffs' attorney's fees and costs for the necessity of bringing this action; and

4. For any other relief deemed just and proper by the Court.

John A. Massalon
I. Ryan Neville
WILLS MASSALON & ALLEN LLC
Post Office Box 859
Charleston, South Carolina 29402
jmassalon@wmalawfirm.net
rneville@wmalawfirm.net
843-727-1144
ATTORNEYS FOR PLAINTIFFS

April 17, 2017

Charleston, South Carolina

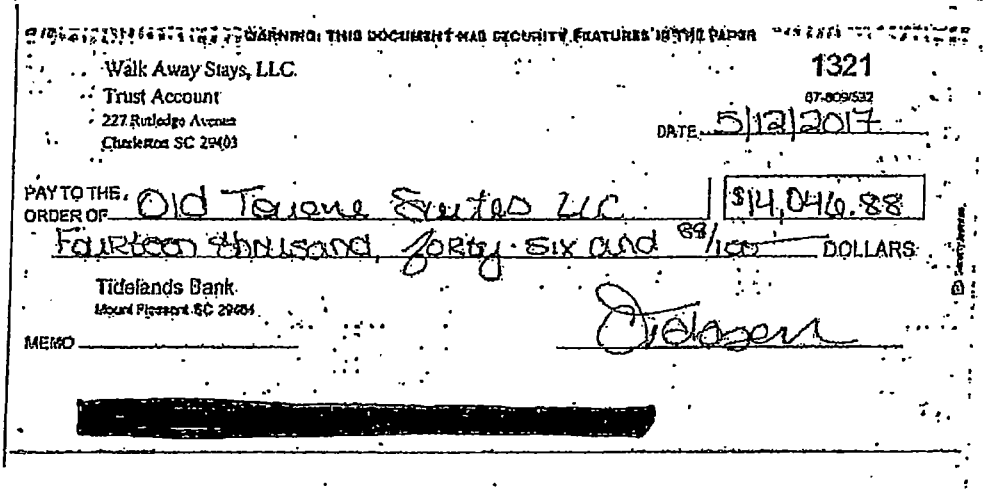
Menu

Account Details

MAY 12 2017	Check - 1407	-$7,023.44 $7,119.53
MAY 12 2017	Customer Deposit...	$14,046.88 $14,142.97

Summary **Details**

MAY 12 2017 Customer Deposit



WARNING: THIS DOCUMENT HAS SECURITY FEATURES IN THE PAPER

Walk Away Stays, LLC
Trust Account
227 Rutledge Avenue
Charleston SC 29403

1321
67-809/532

DATE 5/12/2017

PAY TO THE ORDER OF Old Tavern Suites LLC $14,046.88

Fourteen thousand, forty-six and 88/100 DOLLARS

Tidelands Bank
Mount Pleasant SC 29464

MEMO

[redacted]

1 of 2

APR 11 2017	Check - 1405	-$4,400.00 $96.09
APR 7 2017	Check - 1404	-$4,400.00 $4,496.09

EXHIBIT 3

Menu

Account Details

To expand or collapse account details, click on the 'i' icon

Basic Business Checking 7701

Available Balance $7,119.53

Search transactions

MAY 12 2017	Check - 1407	-$7,023.44	$7,119.53
MAY 12 2017	Customer Deposit...	$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
APR 6 2017	WALK AWAY STAYS PA...	$8,782.30	$8,896.09
MAR 23 2017	Check - 1403	-$850.00	$113.79
MAR 13 2017	Check - 1402	-$1,050.00	$963.

EXHIBIT 4

Menu

Account Details

To expand or collapse account details, click on the 'i' icon. ×

Basic Business Checking 7701

Available Balance $7,119.53

Search transactions

MAY 12 2017 — Check - 1407 — -$7,023.44

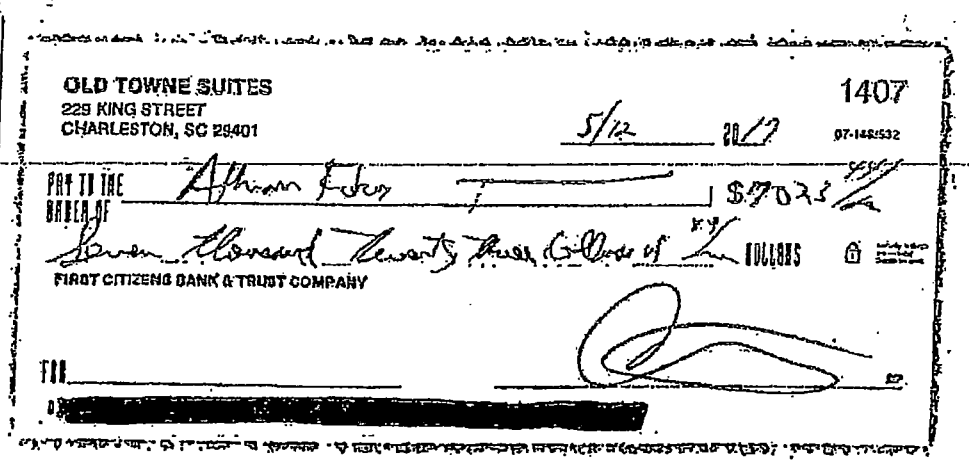
$7,119.53

Summary Details

Description:
Check

Date:
5/12/2017

Type:
Debit - Check 1407



OLD TOWNE SUITES
229 KING STREET
CHARLESTON, SC 29401

1407

5/12 2017

97-148/532

PAY TO THE ORDER OF Allison Fahey $7023

Steven Howard Lewis Trust, Gilbert et al DOLLARS

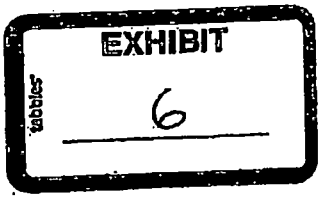
FIRST CITIZENS BANK & TRUST COMPANY

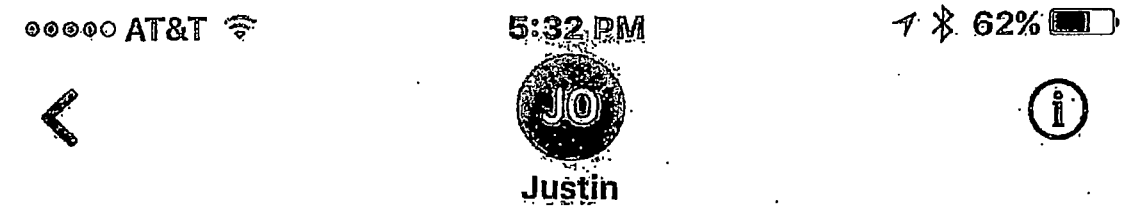
FOR

EXHIBIT 5

Sat, May 13, 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.





Can you see if there's an envelope in the safe for me?

No there s not

Ok. Thanks

EXHIBIT

tabbies

7

Mike

Thursday 2:52 PM

Can you check the safe again for me and make sure there is not an envelope or anything with my name on it for me.

Ok boss

Nothing in there for you sir

Ok. Thank you

I took everything out and looked through it

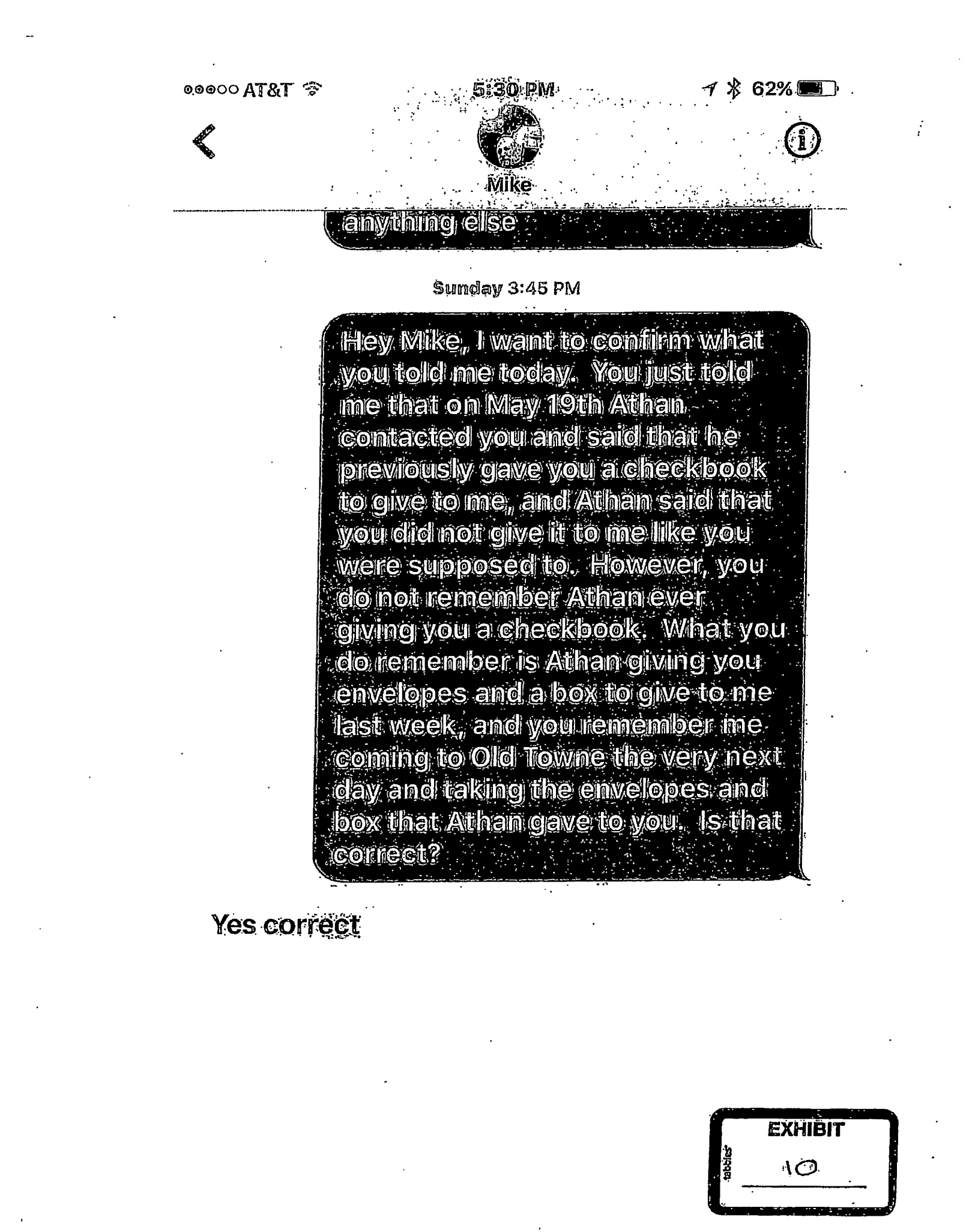
Thank you

EXHIBIT

tabbies

8

AT&T
5:31 PM
62%
JO
Justin
Friday 10:49 AM
Hey Athan has the suits checkbook here. He wanted me to text u that
The Checkbook was under the ot one.
Justin, the Suites checkbook was not there because I've checked many times this week and it was not there. I saw Athan at the bar on video at Old Towne while you sent me the text about the Suites checkbook. Setting aside what Athan told you this morning, did you see the Suites checkbook there before today? Because I looked and it was not there.
No I didn't see it before today but didn't see him bring it I. Today. That's all I know. Not my concern if I didn't see it since has nothing to do with it.
It
Ot
iMessage
EXHIBIT
9


AT&T
5:30 PM
62%
Mike
anything else
Sunday 3:45 PM
Hey Mike, I want to confirm what you told me today. You just told me that on May 19th Athan contacted you and said that he previously gave you a checkbook to give to me, and Athan said that you did not give it to me like you were supposed to. However, you do not remember Athan ever giving you a checkbook. What you do remember is Athan giving you envelopes and a box to give to me last week, and you remember me coming to Old Towne the very next day and taking the envelopes and box that Athan gave to you. Is that correct?
Yes correct

EXHIBIT

10

Menu

Account Details

EXHIBIT 1

OLD TOWNE GRILL & SEAFOOD
229 KING ST.
CHARLESTON, SC 29401

27867

5-5 20 17

66-30/531

PAY TO THE ORDER OF CNL Intmediun $ 949-

Nine hundred forty nine dollars DOLLARS

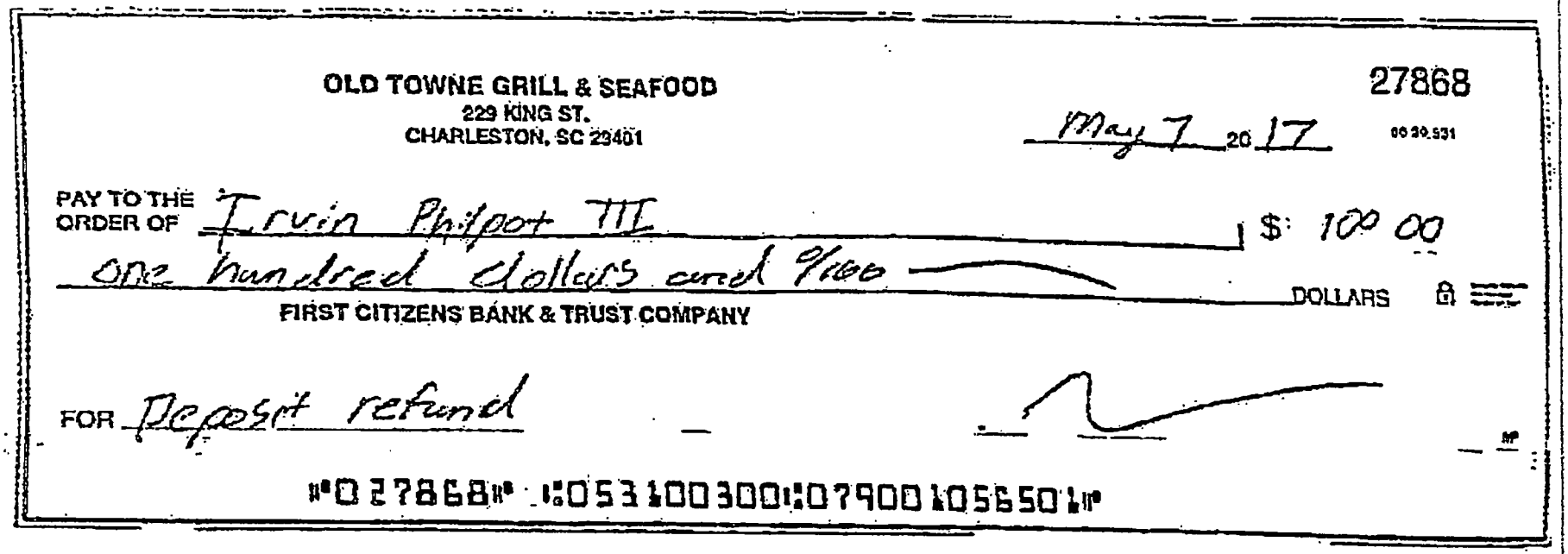
FIRST CITIZENS BANK & TRUST COMPANY

FOR

⑈027867⑈ ⑆053100300⑆07900105650⑈

Menu

Account Details



OLD TOWNE GRILL & SEAFOOD
229 KING ST.
CHARLESTON, SC 29401

27868

May 7 20 17

PAY TO THE ORDER OF Irvin Philpot III $ 100 00

One hundred dollars and 0/100 DOLLARS

FIRST CITIZENS BANK & TRUST COMPANY

FOR Deposit refund

⑈027868⑈ ⑆053100300⑆07900105650⑈

OLD TOWNE GRILL & SEAFOOD
229 KING ST.
CHARLESTON, SC 29401

27870

5-10 20 17

56-30/531

PAY TO THE ORDER OF Southern Eagle Dist $ 231.72

two hundred thirty one and 72cents DOLLARS

FIRST CITIZENS BANK & TRUST COMPANY

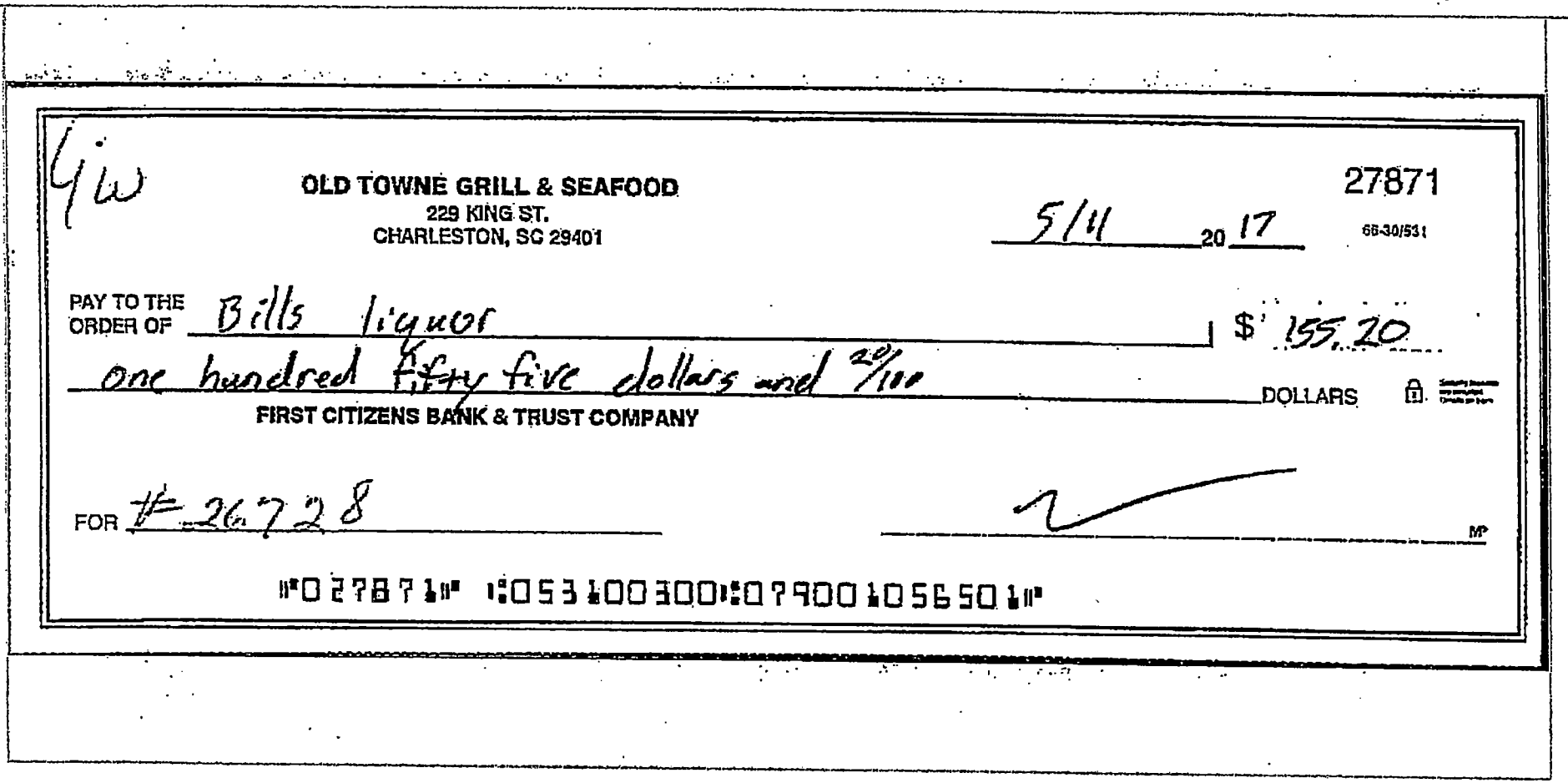
FOR

MP

⑈027870⑈ ⑆053100300⑆07900105650⑈

Menu

Account Details



GW

OLD TOWNE GRILL & SEAFOOD
229 KING ST.
CHARLESTON, SC 29401

27871

5/11 20 17

66-30/531

PAY TO THE ORDER OF Bills liquor $ 155.20

one hundred fifty five dollars and 20/100 DOLLARS

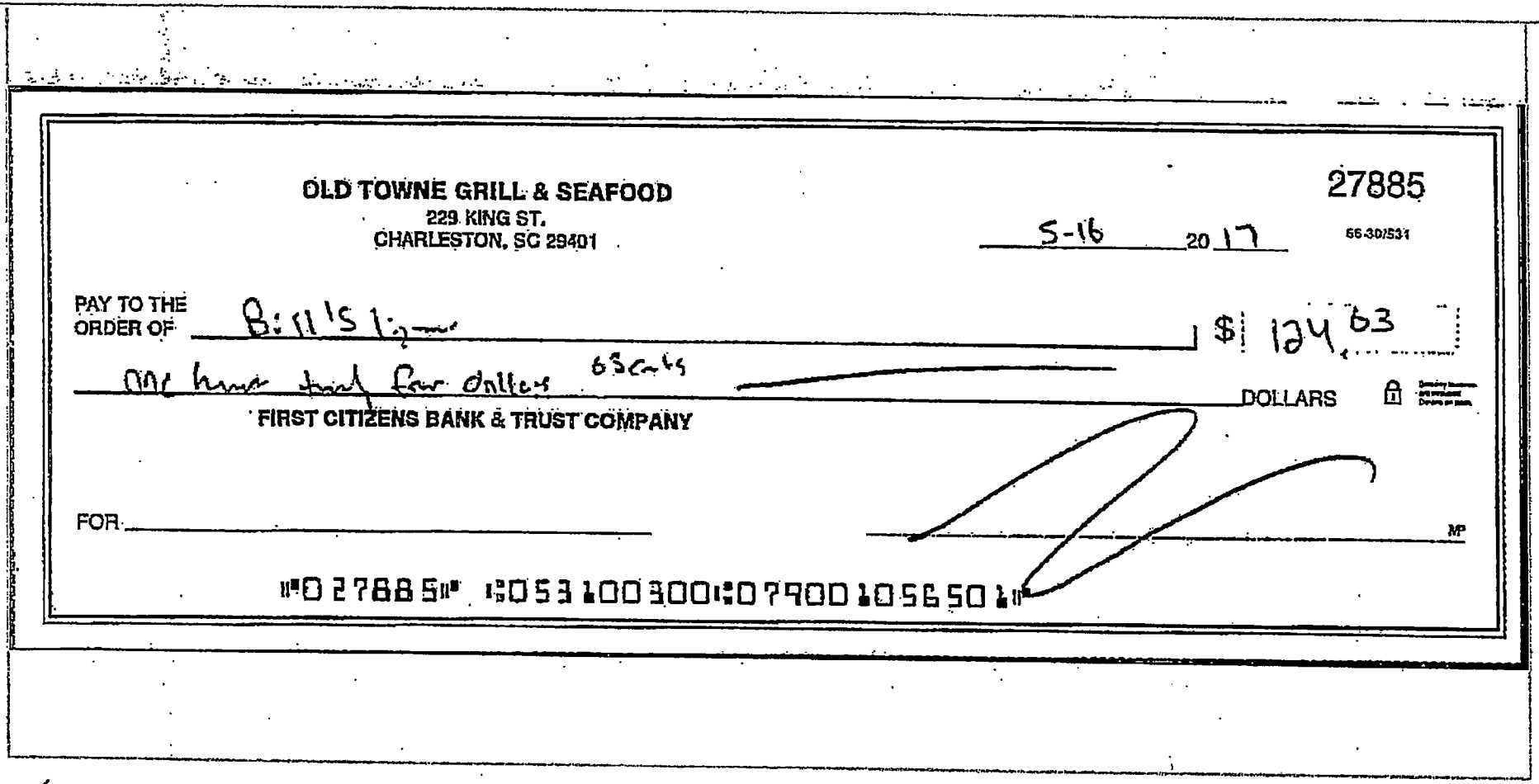
FIRST CITIZENS BANK & TRUST COMPANY

FOR #26728

⑈027871⑈ ⑆053100300⑆079001056501⑈

Menu

Account Details



OLD TOWNE GRILL & SEAFOOD
229 KING ST.
CHARLESTON, SC 29401

27885

5-16 20 17

66-30/531

PAY TO THE ORDER OF Bills Inc

$ 1124.63

One thousand four dollars 63 cents

DOLLARS

FIRST CITIZENS BANK & TRUST COMPANY

FOR

MP

⑈027885⑈ ⑆053100300⑆ 07900105650⑈

BARNWELL WHALEY PATTERSON & HELMS LLC | 75 YEARS 1938-2013

Attorneys for businesses & professionals since 1938

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

May 30, 2017
VIA COURIER 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 Memorandum in Opposition to Plaintiff's Petition for Supersedeas Staying Order filed on behalf of the Defendant, Spiros Ferderigos, in the above-referenced matter. Please file the original Memorandum and return the filed stamped copy to me via 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 Memorandum. 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,

Jeremy E. Bowers

Encl.
cc w/encl.: Stanley E. Barnett, Esquire (via U.S. Mail)
Leslie S. Lenhardt, Esquire (via U.S. Mail)
Jennifer H. Thiem, Esquire (via U.S. Mail)
John A. Massalon, Esquire (via U.S. Mail)

BARNWELL WHALEY | 75 YEARS 1938-2013
PATTERSON & HELMS LLC
Attorneys for businesses & professionals since 1938

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

June 30, 2017

Via US Mail and Email

The Honorable Roger M. Young, Sr.
Circuit Judge, Ninth Judicial Circuit
100 Broad Street, Suite 368
Charleston, SC 29401

EXHIBIT 8

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

Dear Judge Young:

Thank you for taking the time to meet with Stan Barnett and me about Plaintiff's motion for Supersedeas to Stay your April 11 Order. Regrettably, as Stan pointed out in his letter this morning, the parties have not been able to agree upon the terms of an order to resolve the motion. We believe that Plaintiff's proposed order would in effect reverse Your Honor's April 11 Order, despite your having denied his Motion to Alter or Amend. We must therefore respectfully object to the proposed order and ask Your Honor to deny Plaintiff's motion.

We ask that the Court deny the motion for the reasons stated in the brief that we previously submitted. I am attaching a copy for ease of reference. We oppose Plaintiff's proposed order for the following additional reasons. First, the April 11 Order provides that Mr. Ferderigos is authorized to amend the LLC's 2015 tax return (to reflect, correctly, that Mr. Fokas' father does not own an interest in the LLC). Plaintiff's proposed Order provides that the amended tax return must first be submitted to him so that he can determine whether the return will "unnecessarily create any financial harm to either Plaintiff or his father." This would not only stay, but effectively nullify, this provision of the Order. The Court has already ruled – twice -- that this simple and unarguable amendment to the tax return can be made. Mr. Fokas has never claimed, let alone demonstrated, that this correction would cause anyone any financial harm. It is disconcerting that he now asks for the right to veto the correction of the tax return on the basis that it might somehow financially harm his father or him.

Next, the Order requires Mr. Fokas to close the old LLC bank account and transfer all current and future LLC funds into the United Community Bank account, to which all Members of the LLC have full access. The Order also requires that all future LLC expenses be paid from this account. Mr. Fokas does not

www.barnwell-whaley.com

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

object to this requirement (though he continues to flout it, which is a matter for another day. Mr. Fokas has not closed the old account, as the Order requires, and, while he has recently begun making deposits into the proper account, for some reason he or the manager first makes the deposits into the old account and then transfers the money to the new one). But his proposed order would require that this account carry only a one-thousand-dollar minimum balance. Your Order says nothing about a minimum balance. While the bank requires only a one-thousand-dollar minimum balance, the LLC's needs might well change over time. Nothing in the April 11 Order purports to restrain the LLC from maintaining a higher balance if circumstances warrant, and Mr. Fokas offers no reason for such a restriction.

Next, the Order enjoins Mr. Fokas from taking unilateral action on behalf of the LLC without the ongoing consent of the majority of the members. This is exactly what the LLC statute requires. Mr. Fokas has conceded that he cannot act unilaterally on behalf of the LLC. Yet, his proposed order would shift the balance of authority to himself by providing that *no* member can take action without the consent of the "owners of the majority interest" in the LLC. This appears intended to give Mr. Fokas veto authority over any action voted on by the other three members, because he owns half the *distributional* interest in the LLC. The LLC statute (S.C. Code Ann. Sec. 33-44-404(a)(2)) provides for a majority vote on most issues, irrespective of distributional interests. Plaintiff's proposed order would significantly alter, not stay, the Court's Order.

Finally, the Order provides for appointment of a receiver. The parties agree that a receiver is not needed at this time. However, the Plaintiff's proposed order would provide that no receiver be appointed during the pendency of his appeal. We respectfully oppose an order that would preclude the appointment of a receiver should one become necessary, and we would reserve the right to come back to the Court if one should be needed.

I would also point out that the Plaintiff's proposed order makes no provision for his posting a bond, which would be appropriate in the event that Your Honor saw fit to stay any part of your Order pending appeal.

For Your Honor's consideration, I have enclosed a proposed order in this matter in Word document format. The attached proposed order asks Your Honor to deny Plaintiff's Petition for Supersedeas to Stay Order. We believe such an order is appropriate, as Your Honor's April 11 Order is not automatically stayed pursuant to statute, and a stay is not necessary to preserve jurisdiction on appeal, as detailed in Defendant's Memorandum in Opposition to Petition for Supersedeas filed May 31, 2017. Thank you for Your Honor's consideration, and please let me know if you need anything additional from me.

Sincerely,

M. Dawes Cooke, Jr.

Attachments

c: Stan Barnett, Esquire (Stan.Barnett@yahoo.com)
Jennifer Thiem, Esquire (Jennifer.Thiem@klgates.com)
John A. Massalon, Esquire (JMassalon@wmalawfirm.net)

STATE OF SOUTH CAROLINA COUNTY OF CHARLESTON	)	IN THE COURT OF COMMON PLEAS FOR THE NINTH JUDICIAL CIRCUIT Case No.: 2015-CP-10-3919
Athan Fokas, Plaintiff, v. Philip Ferderigos, Spiros Ferderigos, and Jacob Ferderigos, Defendant(s).	)	ORDER ON PLAINTIFF'S PETITION FOR SUPERSEDEAS TO STAY ORDER

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.

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

_____, 2017
Charleston, South Carolina

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.

MEMORANDUM IN OPPOSITION TO PLAINTIFF'S PETITION FOR SUPERSEDEAS STAYING ORDER

2017 MAY 3 PM 2:11

TO: STAN BARNETT, ESQUIRE, and LESLIE LENHARDT, ESQUIRE, ATTORNEYS FOR THE PLAINTIFF

Defendant SPIROS FERDERIGOS (hereinafter referred to as "Spiros"), by and through his undersigned counsel, hereby submits this memorandum opposing Plaintiff's Petition for Supersedeas Staying Order.

INTRODUCTION

Because the LLC statute is clear regarding the responsibilities and rights of all LLC members[1], this matter should not have had to come before the Court in the first place. Once it did, it should have been resolved by this Court's Order that required Plaintiff to do no more than the law already requires him to do anyway. Plaintiff has now appealed, and continues to defy, that most innocuous and uncontroversial Order. Plaintiff's defiant actions are simply

[1] S.C. Code Ann. Section 33-44-04: "(a) In a member-managed company: (1) each member has equal rights in the management and conduct of the company's business ... (c) any matter relating to the business of the company may be decided by a majority of the members."

S.C. Code Ann. Section 33-44-04 Comment: "In a member-managed company, each member has equal rights in the management and conduct of the company's business unless otherwise provided in an operating agreement"... Also, member disputes as to any matter relating to the company's business may be resolved by a majority of the members unless the matter relates to a matter specified either in subsection (c) (unanimous consent required) or in Section 33-44-801(b)(3)(i) (special consent required)."

inexcusable. Not only does the unauthorized bank account the Court ordered to be closed a month ago remain open, but Plaintiff has further defied the Court's Order by unilaterally depositing LLC funds into the account.[2]

PROCEDURAL HISTORY

Spiros filed an Amended Motion To Amend Tax Returns And Change Checking Account And For Restraining Order on February 16, 2017. In that Amended Motion, Spiros prayed that the Court issue an Order (1) allowing and authorizing Spiros 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, (2) 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 Citizen Bank account to the LLC's new checking account with United Community Bank in which all members have equal access, and (3) prohibiting Plaintiff from taking any further unilateral actions without the consent of the majority of members of the LLC.

On April 11, 2017, the Court granted Spiros' Amended Motion. The Court's Order included provisions (1) restraining Plaintiff from taking any unilateral actions and/or making unilateral decisions without the consent of the majority of members of the LLC, (2) ordering Plaintiff to immediately close his unauthorized First Citizens LLC bank account (to which only he has legal access to the exclusion of the other members), withdraw all funds from said account, and deposit them into the United Community Bank account for the LLC in which all members

[2] In his May 22, 2017, letter to the Court, attorney Barnett nobly attempts to deflect attention from his client's conduct by indignantly objecting to undersigned counsel's May 18 letter to the Court. Lest there be any misunderstanding, the May 18 letter was directed to the Plaintiff's conduct, not Mr. Barnett's. The substance of these letters is addressed in detail later in this Memorandum.

have equal access, and (3) ordering the property manager for the LLC to deposit all LLC funds into the United Community Bank account to which all members have equal access.

On April 20, 2017, Plaintiff filed a Motion to Alter and Amend. On May 4, 2017, the Court issued an Order Denying Plaintiff's Motion to Alter or Amend, finding that the Court thoroughly considered the supporting and opposing arguments of counsel and the relevant case law in denying Plaintiff's Motion. Plaintiff filed a Notice of Appeal on May 8, 2017. On May 15, 2017, he filed a Petition for Supersedeas Staying Order, requesting that the Court stay its Order pending Plaintiff's appeal.

STANDARD OF REVIEW

South Carolina Appellate Court Rules 241(a) & (b) set forth the general rule and exceptions that a service of notice of appeal acts to automatically stay matters decided in an order unless the matter involves "(2) [j]udgments directing the assignment or delivery of documents or personal property [including money][3] ... or (8) [a]n appeal from an order granting an injunction or temporary restraining order." Rule 241, SCACR. After service of a notice of appeal, any party may move for an order lifting the automatic stay in cases which involve the general rule. In a case subject to an exception, any party may move for an order imposing a supersedeas of matters decided in the order, judgment, decree or decision on appeal after service of the notice of appeal. See Rule 241(c)(1), SCACR. In determining whether an order should issue pursuant to this rule, the lower court should consider whether such an order staying the appeal is necessary to preserve jurisdiction of the appeal or to prevent a contested issue from becoming moot. See Rule 241(c)(2), SCACR. A party seeking a stay pending appeal must also demonstrate "irreparable injury in the absence of a stay." See Mary L. Dinkins Higher Learning

[3] S.C. Code Ann. § 18-1-20 defines personal property to "include money, goods, chattels things in action and evidences of debt."

Academy vs. South Carolina Public Charter School District, 2013 WL 18004101 (S.C.Admin.Law.Judge.Div); 4 C.J.S. Appeal and Error § 528.

The grant or denial of a stay pending resolution of an appeal is within the discretion of the Court. See 5 Am.Jur.2d § 405. The Court may generally consider a wide variety of circumstances in determining whether to grant a stay, including the following: (1) whether the movant has made a showing of likelihood of success on the merits and therefore whether appellant is likely to prevail on the merits on the appeal; (2) whether the movant has made a showing of irreparable injury if a stay is not granted; (3) whether respondent will suffer irreparable injury or serious injury if the stay is granted. See generally, Id. at § 405. A stay should be granted only when a balancing of the equities are in the applicant's favor and the equities are balanced depending on which side a risk of an irreparable injury weighs more heavily. See generally, Id. at § 415. Accordingly, here, South Carolina places a very high burden on Plaintiff to prevail in his supersedeas request.

ARGUMENT

A. The Court's Order is not automatically stayed by Plaintiff's appeal.

Initially, in his letter to the Court dated May 15, 2017, Plaintiff concedes that at least two of the mandates in the Court's Order are not automatically stayed by Plaintiff's filing Notice of Appeal of this Court's Order filed April 11, 2017. It is undisputable that Plaintiff's Notice of Appeal does not automatically stay the Court's Order to the extent it: (1) restrains Plaintiff from taking any unilateral actions and/or making unilateral decisions without the consent of the majority of members of the LLC; (2) orders Plaintiff immediately to close his unauthorized First Citizens LLC bank account (to which only he has legal access to the exclusion of the other members) and to withdraw all funds from said account and deposit them into the United

Community Bank account for the LLC (in which all members have equal access), and (3) orders the property manager for the LLC to deposit all LLC funds into the United Community Bank account, to which all members have equal access.

These provisions of the Court's Order are clearly not automatically stayed pursuant to Rule 241, SCACR.[4] The Court's Order restraining Plaintiff from taking unilateral actions is not stayed pursuant to Rule 241(b)(8), SCACR, because it is an order granting injunctive relief and restraining Plaintiff from certain actions. The remaining provisions of the Order set forth above are also clearly not automatically stayed pursuant to Rule 241(b)(2), SCACR, because those provisions direct the Plaintiff and property manager to deliver personal property (i.e. money) to the United Community Bank account and further direct Plaintiff to deliver the necessary documents to close his unauthorized and non-consented-to First Citizens Account that contains personal property (i.e. money). As these provisions are not automatically stayed, Plaintiff has requested that the Court issue a Supersedeas staying its Order "to preserve the status quo so as to allow Plaintiff's appeal of the Orders to not be rendered moot." See Plaintiff's Petition for Supersedeas Staying Order, pg. 2.

B. Plaintiff fails to meet his burden to impose a Stay of the Court's Order - A supersedeas is not warranted and would cause irreparable injury to Defendants.

First, Plaintiff asks the Court to stay its Order pending appeal to preserve what Plaintiff calls the "status quo." The problem is the status quo, as perceived by the Plaintiff, is apparently to do unilaterally whatever he wants over the objections of all other LLC members, to act only in his own best interest, to ignore the Court's Order to close the unauthorized account, to ignore the Court's Order by continuing to deposit new funds into the unauthorized account (which should not exist), to make disbursements unilaterally from the unauthorized account, and to hold the

[4] Likewise, the Court's Order was not stayed during the pendency of Plaintiff's Motion to Reconsider.

other members' LLC profits in an unauthorized account that only he has full legal access to.[5] The series of texts cited within and attached to Defendant's Amended Motion proves Plaintiff has repeatedly ignored the other members' rights over their objections and Plaintiff will do whatever he pleases regardless of those rights. Unfortunately, Plaintiff's improper behavior has not been deterred by the Court's Order. It is within such context that Plaintiff asks the Court to stay the Order. There is no "status quo" for a supersedeas to preserve here. Without a stay of the Court's Order, the business will continue to operate as it always has, with the sole exceptions being that the Plaintiff will follow the law by using a bank account that his fellow members also have access to and by not taking actions without the consent of a majority of the members.

Here, the balance of equities clearly favors a denial of Plaintiff's Petition for Supersedeas. Based on the LLC statute itself, Plaintiff's prior illegal behavior preceding the Court's Order (as well as Plaintiff's subsequent egregious behavior after the Court's Order) makes it unlikely he will succeed on the merits of his appeal. This is especially true given the clear and unambiguous LLC statute. Further, Plaintiff has set forth no harm, much less irreparable harm, to him by the LLC funds being deposited into an LLC account that all members of the LLC have equal access to. In contrast, given Plaintiff's actions both before and after the Court's Order, it is Defendants who would be irreparably harmed by Plaintiff's ongoing actions, namely continuing to deposit LLC funds into an account only he has full access to and taking unilateral actions on behalf of the LLC which harm Defendants. Accordingly, it is beyond question that a supersedeas would cause irreparable harm to Defendants, whereas enforcing the Court's Order, which merely requires Plaintiff to comply with the LLC statute, would cause no

[5] In essence, Plaintiff seeks to have the Court acquiesce in Plaintiff's prior and current violations of Defendants' rights as the "status quo" during the pendency of the meritless appeal. Also, Plaintiff's argument that preserving his version of the status quo would not create "any hardship on any party" is meritless. As more fully set forth in prior briefs, that status quo would prohibit Defendants from having access to the LLC's checking account and would enable Plaintiff to take actions for the LLC without obtaining consent from other LLC members.

harm to Plaintiff.[6] Indeed, one must wonder why Plaintiff ever forced Spiros to seek judicial intervention to obtain this modest relief, let alone appealed and flouted the Court's order and now moves to stay it.

Second, Plaintiff cannot satisfy the high burden required by Rule 241(c)(2), SCACR, because staying the Court's Order is not necessary to preserve jurisdiction of the appeal or to prevent a contested issue from becoming moot. It does not render a contested matter moot nor divest the appellate court of jurisdiction pending appeal, but instead simply upholds the unambiguous statute that governs the LLC. Old Towne Suites LLC can continue its business unabated, with or without a stay. Should Plaintiff prevail on appeal, he can resume his unilateral actions and resume banking at his favored bank if he wishes.[7]

C. Plaintiff's contemptuous behavior since the issuance of this Court's Order further illustrates the necessity that the Court's Order remain in effect pending appeal.

It would be the height of irony for this Court to reward Plaintiff's contemptuous behavior by staying its order while he pursues a frivolous appeal. There was no reason for Plaintiff to disobey the Court's Order, which clearly was not stayed. Had Plaintiff followed the Court's Order, the LLC funds would have been direct-deposited into the United Community Bank

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[6] Indeed, Plaintiff concedes in his petition that "decisions for management of the LLC do not allow Plaintiff to make 'unilateral decisions' as he only holds a 50% interest of the LLC." His concession rings hollow, though, as he has continually acted unilaterally and justified his conduct by falsely claiming that the Defendants ceded their management authority to him: "Moreover, the Defendants all consented to let Plaintiff manage the LLC as if he were designated its manager" (See Plaintiff's Response in Opposition to Motion for Restraining Order By Defendant Spiros Ferderigos, p.2.) or where Plaintiff misrepresented, "Defendants allowed, indeed wanted, Plaintiff to manage the LLC's business" (Id. at 5), or where Plaintiff submitted an affidavit asserting "it is true that Spiros and his brothers unofficially designated me the manager of the LLC" (See Supplemental Affidavit of Athan Fokas in Opposition to Motion by Spiros Ferderigos, ¶2).

[7] See Mary L. Dinkins Higher Learning Academy vs. South Carolina Public Charter School District, supra, stating "In this case, Appellant argues that if the Court does not stay the enforcement of this Order, it would be forced to close thereby rendering its appeal moot. However, from all indications, the Appellant continues to operate the charter school ... the Appellant has options available to it that allow Appellant to continue operating while their appeal is pending. Even if Appellant finds itself in the position where it must cease operating, if the appeal is successful, there is nothing that would prevent Appellant from reopening the school."

account (to which all members have equal access), and all the members would have received their respective distributions with no issues whatsoever. Plaintiff, however, had different plans, as will be shown below. On August 15, 2016, Spiros was unanimously voted by all members of the LLC as the single "Point of Contact" between the LLC and the property management group for the LLC. See Exhibit A. On February 24, 2017, Spiros notified the property manager that the unauthorized First Citizens account was no longer to be used and the United Community Bank account is the sole account to be used for the LLC and where funds should be direct deposited. See Exhibit B. The property manager responded to Spiros that he would not stop using the First Citizens account, nor would he deposit LLC funds into the United Community Bank account as directed, unless (1) all the members agree, or (2) a Court Order directs him to make such deposit. See Exhibit C. On April 11, 2017, the same day the Court issued its Order, Spiros notified and provided a copy of the Court's Order to the LLC's property manager directing the property manager to make such deposit. See Exhibit D. The Order directed the property manager "to deposit all rental proceeds/profits and/or other funds for the LLC directly into the aforementioned United Community Bank account" to which all members have equal access. Despite being provided with a copy of the Court's Order by Spiros and Spiros requesting that the property manager respond to his email confirming that he would abide by the Court's Order, the property manager did not respond to him. Importantly, the property manager uses *direct deposit* to transfer LLC funds to the LLC. See Exhibit E. After failing to receive a response from the property manager that he would comply with the Court's Order, counsel for Spiros sent a letter (via email) to Plaintiff's counsel on May 11, 2017, reminding Plaintiff of his obligations to cooperate with the Court's Order, which Plaintiff had still failed to do, and his obligation to direct the property manager to cooperate with the Court's Order to deposit the LLC

funds into the United Community Bank account (as the property manager previously confirmed he would deposit funds into the United Community Bank account if all members agreed). See Exhibit F.

Plaintiff, instead, and in violation of the Court's Order, made the unilateral decision (over the objection of all other members and in violation of the Court's Order) to obtain a *handwritten* check from the property management group in the amount of $14,046.88 in LLC funds and, *the very next day* after receiving Defendant's letter demanding Plaintiff cooperate with the Court's Order, again violated the Court's Order by depositing the LLC funds into his unauthorized First Citizens Bank account (which he was specifically ordered not to do and which account the Court specifically ordered that he immediately close over a month prior). Plaintiff then made the unilateral decision to make a profit distribution from his unauthorized First Citizens account in the amount of $7,023.44 to himself.[8] Plaintiff took these contemptuous actions and then attempted to conceal them by providing no prior notice to the other LLC members. Plaintiff took the following actions, which violate the Order: (1) obtaining the *handwritten* LLC check from the property management group (which should have been direct-deposited into the United Community Bank account per the Court's Order), (2) depositing the check into his unauthorized First Citizens account (which account Plaintiff was ordered to close immediately a month prior and he was ordered to deposit all funds into the United Community Bank account), and (3) making a profit distribution to himself from that account (instead of transferring the funds to the United Community Bank account prior to making distributions as required by the Court's Order), all on the same day (May 12, 2017). See Exhibit G.

[8] Indeed, Plaintiff also made a unilateral decision as to the amount of the distribution, with no input from the other members.

Plaintiff then made a distribution of the $7,023.44 in LLC profits only to himself and not the rest of the members (with the remaining members' $7,023.44 share of LLC profits being inappropriately held by Plaintiff in Plaintiff's unauthorized First Citizens bank account to which only he has full legal access). The other members could not access their funds because they do not have legal access to the account, and Plaintiff retained possession of his unauthorized First Citizens account checkbook. See Exhibit K, Affidavit of Iakovos ("Jacob") Ferderigos. It was not until the very next day after counsel for Spiros sent a letter to the Court on May 18, 2017, informing the Court of Plaintiff's contemptuous behaviors, that Defendants' distribution check and the Old Towne Suites, LLC checkbook appeared at 229 King Street. See Exhibit H, letter to the Honorable Roger M. Young, Sr. and Exhibit K, Affidavit of Iakovos Ferderigos. After the distribution check from the unauthorized account appeared, the other members deposited it on May 22, 2017[9].

D. Letter of Stan Barnett to the Honorable Roger M. Young, Sr. dated May 22, 2017

On May 22, 2017, in response to the undersigned counsel's letter to the Court of May 18, Plaintiff's counsel, Mr. Barnett, sent a letter to the Court making numerous allegations accusing Spiros of deceit via the May 18 letter. Aside from being wrong, as will be shown, Plaintiff's accusations do not address, let alone justify, Plaintiff's defiance of this Court's Order. Plaintiff's abject refusal to follow the law point up the importance of this Court enforcing the Order.

However, Plaintiff's accusations against Defendants are serious, and Defendants believe they must be addressed in this Memorandum, as Plaintiff seeks to shift focus of the issues before the Court away from Plaintiff's clear, willful, and undisputable violations of the Court's Order that have harmed Defendant and the other members.

[9] As Mr. Barnett correctly asserted in his most recent letter of May 26, 2017.

1. **Plaintiff's accusations regarding member Iakovos ("Jacob") Ferderigos' access to Plaintiff's unauthorized First Citizens Bank Account.**

First, Plaintiff accuses Spiros of untruthfulness when Spiros asserted in the May 18, 2017, letter that "Plaintiff has repeatedly misinformed the Court in his written submissions and in oral argument that Defendant Iakovos ("Jacob") Ferderigos has the same equal access to Plaintiff's unauthorized First Citizen's account as Plaintiff." The written documentation proves that the May 18 letter was entirely correct in this regard. Plaintiff minces words with his insistence that Iakovos (and thus, evidently by familial association, Spiros) has access to the bank account because he periodically had physical possession of the checkbook and wrote checks from it. It is now undeniable that Iakovos does not have the same access (or even authority to access) to the First Citizens account as Plaintiff. See Exhibit I, Letter from First Citizens Bank that Iakovos obtained in response to Plaintiff's representations at the hearing ("Iakovos Ferderigos is not listed as an owner or signer on the account ... He is not authorized to obtain information on the above account."). Plaintiff has indeed incorrectly represented that Iakovos has full access to the unauthorized First Citizens Bank account as Plaintiff. Plaintiff has made these misrepresentations in text communications. See Exhibit J, texts from Plaintiff November 2016 (Plaintiff: "Jacob, the account was opened with you on it;" Plaintiff: "And Jacob and I opened that account with your consent when we first started the suites ..." Jacob: "I do not agree with what Athan just said.") (Emphasis added). Plaintiff has also made these misrepresentations in his Affidavit and Supplemental Affidavit to the Court by falsely attesting, "Shortly after formation of the LLC, Jacob and I opened an LLC account at First Citizens Bank to handle the deposits and distributions from the LLC. Jacob's brothers, Phillip and Spiros, were not interested in being signatories on the account ... Jacob has had full access to the bank account at First Citizens since it was opened in 2011." (Emphasis added). The letter from First

Citizens Bank finally puts this issue to rest, confirming that Iakovos does not have full access to the account. Of course, Plaintiff does not even claim that Spiros and Phillip have access to the First Citizens Bank account. It is for this reason that the LLC should be required to open a new bank account now.

Plaintiff now says he never claimed Iakovos had full access to the account, but he did. Plaintiff's own written statements quoted above and attached as exhibits prove that Spiros' statements in the May 18 letter to the Court are accurate and that Plaintiff misinformed the Court. In any event, it is unarguable that Spiros does not have full access to the account, and nor do the members other than the Plaintiff. All members are equally entitled to access to the LLC's bank account. No reason exists to stay this Court's order effectuating that right.

2. Plaintiff's accusations regarding Plaintiff issuing an LLC distribution only to himself on May 12, 2017.

Plaintiff further accuses Spiros of deceiving the Court concerning Plaintiff's numerous violations of the Court's Order. Plaintiff focuses on one specific allegation by Spiros, that Plaintiff made a distribution of LLC profits on May 12, 2017 only to himself and not the other members. It is important to note that Plaintiff fails to acknowledge that, if he had simply followed the clear Order of the Court instead of flouting the Order, the possibility of Plaintiff making a distribution only to himself would not even be an issue, as the LLC funds would have been directly deposited into the United Community Bank Account to which all members have equal access. The story of the distribution is nevertheless important because the preponderance of the evidence provides a window into the magnitude and the deliberateness of Plaintiff's defiance of the law and of this Court's Order.

Importantly, in his letter to the Court, Plaintiff does not contest the fact that Plaintiff violated the Court's Order by (1) obtaining a *handwritten* LLC check in the amount of

$14,046.88 from the LLC property management company (which should have been direct deposited into the United Community Bank account); (2) depositing the *handwritten* check in the First Citizens account; (3) making a distribution to himself in the amount of $7,023.44 directly from the account that should not have even existed per the Court's Order. These are clear violations, which are inexcusable. Plaintiff tries to mitigate the willfulness of his violations of the Order by claiming that he also issued the Defendants their distribution. He did disburse their distribution but not until after the May 18 letter asserting his failure to do so.

Despite Plaintiff submitting an Affidavit denying that he made a distribution only to himself and accusing Defendants of a "scheme" to "misrepresent" to the Court an "untruth", the written evidence once again confirms Plaintiff's misinformation and continued inappropriate and contemptuous behavior. As set forth in Exhibit K, the Affidavit of Iakovos Ferderigos, which includes written correspondence from Plaintiff and managers at Old Towne Restaurant, Plaintiff did not deliver the LLC distribution check to Iakovos until after the May 18, 2017 letter. Iakovos' Affidavit further details how Plaintiff attempted to conceal his contemptuous behavior. This includes Plaintiff submitting an Affidavit to the Court attesting that he left the unauthorized LLC checkbook at Old Towne Restaurant for Iakovos with the check still inside the checkbook. As set forth in detail in Iakovos' Affidavit (with text correspondence from Plaintiff and managers from Old Towne Restaurant), Plaintiff directed the manager at Old Towne Restaurant to tell Iakovos that the checkbook was left for Iakovos at Old Towne Restaurant, implying that it was there all along. When Iakovos pursued the communications with the managers further, the managers confirmed that they did not have any personal knowledge of any LLC check or LLC checkbook being left at Old Towne Restaurant as implied in their initial communications with Iakovos; rather, the managers confirmed that they were only communicating to Iakovos what

Plaintiff told them. See Exhibit K, Affidavit of Iakovos Ferderigos. Iakovos' Affidavit, with the attached documents, establishes that Plaintiff did not provide the Defendants' distribution check to Iakovos until after he was called out for not doing so in the May 18 letter to the Court.

The Court need not weigh the evidence on this point in order to conclude that it should not stay its Order requiring use of a bank account to which all members have equal access and prohibiting him from acting against the will of a majority of the members. The mere fact that the Court is being required to referee this banking dispute is itself ample reason to leave its Order in place pending appeal.

CONCLUSION

Plaintiff asks this Court to stay its Order pending appeal to preserve what he calls the "status quo." The problem is the status quo, as perceived by Plaintiff, is apparently to do whatever he wants, over the objections of all other LLC members, to act in his own best interest, to ignore the Court's Order to close the unauthorized account, to ignore the Court's Order by depositing funds into the unauthorized account (which should not exist), to make disbursements unilaterally from the unauthorized account, and to hold the other members' LLC profits in an unauthorized account that only he has legal access to. The series of texts cited in and attached to Spiros' Amended Motion proves that Plaintiff has repeatedly ignored the other members' rights over their objections and that Plaintiff will do whatever he pleases regardless of those rights or even a Court Order.

Plaintiff now asks this Court to allow him to continue to violate Defendants' rights while Plaintiff seeks a meritless appeal. Plaintiff's ongoing willful violations of the Court's Order since the issuance of the Order further confirm the necessity to deny Plaintiff's request to stay the Court's Order because Plaintiff's pattern of behaviors shows that Plaintiff will continue to harm

Spiros and the other members unless their statutory rights are protected as set forth in the Court's Order. Plaintiff's ill will is further evidenced by his decision to appeal and disobey a very innocuous and hardly controversial Order requiring him to do no more than the plain law requires.

For the reasons set forth herein, Spiros respectfully prays that the Court will deny Plaintiff's Petition for Supersedeas Staying Order.

BARNWELL WHALEY PATTERSON & HELMS, LLC

BY: _____

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ATTORNEYS FOR DEFENDANT SPIROS FERDERIGOS

May 30, 2017
Charleston, South Carolina

Certificate of Service

I hereby certify that the foregoing MEMORANDUM IN OPPOSITION TO PLAINTIFF'S PETITION FOR SUPERSEDEAS STAYING ORDER was served upon the parties to this action by U.S. mail, sufficient postage attached thereto, to the following counsel of record:

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

Leslie Lenhardt, Esquire
Lenhardt Law Firm, LLC
1876 Wallenberg Blvd.
Charleston, SC 29407

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

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

This the 30th day of May, 2017.

Cheryl Rayland
Legal Secretary

2017 MAY 31 AM 11:02
JULIE J. ARMSTRONG
CLERK OF COURT
BY

EXHIBITS PURPOSELY OMITTED

M. Dawes Cooke, Jr. / 6-30-17

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE NINTH JUDICIAL CIRCUIT
COUNTY OF CHARLESTON	)	Case No.: 2015-CP-10-3919
Athan Fokas,	)	
	)	
Plaintiff,	)	
	)	
v.	)	
	)	ORDER ON PLAINTIFF'S PETITION
Philip Ferderigos, Spiros Ferderigos, and Jacob Ferderigos,	)	FOR SUPERSEDEAS TO STAY ORDER
	)	
Defendant(s).	)	
	)	

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.

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

_____, 2017
Charleston, South Carolina

STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON PLEAS
)	FOR THE NINTH JUDICIAL CIRCUIT
COUNTY OF CHARLESTON)	Case No.: 2015-CP-10-3919
Athan Fokas,)	
)	
Plaintiff,)	
)	
v.)	
)	ORDER ON PLAINTIFF'S PETITION
Philip Ferderigos, Spiros)	FOR SUPERSEDEAS TO STAY ORDER
Ferderigos, and Jacob Ferderigos,)	
)	
Defendant(s).)	
)	

FILED
2017 JUL -7 PM 2:20
JULIE J. ARNSTEIN
CLERK OF COURT
BY

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,

EXHIBIT
tabbies
#9

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.

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

7/6, 2017
Charleston, South Carolina

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF CHARLESTON	)	
	)	
Athan Fokas,	)	CASE NO.
☐ Plaintiff	)	2015-CP-10-03919
	)	
v.	)	MOTION AND ORDER INFORMATION
	)	FORM AND COVER SHEET
Phillip Ferderigos, Spiros Ferderigos, And Jacob Ferderigos,	)	
☒ Defendant.	)	

Plaintiff's Attorney:	Defendant's Attorney:
Stanley E. Barnett, Bar No. Address: 305 North Civitas Street Mount Pleasant, SC 29464 phone: (843) 884-1031 fax: e-mail: stan.barnett@yahoo.com other:	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)**

EXHIBIT #10

SECTION I: Hearing Information

Nature of Motion: Motion and Petition for Rule to Show Cause
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.

J. S. B. MDC July 24, 2017

Signature of Attorney for ☐ Plaintiff / ☒ Defendant Date submitted

SECTION III: Motion Fee

☒ PAID – AMOUNT: $25.00
☐ EXEMPT: (check reason)
☐ Rule to Show Cause in Child or Spousal Support
☐ 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

Date Filed:

Collected by: _____

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

FILED

2017 JUL 24 PM 4:04

JULIE J. ARMSTRONG
CLERK OF COURT

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.

MOTION AND PETITION FOR RULE TO SHOW CAUSE, CONTEMPT OF COURT AGAINST PLAINTIFF, ATHAN FOKAS

YOU WILL PLEASE TAKE NOTICE that the Defendant, Spiros Ferderigos, by and through his undersigned attorney, will move before the presiding Judge in the Court of Common Pleas on the tenth (10th) day after service of this motion or as soon as counsel may be heard, for an Order finding Plaintiff, Athan Fokas, is in Contempt of Court and the Defendant hereby petitions the Court for a Rule to Show Cause against Plaintiff, Athan Fokas, as to why Plaintiff should not be held in Contempt of this Court's Order Granting Defendant Spiros Ferderigos' Amended Motion To Amend Tax Returns And Change Checking Account And For Restraining Order filed on April 11, 2017. As grounds in support thereof, the Defendant, Spiros Ferderigos, respectfully states as follows:

1. On August 15, 2016, Defendant Spiros Ferderigos (hereinafter referred to as "Spiros") was unanimously voted by all members of the LLC as the single "Point of Contact" between Old Towne Suites, LLC (hereinafter "the LLC") and the property management group for the LLC, Walk Away Stays, LLC. See Exhibit A. Kevin High represents himself as the managing member for Walk Away Stays, LLC (Kevin High and Walk Away Stays, LLC, are collectively referred to herein as "property manager").

2. On February 24, 2017, Spiros notified the property manager the unauthorized First Citizens account was no longer to be used and the United Community Bank account is the sole account to be used for the LLC and where funds should be direct deposited. See Exhibit B.
3. The property manager responded to Spiros saying he would not stop using the First Citizens account, nor would he deposit LLC funds into the United Community Bank account as directed, unless (1) all the members agree, or (2) a Court Order directs him to make such deposit. See Exhibit C.
4. On April 11, 2017, The Honorable Roger Young, Sr., granted Spiros' Order Granting Defendant Spiros Ferderigos' Amended Motion to Amend Tax Returns and Change Checking Account and For Restraining Order. The Court ordered as follows:
    a. 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) [in which all members have equal access];
    b. 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.

c. 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.

d. Plaintiff Athan Fokas is hereby strictly restrained from taking any unilateral actions(s) and/or making any unilateral decisions(s) without the ongoing consent of the majority of the members of the LLC.

5. On April 11, 2017, the same day the Court issued its Order, Spiros notified and provided a copy of the Court's Order to the LLC's property manager directing the property manager to make such deposit.[1] See Exhibit D.

6. Despite being provided with a copy of the Court's Order by Spiros and Spiros requesting the property manager respond to his email confirming he would abide by the Court's Order, the property manager did not respond to him. Importantly, the property manager uses *direct deposit* to transfer LLC funds to the LLC. See Exhibit E.

7. After failing to receive a response from the property manager confirming he would comply with the Court's Order, counsel for Spiros counsel sent a letter (via email) to Plaintiff's counsel on May 11, 2017, reminding Plaintiff of his obligations to cooperate with the Court's Order, which Plaintiff had still failed to do[2] and his obligation to direct the property manager to cooperate with the Court's Order to deposit the LLC funds into the United Community Bank account (as the property manager previously confirmed he

[1] The Order directed the property manager "to deposit all rental proceeds/profits and/or other funds for the LLC directly into the aforementioned United Community Bank account."

[2] Spiros' letter further put Plaintiff on notice again that he has been in violation of the Court's Order for a month as he has (1) failed to close his First Citizens Bank account as ordered by the Court, (2) has failed to transfer funds from the First Citizens account to the United Community Bank account as ordered by the Court, and (3) has refused to tell the property manager to deposit the LLC funds into the United Community Bank account as ordered by the Court.

would deposit funds into the United Community Bank account if all members agreed). See Exhibit F.

8. Plaintiff, instead, *the very next day* after receiving Spiros' letter demanding Plaintiff cooperate with the Court's Order, took the following actions which willfully violate the Court's Order:

   a. Plaintiff, without the knowledge or consent of the other members, made the unilateral decision/took the unilateral action to personally obtain a *handwritten* check from the property management group in the amount of $14,046.88 in LLC funds (which should have been *direct-deposited* into the United Community Bank account).

   b. Plaintiff, without the knowledge or consent of the other members, made the unilateral decision/took the unilateral action to *deposit* the *handwritten* LLC check in the amount of $14,046.88 into his First Citizens bank account (the same account the Court ordered Plaintiff to close immediately a month prior); and

   c. Plaintiff, without the knowledge or consent of the other members, made the unilateral decision/took the unilateral action to make a profit distribution from the First Citizens bank account to himself in the amount of $7,023.44[3] (instead of transferring the funds to the United Community Bank account prior to making distributions as required by the Court's Order).

[3] As set forth in detail in Defendant's Memorandum in Opposition to Plaintiff's Petition for Supersedeas Staying Order, filed May 31, 2017, Plaintiff further made a distribution only to himself and attempted to conceal his sole distribution. For purposes of this Rule to Show Cause, however, Defendant is focusing on the other unequivocal contemptuous behaviors of the Court's Order that Plaintiff has been defiantly violating for over two months now. Plaintiff has still, to this day, failed to close the First Citizens account, has still failed to transfer all the LLC funds from the First Citizens account to the United Community Bank account, and has continued to take unilateral actions as set forth in detail in this Petition for Rule to Show Cause.

See Exhibit G (Copy of the deposited handwritten check to the LLC from the property management group), See Exhibit H (First Citizens Account Details, specifying date of deposits/withdrawals), and See Exhibit I (Copy of profit distribution check to Plaintiff that Plaintiff made to himself).

9. Plaintiff took these contemptuous actions and then attempted to conceal them by providing no prior notice to the other LLC members and completing these tasks all in the same day (May 12, 2017). See Exhibits G – I. Spiros' counsel informed the Court of these contemptuous actions by letter dated May 18, 2017; however, this has not stopped Plaintiff's ongoing and active violation of the Court's Order, which continue to harm the other members and the LLC. See Exhibit J (letter dated May 18, 2017 to the Honorable Roger M. Young, Sr.)

10. On May 30, 2017, after the Plaintiff took the aforementioned inappropriate unilateral actions and inappropriately made the aforementioned deposits/distributions, Spiros once again emailed the property manager that the next LLC deposit due in a few days must be deposited into the United Community Bank account as ordered by the Court and directed the property manager to immediately notify Spiros if anyone is directing him not to comply with the Court's Order. See Exhibit K. Spiros never received a response back from the property manager.

11. On June 9, 2017, following the second email from Spiros to the property manager demanding he cooperate with the Court's order, the property manager appropriately (for the first time) deposited $11,438.30 in LLC funds into the United Community Bank account as required by the Court. See Exhibit L.

12. The following day, Spiros sent a text to the members of the LLC saying he had issued checks from the United Community Bank account via online bill pay and the members should expect those checks to arrive in the mail in the next few days. Plaintiff responded defiantly to Spiros' text, stating "[t]hat must have been an error by the management company because they know this is being appealed," confirming Plaintiff informed the property manager not to cooperate with the Court's Order. Spiros responded to Plaintiff reminding him the Court ordered all deposits are to be made directly to the United Community Bank account and his appeal did not stay the Court's Order (which Plaintiff is already aware of since his Motion to Alter and Amend was denied and since Plaintiff filed a Motion for Supersedeas asking the Court to stay its Order). See Exhibit M (text correspondence).

13. Immediately after Plaintiff's defiant text wrongly alleging the property manager should not have deposited the LLC funds into the United Community Bank account (in which all members have equal access), the property manager (who is close personal friends with Plaintiff[4]) inappropriately withdrew the $11,438.30 in LLC funds from the LLC account. See Exhibit N. This is despite the fact Plaintiff had been informed LLC checks had already been properly issued by Spiros from the United Community Bank account as set forth in the Court's Order.

14. On June 13, 2017, Spiros' counsel emailed a letter to Plaintiff's counsel requesting Plaintiff inform the property manager to re-deposit the $11,438.30 in LLC funds back

[4] When Defendant issued a subpoena for correspondence between Plaintiff and the property manager (Kevin High), Plaintiff objected to the subpoena on the grounds that they "are friends and their families are close. In addition, they are engaged in other business relationships ..." Furthermore, Plaintiff and the property manager were in constant communication, and even vacationing together, during the period that Spiros was emailing the property manager directing that he cooperates with the Court's Order to deposit LLC funds into the United Community Bank account as ordered by the Court. The property manager never responded back to Spiros' emails. See Exhibit S.

into the United Community Bank account by no later than June 15, 2017, or Spiros would seek immediate relief from the Court. See Exhibit O.

15. On June 20, 2017, the inappropriately withdrawn $11,438.30 in LLC funds from the United Community Bank were deposited into Plaintiff's unauthorized First Citizens Account instead of the Court Ordered United Community Bank Account. It was not until the LLC funds were first funneled through Plaintiff's unauthorized First Citizens Account that Plaintiff then wrote a check transferring the $11,438.30 to the Court ordered United Community Bank Account (in which all members have equal access). See Exhibit P. In addition, and in violation of the Court's Order, the Plaintiff still kept and did not transfer all LLC funds from the First Citizens Bank Account to the United Community Bank Account.

16. On July 7, 2017, the property manager, once again in violation of the Court's Order, deposited $12,933.67 in LLC funds into Plaintiff's unauthorized First Citizen's bank account. See Exhibit Q.

17. Approximately three (3) months after the Court issued its Order, Plaintiff still continues to willfully violate the Court's Order by not closing his unauthorized First Citizen's Bank Account (which was ordered on April 11th to be immediately closed), by failing to transfer all LLC funds from Plaintiff's unauthorized First Citizen's bank account to the United Community Bank account (in which all members have equal access), by failing to direct the property manager to directly deposit all LLC funds into the United Community Bank account, and by continuing to funnel all LLC funds through Plaintiff's unauthorized First Citizen's bank account (in which only he has legal access) prior to making any transfer of LLC funds he so chooses to the United Community Bank Account. These

actions also constitute unauthorized unilateral action by the Plaintiff against the rights of Spiros and the other LLC members.

18. Unfortunately, this is not the first time Plaintiff has flagrantly violated an Order of this Court or attempted to conceal his repeated contemptuous behaviors. This Court has already sanctioned Plaintiff for three willful violations of this Court's Order in another case. See Exhibit R, Iakovos Ferderigos and S&S Old Town, Incorporated v. Athan Fokas, C/A No. 2015-CP-10-5610, Order of Contempt dated 09/28/2016. In case – 5610, Plaintiff, in clear violation of the Court's Preliminary Injunction Order, inappropriately took inventory from Old Towne Restaurant to use in one of his side businesses. Plaintiff further tried to actively conceal his inappropriate behavior by literally turning off the lights in the storage room to conceal his taking of inventory from the surveillance camera. Plaintiff swore in an affidavit, and represented in open Court, that he did not remove any inventory from Old Towne Restaurant. After viewing the video surveillance, the Court specifically found the following: "I find that the most blatant violation of the Court's Preliminary Injunction Order occurred on April 8, 2016 ... I find that [Athan Fokas] 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." See Exhibit R (Contempt Order).

19. Because Plaintiff continues to repeatedly violate the Orders of this Court, Spiros is at a loss of how to stop Plaintiff from his repeated contemptuous and willful behaviors and seeks the Court to issue an Order that will ensure Plaintiff stop violating the rights of the

Spiros and the other LLC members, as well as well as ensure that Plaintiff cease violating the Orders of this Court.

Wherefore, Defendant pray for the following relief:

1. A Rule to Show Cause against Plaintiff as set forth herein;
2. An Order holding Plaintiff in willful contempt, with appropriate penalties;
3. An Order requiring Plaintiff to pay Defendant's attorneys' fees and costs for the necessity of bringing this Rule to Show Cause; and
4. For any other relief deemed just and proper by the Court.

Respectfully submitted,

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 DEFENDANT SPIROS FERDERIGOS

July 24, 2017
Charleston, South Carolina

Certificate of Service

I hereby certify that on the 24th day of July 2017 the foregoing **MOTION AND PETITION FOR RULE TO SHOW CAUSE, CONTEMPT OF COURT AGAINST PLAINTIFF**, was served upon the parties to this action by U.S. mail, sufficient postage attached thereto, to the following counsel of record:

Leslie S. Lenhardt, Esquire
Lenhardt Law Firm, LLC
1876 Wallenberg Blvd.
Charleston, SC 29407

Jennifer H. Thiem, Esquire
K&L Gates LLP
134 Meeting Street, Suite #200
Charleston, SC 29401

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

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

2017 JUL 24 PM 4:04
JULIE J. ARMSTRONG
CLERK OF COURT
BY

Cheryl Lythgoe
Legal Assistant

Athan Fokas

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

Spiros Ferderigos

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

Athan Fokas

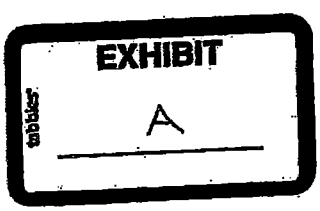
Ok great! Let's meet there this week so we can address all the items that need to be fixed. When is good for you? 6:02 PM

Spiros Ferderigos

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

Athan Fokas

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



Gmail spiros ferderigos <spirosferderigos@gmail.com>

Re: New Old Towne Suites, LLC Bank Account with United Community Bank

spiros ferderigos <spirosferderigos@gmail.com> Fri, Feb 24, 2017 at 11:10 AM
To: Kevin High <khigh@walkawaystays.com>, "Allie Johnson (allie@walkawaystays.com)" <allie@walkawaystays.com>

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

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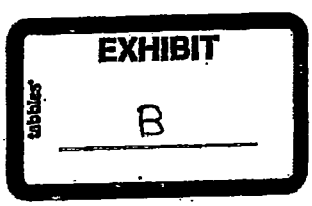

Gmail spiros ferderigos <spirosferderigos@gmail.com>

Re: New Old Towne Suites, LLC Bank Account with United Community Bank

Kevin J. High <khigh@walkawaystays.com> Fri, Feb 24, 2017 at 3:05 PM
Reply-To: khigh@walkawaystays.com
To: spiros ferderigos <spirosferderigos@gmail.com>, Allie Johnson <allie@walkawaystays.com>
Cc: zeusseafood@bellsouth.net, jacobspita@yahoo.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

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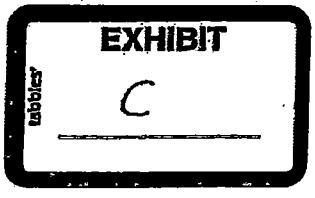


Gmail

spiros ferderigos <spirosferderigos@gmail.com>

Re: New Old Towne Suites, LLC Bank Account with United Community Bank

spiros ferderigos <spirosferderigos@gmail.com>
To: Kevin High <khigh@walkawaystays.com>
Cc: Allie Johnson <allie@walkawaystays.com>

Tue, Apr 11, 2017 at 1:34 PM

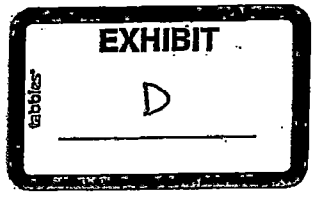
Hey Kevin,

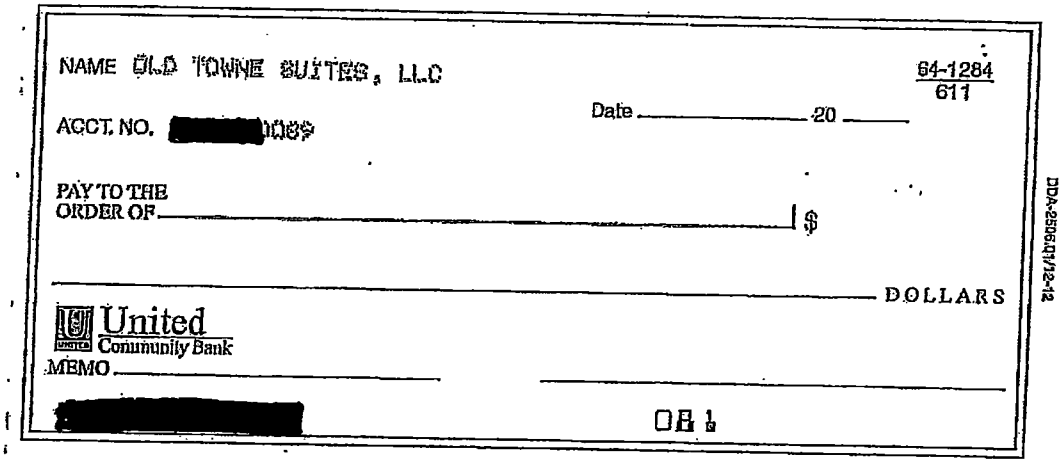
Thank you for your email. Per your request, please see attached a copy of the Court order directing you to deposit all LLC funds directly into the LLC's United Community Bank account. I highlighted the portion of the email that refers to the property manager for your convenience. I have also attached a copy of a blank United Community Bank LLC check that contains the account number and routing number for all future LLC deposits. The account number is [redacted]0089 and the routing number is [redacted]. The account name is Old Towne Suites, LLC. As an aside, please take note in the Order that this United Community account for the LLC is the sole account for the LLC and the Court ordered that the First Citizen's account will be closed immediately. Accordingly, please make sure all future LLC deposits are deposited into the United Community Bank Account as set forth herein.

Thank you and please do not hesitate to contact me if you have any questions. Please confirm with me by responding to this email that you will comply with this Court order moving forward. Thank you.

Spiros Ferderigos
[Quoted text hidden]

Blank Check and Court Order.pdf
766K




NAME OLD TOWNE SUITES, LLC

64-1284
611

Date _____ 20 ____

ACCT. NO. [redacted]0089

PAY TO THE
ORDER OF _____ $

_____ DOLLARS

United
Community Bank

MEMO _____

[redacted]

OB 1

DDA-2505.01/12-12

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

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

{00690317.DOC;1}

From: Kevin J. High [mailto:khigh@walkawaystays.com]
Sent: Monday, March 06, 2017 3:06 PM
To: zeusseafood@bellsouth.net; 'spiros ferderigos'; Phillip Ferderigos
Subject: FW: 229 Report from 2016-8-17 WAS Blank Books

Hello,

I hope you enjoyed your weekend. Can you believe it is March? As I mentioned before the industry is changing the rules daily and competition is heating up. The city has started a vacation rental task force and there are many new hotels under construction. We simultaneously had our bank change as well as many other things. Despite all of that we have been getting better and better from housekeeping, reservations and marketing. VROOMRes, our new reservation system, is well under way in beta testing. There are many features, modules, that will be turned on as the year goes on. For you one of the biggest features will be real time online access to your account. Look for this and all new reporting by the end of May. We are very excited about what this will do for you and Walk Away Stays. One thing that has already started is our 24/7 email responses. Our goal is to have every inquiry answered with in 5 minutes of receiving it. Our, First Responders, team is in training now and will start by the end of next week. This team will hopefully free up our office to focus on providing better customer service and follow-up on initial inquiries. All of this should increase booking and ratings.

Again we have solved our banking issues and are back to doing ACH deposits to you however they will now be once per month for the previous month. So on the first Mondayof each month, today as example, you will receive your report and your balance will be processed through Feb 28th.

As always feel free to call and have a great day.

Kevin

Walk Away Stays, LLC
Kevin J. High
Managing Member
227 Rutledge Avenue
Charleston, SC 29403
843-808-4444
www.walkawaystays.com

EXHIBIT
tabbies
E

BARNWELL WHALEY PATTERSON & HELMS LLC
75 YEARS 1938-2013
Attorneys for businesses & professionals since 1938

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

May 11, 2017

VIA E-MAIL AND U.S. MAIL
Stanley E. Barnett, Esquire
305 North Civitas Street
Mt. Pleasant, SC 29464

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

Dear Stan:

Thanks for your call late last week.

Your client is currently in violation of Judge Young's Order, and has been since April 12, 2017. When we spoke, you suggested that the pendency of your motion to reconsider made compliance unnecessary. We did not agree with that, but the point is moot in light of Judge Young's denial of the motion.

Stan, it is clear that your client is continuing to play games, this time by violating Judge Young's Order and apparently having the property manager violate Judge Young's Order. I call your attention to the provision of Judge Young's Order that says, "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." There is no confusion or ambiguity about what your client and the property manager are instructed to do.

Your client has had several motions for restraining Orders granted against him and has already been held in contempt of court by Judge Nicholson. Mr. Fokas' dogged refusal to comply with Judge Young's Order is unnecessarily placing him and Mr. High in jeopardy.

We simply do not understand why Mr. Fokas won't simply agree to use the new account that all members have full access to. There is no reason to refuse to use the new bank account, which all members have access to. There is no reason for your client to violate the judge's Order. There is no reason for your client failing to tell the property manager to comply with the judge's Order.

EXHIBIT
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Your client has been in violation of the judge's Order for several weeks now. He needs to comply now and to immediately instruct the property manager to comply.

If your client does not fully comply with Judge Young's Order (including closing the unauthorized account) by 5:00 p.m. Friday, May 12th, we will need to reluctantly file a Rule to Show Cause and ask Judge Young to award sanctions.

Sincerely,

M. Dawes Cooke, Jr.

MDCjr/bbm/klj

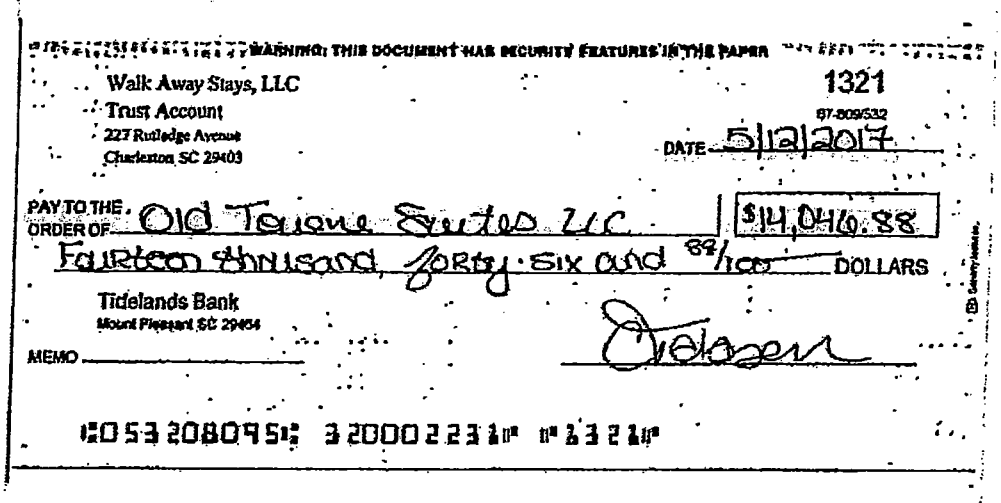
Menu

Account Details

MAY 12 2017	Check - 1407	-$7,023.44 $7,119.53
MAY 12 2017	Customer Deposit...	$14,046.88 $14,142.97

Summary Details

MAY 12 2017 Customer Deposit



WARNING: THIS DOCUMENT HAS SECURITY FEATURES IN THE PAPER

Walk Away Stays, LLC
Trust Account
227 Rutledge Avenue
Charleston, SC 29403

1321
67-509/532

DATE 5/12/2017

PAY TO THE ORDER OF Old Towne Suites LLC $14,046.88

Fourteen thousand, forty-six and 88/100 DOLLARS

Tidelands Bank
Mount Pleasant SC 29464

MEMO

⑆053208095⑆ 3200223⑈ ⑈1321⑈

1 of 2

APR 11 2017	Check - 1405	-$4,400.00 $96.09
APR 7 2017	Check - 1404	-$4,400.00 $4,496.09

EXHIBIT
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tabbies

Menu

Account Details

To expand or collapse account details, click on the 'i' icon. ×

Basic Business Checking 7701

Available Balance $7,119.53

Search transactions

MAY 12 2017	Check - 1407	-$7,023.44	$7,119.53
MAY 12 2017	Customer Deposit...	$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
APR 6 2017	WALK AWAY STAYS PA...	$8,782.30	$8,896.09
MAR 23 2017	Check - 1403	-$850.00	$113.79
MAR 13 2017	Check - 1402	-$1,050.00	$963

EXHIBIT H

Menu

Account Details

To expand or collapse account details, click on the 'i' icon. ×

Basic Business Checking 7701

Available Balance $7,119.53

Search transactions

MAY 12
2017

Check - 1407

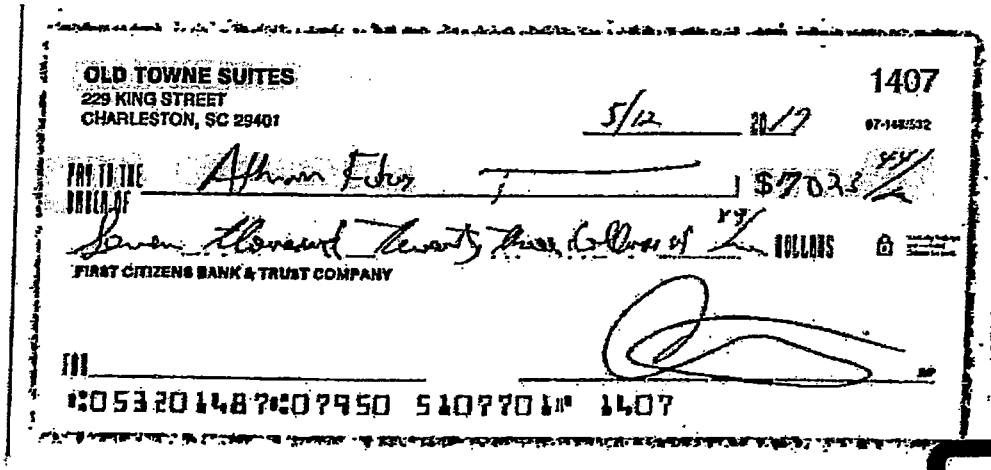
-$7,023.44
$7,119.53

Summary Details

Description:
Check

Date:
5/12/2017

Type:
Debit - Check 1407


OLD TOWNE SUITES
229 KING STREET
CHARLESTON, SC 29401

1407

5/12 20 17

PAY TO THE ORDER OF

$7023.44

DOLLARS

FIRST CITIZENS BANK & TRUST COMPANY

FOR

⑆053201487⑆07950 5107701⑈ 1407

EXHIBIT
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I

BARNWELL WHALEY
PATTERSON & HELMS LLC
75 YEARS 1938-2013
Attorneys for businesses & professionals since 1938

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

May 18, 2017

Via US Mail and Email

The Honorable Roger M. Young, Sr.
Circuit Judge, Ninth Judicial Circuit
100 Broad Street, Suite 368
Charleston, SC 29401

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

Dear Judge Young:

In response to Stan Barnett's letter to Your Honor dated May 15, 2017, Defendant Spiros Ferderigos respectfully requests that you allow us until next Friday, May 26, 2017, to formally respond to Plaintiff's Petition for Supersedeas. I regret that the Court has to be further troubled as this matter should not have had to come before the Court in the first place, as the LLC statute is clear regarding the responsibilities and rights of all LLC members. Once it did, it should have been resolved by this Court's Order that required the Plaintiff to do no more than the law clearly requires him to do anyway. Plaintiff has now appealed, and continues to defy, that most innocuous and uncontroversial Order.

In his letter to Your Honor, Mr. Barnett concedes that at least two of the mandates in Your Honor's Order are not automatically stayed by Plaintiff's filing Notice of Appeal of Your Honor's Order filed April 11, 2017 (a copy of Your Honor's Order is attached as Exhibit 1 hereto for Your Honor's convenience). It is undisputable that Plaintiff's Notice of Appeal does not (1) automatically stay Your Honor's Order restraining Plaintiff from taking any unilateral actions and/or making unilateral decisions, (2) does not automatically stay Your Honor's Order that Plaintiff immediately close his unauthorized First Citizens LLC bank account (to which only he has legal access to the exclusion of the other members), to immediately withdraw all funds from said account and to deposit them into the United Community Bank account for the LLC in which all members have equal access, and (3) does not automatically stay Your Honor's Order that the property

(00702157.000.)

EXHIBIT
Exhibit
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manager for the LLC deposit all LLC funds into the United Community Bank account to which all members have equal access.[1]

Despite the fact that Your Honor's Order remains in full force and effect and is not automatically stayed by Plaintiff's Notice of Appeal as set forth above, Plaintiff has continued to violate Your Honor's Order for over a month now. Plaintiff's behaviors after Your Honor issued the Order, in which Plaintiff actively continues to violate and undermine Your Honor's Order to the detriment of the other members, demonstrates why Your Honor's Order is necessary, and why staying Your Honor's Order pending appeal -- even with an appeal bond -- would cause irreparable harm to Defendant and the other members of the LLC.

For example, Defendant notified and provided a copy of Your Honor's Order to the LLC's property manager. The Order directs the property manager "to deposit all rental proceeds/profits and/or other funds for the LLC directly into the aforementioned United Community Bank account" to which all members have equal access. The property manager customarily uses direct deposit to transfer LLC funds to the LLC. Despite being provided with a copy of Your Honor's Order by Defendant and Defendant requesting that the property manager respond to his email confirming that he would abide by Your Honor's Order, the property manager did not respond to Defendant. After failing to receive a response from the property manager that he would comply with Your Honor's Order, Defendant's counsel sent an email to Plaintiff's counsel on May 11, 2017 reminding Plaintiff of his obligations to cooperate with the Court's Order, which he has still failed to do, and his obligation to direct the property manager to cooperate with the Court's Order to deposit the LLC funds into the United Community Bank account.

Plaintiff, instead, and in violation of Your Honor's Order, made the unilateral decision (over the objection of all other members and in violation of Your Honor's Order) to obtain a *handwritten* check from the property management group in the amount of $14,046.88 in LLC funds and, the very next day after receiving Defendant's letter demanding Plaintiff cooperate with the Court's Order, again violated Your Honor's Order by making the unilateral decision to deposit the LLC funds into his unauthorized First Citizens Bank account (which he was specifically ordered not to do and which account Your Honor specifically ordered that he immediately close over a month prior), and Plaintiff then made the unilateral decision to make a profit distribution from his unauthorized First Citizens account in the amount of $7,023.44 only to himself and not the rest of the members. Currently, the remaining members' $7,023.44 share of LLC profits are being held by Plaintiff in Plaintiff's unauthorized First Citizens bank account to which only he has legal access.[2] The other members have no way of accessing their funds because they do not have legal access to the account, and Plaintiff has retained possession of his unauthorized First Citizens account checkbook.

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[1] South Carolina Rule 241(b): The exceptions to the general rule [i.e. that service of notice of appeal acts to automatically stay matters decided in an order] include "(2) Judgments directing the assignment or delivery of documents or personal property [i.e. money] ...; (8) An appeal from an order granting an injunction or temporary restraining order." Section 18-1-20 defines personal property to "include money, goods, chattels things in action and evidences of debt."

[2] Plaintiff has repeatedly mis-informed the Court in his written submissions and in oral argument that Defendant Iakovos Ferderigos (a/k/a Jacob) has the same equal access to Plaintiff's unauthorized First Citizen's account as Plaintiff. Defendants have repeatedly refuted this. After Plaintiff yet again made this false statement to the Court, Defendant Iakovos Ferderigos went to First Citizen's Bank and received written confirmation directly from First Citizen's Bank that he has no access to the account. *See* attached as Exhibit 2.

Plaintiff asks Your Honor to stay your Order pending appeal to preserve what he calls the "status quo". The problem is, the status quo as perceived by the Plaintiff is apparently to do unilaterally whatever he wants over the objections of all other LLC members, to act unilaterally in his own best interest, and to hold the other members' LLC profits in an unauthorized account that only he has legal access to. The series of texts attached to Defendant's Amended Motion that was granted by Your Honor proves that Plaintiff has repeatedly ignored the other members' rights over their objections, and that Plaintiff will do whatever he pleases regardless of those rights. His ill will is further evidenced by his decision to appeal and disobey a very innocuous and hardly controversial Order requiring him to do no more than the plain law requires. Plaintiff's behaviors since the issuance of Your Honor's Order on April 11, 2017 are equally as egregious, and further prove that Plaintiff will continue to do whatever he wants unilaterally regardless of the other members' rights and regardless of whether his unilateral actions are in violation of a Court's Order.

Sincerely,

M. Dawes Cooke, Jr.

MDCjr/klj
Attachments
c: Stan Barnett, Esquire (Stan.Barnett@yahoo.com)
Jennifer Thiem, Esquire (Jennifer.Thiem@klgates.com)
John A. Massalon, Esquire (JMassalon@wmalawfirm.net)

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

FILED
2017 APR 6 P 2:26
JULIE J. ARMSTRONG
CLERK OF COURT
BY

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

EXHIBIT
Exhibit
1

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

First Citizens Bank

May 5, 2017

Iakovos Ferderigos
Old Towne Suites

To Whom it May Concern,

Iakovos Federigos is not listed as an owner or signer on the account ending in 7701. He is not authorized to obtain information on the above account. Iaskovos Federigos brought in documents stating that he is part of the entity.

If you have any questions or concerns surrounding this, please feel free to contact me at 843-763-0258.

Sincerely,

Tressa Mancini
First Citizens Bank
Financial Service Representative

EXHIBIT
2

Gmail spiros ferderigos <spirosferderigos@gmail.com>

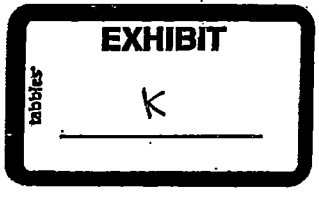
Re: New Old Towne Suites, LLC Bank Account with United Community Bank

spiros ferderigos <spirosferderigos@gmail.com> Tue, May 30, 2017 at 8:38 PM
To: Kevin High <khigh@walkawaystays.com>
Cc: Allie Johnson <allie@walkawaystays.com>

Kevin,

This is the second email I am sending requesting that you follow the Court's Order (information provided in my April 11th email). Please respond to this email that you are going to cooperate with the Court's Order immediately. The next deposit is due in a few days, and per the Court's Order, you must direct deposit the LLC funds into the United Community Bank Account. Once again, on behalf of the LLC, I am reminding you and directing you to comply with the Court's Order. If any individual tells you not to comply with the Court's Order, you are directed to inform me immediately. Thank you.

Spiro
[Quoted text hidden]



United Community Bank.

Chat Is Online

United Community Bank Old Towne Suites, LLC 0089
Last Updated: 6/14/2017 12:56 PM

$1,500.00
Available Balance

JUN 12 2017	WALK AWAY STAYS PAYROLL WALL 9999	-$11,438.30 $1,500.00
JUN 9 2017	WALK AWAY STAYS PAYROLL WALL 10990021	+ $11,438.30 $12,938.30
APR 5 2017	Regular Deposit	+ $1,500.00 $1,500.00

EXHIBIT
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Saturday, June 10, 2017

Spiros Ferderigos

Gentlemen, LLC distribution checks have been issued via online bill pay. You can expect them in the mail this week via bank check (through bill pay). 3:30 PM

Athan Fokas

That must have been an error by the management company because they know this is being appealed. I do not agree with you holding any more than the minimum balance that we have always had in our First Citizens account which is $100.00. If we need to put money in for any expenses that might occur then we can put in owner contributions to cover anything that might need repair pertaining to Old Towne Suites. 3:44 PM

Monday, June 12, 2017

Spiros Ferderigos

Athan, I expect the property manager is simply complying with the Court's Order. Also, your present position is different than what your attorney told the Court on Friday. Likewise, your appeal does not stay the Court's Order. Please stop pretending that you do not understand that. Indeed, you continue to be in violation of the Court's Order, for over two months now. We will regrettably have to file a rule to show cause and ask the Court to hold you in contempt of its Order. Finally, we do not agree with the rest of your commentary. 10:29 AM

EXHIBIT

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United Community Bank.

Chat Is Online

United Community Bank Old Towne Suites, LLC 0089
Last Updated: 6/14/2017 12:56 PM

$1,500.00
Available Balance

JUN 12 2017	WALK AWAY STAYS PAYROLL WALL 9999	-$11,438.30 $1,500.00
JUN 9 2017	WALK AWAY STAYS PAYROLL WALL 10990021	+ $11,438.30 $12,938.30
APR 5 2017	Regular Deposit	+ $1,500.00 $1,500.00

EXHIBIT
tabbies
N

BARNWELL WHALEY
PATTERSON & HELMS LLC
75 YEARS 1938-2013
Attorneys for businesses & professionals since 1938

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

June 13, 2017
Via E-Mail

5033.001
Stanley E. Barnett, Esquire
305 North Civitas Street
Mt. Pleasant, SC 29464
Stan.barnett@yahoo.com

RE: Fokas vs. Ferderigos, et al.
Civil Action No.: 2015-CP-10-3919

Dear Stan:

As you may already be aware, on June 9, 2017, the property manager for Old Towne Suites, LLC (hereinafter referred to as "the LLC"), deposited $11,438.30 in LLC funds into the United Community Bank account for the LLC in accordance with the Court's Order. The next day, Spiros sent a text to all LLC members informing them of the deposit by the property manager and stating Spiros had issued checks from the account which the members should expect to receive in a few days via online bill pay. In response, Mr. Fokas stated the deposit "must have been an error by the management company because they know this is being appealed." Spiros reminded Mr. Fokas that the Court's Order remains in full force and effect and has not been stayed by the Court. Following this exchange between Mr. Fokas and Spiros, the property manager inappropriately withdrew the LLC funds from the United Community Bank account, even though checks had already been sent via online bill pay. The issued checks cannot be stopped at this point because they are already being processed. As a result, the LLC checks will overdraw the account, and the LLC will most definitely incur fees and other charges on the United Community Bank account. The pay date provided by the bank for the issued checks is June 15, 2017.

Given the emergent nature of these actions, we request Mr. Fokas immediately direct the property manager to deposit the LLC's funds back into the United Community Bank account in an effort to keep the LLC checks from overdrawing the account. If the funds are not re-deposited into the United Community Bank account prior to June 15, 2017, Spiros will have no choice but to seek other immediate relief from the Court. If you have any questions or would like to discuss, please feel free to call or e-mail me. With kind regards, I remain

Sincerely,

Jeremy E. Bowers

cc: Jennifer H. Thiem, Esquire (via e-mail)
John A. Massalon, Esquire (via e-mail)

EXHIBIT
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Menu

Account Details

To expand or collapse account details, click on the "i" icon.

First citizens Account

Basic Business Checking 7701

Available Balance $11,534.39

Search transactions

JUN 20 2017	WALK AWAY STAYS PA...	$11,438.30 $11,534.39
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 Deposit...	$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
APR 6 2017	WALK AWAY STAYS PA...	$8,782.20 $8,896

EXHIBIT tabbies P

United Community Bank.

Chat Is Online

United Community Bank Old Towne Suites, LLC 0089
Last Updated: 7/6/2017 3:05 PM

$5,000.00
Available Balance

JUN 22 2017	Check - 995003	-$3,219.15 $5,000.00
JUN 22 2017	Check - 995001	-$1,500.00 $8,219.15
JUN 21 2017	Check - 995002	-$3,219.15 $9,719.15
JUN 21 2017	Regular Deposit	+ $11,438.30 $12,938.30
JUN 12 2017	WALK AWAY STAYS PAYROLL WALL 9999	-$11,438.30 $1,500.00
JUN 9 2017	WALK AWAY STAYS PAYROLL WALL 10990021	+ $11,438.30 $12,938.30
APR 5 2017	Regular Deposit	+ $1,500.00 $1,500.00

Menu

Account Details

To expand or collapse account details, click on the 'i' icon. ×

Basic Business Checking 7701

Available Balance $13,004.76

Search transactions

JUL 7 2017	WALK AWAY STAYS PA...	$12,933.67 $13,004.76
JUL 3 2017	AUTO DEBIT TO PAY L...	-$25.00 $71.09
JUN 21 2017	Check - 1435	-$11,438.30 $96.09
JUN 20 2017	WALK AWAY STAYS PA...	$11,438.30 $11,534.39
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 Deposit...	$14,046 $14,14

EXHIBIT

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	IN THE NINTH JUDICIAL CIRCUIT
COUNTY OF CHARLESTON	)	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.	)	**CONTEMPT ORDER**
ATHAN FOKAS,	)	
Defendant.	)	

FILED
2016 SEP 29 PM 4:43
JULIE J. ARMSTRONG
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

EXHIBIT
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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 $ 391.00. 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 $ 391.00 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 20, 2016

STATE OF SOUTH CAROLINA COUNTY OF CHARLESTON	)	IN THE COURT OF COMMON PLEAS FOR THE NINTH JUDICIAL CIRCUIT
Athan Fokas, Plaintiff,	)	Case No.: 2015-CP-10-3919 **PLAINTIFF'S MOTION TO QUASH SUBPOENA TO KEVIN HIGH**
Phillip Ferderigos, Spiros Ferderigos, and Jacob Ferderigos. Defendant(s).	)	

FILED
2017 FEB -1 AM 10: 04
JULIE J. ARMSTRONG
CLERK OF COURT
BY

TO: M. Dawes Cooke, Jr., Esquire, Attorney for Defendant:

Pursuant to Rule 45(c)(3)(A), the Plaintiff hereby moves to quash the attached subpoena issued by Defendant Spiros Ferderigos to Kevin High. The subpoena requests:

"A complete copy of all communications, including but not limited to, text messages, emails, facsimiles and correspondence with Athan Fokas from 2011 through the present."

Mr. High and the Plaintiff, Athan Fokas, are friends and their families are close. In addition, they are engaged in other business relationships outside the building which is the subject of this lawsuit. The request would, therefore, require production of communications unrelated to the issues in this matter and not likely to lead to evidence relevant to any issue in this matter. Most of the materials produced would constitute personal communications involving Mr. High, Mr. Fokas, their families and business relationships. The request for production of personal communications is intrusive and burdensome, not only to Mr. High but to Mr. Fokas. The request for business information, much of which is proprietary, about relationships completely unrelated to any issue relevant to this lawsuit and unlikely to lead to relevant evidence is also improper. For these reasons, the subpoena exceeds the proper bounds of discovery and should be quashed. Plaintiff is informed that Mr. High has pursuant to Rule 45(c)(B) objected to the subpoena for

EXHIBIT
5

these same reasons.

Plaintiff respectfully requests that the subpoena from Defendant, Spiros Ferderigos, be quashed.

Respectfully submitted,

Stan Barnett
305 North Civitas Street
Mount Pleasant, S.C. 29464
(843) 884-1031/(843) 708-4887
stan.barnett@yahoo.com
Attorney for Plaintiff

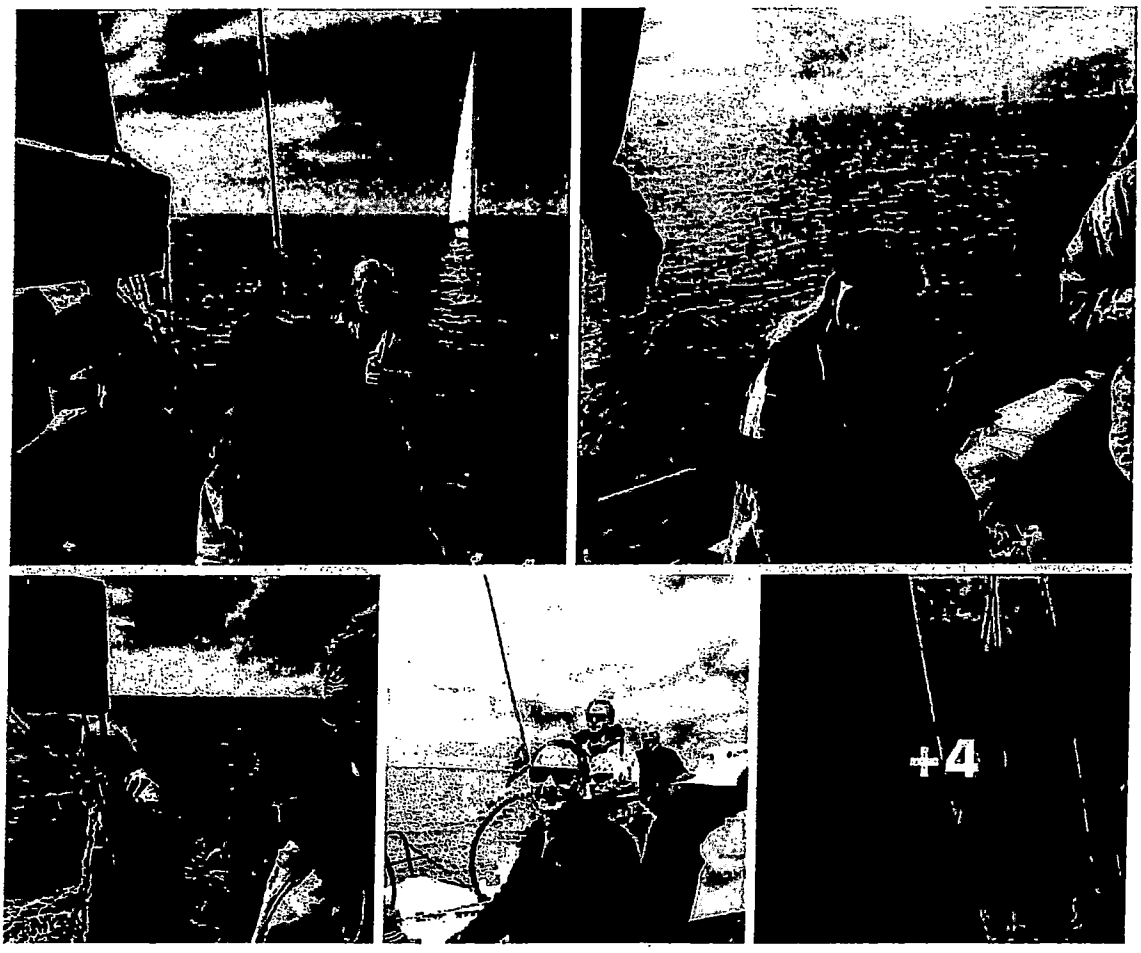
February 1, 2017
Mount Pleasant, S.C.

●●○○○ AT&T LTE 8:50 PM 52%
kevin j high

Kevin J. High added 8 new photos — with Neily Williamson and Danny Nystrom at Brant Point Light.

May 27 at 4:48 PM ·

Second year in a row to win our class and overall!! Great job team Irie!!



Chris Caraviello and 29 others 3 Comments

Like Comment

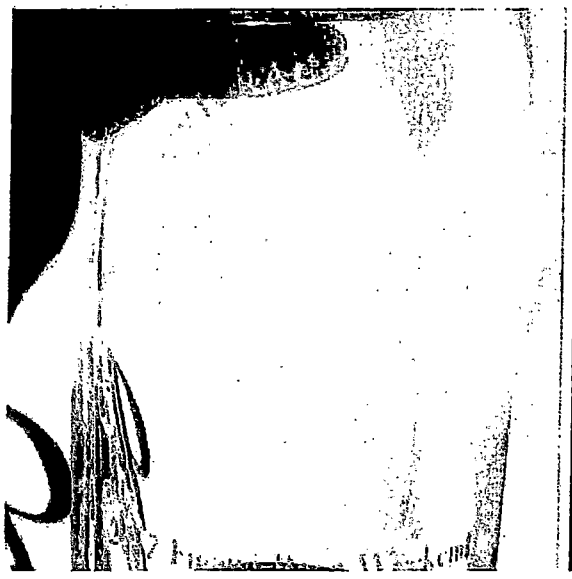
AT&T LTE 8:52 PM 51%

kevin j high

Kevin J. High added 2 new photos — with Danny Nystrom at Downtown Nantucket.

May 28 at 5:35 PM · Nantucket, MA ·

Winner winner chicken dinner!!



12

Like Comment

AT&T LTE 8:52 PM 51%

kevin j high

Kevin J. High was tagged in this

Janet Spurr shared Kimberly Battin Olson's post — with Kevin J. High and 11 others.

May 29 at 12:18 PM ·

Kimberly Battin Olson

May 28 at 5:40 PM ·

Kevin J. High and 16 others 2 Comments

Like Comment Share

Kevin J. High was tagged in this

AT&T LTE 8:51 PM 52%
kevin j high

Kevin J. High was tagged in this

Renee Wightman added a new photo — with Kevin J. High and Athan Fokas.

May 30 at 9:53 PM ·

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF CHARLESTON	)	
	)	
Athan Fokas,	)	CASE NO.
☐ Plaintiff	)	2015-CP-10-03919
	)	
v.	)	MOTION AND ORDER INFORMATION
	)	FORM AND COVER SHEET
Phillip Ferderigos, Spiros Ferderigos, And Jacob Ferderigos,	)	
☒ Defendant.	)	

Plaintiff's Attorney:	Defendant's Attorney:
Stanley E. Barnett, Bar No. Address: 305 North Civitas Street Mount Pleasant, SC 29464 phone: (843) 884-1031 fax: e-mail: stan.barnett@yahoo.com other:	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)**	

EXHIBIT
tabbies 11

SECTION I: Hearing Information

Nature of Motion: Motion and Petition for Rule to Show Cause

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.

July 24, 2017

Signature of Attorney for ☐ Plaintiff / ☒ Defendant — Date submitted

SECTION III: Motion Fee

☒ PAID – AMOUNT: $25.00

☐ EXEMPT: (check reason)

- ☐ Rule to Show Cause in Child or Spousal Support
- ☐ 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

Date Filed:

Collected by: _____

☐ MOTION FEE COLLECTED: _____

☐ CONTESTED – AMOUNT DUE: _____

FILED

STATE OF SOUTH CAROLINA 2017 JUL 24 PM 4:02 IN THE COURT OF COMMON PLEAS
NINTH JUDICIAL CIRCUIT
COUNTY OF CHARLESTON JULIE J. ARMSTRONG CLERK OF COURT CIVIL ACTION NO.: 2015-CP-10-3919

ATHAN FOKAS,

Plaintiff,

v.

PHILIP FERDERIGOS, JACOB FERDERIGOS, and SPIROS FERDERIGOS,

Defendants.

MOTION AND PETITION FOR RULE TO SHOW CAUSE, CONTEMPT OF COURT AGAINST KEVIN HIGH (PROPERTY MANAGER) AND/OR WALK AWAY STAYS, LLC (PROPERTY MANAGEMENT GROUP)

YOU WILL PLEASE TAKE NOTICE the Defendant, Spiros Ferderigos, by and through his undersigned attorney, will move before the presiding Judge in the Court of Common Pleas on the tenth (10th) day after service of this motion or as soon as counsel may be heard, for an Order finding Kevin High (Property Manager for Old Towne Suites, LLC) and/or Walk Away Stays, LLC, is in Contempt of Court and the Defendant hereby petitions the Court for a Rule to Show Cause against Mr. High and/or Walk Away Stays, LLC, as to why Mr. High and/or Walk Away Stays, LLC, should not be held in Contempt of this Court's Order Granting Defendant Spiros Ferderigos' Amended Motion To Amend Tax Returns And Change Checking Account And For Restraining Order filed on April 11, 2017. As grounds in support thereof, the Defendant, Spiros Ferderigos, respectfully states as follows:

1. On August 15, 2016, Defendant Spiros Ferderigos (hereinafter referred to as "Spiros") was unanimously voted by all members of the LLC as the single "Point of Contact" between Old Towne Suites, LLC (hereinafter "the LLC"), and the property management group for the LLC, Walk Away Stays, LLC. See Exhibit 1. Kevin High represents

himself as the managing member for Walk Away Stays, LLC (Kevin High and Walk Away Stays, LLC, are collectively referred to herein as "property manager").

2. On February 24, 2017, Spiros notified the property manager that the unauthorized First Citizens account was no longer to be used and the United Community Bank account is the sole account to be used for the LLC and where funds should be direct deposited. See Exhibit 2.

3. The property manager responded to Spiros that he would not stop using the First Citizens account, nor would he deposit LLC funds into the United Community Bank account as directed, unless (1) all the members agree, or (2) a Court Order directs him to make such deposit. See Exhibit 3.

4. On April 11, 2017, the same day the Court issued its Order, Spiros notified and provided a copy of the Court's Order to the LLC's property manager directing the property manager to make such deposit. See Exhibit 4. The Order directed the property manager "to deposit all rental proceeds/profits and/or other funds for the LLC directly into the aforementioned United Community Bank account" to which all members have equal access.

5. Despite being provided with a copy of the Court's Order by Spiros and Spiros requesting the property manager respond to his email confirming he would abide by the Court's Order, the property manager did not respond to him. Importantly, the property manager uses *direct deposit* to transfer LLC funds to the LLC. See Exhibit 5.

6. The property manager, instead of direct depositing the LLC funds into the United Community Bank account as Ordered by the Court, issued a *handwritten* check to

Plaintiff in the amount of $14,046.88 in LLC funds, which Plaintiff then deposited into his unauthorized First Citizens account in violation of the Court's Order. See Exhibit 6.

7. On May 30, 2017, Spiros once again emailed the property manager that the next LLC deposit due in a few days must be deposited into the United Community Bank account as ordered by the Court and directed the property manager to immediately notify Spiros if anyone is directing him not to comply with the Court's Order. See Exhibit 7. Spiros never received a response back from the property manager.

8. On June 9, 2017, following the second email from Spiros to the property manager demanding he cooperate with the Court's Order, the property manager appropriately (for the first time) deposited $11,438.30 in LLC funds into the United Community Bank account as required by the Court. See Exhibit 8.

9. The following day, Spiros sent a text to the members of the LLC that he had issued checks from the United Community Bank account via online bill pay and the members can expect those issued checks to arrive in the mail in the next few days. Plaintiff responded defiantly to Spiros' text, stating "[t]hat must have been an error by the management company because they know this is being appealed," confirming that Plaintiff has informed the property manager not to cooperate with the Court's Order. See Exhibit 9.

10. Immediately after Plaintiff's defiant text exchange with Spiros that the property manager should not have deposited the LLC funds into the United Community Bank account, the property manager (who is close personal friends with Plaintiff[1]) inappropriately withdrew the $11,438.30 in LLC funds from the LLC account. See Exhibit 10.

[1] When Defendant issued a subpoena for correspondence between Plaintiff and the property manager (Kevin High), Plaintiff objected to the subpoena on the grounds that they "are friends and their families are close. In addition, they

11. On June 20, 2017, the property manager then, in direct and willful violation of the Court's Order, deposited the LLC funds that he inappropriately withdrew from the United Community Bank account into Plaintiff's unauthorized First Citizen's bank account (the very account only Plaintiff has legal access to and the very account the Court ordered Plaintiff to immediately close over two months prior). See Exhibit 11.

12. On July 7, 2017, the property manager, yet again and in direct willful violation of the Court's Order, deposited $12,9333.67 of LLC funds into Plaintiff's unauthorized First Citizen's bank account instead of complying with the Court's Order that clearly directs the property manager to deposit all LLC funds into the United Community Bank account, in which all members have equal access to. See Exhibit 12.

13. For the reasons set forth herein, Spiros respectfully requests the Court issue an Order of Contempt against Kevin High and/or Walk Away Stays, LLC, for the repeated willful violations of the Court's Order to ensure that Kevin High and Walk Away Stays, LLC, will cease violating the clear and unambiguous Order of this Court filed April 11, 2017.

Wherefore, Defendant prays for the following relief:

1. A Rule to Show Cause against the Mr. High and/or Walk Away Stays, LLC, as set forth herein;

2. An Order holding Mr. High and/or Walk Away Stays, LLC, in willful contempt, with appropriate penalties;

3. An Order requiring Mr. High and/or Walk Away Stays, LLC, to pay Defendant's attorneys' fees and costs for the necessity of bringing this motion; and

4. For any other relief deemed just and proper by the Court.

---

are engaged in other business relationships ..." Furthermore, Plaintiff and the property manager were in constant communication, and even vacationing together, during the period that Defendant was emailing the property manager directing that he cooperates with the Court's Order to deposit LLC funds into the United Community Bank account as ordered by the Court. The property manager never responded back to Defendant's emails. See Exhibit 13.

Respectfully submitted,

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 DEFENDANT SPIROS FERDERIGOS

July 24, 2017
Charleston, South Carolina

Certificate of Service

I hereby certify that on the 24th day of July 2017 the foregoing **MOTION AND PETITION FOR RULE TO SHOW CAUSE, CONTEMPT OF COURT AGAINST KEVIN HIGH (PROPERTY MANAGER) AND/OR WALK AWAY STAYS, LLC (PROPERTY MANAGEMENT GROUP)**, was served upon the parties to this action by U.S. mail, sufficient postage attached thereto, to the following counsel of record:

Leslie S. Lenhardt, Esquire
Lenhardt Law Firm, LLC
1876 Wallenberg Blvd.
Charleston, SC 29407

Jennifer H. Thiem, Esquire
K&L Gates LLP
134 Meeting Street, Suite #200
Charleston, SC 29401

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

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

2017 JUL 24 PM 4:02
JULIE J. ARMSTRONG
CLERK OF COURT

Cheryl Rivenbark
Legal Assistant

Athan Fokas

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

Spiros Ferderigos

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

Athan Fokas

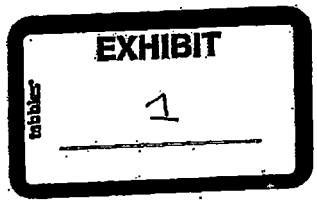
Ok great! Let's meet there this week so we can address all the items that need to be fixed. When is good for you? 6:02 PM

Spiros Ferderigos

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

Athan Fokas

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



Gmail spiros ferderigos <spirosferderigos@gmail.com>

Re: New Old Towne Suites, LLC Bank Account with United Community Bank

spiros ferderigos <spirosferderigos@gmail.com> Fri, Feb 24, 2017 at 11:10 AM
To: Kevin High <khigh@walkawaystays.com>, "Allie Johnson (allie@walkawaystays.com)" <allie@walkawaystays.com>

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

201702241109.pdf
40K

EXHIBIT
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Gmail spiros ferderigos <spirosferderigos@gmail.com>

Re: New Old Towne Suites, LLC Bank Account with United Community Bank

Kevin J. High <khigh@walkawaystays.com> Fri, Feb 24, 2017 at 3:05 PM
Reply-To: khigh@walkawaystays.com
To: spiros ferderigos <spirosferderigos@gmail.com>, Allie Johnson <allie@walkawaystays.com>
Cc: zeusseafood@bellsouth.net, jacobspita@yahoo.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

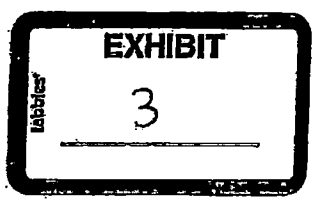
Charleston, SC 29403

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

[Quoted text hidden]



Gmail spiros ferderigos <spirosferderigos@gmail.com>

Re: New Old Towne Suites, LLC Bank Account with United Community Bank

spiros ferderigos <spirosferderigos@gmail.com> Tue, Apr 11, 2017 at 1:34 PM
To: Kevin High <khigh@walkawaystays.com>
Cc: Allie Johnson <allie@walkawaystays.com>

Hey Kevin,

Thank you for your email. Per your request, please see attached a copy of the Court order directing you to deposit all LLC funds directly into the LLC's United Community Bank account. I highlighted the portion of the email that refers to the property manager for your convenience. I have also attached a copy of a blank United Community Bank LLC check that contains the account number and routing number for all future LLC deposits. The account number is [redacted]0089 and the routing number is [redacted]. The account name is Old Towne Suites, LLC. As an aside, please take note in the Order that this United Community account for the LLC is the sole account for the LLC and the Court ordered that the First Citizen's account will be closed immediately. Accordingly, please make sure all future LLC deposits are deposited into the United Community Bank Account as set forth herein.

Thank you and please do not hesitate to contact me if you have any questions. Please confirm with me by responding to this email that you will comply with this Court order moving forward. Thank you.

Spiros Ferderigos
[Quoted text hidden]

Blank Check and Court Order.pdf
766K

EXHIBIT
tabbies 4

NAME OLD TOWNE SUITES, LLC

64-1284
611

ACCT. NO. [redacted]0089

Date _____ 20 ____

PAY TO THE
ORDER OF _____ $

_____ DOLLARS

United Community Bank

MEMO _____

[redacted]

DDA-2506.01/12-12

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

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

From: Kevin J. High [mailto:khigh@walkawaystays.com]
Sent: Monday, March 06, 2017 3:06 PM
To: zeusseafood@bellsouth.net; 'spiros ferderigos'; Phillip Ferderigos
Subject: FW: 229 Report from 2016-8-17 WAS Blank Books

Hello,

I hope you enjoyed your weekend. Can you believe it is March? As I mentioned before the industry is changing the rules daily and competition is heating up. The city has started a vacation rental task force and there are many new hotels under construction. We simultaneously had our bank change as well as many other things. Despite all of that we have been getting better and better from housekeeping, reservations and marketing. VROOMRes, our new reservation system, is well under way in beta testing. There are many features, modules, that will be turned on as the year goes on. For you one of the biggest features will be real time online access to your account. Look for this and all new reporting by the end of May. We are very excited about what this will do for you and Walk Away Stays. One thing that has already started is our 24/7 email responses. Our goal is to have every inquiry answered with in 5 minutes of receiving it. Our, First Responders, team is in training now and will start by the end of next week. This team will hopefully free up our office to focus on providing better customer service and follow-up on initial inquiries. All of this should increase booking and ratings.

Again we have solved our banking issues and are back to doing ACH deposits to you however they will now be once per month for the previous month. So on the first Mondayof each month, today as example, you will receive your report and your balance will be processed through Feb 28th.

As always feel free to call and have a great day.

Kevin

Walk Away Stays, LLC
Kevin J. High
Managing Member
227 Rutledge Avenue
Charleston, SC 29403
843-808-4444
www.walkawaystays.com

EXHIBIT
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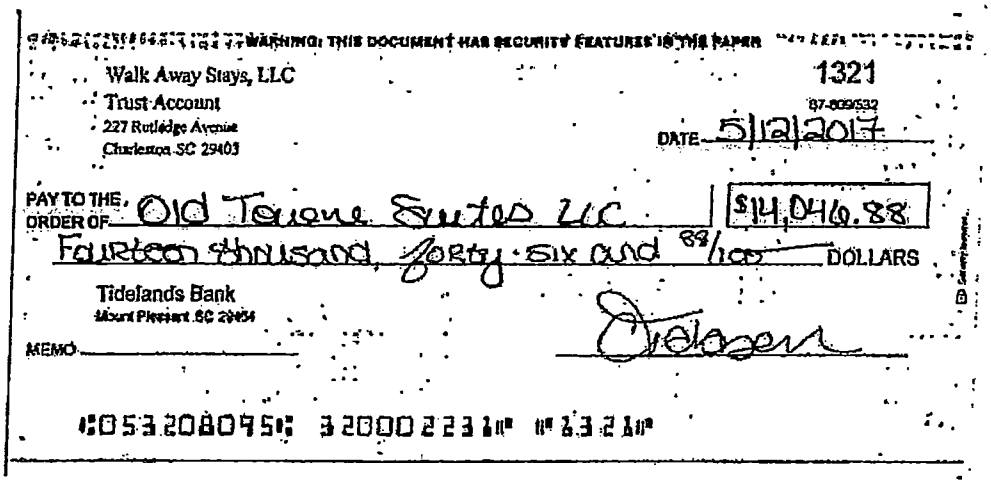
Menu

Account Details

MAY 12 2017	Check - 1407	-$7,023.44 $7,119.53
MAY 12 2017	Customer Deposit...	$14,046.88 $14,142.97

Summary **Details**

MAY 12 2017 — Customer Deposit



WARNING: THIS DOCUMENT HAS SECURITY FEATURES IN THE PAPER

Walk Away Stays, LLC
Trust Account
227 Rutledge Avenue
Charleston SC 29403

1321
87-609/532
DATE 5/12/2017

PAY TO THE ORDER OF Old Towne Suites LLC $14,046.88

Fourteen thousand, forty-six and 88/100 DOLLARS

Tidelands Bank
Mount Pleasant SC 29464

MEMO

⑆053208075⑆ 3200223⑈ ⑈1321⑈

1 of 2

APR 11 2017	Check - 1405	-$4,400.00 $96.09
APR 7 2017	Check - 1404	-$4,400.00 $4,496.09

EXHIBIT 6

Gmail spiros ferderigos <spirosferderigos@gmail.com>

Re: New Old Towne Suites, LLC Bank Account with United Community Bank

spiros ferderigos <spirosferderigos@gmail.com> Tue, May 30, 2017 at 8:38 PM
To: Kevin High <khigh@walkawaystays.com>
Cc: Allie Johnson <allie@walkawaystays.com>

Kevin,

This is the second email I am sending requesting that you follow the Court's Order (information provided in my April 11th email). Please respond to this email that you are going to cooperate with the Court's Order immediately. The next deposit is due in a few days, and per the Court's Order, you must direct deposit the LLC funds into the United Community Bank Account. Once again, on behalf of the LLC, I am reminding you and directing you to comply with the Court's Order. If any individual tells you not to comply with the Court's Order, you are directed to inform me immediately. Thank you.

Spiro
[Quoted text hidden]

EXHIBIT
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United Community Bank.

Chat Is Online

United Community Bank Old Towne Suites, LLC 0089
Last Updated: 6/14/2017 12:56 PM

$1,500.00
Available Balance

JUN 12 2017	WALK AWAY STAYS PAYROLL WALL 9999	-$11,438.30 $1,500.00
JUN 9 2017	WALK AWAY STAYS PAYROLL WALL 10990021	+ $11,438.30 $12,938.30
APR 5 2017	Regular Deposit	+ $1,500.00 $1,500.00

EXHIBIT
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Saturday, June 10, 2017

Spiros Ferderigos

Gentlemen, LLC distribution checks have been issued via online bill pay. You can expect them in the mail this week via bank check (through bill pay). 3:30 PM

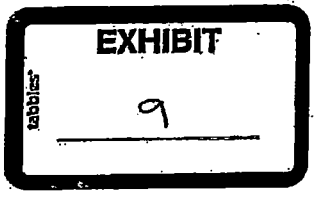
Athan Fokas

That must have been an error by the management company because they know this is being appealed. I do not agree with you holding any more than the minimum balance that we have always had in our First Citizens account which is $100.00. If we need to put money in for any expenses that might occur then we can put in owner contributions to cover anything that might need repair pertaining to Old Towne Suites. 3:44 PM

Monday, June 12, 2017

Spiros Ferderigos

Athan, I expect the property manager is simply complying with the Court's Order. Also, your present position is different than what your attorney told the Court on Friday. Likewise, your appeal does not stay the Court's Order. Please stop pretending that you do not understand that. Indeed, you continue to be in violation of the Court's Order, for over two months now. We will regrettably have to file a rule to show cause and ask the Court to hold you in contempt of its Order. Finally, we do not agree with the rest of your commentary. 10:29 AM



United Community Bank.

Chat Is Online

United Community Bank Old Towne Suites, LLC 0089
Last Updated: 6/14/2017 12:56 PM

$1,500.00
Available Balance

JUN 12 2017	WALK AWAY STAYS PAYROLL WALL 9999	-$11,438.30 $1,500.00
JUN 9 2017	WALK AWAY STAYS PAYROLL WALL 10990021	+ $11,438.30 $12,938.30
APR 5 2017	Regular Deposit	+ $1,500.00 $1,500.00

EXHIBIT
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Menu

Account Details

To expand or collapse account details, click on the 'i' icon.

First Citizens Account

Basic Business Checking 7701

Available Balance $11,534.39

Search transactions

JUN 20 2017	WALK AWAY STAYS PA...	$11,438.30 $11,534.39
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 Deposit...	$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
APR 6 2017	WALK AWAY STAYS PA...	$8,782.3[illegible] $8,89[illegible]

EXHIBIT tabbies 11

Menu

Account Details

To expand or collapse account details, click on the 'i' icon. ×

Basic Business Checking 7701

Available Balance $13,004.76

Search transactions

JUL 7 2017	WALK AWAY STAYS PA...	$12,933.67	$13,004.76
JUL 3 2017	AUTO DEBIT TO PAY L...	-$25.00	$71.09
JUN 21 2017	Check - 1435	-$11,438.30	$96.09
JUN 20 2017	WALK AWAY STAYS PA...	$11,438.30	$11,534.39
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 Deposit...	$14,046	$14,14

EXHIBIT tabbies 12

STATE OF SOUTH CAROLINA COUNTY OF CHARLESTON	IN THE COURT OF COMMON PLEAS FOR THE NINTH JUDICIAL CIRCUIT
Athan Fokas, Plaintiff, Phillip Ferderigos, Spiros Ferderigos, and Jacob Ferderigos. Defendant(s).	Case No.: 2015-CP-10-3919 **PLAINTIFF'S MOTION TO QUASH SUBPOENA TO KEVIN HIGH**

FILED
2017 FEB -1 AM 10:
JULIE J. ARMSTRONG
CLERK OF COURT
BY

TO: M. Dawes Cooke, Jr., Esquire, Attorney for Defendant:

Pursuant to Rule 45(c)(3)(A), the Plaintiff hereby moves to quash the attached subpoena issued by Defendant Spiros Ferderigos to Kevin High. The subpoena requests:

"A complete copy of all communications, including but not limited to, text messages, emails, facsimiles and correspondence with Athan Fokas from 2011 through the present."

Mr. High and the Plaintiff, Athan Fokas, are friends and their families are close. In addition, they are engaged in other business relationships outside the building which is the subject of this lawsuit. The request would, therefore, require production of communications unrelated to the issues in this matter and not likely to lead to evidence relevant to any issue in this matter. Most of the materials produced would constitute personal communications involving Mr. High, Mr. Fokas, their families and business relationships. The request for production of personal communications is intrusive and burdensome, not only to Mr. High but to Mr. Fokas. The request for business information, much of which is proprietary, about relationships completely unrelated to any issue relevant to this lawsuit and unlikely to lead to relevant evidence is also improper. For these reasons, the subpoena exceeds the proper bounds of discovery and should be quashed. Plaintiff is informed that Mr. High has pursuant to Rule 45(c)(B) objected to the subpoena for

EXHIBIT
tabbies
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these same reasons.

Plaintiff respectfully requests that the subpoena from Defendant, Spiros Ferderigos, be quashed.

Respectfully submitted,

Stan Barnett
305 North Civitas Street
Mount Pleasant, S.C. 29464
(843) 884-1031/(843) 708-4887
stan.barnett@yahoo.com
Attorney for Plaintiff

February 1, 2017
Mount Pleasant, S.C.

AT&T LTE 8:50 PM 52%

kevin j high

Kevin J. High added 8 new photos — with Neily Williamson and Danny Nystrom at Brant Point Light.

May 27 at 4:48 PM ·

Second year in a row to win our class and overall!! Great job team Irie!!

Chris Caraviello and 29 others 3 Comments

Like Comment

Kevin J. High added 2 new photos — with Danny Nystrom at Downtown Nantucket.

May 28 at 5:35 PM · Nantucket, MA ·

Winner winner chicken dinner!!

12

Like Comment

AT&T LTE 8:52 PM 51%
kevin j high

Kevin J. High was tagged in this

Janet Spurr shared Kimberly Battin Olson's post — with Kevin J. High and 11 others.

May 29 at 12:18 PM ·

Kimberly Battin Olson

May 28 at 5:40 PM ·

Kevin J. High and 16 others 2 Comments

Like Comment Share

Kevin J. High was tagged in this

AT&T LTE 8:51 PM 52%

kevin j high

Kevin J. High was tagged in this

Renee Wightman added a new photo — with Kevin J. High and Athan Fokas.

May 30 at 9:53 PM ·

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM CHARLESTON COUNTY
In the Court of Common Pleas

The Honorable Roger M. Young
Case No. 2015-CP-10-3919

Appellate Case No. 2017-001107

RECEIVED
JUL 26 2017
SC Court of Appeals

Athan Fokas,

Appellant,

v.

Philip Ferderigos, Jacob Ferderigos, and Spiros Ferderigos,

Respondents.

PROOF OF SERVICE

I certify that on this 24th day of July 2017, I have served on all counsel of record, as set forth below, a copy of the attached Motion for Extension of Time to Serve Reply to Petition for Writ of Certiorari by causing a copy of the same to be placed in the U.S. Mail, first-class postage paid, addressed to:

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

Leslie Lenhardt, Esquire
Lenhardt Law Firm, LLC
1876 Wallenberg Blvd.
Charleston, SC 29407
Attorney for Appellant

Jennifer H. Thiem, Esquire
K&L Gates LLP
134 Meeting Street, Suite #500
Charleston, SC 29401
Attorney for Phillip Ferderigos

John A. Massalon, Esquire
Wills Massalon & Allen, LLC
P.O. Box 859
Charleston, SC 29402
Attorney for Jacob Ferderigos

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 RESPONDENT SPIROS FERDERIGOS

July 24, 2017
Charleston, South Carolina

BARNWELL WHALEY PATTERSON & HELMS LLC
75 YEARS 1938-2013
Attorneys for businesses & professionals since 1938

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

July 24, 2017
VIA U.S. MAIL

5033.001
The Honorable Jenny Abbott Kitchings
South Carolina Court of Appeals
1220 Senate Street
Columbia, SC 29201

RECEIVED
JUL 26 2017
SC Court of Appeals

RE: Fokas v. Ferderigos, et al.
Appellate Case No. 2017-001107

Dear Madam Clerk:

Enclosed please find the original and seven (7) copies of the Return to Appellant's Petition for Supersedeas, including Exhibits #1 through #11, filed on behalf of the Respondent, Spiros Ferderigos, in the above-referenced matter. Please file the original and return a filed stamped copy to me via the self-addressed stamped envelope.

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 Return and exhibits. 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,

Jeremy E. Bowers

Encl.
cc w/encl.: Stanley E. Barnett, Esquire
Leslie S. Lenhardt, Esquire
Jennifer H. Thiem, Esquire
John A. Massalon, Esquire